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**TRANSCRIPT OF PROCEEDINGS**

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**THE HON RONALD SACKVILLE AO QC, Chair**  
**THE HON ROSLYN ATKINSON AO, Commissioner**  
**DR RHONDA GALBALLY AC, Commissioner**  
**THE HON JOHN RYAN AM, Commissioner**

**THE ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND  
EXPLOITATION OF PEOPLE WITH DISABILITY**

**10.00 AM, WEDNESDAY, 24 MARCH 2021**

**DAY 6**

**Kate Eastman SC, Senior Counsel Assisting**  
**Simone Fraser and Melinda Zerner, Counsel Assisting**

CHAIR: Good morning, everybody. I welcome everyone who was following these proceedings, that is the final day of Public hearing 9 dealing with disability - with issues relating to the employment of people with disability. Today we shall be hearing submissions from Senior Counsel Assisting the Royal Commission and perhaps from others, a party or parties who have been given leave to appear at the proceedings.

Before going further, I wish to acknowledge the Gadigal people of the Eora Nation, the traditional custodians of the land on which three of the Commissioners are sitting, that is to say Commissioner Atkinson, Commissioner Ryan and myself, and to pay our respects to their Elders, past, present and emerging.

I also wish to acknowledge the Wurundjeri people of the Kulin Nation upon whose lands Commissioner Galbally is sitting in Melbourne, and the Turrbul and Jagera Nation on whose land our interpreters and junior counsel are appearing in Brisbane.

I pay our respects to all Elders, past, present and emerging. I also pay our respects to all First Nations people viewing this hearing on the livestream.

Before asking Ms Eastman to proceed with submissions, I just want to make a brief introductory comment.

Over the nearly two years of this Royal Commission's life, we have expressed sympathy to people, including of course people with disability, who have experienced hardship as a result of the terrible bushfires in 2019 and 2020 and the COVID-19 pandemic which started in this country in February 2020. Unhappily, it is now appropriate to express our sympathy to people who have experienced the loss of homes, businesses, stock and personal possessions as a result of the catastrophic floods that have occurred in New South Wales and Queensland.

The silver lining to all this is the magnificent work done again on the frontline by emergency workers, the police, and the great army of selfless volunteers who add so much to this country. As always, Australians who have experienced heartbreaking losses will undertake the task of rebuilding with courage, and with resilience and with the support from their fellow Australians.

According to the Biblical account of the Exodus from Egypt, God is said to have visited 10 plagues on the ancient Egyptians. If you count darkness as equivalent to the bushfires and locusts as equivalent to mice, this country has experienced four of the 10 Biblical plagues within two years. Let us hope that once the period of rebuilding is complete, we shall enter a period of relative tranquillity.

Ms Eastman.

MS EASTMAN: Good morning, Commissioners. My name is Kate Eastman. I am Counsel Assisting the Royal Commission. This morning I appear with Ms Melinda Zerner, Ms Simone Fraser, who is celebrating a birthday today, and you will also see

with me, in the hearing room in Sydney, Emeritus Professor Ron McCallum.

We also pay our respects to the custodians of all the lands on that we gather today, and also the lands on which people following this webcast are present.

5

Commissioners, there are some appearances from some of the other parties. You may wish to take those appearances first before I commence the submissions.

10 CHAIR: Thank you. I will start with the appearances. Can we start, please, with appearances on behalf of the Australian Government.

MR COSTELLO: If the Commission pleases. My name is Costello and I appear for the Commonwealth.

15 CHAIR: Thank you, Mr Costello. There is an appearance, I think, for the State of Queensland? No, no such appearance. Are there any other appearances at today's hearing?

20 DR FITZGERALD: Yes, if it please the Commission, my name is FitzGerald and I appear on behalf of the witness who was given the pseudonym "Riley".

CHAIR: Thank you, Dr FitzGerald.

25 Is there any other appearance to be announced.

MS TURNBULL: If it please the Commission, Turnbull is my name, I appear on behalf of witness [REDACTED].

30 CHAIR: Thank you, Ms Turnbull.

MS CARROLL: If the Commission pleases, my name is Ms Carroll and I appear on behalf of witness John Baxter.

35 CHAIR: Thank you very much, Ms Carroll.

I think they are all the appearances. Yes, Ms Eastman.

40 **SUBMISSIONS BY MS EASTMAN**

MS EASTMAN: Thank you. Commissioners, this is the sixth day of Public hearing 9. Over five days in December 2020 you heard evidence from 35 witnesses, including people with disability, parents and carers of people with disability, together with advocates and academics. They gave evidence about their experiences in finding and keeping jobs.

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You also have heard about transitions into and out of the workforce and their experiences of discrimination and exploitation. Counsel Assisting wish to recognise and thank each of the witnesses who shared their personal experiences with the Royal Commission.

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Following the hearing in December, Counsel Assisting and solicitors of the Office of the Solicitor Assisting the Royal Commission considered all of the evidence presented at the hearing and the material provided to the parties following the hearing. Our role as Counsel Assisting is to consider the evidence and present our analysis and proposed findings to the Royal Commissioners, which the Royal Commissioners, in turn, may take into account in their deliberation.

The way in which we do this is to prepare written submissions and these are called Counsel Assisting Written Submissions. Commissioners, in this hearing you have made our submissions public and the parties who have provided written submissions in response to our submissions, their submissions are also public. The written version of the submissions are or will very shortly be available on the Royal Commission's website.

As I said, Commissioners, our submissions are intended to assist your deliberations and it's important to note that our suggestions do not represent any concluded or final findings that you may make.

Today we want to speak to our written submissions and present our submissions in this public forum. We want to focus on the key themes emerging from and any findings that may be available from the evidence. We consider that this may assist the work of the Royal Commission and that our oral submissions will identify further areas for investigation and possible future hearings relevant to the area of employment. This includes open employment but importantly also segregated employment, that is, employment in the context of Australian Disability Enterprises, ADEs.

ADEs are programs where people with disability work in a segregated environment and under supervision. ADEs use modified wage systems where an employee is paid on the basis of their work capacity. Participants working in ADEs can be paid less than the minimum wage in this system. So this is an important area for the Commission's further investigation but the experience of people working in ADEs was not part of the issues raised in this specific public hearing.

May I commence by explaining how we propose to proceed today.

First, there will be no witnesses today but we will revisit the evidence of some witnesses and we'll play extracts of their evidence as part of our oral submissions.

Secondly, I note that some witnesses from Public hearing 9 prefer not to use gendered pronouns, and in accordance with their preferences, witnesses may be identified by their name, or by the pronoun "they", or by the pronoun "them".

Commissioners, you will have seen that we adopted this approach in our written submissions.

5 Thirdly, in order to protect the privacy of certain witnesses, non-publication directions made in relation to the identity of certain witnesses. These non-publication directions continue to apply and Counsel Assisting's written and oral submissions will use the pseudonyms where appropriate.

10 Counsel Assisting's oral and written submissions contain information that may be distressing to some people. If this information raises any issues for you, please contact the National Counselling and Referral Service. The number is 1800 421 468; Lifeline, the number is 13 11 14; or Beyond Blue and the number is 1300 224 636.

15 Public hearing 9 was led by people with disability who shared their experiences and talked about the barriers and pathways to open employment. The evidence raised recurring and common barriers to the employment for people with disability. In this hearing, we do not ask you, Commissioners, to make any findings about specific incidents or whether a particular person, employer or government engaged in conduct that constitutes violence, abuse, neglect, or exploitation of a person with  
20 disability.

The focus of the approach that we wish to take in our written submissions and today is to look at the systemic barriers. For this reason, we submit that it is open to the Royal Commission to consider the totality of the evidence presented during the  
25 public hearing and to examine the themes and issues. And as outlined in our written submissions, it is our submission that it is open to the Royal Commission to find there are systemic barriers experienced by people with disability in both obtaining and retaining employment.

30 We've identified 31 barriers and these barriers may be grouped into four broad areas and Commissioners, you will see that there's a slide on the screen. Those four broad areas are attitudinal barriers, physical and environmental barriers, organisational barriers and structural barriers.

35 In the context of employment, these barriers may arise when a person prepares to enter the workforce, seeks a job, participates in recruitment processes and commences work. These barriers may also arise during a person's employment and lead to job loss or the cessation of employment.

40 A person with disability may experience barriers at all or some of these stages. The barriers may arise from the conduct of another person or because of long-standing workplace culture and practices. For some people with disability, these barriers may result in violence, abuse, neglect, or exploitation.

45 I want to deal with each of these areas in turn and then the particular barriers that we've identified, so can I start with attitudinal barriers.

As Professor Karen Fisher told you, people with disability experience negative attitudes in their capacity to work from employers, workmates, colleagues, customers and community members. The impact of these negative attitudes to the employment of people with disability are lower self-expectations, lower participation rates and lower work conditions.

Attitudinal barriers are those that relate to discriminatory beliefs, prejudices, stigmas and behaviours that may bar a person with disability from employment.

Based on the evidence, we've identified seven attitudinal barriers which I will address in turn. The first is the assumption that people with disability do not want to work or are not capable of working. Witnesses described how employers, colleagues and members of the community have low expectations about what people with disability can achieve in employment.

Mr Oliver Hunter is an aspiring comedian who works as an access consultant and consumer adviser. Mr Hunter lives with cerebral palsy and he told the Royal Commission about his experiences of tokenism and discrimination in the workplace, such as being given the task of dusting the top of fruit tins at his local supermarket while his colleague worked behind the checkout.

This is what he told you about his experiences.

**[VIDEO RECORDING PLAYED]**

MR HUNTER: .... I definitely felt there were times within the job where management were happy to have the local kid in the wheelchair rolling around in the shops, and it looked good for them and they felt good about themselves, but I wasn't really contributing to the business or to the productivity of the supermarket like my friend was. He was an employee and they relied on him for a lot of the goings-on in the supermarket and the jobs, whereas I was just sort of just there and did what I could.

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**[VIDEO RECORDING ENDED]**

MS EASTMAN: Ms Bos from Tasmania told you about getting her first real job at the age of 31 and she told you she's been looking for jobs since she was 18 years old.

Ms Bos shared her experience of wanting to apply for a job at a fabric and craft store where she'd undertaken work experience. She told you about the assumptions that she encountered from the Disability Employment Service provider. I will perhaps use the shorthand experience "DES provider" during the course of the oral submissions this morning. This is what Ms Bos told you.

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**[VIDEO RECORDING PLAYED]**

5

MS BOS: I saw a job position in the paper one day.

MS FRASER: After you saw the job in the paper, did you apply for the job?

10 MS BOS: I took it to my DES provider.

MS FRASER: Did the DES provider help you?

MS BOS: No.

15

MS FRASER: Why not?

MS BOS: They told me that I wouldn't be able to work there.

20 MS FRASER: That was even after you had done work experience there?

MS BOS: Yes.

25 MS FRASER: Did they give you a reason why they thought you wouldn't be able to work there?

MS BOS: They said because it would be too hard for me.

30 **[VIDEO RECORDING ENDED]**

35 MS EASTMAN: Ms Catherine McAlpine, the Chief Executive Officer of Inclusion Australia, told you that the systems have not caught up with the Australian society's evolving understanding of the capacity and desires of people with intellectual disability.

Ms McAlpine said this:

40 *the longer people have been out of institutions and the more we have learnt, the more we have learnt what people can do, and I certainly agree that our systems have not kept pace.*

45 Jess Mitchell spoke to these assumptions and you will recall Jess Mitchell is the Youth Storytelling and Development Officer with Children and Young People with Disability Australia. Jess has lived experience as a young person with psychosocial disability and neurodiversity.

Jess told the Royal Commission about the experience of young people in employment, drawing from the inaugural National Youth Summit which was held in 2020 and it included discussion about employment. Jess said young people with disability are “almost in this double jeopardy of being mutually young and mutually disabled”.

And Jess said this "creates a dynamic which can be challenging in which people might underestimate you and how much work you are willing to do".

Jess also said on some occasions employers would do the opposite and fail to consider accessibility due to, as she said, "assumptions that they would be fine".

One participant at the Summit said they “often feel like, depending on the context, I am either not disabled enough or too disabled."

Low community expectations can adversely impact people with disability's self-perception. This was eloquently described by Oliver Collins, a solicitor who works in Brisbane. He said he has “felt that there is a certain pressure that people with disability often grow up with in that we are not supposed to aim for the same things”.

And this can lead to self-sabotage. Mr Collins said societal and attitudinal change is required to address this so that people with disability won't always hear "no" --- they will hear "yes" or "yes, let's just do it a bit differently".

The second attitudinal barrier is lack of access to job opportunities arising from informal networks. Discriminatory attitudes and behaviours held and manifest by people without disability can lead to social exclusion and isolation. In particular, people with disability can be excluded from informal contact and networks that can lead to employment.

Taylor, who was diagnosed with autism and worked in the Australian Public Service --- and I will refer to that as the APS --- said they have applied for various positions within the APS where they have opted into RecruitAbility, the RecruitAbility scheme, and progressed to the interview stage where they did not seek reasonable adjustments.

Taylor was rated as "competitive" for two roles as part of a bulk recruitment process and then placed in merit pools. However, whilst several of their colleagues who were also in the merit pools were offered promotions, Taylor was not ultimately offered a position and was not provided with any feedback.

Taylor said the process of selecting people from merit pools is opaque and that people with disability, especially neurodivergent people, as Taylor said, "might not be as good at networking or blowing their own horn as others and as a result would be less likely to be offered a position through the merit pool processes".

Commissioners, you also heard from researchers and academics. Professor Anne Kavanagh and Alexandra Devine, the Academic Director of the Melbourne Disability Institute and Research Fellow with the Melbourne School of Population and Global Health respectively, shared the results of their research in the study Improving Disability Employment Study, IDES. That indicated participants did not report as often as expected that they found their jobs through connections, family or friends, and this was still an "important pathway for people with disabilities", although there is an acknowledgment that these networks are "sometimes smaller than jobseekers without disabilities".

The third area is discriminatory attitudes and behaviours when seeking a job and during recruitment processes. You heard about the experience of exclusion from recruitment processes after employers, hiring managers and human resources staff were made aware of a person's disability.

Commissioners, you will recall Riley, who gave evidence about their employment experiences as a person with scoliosis. Riley was recently diagnosed with autism and some mental health issues. Riley is also a parent of two children with ADHD and autism.

Riley spoke of their experience of the many times when they have either called an employer about a position or gotten to an interview and told the employer about their back problem and was either "shut down and excluded from the interview almost immediately" or did not make it to the next round of interviews. Riley said they had been hung up on as soon as they said they have scoliosis. The potential employer is no longer interested in hiring them.

Oliver Hunter told you about his experiences of applying for a Residential Advisor position at a university campus where he lived and studied. The Head of Campus called him after-hours on the day before the interview and asked him to come in for a meeting. During the meeting, at which other members of the interview panel were not present, the head of campus told Mr Hunter that due to his "physical restrictions", he would not be able to do the job.

At the interview, Mr Hunter's "physical restrictions" were not mentioned by the Head of Campus and there was no discussion about adapting the role. He was not offered the position. Mr Hunter described his experiences, being told that he could not do a job because of his "physical restrictions" was "quite blatantly discriminating against me".

Representatives from Get Skilled Access, Dani Fraillon, Zack Alcott and Stephanie Agnew, talked about the values that reflect inclusive cultures in workplaces, and having those values front and centre in recruitment. So instead of asking a person coming in for a job, "Have you got a disability?" you instead ask the question "What is it that we could do for you that's going to make this interview successful?"

Our fourth area is concerns for both employers and people with disability about disclosing disability in the workplace.

5 A real and difficult question faced by many people with disability is whether to disclose or when to disclose their disability. Witnesses have different experiences and approaches to disclosure, often depending on the job and the employer at hand, and depending if they thought it was "relevant to the duties and functions of the role".

10 Cody Skinner, a First Nations man who identifies as gay and lives with deafness and autism, and experiences mental health challenges, said during his first job at the age of 18 he told his employer that he was deaf but he was too scared to tell his employer about his autism.

15 Years later, after completing TAFE, Mr Skinner said he applied for many jobs online and this is what he told you. He said:

20 *I did really well going up to the interview but every time I disclosed my disability, they just rejected it, and it felt very frustrating and it felt like I was hopeless, people don't understand the education about us, the life we live.*

Riley said they have told employers in the past about their scoliosis and that they like to be truthful and not lie by omission and to be upfront and honest. However, Riley said they have to really think about whether or not they disclose their disability. In 25 determining whether or not to disclose, Riley considers the vibe from the interviewer, what they know about the company and the working conditions.

Nicky Bath, Daniel Comensoli and Hannah Morgan, representatives from the National LGBTI Health Alliance which is now called LGBTIQ+ Health Australia --- 30 say employees may conceal their disability, sexuality or disability to avoid discrimination.

Ms Morgan spoke of issues of intersectionality experienced by employees with disability who identify as LGBTI+. She recalled the following quote which came out 35 of research with the co-design team for the EmployableQ Disability Employment Inclusion Toolkit, and that toolkit was examined in Public Hearing 9. This is the quote:

40 *There is the whole issue of having to decide am I going to divulge or disclose my disability or my sexuality or gender identity, and then you have to assess how is everyone going to respond.*

Ms Morgan highlighted that many people with invisible disabilities may mask their symptoms and endure a workplace which may not be suitable for them which can, in 45 turn, impact on their mental health.

A co-design member of the EmployableQ Toolkit stated this: "It's important to feel

safe to bring your whole self to work, because if you can't, you won't bring your best self to work”.

5 Dr Ben Gauntlett, the Disability Discrimination Commissioner, highlighted disclosure and privacy issues as one of the barriers to employment for people with disability. Dr Gauntlett said that there is an "ongoing need to balance disclosure and privacy", and he spoke of the tension between an individual needing to disclose their disability to request reasonable adjustments but feeling apprehensive about doing so.

10 Dr Gauntlett recognised the "decision to disclose is deeply personal", and said that many people may be "more likely to disclose their disability in a safe space where they know how the information will be used".

15 A fifth barrier, as part of attitudinal barriers, is discriminatory attitudes and behaviours in the workplace. Discriminatory attitudes and behaviours towards people with disability in the workplace can take the form of employers, managers and staff, excluding people with disability from training or career development opportunities, work activities or social events.

20 You heard evidence about the experience of assumptions that people with disability are not capable of undertaking more challenging tasks or instances where they are expected to do additional work without formal recognition, and I will touch on the experience of four witnesses.

25 Mr Skinner stated that his former boss yelled and clapped his face to get - clapped in his face to get his attention when he made a mistake. Mr Skinner found this humiliating.

30 Mr Michael Pini, an Assistant Commissioner with the Tax Counsel Network at the Australian Tax Office where he's worked for over 30 years, gave evidence based on his personal experience as a person with disability. Mr Pini spoke about his experience working in a Queensland government department while completing his Bachelor of Business (Accounting) degree and working there after he received his qualification.

35 Mr Pini recalled that after completing his studies, he continued to be given menial tasks that were not commensurate with his qualifications and he continued to sit on the floor of the office with people who performed the more processing and administrative roles and did not have the same qualifications, rather than him being  
40 seated on the floor with people who had university qualifications in law and finance.

Mr Pini also recalled that he was told by a supervisor not to answer the phone because it would "be a bad look for the public to hear [his] voice".

45 Pamela "Ella" Darling, a young woman who lives with an Acquired Brain Injury, spoke about her experiences in a number of different jobs and the poor treatment she received in a variety of work settings. She spoke about being required to work long

hours without days off; being poorly paid; paid less than someone doing the same type of work; not being given the opportunity to complete new and different types of work which she was qualified to do; being subject to inappropriate and disrespectful comments; lack of management assistance for complaints and questions; and exclusion and verbal bullying.

Riley described an incident, while they were working for a previous employer, they observed a woman with the same condition being ridiculed behind her back and subject to complaints from other workers and snide remarks after she requested reasonable adjustments.

As a result of this, Riley decided not to request any adjustments. Riley also gave evidence that when they disclosed to the same employer that they might be on the spectrum, they were laughed at in the workplace.

The findings of Professor Kavanagh and Ms Devine in the recent IDES Report showed that close to 40 per cent of participants reported experiencing discrimination, ranging from experiences of discrimination when looking for a job through to discrimination in a workplace.

The theme which emerged in the evidence was the immediate and flow through negative impacts of discriminatory behaviours and attitudes in the workplace on the person with disability. Jess Mitchell described how a negative experience in a workplace can have a detrimental impact on a young person's aspirations.

The representatives from the National LGBTI Health Alliance spoke about the compounding discrimination that people with disability who identify as LGBTI+ experience in the workplace, often leading to minority stress.

The sixth factor is employers incorrectly assuming that hiring people with disability will be costly, burdensome, less productive and risky which may result in overlooking a person's skills.

A key theme which emerged in the evidence was how the prevailing misconceptions can impact on hiring people with a disability. Dr Gauntlett said this:

*[Some people] fail to understand or appreciate .... a person having a disability throughout their life can mean that individual has a lot of soft skills that are incredibly important to an employer.*

He identified problem solving skills, strong logic, team work and communication as such attributes. He said it's important to "emphasise the strengths of people with disability and what they can do. "

Dr Gauntlett said that there is a need to educate employers about the common misconceptions that hiring a person with disability will result in the need to make significant and potentially costly changes to the workplace.

5 Citing a 2020 Australian Institute of Health and Welfare web report, Dr Gauntlett said "82% of unemployed working-aged people with disability and 88% of those who are employed do not require any additional support or modification from their employer to work".

Representatives from Get Skilled Access also spoke to the misconception about the cost increase when employing a person with disability.

10 This was particularly emphasised by Ms Suzanne Colbert AM, the former but founding CEO of the Australian Network on Disability, AND. She spoke about the results of the Employer Mobilisation Project which found that employers view "red tape hurdles" around worksite requirements, modifications and adjustments, as a barrier to integrating people with disability into their workplace.

15 The Employer Mobilisation Project also found employers "tend to focus on the risks of hiring people with disability".

20 Which they presume to include risks associated with injury and liability.

Ms Colbert said these assumptions are "deeply held" and are a result of a lack of understanding. It was noted safe work practices and worksites are required for all employees and not just people with disability. Ms Colbert referred to data that shows people with disability have less workplace accidents and injuries than other employees and are more likely to be compliant with work health safety procedures.

25 Dominic Hồng Đức Golding, Policy and Project Officer at the National Ethnic Disability Alliance, spoke about his experience advocating for Culturally and Linguistically Diverse people with disability to employers. He said the response he gets from employers is this: "I don't have time to do that", or, "This is going to cost too much money, we can't invest in that kind of assistive technology", without knowing whether they can apply for Job Access" or something of that kind.

35 People with disability told you about the impact of these misconceptions for them. Mr Collins said he feels "like there are greater amounts of pressure on people with disabilities because the attitude is still that we are a burden". And as a result, Mr Collins said people with disability may feel that they have to "go above and beyond to prove to everyone that we belong. "

40 The seventh and final factor or barrier in the attitudinal barriers is negative health impacts including lack of motivation or confidence resulting from the experience of being excluded from opportunities to work. Witnesses described how unsuccessful job applications can have serious negative impacts on their mental health.

45 Yuri Sianski, who you will recall gave evidence of his experiences in Tasmania, said that it has been hard to experience so many knockbacks seeking employment.

Commissioners, you will recall that Yuri Sianski has worked in a number of short-term and unstable roles for the last two decades. He lives with schizophrenia and would like the opportunity to use his creativity and engineering skills in a role in the mechanical industry. Yuri's father, Edward, spoke about the impact of Yuri  
5 being excluded from opportunities to work and Edward told you this:

*From someone who had so much potential to excel in any field he engaged in, to someone struggling to find a few hours work each week, my wife and I are at a loss to know how to help him.*

10 And then Jamie. Jamie obtained both undergraduate and post-graduate qualifications in behavioural science, human services and social work. Despite this, Jamie has been in unpaid volunteer roles for over 20 years and was placed in an Australian ADE where he earned \$3.51 per hour. He said this:

15 *A lifetime of unemployment and under-employment has ruined my life and left me welfare dependent. I can hardly afford to do anything for myself other than buy a cup of coffee. It has ruined my self-esteem.*

20 Commissioners, I will now turn to the second area of barriers being physical and environmental barriers.

The physical and environmental barriers relate to issues of access, including physical spaces, communication methods and the provision of reasonable adjustments and  
25 assistive technology. We identified six barriers in this area and I will address each in turn.

The first, physically inaccessible buildings and workplaces.

30 A key theme which emerged in the evidence was the fundamental importance of physical accessibility of workplaces and buildings for people with disability.

Accessibility is more than whether a person can enter or move around a building, it may include whether the office has an accessible toilet that is close and easy to  
35 access, whether other essential facilities, such as the kitchen, can be accessed and used.

So if an advertised job is located in a building that is not accessible, people with disability may not apply. This means that they are excluded from the outset and the  
40 employment options available to them are further limited.

Mr Collins gave evidence that when making a choice of career path, he took into account his disability and what the future might look like for him. Mr Collins saw a careers counsellor and determined that law, which involves a lot of computer work,  
45 "would be an ideal career". He has had a positive experience at King & Wood Mallesons, who have ensured the accessibility of his office by engaging an occupational therapist and purchasing recommended office equipment.

Dr Beth McNally has a PhD in Social Psychology and is currently employed at a Government Department where she's worked for close to 7 years. Dr McNally has a rare form of dwarfism and uses a wheelchair for mobility.

5

She told you about her personal experiences in an effort to shed light on the systemic barriers faced by people with disability in seeking and maintaining employment.

10 You heard considerations around accessibility impacted her decisions regarding a career path and specific jobs that she applied for. This is what she told you.

**[VIDEO RECORDING PLAYED]**

15

MS FRASER: Can you explain to me how your disability impacted on the process of actually applying for jobs?

20 DR McINALLY: Yes. So, I guess I was then faced with realising the large amount of jobs that were just not going to work for me. Like I touched on before, there is a number of things that I had to consider. Given that I don't drive, I had to make sure I could access my job via public transport. And even though you nicely said I'm not very old, back then the buses weren't all accessible, so it was really was thinking  
25 about the location of the job in terms of where it was situated in the Brisbane area. And then I had to put thought into whether the building where the workplace was actually going to be accessible as well, and then look at the actually specifications of the job around the requirement to drive or travel independently, or do tasks that I didn't think physically I would be able to do. I think at that stage, rather than go for  
30 everything and face the challenges, I just ruled those ones out that had the big challenges that were apparent to me at the time. So it really limited the number of jobs that I was able to apply for.

35 **[VIDEO RECORDING ENDED]**

MS EASTMAN: Just as a truly physical accessible environment can enable and empower so can an inaccessible environment disable and disempower.

40

Speaking to this theme, Dr McNally said "the workplace is one of the times that makes me feel the most disabled". She described her previous experiences at work, including having to travel six levels in a lift to access a bathroom and being unable to use the kitchen facilities.

45

She said this not only harmed her productivity while at work but also meant that she was unable to do commonplace things that many people took for granted in

workplaces, such as refilling her water bottle during the day or bringing her lunch to work which would require heating in the microwave.

5 Mr John Baxter, an Aboriginal Partnerships Coordinator at an NDIS provider, and a  
passionate advocate for reconciliation and cross-cultural understanding, told you  
about his personal and professional experiences as a person with disability. He  
spoke about how difficulty of access can pose a barrier to employment for people  
with disability and conversely, what a workplace with good accessibility means.  
10 This is what he told you.

**[VIDEO RECORDING PLAYED]**

15 MR BAXTER: Sometimes we had to park some distance away from an office. We  
actually have an office that is actually quite hard to access. And it is just an  
additional layer of difficulty for someone like myself. You have to picture in your  
mind trying to hold an umbrella or wrapped up in an awkward raincoat, and trying to  
20 get down the street in the heavy rain. It does cause quite a bit of difficulty. And  
being able to have a discussion with an employer and stationed at an office that has  
good parking access, that has good disability bathroom facilities, for example, that  
has a workstation that is easily accessible, it makes --- it makes an immense amount  
of difference because you are not focusing on "When is the next time I need to use  
25 the bathroom", "Can I reach the cutlery and the plates if I want to on my lunch break,  
am I eating it out of a paper bag", things of that nature. You want to connect with  
your other colleagues at work, you want to be able to just work as a peer.

**[VIDEO RECORDING ENDED]**

30

MS EASTMAN: The next barrier in this category was environments that do not  
support the inclusion of people with various psychosocial, cognitive or episodic  
35 disability.

35

Some working environments make it hard for people with disability to focus and  
produce their best work. Given the episodic nature of some disabilities, people can  
be impacted by environmental factors and at various times and for various reasons.  
Jamie gave evidence that some of the impacts of his Acquired Brain Injury include --  
40 - he said this: "difficulty focusing on a task and understanding non-verbal  
communications in order to understand social situations."

Jamie explained that this means it can take longer for potential employers to really  
45 get to know him.

45

Ed Sianski believes his son Yuri's mental health, would benefit from the social  
aspects of work and that a job would "do wonders for his self-esteem". Edward

explained Yuri would require an employer who understands that his illness ebbs and flows and who could provide instructions and supervision.

5 A third barrier is environments that do not support accessible means of communication. Some disabilities, such as sensory disabilities, affect the way a person communicates. Sometimes this can mean that the person needs supports or adjustments to enable their access to communication. Jess Mitchell shared the experience of a Summit participant who said that having other young people with disability or peer workers in a workplace enabled easier communication and a feeling  
10 of increased support. This was particularly so in the context of conversations around overcoming challenges in the workplace, where many young people may find it intimidating to speak to someone who has not had similar experiences.

15 Mr Skinner spoke about his own business, which educates employers about how to access assistive technology and communicate with deaf people. Mr Skinner explained that there are a lot of misunderstandings about how disabilities affect people's everyday lives. For example, people may not realise that Auslan is the first language for deaf people, or that people with Autism Spectrum Disorder like routine and structure. Mr Skinner stated that when employers ask about assistive  
20 technology, they find out that it will not cost them a lot.

A fourth barrier in this area is the lack of availability of jobs, particularly for people living outside of urban centres. A theme emerging from the evidence was the potentially compounding effect of limited jobs on barriers experienced by people  
25 with disability.

Yuri Sianski said, after completing a course in cleaning it took him two years to secure a cleaning job in Hobart, Tasmania. Yuri said the job lasted for two weeks until "the business shut down or something" and his employment was terminated  
30 without explanation.

Mr Golding said, in his experience, a person with disability in Mount Gambier is likely to end up working in an ADE and so he moved to Adelaide after school to continue his studies.  
35

Jess Mitchell gave evidence that barriers experienced by young people with disability --- including a lack of meaningful, personalised, appropriate and effective supports; ableism; people not listening and making assumptions --- are often intersected with additional barriers such as geographical location.  
40

It was suggested that some of the difficulties with the DES system are compounded by a "lack of jobs that meet people's needs and aspirations and [are] aligned with their capacity". This is something that Ms Devine noted as a "significant issue" and Professor Kavanagh said that this is likely to increase as we navigate the impact of  
45 COVID-19 on the economy.

However, Ms Devine was clear that creating more jobs is only part of the solution as

there also needs - there is a need to address the underlying socioeconomic inequalities as well in terms of improving housing, transport and mental health services.

5 A fifth barrier is the lack of affordable and accessible housing and transport to be able to travel to work.

The importance of stable, accessible housing and transport links in obtaining and maintaining meaningful employment was a theme raised by witnesses.

10

Dr Gauntlett said:

15 *.... employment is directly affected by other aspects of a person's life, whether that be their housing, their access to personal care, their education, their ability to access public transport, and their ability to be safe where they live.*

He said public transport is particularly relevant where a person with disability "may not have their driver's licence, struggle to walk long distances or have difficulties in inclement weather". One only needs to reflect on the past week.

20

Dr Gauntlett referred to the "dehumanising experience" which may be endured by a person with disability when public transport is not accessible. He noted that inaccessible public transport may lead a person to be unable to get work in a way that is cost-effective or feasible, and he drew on the example of taxis which "can be prohibitively expensive" and can require "significant wait times".

25

The collection of "data which identifies where these services are currently available and where they are most needed" was posed by Dr Gauntlett as a means of addressing these particular issues.

30

Professor Kavanagh and Ms Devine highlighted issues around accessibility and access to housing and transport as examples of "very important non-vocational barriers". A significant number of respondents to both Wave 1 and Wave 2 of the IDES research found that lack of transport acted as a barrier to employment.

35

Commissioners, you will recall Rohan Fullwood who worked at McDonald's for 18 years in Sydney before retiring last year. Mr Fullwood told you about his journey to employment including his experiences at school and in tertiary courses and his experiences in the workplace. Mr Fullwood spoke about how he felt confident catching the train to work each day during his 18 years of employment at McDonald's. Mr Fullwood liked following the same routine each morning, he would see the same people on the train and he would get to work early to relax before starting his shift.

40

45 The importance of stable housing was highlighted by Rohan's mother, Deborah Fullwood. She expressed her belief that Rohan's stable housing has been a major factor in his successful working life and in turn has been a major factor in his life

outcomes. You will recall Mr Fullwood, post-retirement, is now working as the Health Ambassador with the Down Syndrome Association.

5 The final barrier in this area is inaccessible technology, design, websites or communications.

While technology can be a great enabler for including people at work, when it's not accessible it can also create barriers to their employment.

10 Inaccessible technology can include computer systems or programs that cannot run screen readers or speech to text, touch screens without audio descriptors, training videos without Auslan translation or captioning, or requiring all staff to use the telephone.

15 Representatives from Get Skilled Access explained that inaccessible work practices were a barrier that people with disability experience when seeking, maintaining or progressing in employment. The design of spaces and objects, such as chairs, tables, and shelving, how they are laid out, how they can be easily moved or modified, may also be barriers to the full participation with people with disability in the workplace.

20 CHAIR: Ms Eastman, you're coming, I think, to the third category of barriers. It may be convenient to have a short break now and return to the third category. So it's now 11.00, 10.00 in Brisbane. We'll resume in 15 minutes.

25 MS EASTMAN: Thank you, Commissioners.

**ADJOURNED** [10.58 AM]

30 **RESUMED** [11.17 AM]

35 CHAIR: Yes, Ms Eastman.

MS EASTMAN: Commissioners, I've covered two of the areas and I'm now turning to the third area of organisational barriers.

40 Organisational barriers are barriers arising from the implementation and running of policies, services and workplaces. They include processes and procedures carried out by a business or a service that may exclude people with disability, such as inaccessible recruitment processes, lack of appropriate support services and a refusal to make reasonable adjustments.

45 In this area we identified eight barriers, but we'll deal with them over three areas. The first area is preparing for work. The barrier that's identified as part of preparing for work is the difficulty in accessing skills training and education, and a lack of

support to engage with and complete qualifications.

Now, the link between education and employment was undoubtedly a key theme emerging from the evidence. I'll start directly with Ms Darling. This is what she told  
5 you about her experience.

**[VIDEO RECORDING PLAYED]**

10

MS DARLING: Well, I did like school, and I did like having my friends and that, but they didn't understand my disability because, you know, it was an Acquired Brain Injury so they assumed I couldn't do anything and they would make me do colouring and that wasn't right, you know. Maybe they could have got a support  
15 worker and could have helped me and said, "Hey, we can help you with this?" Instead of excluding me and treating me like I was a baby, and I didn't like that.

MS EASTMAN: When were you at school, did you get to do any work experience?

20 MS DARLING: No, I did not.

MS EASTMAN: When you were at school did anyone talk to you about what you might do when you left school?

25 MS DARLING: No, no one really did. And then I found when I got out of school, I thought, maybe I will get into a TAFE course or do something interesting, which I did for a little bit.

30 **[VIDEO RECORDING ENDED]**

MS EASTMAN: Edward Sianski told you about the educational difficulties his son Yuri experienced while trying to find the right medication to treat his psychosis.  
35 Yuri, you will recall, had six months left of his course but he was unable to complete his mechanical engineering course or his apprenticeship after becoming unwell. Yuri also talked about engaging in studies for trades, bartending, hospitality, and woodwork, none of which have led to employment. Yuri believes it would be helpful to engage with further study in a properly designed course that resulted in a  
40 job. Edward agrees that with the need for the support package that includes education opportunities that are followed by employment.

Mr Baxter told you about his experience in encountering bullying at high school, and he said there was a lack of focus by the school on integration or access.  
45

Mr Baxter told you that he underwent major spinal fusion procedure when he was 14 or 15 years old and that had a "big impact" on his schooling. It meant he was unable

to attend all classes, or be socially integrated as he would have liked. Mr Baxter eventually left school in year 11 because keeping up with his schoolwork while going through the whole series of procedures and surgeries became too much.

- 5 While reflecting on his many years of job-seeking, Mr Baxter thinks that his educational status and the many years of voluntary work and little other employment history may have affected the way potential employers viewed his applications. Mr Baxter described these things as having a compounding effect.
- 10 He made observations about what could be done better in terms of training and support, particularly for First Nations people with disability. In particular, this related to the proactive provision of ongoing support and ensuring it does not become the responsibility of the individual to ask for training.
- 15 The importance of training and education being tailored to the particular student cohort emerged as a key theme.

Ms McAlpine said training and education for people with intellectual disability needs to follow an evidence-based practice. She referred to research which indicated this:

20 "that placement in a job, then on-the-job training, results in higher rates of open employment outcomes."

She said this type of training and support is commonly only offered by specialist employment providers and there is a lack of published data to assist people with

25 intellectual disability and their families to identify these providers.

You heard evidence from Ms Kit Owen-Turner who is the mother of a very determined and focused Charlene Cristobal who lives with Down syndrome. Charlene is currently completing further education at TAFE and employment-based

30 training. She likes dancing, painting, singing and working with computers. Charlene said that when she completed high school she "wanted to go to college to learn."

Now, her mother said she wanted to fulfil what Charlene wanted to do and to get Charlene into an office course at a special unit at TAFE two days a week. After one

35 year, Ms Owen-Turner was told by the TAFE that they would not be able to accommodate Charlene for the next year. Charlene had not mastered some of the subjects and Ms Owen-Turner asked if she could repeat the course, but she was told that was not possible for budgetary reasons.

40 Ms Owen-Turner said she asked if Charlene could be put in a basic computer course, and Ms Owen-Turner asked if she could sit in the class with Charlene or find someone to support her, but again was told this was against TAFE policy.

Ms Owen-Turner was able to get Charlene into another TAFE one day a week doing

45 pretty much the same subjects that she had been doing in the office course. She said she was initially told by the TAFE that it did not have a place for Charlene, but she said this, that she was "bugging them so much that they fitted her in".

Charlene said she likes going to TAFE because it helps her to learn.

5 Professor Kavanagh and Ms Devine said that the most commonly reported vocational barrier by the IDES participants was a lack of qualifications and skills. Ms Devine pointed out that often this is because people with disability experience other barriers such as discrimination in their educational settings and in their transitions from education to school.

10 Associate Professor Jennifer Smith-Merry and Professor John Buchanan from the University of Sydney undertook research looking at the way students with disadvantage experience vocational education and training in New South Wales, with disability being one of the case studies of disadvantage (in accordance with categories under what is described as the Smart & Skilled Program in New South  
15 Wales).

Students with disabilities are seen as a cohort in need of extra support to gain employment, and Associate Professor Smith-Merry, the Director of the Centre for Disability Research and Policy, said that people with disability are observed to  
20 undertake a “large number of qualifications” but may not end up in employment. She explained the findings of her research with Professor Buchanan, who is a member of the Business Information Systems Discipline --- I'm not sure quite exactly what that is but you will recall he appeared also from the University of Sydney ---  
25 from a qualitative perspective, showing the impact of poor disability confidence and the negative impact that prior experiences of marginalisation and stigma can have on people with disability in terms of completing qualifications.

There are also examples of people not being able to access their course of choice because it was not offered in a format that was accessible or being placed in a course  
30 which was inappropriate for them in order to fulfil a requirement for the DES or the JobActive scheme.

Associate Professor Smith-Merry also indicated that there is a “lack of disability confidence within the vocational and education training systems”. There were some  
35 providers who offered an excellent experience while others not. Better outcomes are possible when there's a “good cross-sector collaboration”, for example, where vocational education providers are embedded in the community and therefore know both the employers and the disability support providers.

40 You heard from Get Skilled Access, that "everybody talks about just getting a job for a person with disability as opposed to what is the career that they would like to pursue" - - so that tension, about merely having a job being good enough but not focusing on a career, was an important issue raised.

45 Ms Colbert said that there is a need to focus on long-term evidence-based programs and she cited the National Disability Recruitment Coordinator and JobAccess as "Australia's best-kept secret".

Commissioners, I pause here to say we would like to unveil that secret and I will come shortly to our proposals we make about future hearings and one may be to learn a lot more about the National Disability Recruitment Coordinator and JobAccess.

Ms Colbert highlighted the importance of passing on existing information as well as focusing on innovation and investment to ensure that the people with disability are given "more choice over their career destiny with absolute support".

The second barrier is the lack of access to part-time work or work experience.

When young people have the opportunity to undertake work experience or casual jobs that many Australians as teenagers have had, they acquire skills, the chance to develop an understanding of the workplace, to try out different areas of work that they may be interested in, and start learning where their strengths may lie.

Without this opportunity, a person with disability can be put at a major disadvantage when it comes to entering the labour market full-time. And we saw this in the excerpt that was played earlier from Ms Darling's evidence.

Jess Mitchell said Summit participants viewed having different pathways to employment as being "vital", pointing to work experience as an opportunity to learn life and work skills.

Mr Skinner spoke about undertaking work experience in Years 11 and 12. He said that this opportunity enabled him to develop skills, build confidence and he said:

*It gave me an idea of what work looks like when you go into the real world.*

Now, after completing TAFE, Mr Skinner obtained a paid administration position in the organisation where he had done work experience.

Ms Kalena Bos said undertaking work experience in an administrative role at the organisation Speak Out led to a paid role as an advocate which involves attending meetings each month with people from around Australia and she said it involves "making decisions that are important to people with intellectual disability".

Ms Catherine McAlpine said that Year 10 students in special/segregated education are often "only offered experience within an ADE in a group rather than provided with a variety of individual work experience opportunities as an evidence-based approach to employment readiness".

Dr Lisa Stafford, a senior lecturer in Public Health and Social Work, Faculty of Health at the Queensland University of Technology, said many young people with disability do not have experiences of work because it is hard to find a part-time job at school, and there are no support systems to help young people with disability to do

so. She noted that DES providers cannot provide support to a young person while they are in secondary school.

5 Associate Professor Smith-Merry said exposure to work is “essential for people getting employment”, and this exposure not only positively impacts the person with disability by increasing their confidence and skills; but it also “means that employers have more exposure to people with disability”.

10 Ms Colbert said “one of the best predictors of ongoing employment is work experience during the time of study”. She said her organisation, AND, has developed a series of programs aimed at ensuring that people with disability have avenues to work experience, mentoring and internships in their chosen fields. She noted, in her experience, students with disability may be unsuccessful in applying for programs with “merit selection” processes without consideration being given to their  
15 academic results which may be reflective of a failure to obtain reasonable adjustments or support.

20 As she pointed out, an individual's “academic transcript - on which their application is assessed - is not a reflection of their ability but a reflection of a person's circumstances”.

The third area is a lack of or inappropriate assistance in becoming job-ready; that is finding, securing and maintaining employment.

25 People with disability need to be “job-ready” and may need supports to achieve "job readiness". Where those supports do not exist, people may struggle to secure and maintain appropriate employment.

30 Training should be appropriate and relevant to a person's vocational goals. It is also important for people to develop soft skills and knowledge that will enable them to put themselves forward in the job market, navigate workplaces and succeed in achieving their vocational goals.

35 I spoke earlier about Rohan Fullwood who worked for 18 years at McDonald's and he told you about the value of appropriate assistance and training in becoming “job ready”. Now, this is what he said.

40 **[VIDEO RECORDING PLAYED]**

MR FULLWOOD: Yes, I did a hospitality course through school that I went to for about a year.

45 MS EASTMAN: So you did the hospitality course at school. And then after school did you do a hospitality course at the TAFE?

MR FULLWOOD: Yes, it went for about three to six months.

MS EASTMAN: What did you learn in the hospitality courses?

5 MR FULLWOOD: It was mainly just to take orders and how to be a bartender, how to serve customers and how to interact with people in a restaurant or bar.

MS EASTMAN: Did you get any practical training as part of the hospitality courses?

10

MR FULLWOOD: We did. There was a cafe and a restaurant that was run at the TAFE. I got to work in a uniform as a waiter and even had to wear a uniform with a bowtie.

15 MS EASTMAN: Did you like the bowtie?

MR FULLWOOD: Yes, I did.

MS EASTMAN: What did you enjoy about the TAFE hospitality courses?

20

MR FULLWOOD: I enjoyed all of the courses. It helped me to decide that I wanted to do some work in hospitality.

25 **[VIDEO RECORDING ENDED]**

MS EASTMAN: You will recall the evidence that Mr Fullwood said he used a DES provider to assist him in applying for the position at McDonald's and Mr Fullwood said that the DES provider helped him fill out the application forms, but after he got the job, the provider continued to visit him at McDonald's and provide fortnightly and monthly support over the 18 years of his employment.

30

Mr Fullwood said he thought it was very helpful to have their support.

35

Now, the IDES research and the work of Professor Kavanagh and Ms Devine focuses on the need to improve the DES system by understanding the perspective of jobseekers with disability and the perspective of service providers so they can better understand the cohort that they are tasked with supporting. In some of the key findings of the IDES research, the DES participants wanted providers to "help them obtain confidence in their own abilities"; to assist them to find jobs that meet their needs; to develop their skills; to assist in job application processes; and to support them once they were in a job.

40

45 In terms of the effectiveness of the DES system, the IDES research found that the "majority" of respondents reported success in finding work through applying via public advertisements, while a smaller proportion felt that their DES provider

directly supported them to find work.

5 This resonated with the evidence of Associate Professor Smith-Merry and Professor Buchanan who studied the vocational education and training system, and found some good institutions and expertise which can be revitalised to result in positive impacts for disadvantaged groups, including the existing TAFE system which could be used to improve job readiness among certain cohorts.

10 Professor Buchanan used a quantitative perspective to illustrate that employment rates for people with disability have remained stagnant for the past 20 years and set out the challenge to develop disability-friendly recovery from the economic impacts of COVID-19, which, in his view, will increase the issue of joblessness in the country.

15 Professor Buchanan gave specific suggestions such as the use of quotas supported by tax breaks, as a means of ensuring that people with disability become "a reference point" for policies to increase employment opportunities rather than quote "an after-thought".

20 The fourth area is poorly trained, inefficient job service providers, placing people in any job with no regard to the jobseeker's skills, qualifications and interests.

25 Witness have had experience of job service providers paying little regard to their aspirations, skills and interests. Witnesses recounted holding multiple qualifications and experience but yet being placed in entry-level or unskilled roles. These roles were often completely unrelated to their experience and well below their capability.

30 Yuri Sianski said he attended a DES provider every two weeks and did not get any jobs and this is what Yuri, followed by his father Ed, said about the impact of this experience:

**[VIDEO RECORDING PLAYED]**

35 MR Y SIANSKI: There's not much opportunity for me at the moment, I haven't got NDIS or anything like that, like, organising to help me or anything. It's quite hard. The employment agencies I used to go to many years ago, they've shut down and are non-functional now. Yeah, I hope that at this hearing, like, I will be able to get  
40 somewhere so someone would be able to organise. Other than that I have to go to Centrelink or something and organise through them, or --- but I don't have a place --- well, where I get my injections is at a local doctor, so it's not through the --- like a psychiatric medium anymore, it's just a local doctor so I don't get to  
45 hand over any information to find me any leads or anything. So it's quite hard.

**[VIDEO RECORDING ENDED]**

**[VIDEO RECORDING PLAYED]**

5

MR E SIANSKI: 25 years of Yuri trying to get a job has convinced me that it is, it really is a cul-de-sac of neglect. And it is shameful. I didn't realise that Australia had actually signed up a UN Convention on the Rights of People with Disability, and paragraph 27 of that document says that everyone has got the right to a job of some  
10 kind. Now, if the conditions are not available for people to --- or the structures aren't available for people like Yuri to get a job, then they should be.

**[VIDEO RECORDING ENDED]**

15

MS EASTMAN: You also heard from Mr Skinner, he said he was unknowingly placed in a supported employment program by a DES provider despite having a long history of working in open employment. When he got to the workplace he realised  
20 that everyone who worked there had a disability, and his employer told him that he was getting paid \$11, I think an hour, because he was on a supported employment program run by the government. You will recall his evidence of being very surprised at that circumstance.

25 Mr Golding told you that he holds an Advanced Diploma in Community Development and a Masters of Social Work and a Masters of Research into inter-country adoption in Australia. While participating in DES he was placed in roles that were not related to his qualifications or reflective of the area that he wanted to work in. For example, notwithstanding his particular qualifications, he was placed  
30 in a Mexican restaurant washing dishes and making desserts. When he did secure a job in his area of interest, it was one that he found independently of his DES provider.

35 In his experience, advocating for Culturally and Linguistically Diverse jobseekers with disability, Mr Golding told you this:

*Job Network and DES providers generally don't explore a person's interests or desires and how they might be supported or assisted to find the type of work they're interested in. They just want the person to be placed in a job.*

40

There were also accounts of the benefits of a person-centred approach to job selection. Ms Kalena Bos said she has received assistance from the staff members at the current DES provider, and that one staff member "really took the time to get to know me" and she said that that person discovered that she had an interest in clothes.  
45 Another staff member then worked with Ms Bos to complete an application for a position at Kmart. When Ms Bos received an interview, the staff members helped her pick the outfit to wear to the interview, spoke to her about the questions she

might be asked and attended the interview with her. She was successful in achieving that position, and upon receiving the position the staff member helped her complete the online training. And you will recall that she told you she loves her job at Kmart and said, "My new job has changed my life."

5

Ms Ella Darling has worked in a number of different DES providers and has found that, whether you get a job from going to a DES provider all depends on whether you are given a good worker. In her experience, she found that good DES workers were "people who were willing to take time to get to know me and to put the effort to help me."

10

Ms McAlpine said that "a specific skill-set is required to appropriately assist a person with intellectual disability to find ongoing and meaningful employment". It includes the importance of the "focus on vocational aspirations and the strengths of a person with disability together with an understanding of what they want from work".

15

Professor Buchanan and Associate Professor Smith-Merry talked about the results of their findings, and that is that there are good DES providers who are very engaged and supportive. However, there is a tendency to deviate from the good practice largely as a result of under-resourcing, lack of specialisation, and the changing underlying structure in the vocational education system.

20

The next barrier is the area of applying for jobs and recruitment processes.

25

Under this area, we identified a few barriers and the first is - sorry, one barrier, job advertisements and role descriptions that are inaccessible. These job descriptions often contain discriminatory inherent requirements and do not make reference to reasonable adjustments.

30

Several witnesses highlighted the importance of considering accessibility right from the start of developing a job advertisement or role description.

35

Ms Colbert said that barriers to employment can begin from the way jobs are described if the inherent requirements of a role are not made clear. And it can be, as she said, "very hard for people with disability to know whether they could actually perform that role".

40

Similarly, the National LGBTI Health Alliance said through the development of the EmployableQ Toolkit they discovered the importance of thinking about how job advertisements are written. The Toolkit contains a step-by-step guide for employers to ensure that job advertisements are written in Plain English or Easy Read, and can be accessed by screen magnifiers and screen readers and contain inclusive language such as an equal opportunity employer statement.

45

Ms Darling currently works in what she describes as her "dream job" at the Council for Intellectual Disability and she recommends that job advertisements and applications should be in Easy Read or use pictures to ensure that they are accessible.

5 Rachel Kroes, the Chief Executive Officer of the Down Syndrome Association of the Northern Territory, also talked about job descriptions. She said that job descriptions through DES or mainstream employers do not break down the tasks of a role and are not written from a person-centred approach of what an individual with disability can learn to do.

10 A recurring issue that emerged in relation to potentially discriminatory inherent requirements was, for example, the requirement to have a driver's licence. And you heard from Jamie, and Mr Skinner --- and in Mr Skinner's case after six years --- finally obtaining his driver's licence after finding an instructor that provided structures to his lessons.

15 I now want to turn to the final area in relation to organisational barriers, and that is during employment.

There are three barriers that we identified in this area. The first, employers lacking knowledge, skills, leadership, and resources to support people with disability.

20 I think it's uncontroversial to say that employers need to have the knowledge, skills, leadership and resources to both employ and support people with disability in the workplace.

25 Jess Mitchell spoke about the desire of young people to work with employers who reach in, so not just reach out, but reach in to the young person and foster a culture of acceptance around diversity. Summit participants had shared that it is "much easier to have a conversation with your boss when they come to you first".

30 Taylor observed that they have the experience of employees with disabilities being heavily dependent on the goodwill of their direct line manager, which is highly variable. Taylor said that:

35 *[e]mployees with disability who have managers who are supportive of their needs have much better employment experiences and are more likely to progress in their careers than those employees who do not.*

40 Taylor spoke about the visibility and leadership that can be generated by employee support networks if properly active, and Disability Champions if properly involved. However, in their experience, they found that disability can be the poor cousin of other diversity groups.

45 The LGBTI Health Alliance developed the EmployableQ Toolkit after recognising that many of their member organisations lacked the resources that would enable them to engage with and employ LGBTI people with disability. The Toolkit was developed in consultation with a co-design team of people with disability that identify as LGBTI. The Toolkit aims to educate employers and shift their perception of disability by providing resources that focus on inclusion, safety, recruitment and

accessibility.

5 The Alliance said often the onus is on the person with disability to educate others in the workplace and frankly, this responsibility is "incredibly tiresome". The Alliance spoke about the importance of shifting the onus onto the organisation to arrange training and implement the EmployableQ Toolkit in a thoughtful and consultative way.

10 Mr Baxter shared his perspectives as an Aboriginal man with disability about particular strategies that employers can implement to establish culturally safe and inclusive workplace environments. These include developing reconciliation action plans, having policies around "sorry leave"; displaying art by Aboriginal and Torres Strait Islander artists; flying the flag; marking events and dates that are important to the community.

15 Ms Colbert said large organisations need what she described as "authorising environments" towards hiring people with disability, meaning a "clear message from the top", and a "commitment" from senior leadership to be an organisation which is accessible and inclusive.

20 Now, the second area we identified is employers refusing to provide flexible work arrangements or reasonable adjustments or accommodations during recruitment.

25 I've got to this point and I understand, Commissioners, that there's a small technical issue that has arisen in relation to the submissions that I'm about to address, so could we have a short adjournment, I don't think we will take longer than 10 minutes, just to iron out the small technical issue, which I can't explain to you but I can assure you exists.

30 CHAIR: Thank you. All right, well, it's now 11.55 Sydney time/10.55 Brisbane time. We'll adjourn until 12.05 Sydney time/11.05 Brisbane time.

35 **ADJOURNED** **[11.53 AM]**

**RESUMED** **[12.07 PM]**

40 MS EASTMAN: Thank you, Commissioners, for that short break. I think the technological issues have been resolved. I was up to the second barrier, which was employers refusing to provide flexible working arrangements or reasonable adjustments or accommodations including during recruitment.

45 So a lack of flexible working arrangements or reasonable adjustments together with the onus of seeking modifications and adjustments commonly falls on the person with disability. Mr Baxter spoke to this point when he said "this can leave the person

with disability feeling like they have to justify their disability" and in a position where they feel that they may have to be "more disabled to get the modifications" but then also "less disabled" in order to fit in with their colleagues.

- 5 He noted that the information is not stored anywhere within an organisation, so it means that individuals may have to have "awkward" and "difficult" discussions on multiple occasions if their supervisory structure changes.

10 Similarly, Dr McNally said she encountered physical barriers during job application and recruitment stages which were not pro-actively addressed by the organisation. And she explained this:

15 *Having to consider the various aspects of access makes the process of attempting to and ultimately obtaining employment all the more challenging and at times exhausting for people with disability.*

Mr Collins shared his positive experience at King & Wood Mallesons where his boss was very open to implementing reasonable adjustments such as working from home. Mr Collins also spoke about the importance of people with disability being made to  
20 feel secure enough to ask for appropriate adjustments. Mr Collins shared his experiences from earlier in his career where he did not ask for adjustments or accommodations because he "wanted to be treated like everyone else".

25 This is what he told you.

**[VIDEO RECORDING PLAYED]**

30 MR COLLINS: You have to --- you have to kind of --- to the extent you can, you kind of push it aside, you know. With a disability you can sometimes get good at smiling even though you're feeling a bit of pain or you're feeling, you know, a bit uncomfortable. So you kind of get like a suit of armor on and you don't really let  
35 people in to see the full picture because, you know, you don't want --- I think a lot of times --- my personal experience is that you don't want to always bring people fully onboard with the disability experience. So it kind of stops you having authentic connections with your colleagues because you're never really 100 per cent there.

40 **[VIDEO RECORDING ENDED]**

MS EASTMAN: Mr Collins described this as "a work in progress" as people with disability may "need time to be comfortable with their disability".

45 He also commented that people with disability "need to be conscious that it's not always just them who are asking to be treated differently", pointing to the increased

provision of equipment such as height-adjustable desks for people without disability. He said it comes down to the implementation of an “individualised approach” to workplace adjustments.

- 5 The next barrier we identified in this area is the lack of career progression, accessible learning and development opportunities, or access to challenging and meaningful work.

10 Even when a person secures employment, people with disability can continue to experience barriers to their success and wellbeing at work. Mr Baxter spoke about his job in a government business enterprise where he worked for five to six years but was never offered the opportunity to progress or advance. He endeavoured to undertake additional training and move between offices, but felt though that his  
15 yearly reviews were focused more based on what he couldn't do, as opposed to what he could do, and what he had achieved at that point.

He also spoke to undertaking a lot of voluntary work and felt that those opportunities didn't lead to paid employment.

20 Jamie told you that he has volunteered with a number of organisations over the past 20 years with the hope of ultimately gaining paid employment in the social services sector. He said he's made numerous applications for paid positions with organisations of that kind but they were never successful despite receiving positive  
25 feedback for his performance as a volunteer.

Dr McNally spoke of her concern that her disability will quote "negatively impact on my career progression into the future". She is concerned that the barriers that she faces now will be “exacerbated” in senior roles, making her “not only less likely to secure” the position, “but also less likely to flourish”.

30 Commissioners, I now want to turn to the final area of structural barriers. Structural barriers refer to those created by policies, systems, governmental programs and legislation. They include a lack of appropriate jobs available in the labour market, a lack of effective labour market policies that incentivise and prioritise the  
35 employment of people with disability, and complex, confusing systems or programs and rules and requirements.

We identified 10 structural barriers, and with respect to these barriers, the observations I want to make will be brief for the reasons that I will shortly explain in  
40 terms of the areas where the Commission may wish to focus its attention for future inquiries.

The first is a lack of access to adequate income required to meet essential living standards and participate in finding and keeping a job.

45 A person's ability to meet basic living standards, look for work and maintain employment is greatly influenced by their access to income. There are a number of

costs that may be associated with finding and keeping a job, such as appropriate attire, what to wear to work, how to get to work, arranging for childcare and arranging for supports.

5 Jamie gave evidence that in his last position, as I mentioned earlier, he was paid \$3.51 per hour. He said that "this amount of income is not nearly enough to cover the necessities such as rent or mortgage repayments, bills, and other essential grocery and personal items".

10 The second area is the lack of access to employment related advocacy services. Now, in employment settings, access to advocates is important. Advocates may include co-workers, advocacy groups, networks, or union representation. Advocacy can play a crucial role in helping people with disability to create the lives they want to live. Advocacy can lead to important changes in improvements for individuals  
15 and the systems with which they interact and use. There's a particular type of advocacy that's often required in an employment setting and those involved with unions will be familiar with the nature and the role of union representation.

20 Jess Mitchell gave evidence that young people at the Summit spoke about the need for systemic advocacy, as well as individual advocacy, and the importance of young people being supported to lead advocacy efforts. The participants at the Summit were strong in their conviction that young people with disability should be allowed to be "experts in their own lived experience". In order to instigate change, those participating in the Summit said this: "you need to involve young people and let  
25 them lead the way".

Mr Collins discussed alternative models of advocacy and support for people with disability in relation to employment. He spoke about the Diverse Abilities Network of the Queensland Law Society which was founded in early 2020. The aims of the  
30 Diverse Abilities Network include to "raise the profile of disability" in the legal profession, and show employers that "people with disability can be very valuable and contributing members of the workforce".

35 Ms Kroes presented evidence that young people with disability need support in understanding "how the world works, how government works, how discrimination works, [and] their human rights". You will recall her giving evidence from the Northern Territory, and she said targeted education would assist in addressing this need.

40 The third area is structural issues in the operation of the Disability Employment Service program, the DES program. Disability Employment Services, known as DES, are non-government organisations that aim to assist jobseekers with disability, injury or health conditions to prepare for, find, and keep a job. Individuals with a disability, injury or health conditions may choose to engage with a DES provider or  
45 they may be required to do so in order to meet certain conditions for income support.

The DES program is a key issue when considering access to employment for many

people with disability. A question arises as to whether the structure or the design of the system itself may be creating barriers to sustainable and meaningful employment outcomes for people with disability.

5 Commissioners, this is a very large area and we have addressed a range of issues concerning the DES system in our written Outline of Submissions, that's beyond the scope of the oral submissions that I present today, to look at the operation of the DES system in detail.

10 We have concluded that the DES system needs a closer examination at a future hearing and for you, Commissioners, to make inquiries through the hearings and our other work of the Australian Government about the issues raised by witnesses with lived experience of the DES, Ms McAlpine and the academics who gave evidence at the hearing.

15 Related to this issue is the fourth area, which is lack of coherence and connections between government programs designed to help people with disability into employment, including complexity and variance around eligibility requirements. Now, even just saying that has a degree of complexity and one might ask, what does  
20 this mean?

Well, one of the key themes emerging from the evidence was the complexity and interconnectedness of the different government programs which make it very difficult for people with disability to navigate through the systems to achieve  
25 employment outcomes.

Chair, we all recall the questions that you asked of us and witnesses during the course of the hearing. Some witnesses described the complexity and confusion around the connections between government programs designed to help people with  
30 disability into employment - the NDIS, the Disability Support Pension, and how this fits in with the National Disability Strategy 2010-2020.

The range of programs and supports offered by different departments across state, territory and federal jurisdictions makes the system very complex. This complexity  
35 can be intensified by the many varying eligibility and participation requirements for each program.

It can be difficult for people to understand which supports or programs they can access, or to see how they could build a pathway towards their goals. This  
40 complexity and lack of coherence can lead people to losing motivation or giving up on employment altogether.

In an exchange between you, the Chair, and both Professor Kavanagh and Ms Devine, they agreed that there was no simple guide available to support people to  
45 navigate these systems or to understand the supports available through private or government programs.

Again, we have concluded that the connections and interactions with the various systems needs closer examination at a future hearing and to make inquiries of the Australian Government, as well as relevant state and territory governments as appropriate.

5

The fifth barrier, also related to the matters that I've touched on, is the potential reduction or loss of the Disability Support Pension as a result of employment or increased hours of work. A person's hours of work and income earned from employment increases, as that increases, their DSP payments may be reduced or eventually cancelled. A person can be on a DSP payment of \$0 but remain eligible for the DSP for up to two years.

10

However, people with disability still report that the potential reduction or loss of the DSP is a barrier to them working or taking on more hours.

15

A key theme that emerged in the evidence was the potential for employers who use a reduction in the DSP as a result of income earned as a reason to pay employees with disability even less. This was illustrated in the evidence given by Edward Sianski who believes his son was exploited by employers when they realised that Yuri was on the DSP. Edward said this to you:

20

*I knew Yuri was being exploited but I thought to myself, "Now, it's better for Yuri to go out and do something rather [than] stay home in his flat all day and do nothing", and I felt the system had failed Yuri in that Yuri wasn't able to get a proper job, and as a result he was open to exploitation, and he was open to people who knew what Yuri's situation was and yet they exploited him. And it made me really angry.*

25

Another theme emerging was the complexity of reporting arrangements for income. Rohan Fullwood's mother gave evidence about the complicated and difficult process of reporting income as a requirement of her son's DSP.

30

She explained that this process involved providing specific details of Rohan's work hours and income to Centrelink within a specified reporting period, otherwise Rohan's DSP would be suspended. She told you that she considered the system to be "a real mess" and she recounted an experience where Rohan's parents sought to top up his income to support him paying his bills and his various activities, and the impact that had in them unwinding some interactions with Centrelink.

35

These are areas that do require further examination, and I note in particular that the Commonwealth Government's submissions provided in response to our submissions seek to identify some of those areas and, Commissioners, they will be areas that require further and more detailed examination.

40

The sixth area that we identified was the overly complex and confusing rules around participation requirements and mutual obligations associated with income support.

45

Some people with disability receiving the DSP are required to partake in activities such as "job readiness" training or attending an agreed number of sessions with an employment service provider. These are commonly called participation requirements.

5

Many people receiving other working age income support payments are required to agree and undertake a range of activities to help them secure a job and these are called mutual obligations.

10 A key theme emerging from the hearing was the impact of mutual obligations and participation requirements on people with disability seeking employment.

Ms McAlpine described the complexities which arise for people on the DSP who, under the Job Capacity Assessment, are deemed to have a future work capacity of  
15 between 8 and 15 hours and therefore become subject to the mutual obligations and participation requirements to try to get to work.

Commissioners, you will recall Ms McAlpine giving evidence about the attempts that she has undertaken, and the research undertaken for her organisation, to provide  
20 clear information and pathways for people with disability and she spoke to you in her evidence about the challenges that some have experienced in using the MyGov online platform.

The next area is the gap in support for people who do not qualify under the National  
25 Disability Insurance Scheme.

Commissioners, you've heard this before, that not all people with disability qualify for the NDIS. One issue that arose in this hearing, which Ms McAlpine identified, is that not all people who qualify for the DSP or to work with a DES provider will also  
30 be NDIS participants. This is an area that raised particular complexity in terms of the impact of the NDIA and the NDIS on opportunities for jobseekers with disability.

We've outlined this in some detail in our written submissions, but I won't go into the detail of those matters for the purpose of the oral submissions today.

35

The next area is the pathways and transitions from education to open employment. Now, I have touched on these areas in the context of the other barriers, but we thought it was important to identify pathways and transitions from education to open employment in the context of structural barriers. This was a key theme emerging  
40 from the evidence.

Ms McAlpine highlighted the transition from school to open employment as one pathway which needs to improve and it needs to be consistent.

45 Dr Lisa Stafford said in her research it showed that many young people were not having conversations about their careers before transitioning out of high school or discussions about expectations of not only work but careers being set while at school.

Dr Stafford also gave evidence that transitions from school to work for people with disability are seen as a narrow time-space issue when it is known that “transition takes much longer” and is “more complicated”, especially in the current precarious work environments.

5

A further transition pathway identified in the evidence was from special/segregated education settings into open employment.

10 Ms McAlpine said, in both her personal and professional experience, people have to be "pretty determined" to reach the goal of open employment when their education has been in a special or segregated education setting.

15 By comparison, Ms McAlpine spoke about the "polished pathway" as a means of describing the relative ease of transition from special or segregated education into supported or segregated employment.

20 One of the further transition points moving between - is moving between jobs. Now, Ms McAlpine spoke about the supports available for people transitioning between jobs from segregated or supported employment into open employment, as well as programs such as the School Leaver Employment Supports, the SLES, and the DES.

25 Ms McAlpine said there's an expectation that once a person with disability has a job, they will stay in that job for life. For those who wish to move between jobs, Ms McAlpine referred to the Ongoing Support item in the DES, but noted that anecdotal feedback is that funding of that nature is insufficient.

30 The transition from the SLES, the School Leaver Employment Supports, to a DES is an example of the issues that can be faced by a person with disability trying to navigate the numerous systems, as a SLES is operated under the NDIA while the DES is operated under the Department of Social Services.

The next area that we identified comes back to an issue that I've already touched on, and that is Job Capacity Assessments that emphasise impairment and weakness.

35 A Job Capacity Assessment is an evaluation conducted by a government's employed assessor for Centrelink to determine a person's level of functional impairment and work capacity. Assessments such as Job Capacity Assessments and Employment Services Assessments are then used to assist in determining a person's eligibility for the DSP and the DES.

40

45 Ms McAlpine noted that “questions have been raised over time regarding the credibility and validity of the Job Capacity Assessments in determining employment capacity”. And she referred to the work of Inclusion Australia's former CEO, the late Paul Cain, who found that “job capacity testing, before job placement and training, will often result in a measure of low job capacity and exclude the group from labour market programs”.

The final area was the legal protection for people with disability who experience discrimination in the workplace.

5 A theme emerging was the legal protections for people with disability in the workplace, and the avenues to raise complaints to seek a remedy where discrimination occurs. There are two key pieces of legislation, the *Disability Discrimination Act*, and the *Fair Work Act*. We're not putting to one side, of course, that there are relevant Federal, State and Territory discrimination laws as well.

10 But you will recall, Commissioners, that our focus at the hearing in December was through the evidence given by Dr Ben Gauntlett who has particular roles and responsibilities in relation to the *Disability Discrimination Act*.

15 Dr Gauntlett gave evidence that the highest number of complaints made to the Australian Human Rights Commission are in relation to disability, and a significant proportion of those complaints relate to employment. He expressed concern about the practical operation of the *Disability Discrimination Act* and this is what he said to you.

20

**[VIDEO RECORDING PLAYED]**

25 COMMISSIONER GAUNTLETT: I think the complaints-based model, and the model of setting or limiting principles and then having reasonable adjustment interpreted or the inherent requirements for job interpreted as well, which is another exception under the *Disability Discrimination Act*, can be and are problematic in nature for people with disability and need to be reviewed. But that review cannot happen in isolation from other laws and also other policy frameworks to ensure that  
30 employers feel comfortable employing people with disability, and that there is sufficient information that people with disability will apply for jobs and get not just a job, but a good job. And one of the concerns that exists for me is that what we want is a practical system so that people with disability are obtaining jobs but not seeking or being put in a situation, rather, where they may have to go to court readily to  
35 enforce their rights. We need a better system than that, whereby what actually happens is that there is trust and confidence between both parties to have good and meaningful employment relationships where when concerns are raised, those concerns can be dealt with amicably and understandably, and so that we can then have good outcomes.

40

**[VIDEO RECORDING ENDED]**

45 MS EASTMAN: Commissioners, this is an area, of course, that has been a matter of ongoing work within the Royal Commission and will continue to be an area of ongoing work.

Commissioners, I've briefly touched on the evidence given over five days in December, and I will repeat again that the observations we've written in our written and oral submissions are not intended to reflect the findings that the Commissioners will ultimately make.

I repeat again, we are not seeking any findings that any one individual breached a law or engaged in violence, abuse, neglect or exploitation.

However, we submit that the evidence that you heard over five days supports a finding that there are multiple and systemic barriers experienced by people with disability in obtaining and retaining employment in the open labour market, and these barriers can be identified in the four broad areas that we have described today and are set out in a list at paragraph 246 of our written submissions.

Now, Commissioners, I'm noting the time and with your indulgence, I'm going to show you a short video which summarises perhaps the determination of one of our witnesses, and then what I might do before the lunch break is move to the second part of our submissions which is the proposed scope for the Royal Commission's further inquiries and that should take us to 1.00 pm.

Commissioners, you may wish to have a break at 1.00 pm and I understand Mr Costello, appearing for the Commonwealth Government, wishes to make a short submission.

Of course, you may have some questions that you wish to ask me or others as well.

Commissioners, in closing this part of our submissions, can I return to the evidence of Ms Owen-Turner and Ms Cristobal. It's worth reminding ourselves that the purpose of the Royal Commissioners' inquiries in this area is seek to eliminate the barriers to employment experienced by people with disability, to eliminate the risks of violence, abuse, neglect, and exploitation.

Ms Owen-Turner and Charlene spoke about the opportunity that could come from being given the supports to find employment and overcome barriers that are experienced by people with disability in their pathways to employment, and so I will leave the last word to both of them in closing this part of our submissions.

**[VIDEO RECORDING PLAYED]**

MS EASTMAN: You want --- you have the firm view that Charlene can be a very productive member of the community if she has the opportunity and is provided with the supports that she needs?

MS OWEN-TURNER: Absolutely. As you can see, she is a confident girl. She just

wants to do what she wants to do and what she is told to do. She absorbs information. She is kind. And she is generally just really, really helpful. She does try as much as she can, and I do believe that with the right level of support to transition to that independence and then employment, she would absolutely be a great addition, I guess, I forgot what I was going to say .... She will definitely be a great contributor in society, absolutely.

10 **[VIDEO RECORDING ENDED]**

MS EASTMAN: Commissioners, I will now turn to the proposed scope for the Royal Commission's further inquiries.

15 We submit that it would be appropriate for the Royal Commission to conduct a further hearing in relation to these issues in the second half of this year.

The Royal Commission should hear from private and public sector employers, from governments and other key bodies.

20 Commissioners, you may wish to inquire as to how employers and governments have addressed the systemic barriers we have identified.

25 The Royal Commission should inquire into the practices, policies and regulations of both private and public sector employers, as well as government entities and institutions responsible for regulating the labour market.

30 In this respect, we note the Australian Government's submissions provided in response to our written submissions catalogue a number of policies, strategies and laws. We have yet to hear evidence about these matters in any detail, and the Australian Government's submissions open up some important areas for further inquiry. The Royal Commissioners may be assisted by hearing from officers of the Commonwealth with responsibility for the various initiatives identified in the submissions.

35 The matters identified by the Australian Government require closer and more detailed consideration than the matters canvassed with respect in the written submissions. You need to go behind the policies, you need to examine the practical application of those policies, and you need to understand how those policies have been evaluated to achieve better outcomes for people with disability in the labour market.

45 A further hearing would provide the Commissioners with the opportunity to examine the effectiveness of the Commonwealth's initiatives to address the systemic barriers.

But Commissioners, you should not just focus on the Commonwealth, and a further hearing would also need to consider other governments and private sector employers.

It's intended, in our respectful submission, that the purpose of a further public hearing could be twofold.

5 First, to explore what employers and other key actors in this area are doing --- or not doing --- to address the systemic barriers identified in this hearing.

10 Secondly, to explore potential measures to eliminate the barriers to open employment that cause or contribute to violence, abuse, neglect and exploitation of people with disability.

We submit that the Royal Commission's further investigation should focus on the following matters.

15 First, with respect to the private sector, by informing yourselves about what employers in the private sector are doing to make their recruitment and employment practices accessible for people with disability and what actions they are taking to provide accessible, safe, and inclusive workplaces for employees with disability. This includes consideration about how the concept of inherent requirements of the  
20 job are determined and the approach to making reasonable adjustments.

25 Secondly, the public sector. The Royal Commission may wish to make inquiries about what the Australian Public Service and/or comparable state or territory public services are doing to attract, retain and promote employment for people with disability and to also examine what the public sector is doing to make their recruitment and employment practices accessible for people with disability, what actions they are taking to provide accessible, safe and inclusive workplaces for employees with disability. And, likewise, in the public sector, how inherent  
30 requirements are determined and the approach to making reasonable adjustments.

35 The third area, which I've already alluded to, is the DES system. It's open to the Royal Commission to inform itself about the barriers to employment that exist within the existing DES system and some of the structural barriers that we've touched on earlier this morning.

40 It may assist the Royal Commission to look at the Australian Government's overarching strategy to increase employment for people with disability including the National Disability Strategy and the developing National Disability Employment Strategy.

45 We also submit that close consideration of relevant laws and institutions intended to protect and safeguard the rights of people with disability in the workplace be expected, including the *Disability Discrimination Act* and the *Fair Work Act*, but I note in this respect we're not the Australian Law Reform Commission and our focus in these issues should be looking at the practical application of these laws.

The Royal Commission may be assisted by hearing evidence of promising practice -

where there is promising practice for those employing and retaining employees with disability - what lessons may be learnt from those practices and how they may be applied more broadly.

- 5 In accordance with the Royal Commission's Terms of Reference, any inquiry should also be informed by the findings and recommendations of past reports and the extent to which recommendations made in previous inquiries have been implemented by public and private sector employers.
- 10 Now, in this respect, we have had regard to and have been informed by the work of the Australian Human Rights Commission and its *Willing to Work* report in 2016. That report includes a number of overarching recommendations to address systemic issues related to the employment of people with disability. These have included
- 15 recommendations relating to the need for a national workforce strategy, accountability mechanisms, and the investment in community education. Recommendations were also made in relation to specific programs currently operated by the Australian Government including, as I've noted earlier, the National Disability Recruitment Coordinator.
- 20 For these reasons, we propose that the Commissioners prepare one hearing report which will address the matters raised in Public hearing 9 but also take into account the outcome of any further hearing on employment. This would assist you, Commissioners, in turning your minds to any recommendations that the Commissioners may wish to make with the benefit of hearing the evidence not only
- 25 from the lived experience of people with disability, but also the experience of government, private and public sector employers, and others around them - they may include regulators, unions, community legal centres and advocacy bodies.

Now I want to return to supported and segregated employment. As I mentioned

30 earlier, the experience of people with disability in supported or segregated employment remains an important area for further investigation. We understand the Royal Commissioners intend to explore how this form of employment may lead to neglect and exploitation of people with disability and the experiences of, and potential increased risks of, violence and abuse towards people with disability in

35 these settings. We note that you wish to look at how supported or segregated employment impacts on the inclusion in other areas of life for people with disability.

In closing, can I note that the hearings work of the Royal Commission forms only one part of the work of the Royal Commission. There are many ways to engage with

40 the Royal Commission, through providing personal submissions, involvement in private sessions, and also responding to issues papers. The response to issues papers form an important part of the Royal Commission's work and an opportunity for the Royal Commission to hear directly from people. At the present time, the issues papers on Promoting Inclusion is open for comment until 2 April, I'd put in square

45 brackets I'm sure an extension could be granted if required. The issues papers invite contributions in any form on what steps non-government institutions and the private sector and the community need to take to promote a more inclusive society for

people with disability, and that includes changes in organisations, culture, and workforces.

If the Commissioners please, those are Counsel Assisting's oral submissions.

5

CHAIR: Ms Eastman, I would like to give the Commissioners an opportunity to ask any questions they may have of you. I think the sensible course is to adjourn now, resume at 2.00pm Sydney time and 1.00pm Brisbane time and I'd invite at that stage Commissioners, if they have any questions of you to put them to you, and then we  
10 can hear from Mr Costello and if there are any questions to be put to Mr Costello we will have time to both put those questions and to hear Mr Costello's responses.

As far as the issues paper on Promoting Inclusion having an extension of time, as we know an extension of time can be granted by a mere stroke of the pen, so it should be  
15 quite possible.

MS EASTMAN: Thank you, Commissioners.

CHAIR: We'll adjourn until 2.00pm Sydney time.  
20

**ADJOURNED**

**[12.50 PM]**

25 **RESUMED**

**[1.59 PM]**

CHAIR: Ms Eastman, unless you have anything to add to your submissions, I will ask each of the Commissioners as to whether they have any questions of you. I  
30 understand Commissioner Ryan may have a question so I will invite him to go first.

### **QUESTIONS BY THE COMMISSION**

35

COMMISSIONER RYAN: Thank you, Chair.

Senior Counsel, is it open for the Commission --- I know the things you've been suggesting we might move to find the research, but I notice many things I've read  
40 about disability employment, the disability employment rate, the comment is constantly made that the overall workforce participation rates for people with disability has remained static at around 53 per cent for over 20 years. I was wondering as to whether it might be open to the Royal Commission to make that finding, simply because I think that summarises that all the effort that's been made to  
45 date is included in that statistic and nothing has moved, and if we just simply do the same thing, we will continue to get exactly the same result.

MS EASTMAN: Commissioner, I think it's open to the Commissioners to make a finding that there hasn't been a move in the rate. The second part of your observation was directed to the efforts that have been made. I'm not sure that it's open to the Royal Commissioners to make a finding that efforts made have failed until you have the opportunity to hear further evidence. But for the first part of your question, yes, that's a finding that's open to the Commissioners.

COMMISSIONER RYAN: Thank you.

CHAIR: Do you have any more?

COMMISSIONER RYAN: I don't.

CHAIR: Commissioner Galbally, do you have any questions of Ms Eastman?

COMMISSIONER GALBALLY: No, no questions. I mean, the scoping out of the hearing, I presume, we'll have an opportunity to participate in that, so I will leave that for here.

CHAIR: Thank you. Commissioner Atkinson?

COMMISSIONER ATKINSON: No, I have no questions of Ms Eastman, thank you.

CHAIR: Thank you, Ms Eastman, for the submissions that have been made and also those who have assisted you in preparing those submissions, thank you very much.

Can we now move to Mr Costello.

**SUBMISSIONS BY MR COSTELLO**

MR COSTELLO: Thank you, Commissioners. The Commonwealth is grateful to have the opportunity to make a short oral submission. As Senior Counsel Assisting has noted, the Commonwealth has provided written submissions in response to the written submissions of Counsel Assisting. Those submissions are detailed and I don't intend to recite them for the purpose of this short supplementary submission that I've been instructed to make.

While the Commonwealth was not an active participant in Public hearing 9 in the sense that no Commonwealth witness was called, it did appear by Counsel at the hearings, and as I have mentioned, it has filed written submissions that we hope are of assistance.

More generally, the Commonwealth continues to actively monitor the work of the Commission. At the Commonwealth level, disability is a complex, multi-department

and agency policy area. There are many benefits, programs, and initiatives across the Commonwealth Government that are directed to improving the lives of those living with disability.

- 5 In particular, and of particular relevance to this hearing block, there are programs directly related to assisting those living with disability to find and maintain employment, or to otherwise support them in doing so.

10 The Commonwealth is keen to outline, in some detail, what various programs and initiatives it offers and to explain how they are administered. The Australian Government appreciates that this hearing block, directed as it was to the exploration of areas of economic participation and employment by listening and understanding the experience of people with disability, was not the occasion for an explanation by the Commonwealth of its programs. And in that connection, we note and are grateful  
15 for Counsel Assisting's indication that no adverse findings are sought in respect of the Commonwealth arising from these hearings.

The Australian Government understands that future hearing blocks will be directed to the measures and actions of others, including the Commonwealth Government, in  
20 addressing the systemic barriers faced by people with disability in employment and in obtaining employment.

The Commonwealth looks forward to participating at future hearings and hopes that those hearings present an opportunity for the Commonwealth by written evidence,  
25 submission, oral evidence, or a combination of those measures, to explain in detail the payments, programs and initiatives administered by it. In that regard the Commonwealth was heartened to hear Senior Counsel Assisting's submissions for future hearing blocks arising from the evidence that was obtained in Public hearing  
30 9.

The Commission has heard something of those programs already, including in this hearing block, and as outlined in written submissions which have been furnished to the Commission, for example the Commission has heard some evidence about the  
35 JobAccess and Employment Assistance Program, the Disability Employment Service, and the National Disability Coordination Officer Program. Those are just some of the programs, but they're very important programs.

In a future hearing block, or in future hearing blocks, the Commonwealth hopes to provide the Commission with a full explanation of at least its key programs so as to  
40 assist the Commission in having a base of evidence before it that will inform any recommendations that are ultimately made.

Commissioners, they are the only submissions that I sought to make today. Thank  
45 you.

CHAIR: Thank you. I will ask the Commissioners whether they have any questions of you. Perhaps I will commence with Commissioner Galbally.

## QUESTIONS BY THE COMMISSION

5

COMMISSIONER GALBALLY: Thank you for your submission to us.

10 Based on the fact that the Commonwealth is asking the private sector with the National Disability Strategy, you know, to improve its employment record, I'll be very interested in the future to find out the detail that the Commonwealth's undertaking to get from 4 per cent to 7 per cent in five years from now. So I'm aware there's a strategy, but I will be very interested in seeing the operational plans in the interim targets to really reach that 7 per cent and maintain it in 5 years. So that was one area. Can I -

15

CHAIR: Commissioner Galbally, it would be helpful, I think, if you could put a question to Mr Costello.

20 COMMISSIONER GALBALLY: In that case, that would be a question as to the detailed plans year by year. Are there detailed plans? Can we see them? Can we see the detail of that strategy? So that would be my first question.

CHAIR: Or three, possibly. Let's see what Mr Costello responds.

25 MR COSTELLO: Thank you, Commissioners, and thank you for your question, Commissioner Galbally.

30 In the written submissions the Commonwealth has provided to the Commission, there is some mention of the fact that the Australian Government is currently developing the National Disability Employment Strategy, and there is some explanation of what is hoped to be achieved by that strategy and how the strategy will be further developed. It's not information that goes to the detail of what you've just asked me now, and I can't give you an answer by reference to the specifics for operational plans or targets, but it is a matter that I can take up with the relevant agencies with a view to providing it to the Commission perhaps at a future hearing block, or if the Commissioners' preference is to receive that information outside of a hearing block then I'm sure that that could be attended to as well.

35

40 CHAIR: What I would suggest, Mr Costello, is that you take those questions on notice and provide a written response within a specified time, which I suggest could be, say, 28 days.

MR COSTELLO: Thank you, Chair. We'll take that opportunity to provide a written response.

45

CHAIR: Thank you.

Commissioner Galbally, do you have any more questions?

5 COMMISSIONER GALBALLY: Yes, and I just wanted to clarify that I'm referring particularly to the Commonwealth's own employment rather than the strategy that's Australia-wide.

10 My second question is regarding procurement and preferred procurement which has been used as a tool to promote employment of various groups including people with disability several years ago - but from ADEs. So my question is, is there a plan to provide preference in procurement to companies that employ people with disabilities in open employment paying award wages, and can we hear details if that's being developed, and where that would be rolled out?

15 MR COSTELLO: Thank you, Commissioner. With your leave and the leave of the Chair, I will also take that question on notice and we'll provide a written response within 28 days.

CHAIR: Thank you.

20 COMMISSIONER GALBALLY: My third and last question was regarding conditions on grants raising the issue of non-government organisations receiving a great deal of Commonwealth Government granting money one way or another. And is there a plan, and what's the detail of the plan to put a condition on that, on those grants, that people with disabilities are employed by NGOs and with particular reference, but not only, to disability service providers?

CHAIR: I assume, Mr Costello, your answer is the same?

30 MR COSTELLO: It is. Thank you, Chair.

CHAIR: All right, in that case, the answers to the questions that have been asked by Commissioner Galbally can be provided by the Australian Government in writing within a period of 28 days and directed to the Office of Solicitor Assisting at the Royal Commission. Thank you.

35 I'll next ask Commissioner Atkinson.

COMMISSIONER ATKINSON: No, I have no questions, thank you.

40 CHAIR: Commissioner Ryan.

COMMISSIONER RYAN: I do have some questions of the Commonwealth.

45 I appreciate your written and oral submissions were not intended to be exhaustive, but one of the things I've noticed about them is that, for example, in regard to Commonwealth programs like DES, there is not a lot of performance data provided to the Commission to let us know how effective --- and the programs are well

described, but there's not a lot of performance data that indicates how many people participate in them, how many people get outcomes, and what the quality of those outcomes are. And I note that recently in June, the Australian National Audit Office produced an audit of the Disability Employment Service and they said, while the policy principles of the reforms are well-defined, they are not supported by clear performance measures, and it went on to say that DES --- that's the Commonwealth department --- has access to large volumes of data that could enable the assessment of DES results against expected benchmarks. And might I say, interestingly enough, the same document provides later on, on page 59, a graph which compares the number of participants in DES with the number of people who get outcomes such as a 28-week employment appointment.

CHAIR: Commissioner Ryan, are we coming to a question?

COMMISSIONER RYAN: Yes, we are.

CHAIR: Good.

COMMISSIONER RYAN: The range of that outcome is less than 2 per cent over a period of two years, and I point out that those two years included time since the reforms spoken of in the written submissions you've given have been provided.

The question I would like to ask is, can the Commonwealth provide more performance data about those programs and others, but in particular, has the Commonwealth made a response of some kind to the Australian National Audit Office, and would they be able to provide that to the Royal Commission, because I think that may help us in assessing the effectiveness of that program and questions that we might look into in subsequent hearings.

MR COSTELLO: Thank you, Commissioner Ryan.

CHAIR: Mr Costello, I think there are two questions there.

MR COSTELLO: I can answer them both.

CHAIR: I can take a guess at your response.

MR COSTELLO: It will be a slight variation on the theme, Chair. I have no instructions about either of those matters and I wasn't aware, I must say, of the ANAO's report so I simply can't give any useful answer. I can commit to take it up with my instructors. I'm a little bit loathe to promise a response in circumstances where I've not discussed any of these matters with my instructors, and it might be that this is the type of detailed matter that will be taken up in a future hearing block and might be best addressed by evidence from the Commonwealth in a comprehensive topic.

CHAIR: What I suggest, Mr Costello, is the Australian Government provide a

response to the questions within 28 days. You can determine the substance of the response, and if it includes a preference for adducing evidence then you can explain what that evidence will be and how the Commonwealth intends to go about adducing it.

5

MR COSTELLO: Thank you, Chair. We'll do that.

CHAIR: Commissioner Ryan, any other questions?

10 COMMISSIONER RYAN: Yes, I do.

Again, it relates to the Disability Employment Service. In the written submissions that the Commonwealth has provided, they refer about nine times in a number of places to something called the Star Rating scheme, which your written submission  
15 says are published to assist jobseekers in deciding which DES providers to choose. I've noticed that the statistics, the Star Ratings, are not updated regularly; in fact, the last time they were updated is only less than two weeks ago, and on that occasion it updated two tranches of them, and they're still more than six months out of date. So I am wondering what value they would be to assist people if they're not up to date.

20

Then I'd go onto say that the other thing that I think people with disability might notice --- this is available as a tool to help them. I'd simply draw the Commonwealth's attention to the fact that to get the Star Ratings, you have to download a 26-page spreadsheet, which is very, very small print, probably something  
25 less than 8-point type, and comprehend that. And if you then want an explanation as to what it means, you need to then pull out - if the website directs you to something called the Performance Framework and it goes to some 53 pages...

CHAIR: Commissioner Ryan, I think I will have to intervene there. Unless I'm  
30 mistaken, I think you're referring to material that's not in evidence at this hearing, and I think in fairness to Mr Costello and the Commonwealth, it's not something that should be put at this hearing. Also, we have to take into account that Ms Eastman has indicated that the DES system, or agencies, or however one describes them, will be the subject of investigation at the next hearing. So I do think it would be better to  
35 leave that issue until we next ---

COMMISSIONER RYAN: Mr Chair, I simply ask if the Commonwealth is able to provide some update to the statistics, to the Star Ratings, and make some comment about their accessibility, as they currently are, because I think that is important.  
40 They don't appear to me to be accessible. For example, there's no fact sheet, there's no video or anything that makes them accessible.

CHAIR: I think, Mr Costello, if you would be good enough to take that on board, I won't make a direction about that but if the Commonwealth can provide some  
45 information of the kind that Commissioner Ryan seeks, that would be appropriate otherwise the matter will be dealt with at the next hearing.

MR COSTELLO: Thank you, Chair.

CHAIR: Is there anything else?

5 COMMISSIONER RYAN: In regard to your written submission, the Commonwealth's written submission in regard to transport, the statement is made that transport agencies across the nation will be fully accessible except the trains, I think, and buses in the year 2022.

10 In response to the Commonwealth's standards for transport, I was wondering as to whether the Commonwealth has collected data as to where the states are in regard to that. My casual observations are that many of them have plans that go beyond that in making transport systems fully accessible. It's obvious that this has been a very important issue before the Commission. In your response, could you provide us with  
15 any information that's available as to what the current state of play in each of the states is to the extent that the Commonwealth collects it?

MR COSTELLO: We can certainly do that. Thank you, Commissioner.

20 CHAIR: Again, that will be subject to the same direction that that be done within 28 days in writing.

COMMISSIONER RYAN: That's all I have to ask.

25 CHAIR: Thank you.

Mr Costello, the written submissions that have been provided by the Australian Government don't actually state clearly whether there is any dispute as to the findings that have been proposed by Senior Counsel Assisting the Commission. Does the  
30 Australian Government dispute that those findings should be made?

COMMISSIONER RYAN: As I understand it, Commissioner, there's no adverse findings sought as against the Commonwealth, and to the extent that there are generalised findings that are sought to be made as to the existence of barriers, those  
35 findings are not opposed.

CHAIR: Thank you.

40 Secondly, can I raise an issue that is implied, at least, in the submissions on behalf of the Australian Government and it is something that has arisen on previous occasions. If you go, for example, to paragraph 9 of your written submissions under the heading of "Attitudinal Barriers", this is said:

45 *While these matters are largely matters for individual employers, the Australian Government is currently developing the National Disability Employment Strategy.*

When you go to paragraph 25 of the submissions, they say that:

5           *The Australian Government acknowledges the importance of accessible public transport but notes that state and territory governments are responsible for public transport and passenger legislation and regulations.*

If you go back to paragraph 17:

10           *The Australian Government acknowledges the importance of accessibility to public buildings and workplaces, that these are primarily a matter for individual employers.*

15           Why is that the case? Why are these matters primarily for individual employers and other than the Commonwealth, given the Commonwealth's constitutional powers and given the terms of the *Disability Discrimination Act*?

20           MR COSTELLO: Commissioner, if I might, I think all that is sought to be conveyed by the precursory words to the paragraphs you've pointed to is the fact that while the Commonwealth does have some responsibility, and indeed, some constitutional power, it does not have a complete ownership of these issues within the Federation or otherwise. It has never, for a moment, sought to suggest that it doesn't have significant responsibilities, and it seeks to discharge them in various ways, and it points in these submissions to standards that have been promulgated within the context of the *Disability Discrimination Act*. But it would be wrong for the Commission to have the view that the Commonwealth alone can fix, necessarily fix any one of these problems, and these are questions that cross the Federation and that need the involvement of not one but all levels of Government.

30           CHAIR: But that's not what your submission says. Your submission says these are matters primarily, for example, for particular employers in the workplace, and that comment is made in the context of accessibility to public buildings and to, for that matter, private buildings and workplaces --

35           MR COSTELLO: Yes.

CHAIR: --- and section 31 of the *Disability Discrimination Act* confers specific authority on the Commonwealth to promulgate regulations, standards that address precisely that issue. That's why I'm asking the question.

40           MR COSTELLO: Yes, responsibility for compliance with the Act is the responsibility of the person who owes the obligation.

45           CHAIR: Yes, I think you might be missing my point. My point is that it is the Commonwealth that has the power and authority to promulgate the standards, doesn't it?

MR COSTELLO: Oh, quite, and has, and has. I think all that's seeking to be

conveyed by paragraph 17 is the fact that there are obligations that need to be met by private providers, those obligations having been imposed upon them by the Commonwealth.

5 CHAIR: So you are not intending, or at least the Commonwealth is not intending by these submissions to dispute that it has the power, authority, and perhaps the responsibility to promulgate standards that govern the conduct both of public and private employers as far as services, accessibility to premises and so forth are concerns?

10

MR COSTELLO: Not at all, Chair. In fact, we point to circumstances in which the Commonwealth has done precisely that.

15 CHAIR: All right, thank you. I notice at paragraph 26, and perhaps this is a question similar to that asked by Commissioner Ryan, that the idea under the transport standards that are formulated under section 31 of the *Disability Discrimination Act* is that these accessibility standards will be achieved by the end of 2022 except in the case of trains and trams.

20 I don't expect you to answer here, but could you put that on the agenda to provide information as to whether that objective will in fact be achieved and what is the current position of the Australian Government as far as the achievement of the objectives stated in paragraph 26?

25 MR COSTELLO: Yes, we can certainly do that. Thank you.

CHAIR: Thank you.

30 Just one question that really goes to my understanding. Paragraph 44 refers to something called the Multi-Agency Data Integration Project. It sounds slightly Orwellian, but what is it?

You can answer that in 28 days.

35 MR COSTELLO: I think I might need to. If I attempt to do it now I'm bound to fail, so if I can do it in writing it would be preferable.

CHAIR: If you can take that on board as well, that would be very good.

40 COMMISSIONER ATKINSON: Might take 28 days to integrate it, Mr Costello!

CHAIR: I think at the moment, Mr Costello, they're the only questions except for one matter.

45 When you come to lack of access to adequate income, there's a reference, at paragraphs 73 to 75, to the Fair Work Commission undertaking a review of the Award as part of its standard four-yearly review process. As I understand it, that has

been the subject of an appeal and then a further application to the Federal Court to set aside the decision of the Full Bench. It might be helpful if that could be updated as well by the Commonwealth just to make sure that we've got precisely up-to-date information as to the status of that review by the Fair Work Commission.

5

MR COSTELLO: Yes, thank you Chair. We'll do that.

CHAIR: Is there anything you want to say further to the questions that have been asked either by Commissioner Galbally, Commissioner Ryan and myself?

10

MR COSTELLO: No, thank you.

CHAIR: Thank you very much.

15 MR COSTELLO: Thank you, Commissioners.

CHAIR: I'll just check with Ms Eastman that she's got nothing to add.

20 MS EASTMAN: No. Commissioners, it may be that perhaps between the respective solicitors for the Royal Commission and solicitors for the Commonwealth, that if the Commonwealth needs a little longer than 28 days, or can provide the responses before the 28 days, that we might work out an arrangement in terms of the way in which the responses are provided to the Royal Commission and also the treatment of any responses, whether they become part of the record for this public hearing or we defer their inclusion for a later public hearing.

25

Chair, are you happy if we have those discussions ---

30 CHAIR: Yes, certainly. The direction as to timing is always capable of modification or amendment.

35 So if there is an issue, Mr Costello, you can raise it with the Office of Solicitor Assisting and hopefully agreement can be reached as to what needs to be done as far as the responses of the Australian Government are concerned and whether anything further needs to be done in relation to the questions that have been asked.

MR COSTELLO: Thank you, Commissioner, and can I thank my learned friend for that indication.

40 MS EASTMAN: Chair, I think there are a few other parties who have leave?

CHAIR: Yes, I was just going to check whether there was any other representative here today who wishes to make any oral submissions in addition to the written submissions which we have received and read.

45

Ms Turnbull, do you wish to add anything?

MS TURNBULL: No, Commissioner, thank you.

CHAIR: Dr FitzGerald.

5 DR FITZGERALD: No, if it please the Commission, I don't intend to make any submissions.

CHAIR: Thank you, and Ms Carroll.

10 Ms Carroll not there? All right.

MS TURNBULL: Sorry, your Honour --- I beg your pardon, Commissioner.

15 Ms Carroll and I were discussing the matter over the luncheon break and I'm aware that she does not seek to make further submissions.

CHAIR: Thank you, Ms Turnbull.

20 Ms Eastman, is there anything else that needs to be done today?

MS EASTMAN: No, that concludes the ---

COMMISSIONER ATKINSON: May I just say something?

25 In reference to what you said, Ms Eastman, about the nature of the information further provided by the Commonwealth, I should note the submissions from the Commonwealth, at least in my view, go more to evidence than they do to submissions, so we need to be careful about the way in which we treat them as well.

30 MS EASTMAN: Yes, thank you, Commissioner.

Commissioners, that concludes the formalities with respect to Public hearing 9, and I don't wish to say anything further. If there are issues that arise for the Commission in relation to the preparation of future public hearings, then we'll ensure that those  
35 arrangements are communicated not only to those who have been involved in Public hearing 9 but of course more generally.

40 CHAIR: Thank you. In that case, I wish to thank Ms Eastman and those who have assisted her in relation to the submissions that have been made today. We thank Mr Costello for the submissions he has made on behalf of the Australian Government.

45 We will adjourn the hearing and the community generally will be notified as to when the next hearing will take place, and the subject matter of that hearing.

**ADJOURNED AT 2.29 PM UNTIL MONDAY, 19 APRIL 2021**

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