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**TRANSCRIPT OF PROCEEDINGS**

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**THE HON RONALD SACKVILLE AO QC, Chair**  
**MR ALASTAIR McEWIN AM, Commissioner**  
**MS ANDREA MASON OAM, Commissioner**

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

**PUBLIC HEARING 25**

**TUESDAY, 12 JULY 2022 AT 10.03 AM (ACST)**

**DAY 2**

**MR PATRICK GRIFFIN SC, Senior Counsel Assisting**  
**MS AVELINA TARRAGO, Counsel Assisting**  
**MS REBECCA McMAHON, Counsel Assisting**

CHAIR: Good morning everybody, both in the hearing room and who might be following this hearing on the live stream. Welcome to the second day of Public hearing 25, dealing with the operation of the National Disability Insurance Scheme for First Nations people with disability in remote and very remote communities.

I shall ask Commissioner Mason to make the Acknowledgment of Country.

COMMISSIONER MASON: Thank you, Chair. Werte. We acknowledge the Arrernte people as the original inhabitants of the lands on which we are gathered today, Mparntwe, also known as Alice Springs. We acknowledge the ongoing spiritual and cultural connection to Mparntwe. We acknowledge and pay our deep respect to elders past and present. We extend that respect to all First Nations people and acknowledge their enduring connection to land, sky, seas and waterways. Finally, we pay our deep respect to First Nations people here today who are following this public hearing online, on the mainland, and on the islands, including the Torres Strait, especially elders, parents, young people and children so (Arrernte language spoken) with disability. Thank you, Chair.

CHAIR: Thank you very much, Commissioner Mason. Yes, Ms Tarrago.

MS TARRAGO: Good morning, Commissioners. Our first witness today is Emily. Emily has provided a statement for this public hearing, and that's dated 24 June 2022. The statement is in Hearing Bundle A, tab 15, and annexures to Emily's statement are at Hearing Bundle A, tabs 16 to 18. Emily has already taken an affirmation prior to giving evidence.

**<EMILY SHERWOOD, CALLED>**

CHAIR: Thank you very much. Emily, on behalf of all three Commissioners I would like to thank you very much for coming to the Royal Commission in Alice Springs today to give your evidence. We are very grateful to you for the statement that you have provided. We have all read that statement and we have found it to be very helpful. So, we appreciate your coming today and to add to your statement with your evidence in this hearing room. So thank you very much. I will now ask Ms Tarrago, who will now ask you some questions. Thank you.

**<EXAMINATION BY MS TARRAGO>**

MS TARRAGO: Commissioners, I will also indicate that Ms Lauren Lai of the Office of the Solicitor Assisting, who has come to know Emily, will be supporting and verbalising her responses for the purposes of the transcript.

CHAIR: Thank you very much and welcome to the Royal Commission.

MS LAI: Thank you, Chair.

MS TARRAGO: Thank you for joining us today, Em. You're a First Nations woman with ties to Far North Queensland.

MS LAI: Em is nodding.

5 MS TARRAGO: And you grew up most of your life in Mount Isa before moving to Tennant Creek.

MS LAI: Em is nodding.

10 MS TARRAGO: You're also a mum and you have got three - sorry.

MS LAI: Em is nodding.

MS TARRAGO: And you've got three grown children.

15 MS LAI: Em is nodding.

MS TARRAGO: And you live in Tennant Creek with your partner in a one-bedroom flat?

20 MS LAI: Em is nodding.

MS TARRAGO: In 2003, you had a stroke and, as a result, you are unable to speak?

MS LAI: Em is nodding.

25 MS TARRAGO: And that was about when were you 25 or 26 years old.

MS LAI: Em is nodding.

30 MS TARRAGO: In Tennant Creek, when the NDIS first came to town, they had an office?

MS LAI: Em is nodding.

35 MS TARRAGO: And you found that office was easy to access. You could visit it whenever you wanted to?

MS LAI: Em is nodding.

MS TARRAGO: But since then, they don't have an office anymore.

40 MS LAI: Em is shaking her head.

MS TARRAGO: And to be able to go and speak to someone from the NDIS, you have to go to the Centrelink office.

45 MS LAI: Em is nodding.

MS TARRAGO: And in Tennant Creek, the Centrelink office is really difficult to get the scooter into?

MS LAI: Em is nodding.

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MS TARRAGO: And because of that, you have to use a walking stick to get up to the office.

MS LAI: Em is nodding.

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MS TARRAGO: Your electric scooter, that's how you get around town?

MS LAI: Em is nodding.

MS TARRAGO: And your flat where you live is too small for the scooter to go in.

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MS LAI: Em is nodding.

MS TARRAGO: So, in order to charge it, you have to park it outside and run a cable from inside through a window.

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MS LAI: Em is nodding.

MS TARRAGO: But sometimes you get worried that someone might steal your scooter?

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MS LAI: Em is nodding.

MS TARRAGO: And is that because that's happened to other people in Tennant Creek?

MS LAI: Em is nodding.

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MS TARRAGO: It makes you worry a bit?

MS LAI: Em is nodding.

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MS TARRAGO: And you've got an NDIS plan that is used to support you, and you've got some money allocated in that plan. But you haven't had anyone recently sit down with you and explain exactly what's in the plan and how you can use that money.

MS LAI: Em is nodding.

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MS TARRAGO: Would you like someone to sit down with you and show you on paper your plan?

MS LAI: Em is nodding.

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MS TARRAGO: And would you also like to make choices about the things that your plan is used for?

MS LAI: Em is nodding.

5 MS TARRAGO: Do you feel like they take time to communicate with you about your plan?  
They do? Do you feel like they need to be better at communicating with you?

MS LAI: Em is nodding.

10 MS TARRAGO: And is that because you want to be able to make the choices?

MS LAI: Em is nodding.

15 MS TARRAGO: With your scooter, is it really important to have one that suits the conditions  
of Tennant Creek? For the road? In the past, you have been given a scooter that wasn't right  
for the roads in Tennant Creek. Is that right?

MS LAI: Em is nodding.

20 MS TARRAGO: And is that because the tyres get damaged quickly?

MS LAI: Em is nodding.

25 MS TARRAGO: And sometimes they're not the right design and some people have had  
accidents on it?

MS LAI: Em is nodding.

30 MS TARRAGO: Does it make you worry that if you don't have the right scooter for you, that  
you might have an accident on it?

MS LAI: Em is nodding.

35 MS TARRAGO: And is it important for the NDIA to know what it's like to live in Tennant  
Creek, so that they know what scooters suit Tennant Creek?

MS LAI: Em is nodding.

40 MS TARRAGO: Do you think they know that right now? Yes. Okay. I'm going to ask the  
operator to bring up a video of you crossing the Barkly Highway, which is the big highway  
that runs through Tennant Creek. Operator, could you display doc ID IND.0156.01001.0004?

**(Video plays)**

45 **(Video stopped)**

MS TARRAGO: So, we just had a look at that video. And you can see the roads in Tennant Creek. Is that the side of the road in the main street of Tennant Creek? Or is that somewhere else? So, the video that we just saw, is that on the Barkly Highway?

5 MS LAI: The main street in Tennant Creek.

MS TARRAGO: The main street. And is it uneven? It is uneven in some parts?

MS LAI: Em is nodding.

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MS TARRAGO: So if the tyres are not in good condition, people might have accidents?

MS LAI: Em is nodding.

15 MS TARRAGO: And on that main street, are there a lot of trucks that travel through Tennant Creek?

MS LAI: Em is nodding.

20 MS TARRAGO: And do they slow down to the right speed all the time?

MS LAI: Em is shaking her head.

25 MS TARRAGO: So, if your scooter is not in good condition and there's a truck coming, that's really dangerous.

MS LAI: Em is nodding.

30 MS TARRAGO: Should the NDIS understand that as well? And how dangerous it can be on the main street?

MS LAI: Em is nodding.

35 MS TARRAGO: Now, Em, I want to talk about utensils. You've worked with your OT, and together you found some utensils that would make your life more independent and that you could do things on your own.

MS LAI: Em is nodding.

40 MS TARRAGO: Have you been waiting a long time for those utensils?

MS LAI: Em is nodding.

45 MS TARRAGO: And some of those utensils include a tip kettle, special plates and cutlery, a non-slip placemat and a meal preparation board. Does that sound right?

MS LAI: Em is nodding.

MS TARRAGO: And you're really excited to get those things.

MS LAI: Em is nodding.

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MS TARRAGO: And you manage as best as you can now, but it would change your life to be able to have things that you can use independently.

MS LAI: Em is nodding.

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MS TARRAGO: I also want to talk about community access. Are there a lot of shops for clothes and things like that in Tennant Creek? No. So, the closest town - oh, it's expensive. So, it's expensive in Tennant Creek for the stores that they have there?

15 MS LAI: Em is nodding.

MS TARRAGO: And the closest township - major township is Alice Springs.

MS LAI: Em is nodding.

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MS TARRAGO: And there's a lot more variety in Alice Springs for clothes?

MS LAI: Em is nodding.

25 MS TARRAGO: And the prices might be better.

MS LAI: Em is nodding.

MS TARRAGO: Now, do you get to come to Alice Springs very often?

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MS LAI: Em is shaking her head.

MS TARRAGO: So when you need new clothes or shoes, have you had to get some friends that might have helped you to get new shoes? Did you recently have a friend went to go and get a pair of shoes? And it wasn't a very good experience, was it?

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MS LAI: Em is nodding.

MS TARRAGO: You FaceTimed to be able to pick which shoes you might like?

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MS LAI: Em is nodding.

MS TARRAGO: But in the end they were the wrong size?

45 MS LAI: Em is nodding.

MS TARRAGO: So it made it really difficult to be so far away and to be able to pick a pair of shoes, for example.

MS LAI: Em is nodding.

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MS TARRAGO: So, is it important - is it important to you to be able to come to Alice Springs to pick clothes and shoes that you might need?

MS LAI: Em is nodding.

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MS TARRAGO: Now, looking to the future, is there – are there things that you would like to see changed about - or that people should know about living in Tennant Creek and having a disability?

MS LAI: Em is nodding.

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MS TARRAGO: Do you think that since the NDIS has started things have gotten worse?

MS LAI: Em is nodding.

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MS TARRAGO: So, before that, you had better supports?

MS LAI: Em is nodding.

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MS TARRAGO: Do you think that there needs to be greater transparency about plans?

MS LAI: Em is nodding.

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MS TARRAGO: And you would like to know how to use your plan and someone to take time to explain it to you.

MS LAI: Em is nodding.

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MS TARRAGO: Do you think that government needs to understand that one size doesn't fit all?

MS LAI: Em is nodding.

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MS TARRAGO: And that the NDIA needs to understand what it's like to live in remote communities?

MS LAI: Em is nodding.

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MS TARRAGO: Do you think they also need to understand Aboriginal people?

MS LAI: Em is nodding.

MS TARRAGO: And that there might be different cultural things or responsibilities that Aboriginal people have with their family.

MS LAI: Em is nodding.

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MS TARRAGO: Do you think the NDIA needs to train service providers on how to be culturally understanding?

MS LAI: Em is nodding.

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MS TARRAGO: And do you think that for yourself and other people that might also have health issues, that there needs to be a holistic approach to health and disability?

MS LAI: Em is nodding.

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MS TARRAGO: And today, you would like the Commissioners to know that one size doesn't fit all?

MS LAI: Em is nodding.

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MS TARRAGO: Thank you, Em. That's the evidence, Commissioners.

CHAIR: Thank you very much. I will just - if you don't mind - ask the Commissioners who are sitting on the - at the table with me if they have any questions. First I shall ask Commissioner Mason.

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COMMISSIONER MASON: I just wanted to know how long it's been since you've been back to your hometown in Queensland. Has it been a long time or a - or has it been a short time? Or has it been a long time? Yes.

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MS LAI: Em is nodding.

COMMISSIONER MASON: And so, that means you're not seeing your country and your family.

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MS LAI: Em is nodding.

COMMISSIONER MASON: I'm sorry that that's been your experience because I know how important that is, even for Sorry Business, being able to go back. Is that - has that happened with you not being able to go back even for Sorry Business?

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MS LAI: Em is nodding.

COMMISSIONER MASON: Thank you. I know in Tennant Creek, it was the place that the NDIS first started in Australia - one of the places where it first started - and I wanted to know about other people in Tennant Creek who have to use a scooter or a wheelchair. Do you

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know if there's lots of people with disabilities who are using scooters or wheelchairs in Tennant Creek?

MS LAI: Em is nodding.

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COMMISSIONER MASON: So, there's a lot of people.

MS LAI: Em is nodding.

10 COMMISSIONER MASON: So, would you - would it be your thoughts that, because of that, there should be some way of making sure wheelchairs are working well in Tennant Creek?

MS LAI: Em is nodding.

15 COMMISSIONER MASON: Thank you very much. And thank you very much for working with us in the Royal Commission to be here today. I really appreciated it. Thank you.

CHAIR: Commissioner McEwin?

20 COMMISSIONER McEWIN: Thank you. I have one question. Thank you, Emily, for your evidence. When you said earlier that you believe there needs to be a holistic approach with health and NDIS, I understood that to mean that doctors and hospitals, and nurses and all those who work in health need to understand disability better. Is that right?

25 MS LAI: Em is nodding.

COMMISSIONER McEWIN: Thank you.

30 CHAIR: Emily, thank you very much, and as Commissioner Mason has said, and Commissioner McEwin, we very much appreciate your coming to the Royal Commission today and telling us about your experiences; not just about the scooter but a number of other things as well. And we will very carefully take into account what you have told us, which is very helpful. So, thank you so much for coming to the Royal Commission. Thank you.

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**<THE WITNESS WITHDREW**

MS TARRAGO: Chair, we will need a 10-minute adjournment to reconfigure the room.

40 CHAIR: How long would you like?

MS TARRAGO: 10 minutes.

45 CHAIR: 10 minutes. All right. It's now nearly 25 past 10 Central Time. We will resume at 10.35.

**<ADJOURNED 10:24 AM**

DISABILITY ROYAL COMMISSION 12.07.2022

**<RESUMED 10:42 AM**

CHAIR: Yes, Mr Griffin.

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MR GRIFFIN: Commissioner, I call Beth Walker to give evidence. Ms Walker is in the witness area. Can I indicate that pursuant to our request, she provided a statement to the Royal Commission dated 1 June 2022, which for identification purposes is STAT.0550.0001.0001. It is to be found in Hearing Bundle A at tab 7. And the annexures to Ms Walker's statement are

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CHAIR: Thank you very much. And, Ms Walker, thank you for coming to the Royal Commission to give evidence and for assisting the Royal Commission once again. We know that you were present, remotely I think, at the roundtable that we held recently.

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MS WALKER: Correct.

CHAIR: So, thank you for joining us yet again and thank you too for the very detailed statement that you have provided, which each of us has, of course, read very carefully. If you would be good enough to follow the instructions of my associate, who is supposed to be somewhere. There she is around the corner. She will administer the affirmation to you. Thank you.

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25 **<BETH WALKER, AFFIRMED>**

CHAIR: Thank you, Ms Walker. Mr Griffin will now ask you some questions.

**<EXAMINATION BY MR GRIFFIN SC**

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MR GRIFFIN: Ms Walker, although the Commissioners have read your statement in detail, of course, people watching this hearing on the live stream don't have access to it. So can I ask you by way of preliminary, can you describe what the role of the Public Guardian and Trustee of the Northern Territory is?

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MS WALKER: Certainly. Adult guardianship is around when we are - when we turn 18, we are all considered adults and have our own decision-making and our own licence and autonomy. Sometimes due to accident, illness or disability, there are people in our community who may not be able to make their own decisions in relation to complex issues and decisions, and that's when the court or, in our case, the NT Civil and Administrative Tribunal, appoints a guardian.

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Now, often - and we strongly encourage for this to be a family member or someone well-known to the person, but, unfortunately, that's not always available, and so the Public Guardian would be appointed as the guardian of last resort. And I'm privileged to have had that role in the Territory since 2016. I have an office and a team of people who are

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delegated officers to work with people. We aim to use a supported decision-making model wherever possible, but at times there's complex situations that are challenging to deal with.

5 MR GRIFFIN: And your position is what's known as a statutory position. And do I understand that you've been reappointed to that role, and your current appointment will run through to 2026?

10 MS WALKER: Yes, that's correct. And, as I said, it's a privilege for me to have that role in our Northern Territory community.

MR GRIFFIN: How many people does your office act as the sole or joint guardian for?

15 MS WALKER: Look, it's approximately 600, and it does vary month to month. But, on average, around 600 people.

MR GRIFFIN: At the time you made your statement, you outlined in paragraph 11 the figures as they then existed. And can I take you to that?

20 MS WALKER: Yes.

MR GRIFFIN: That, as you mentioned, a total of about 600 adults at that stage?

MS WALKER: That's correct.

25 MR GRIFFIN: Of which 454 were First Nations people with disability?

MS WALKER: Yes, also correct.

30 MR GRIFFIN: Of those 454, 337 of those First Nations people are NDIS participants?

MS WALKER: Yes. We are involved with about 337 First Nations people involved with - also involved with NDIS.

35 MR GRIFFIN: And, finally, of that group of 337, 203 of those people live in remote or very remote communities?

MS WALKER: Yes, correct.

40 MR GRIFFIN: Does your office members travel to remote communities frequently?

MS WALKER: We have a fairly limited travel budget and so, no, it's - it's not a frequent event for remote community travel to occur.

45 CHAIR: Can I just confirm something that I think follows from paragraph 11. The 203 First Nations people who live in remote or very remote areas are, are all 203 NDIS participants?

MS WALKER: Yes, that's correct.

CHAIR: Thank you.

5 MR GRIFFIN: How do you obtain information in your office as to the conditions in those communities, given the fact that you have a limited travel capacity?

10 MS WALKER: Yes. Look, our office relies heavily on natural networks, like family, community members, service providers and obtaining information from those sources that are close to the person in terms of - of what's happening. Obviously, you know, 600 people across the Territory, you know, we are not intimately involved with every one of those people on a daily or a weekly basis. It's - there's ebbs and flows, and we - it's critical that we partner with, you know, medical clinics, medical services and people that are in that location.

15 MR GRIFFIN: In paragraph 13 of your statement, you make a comment that your office is uniquely placed to observe trends, changes and issues relating to the NDIS. On what basis do you say that?

20 MS WALKER: The figures that we just ran through in paragraph 11 demonstrate a volume of situations and people's lives that - that we are involved with by virtue of - of being their adult guardian, and I think that uniquely positions us to see the trends that are developing and the experience that my - that the adult guardianship officers and myself, the situations that we get involved in advocating around, mean that we are uniquely positioned to comment on this.

25 COMMISSIONER McEWIN: Ms Walker, given that you have a limited travel budget, as you said, what are some of the ways that you try to get a sense of what you were just describing in terms of trends or even the situation with the clients?

30 MS WALKER: Yes. Yes, absolutely. And, look, I probably should clarify that some of our bigger regional centres like Katherine and Tennant Creek, which we just heard about from Emily, we do regular travel to those regional centres. But it's the smaller places like Bickerton Island up in the islands, or some of the more remote Central Australian communities where there may be only one or two represented people. I also talk about what I see as the flow of people moving to regional centres to access services, so that means  
35 that we do get to interact and, I guess, keep an eye on what's happening for the majority of people.

40 It's just the smaller more remote communities that might be shut off in the wet season, or some of those other issues that we experience here in the Territory. Ideally, we would have a bigger budget and be able to do more travel, but we also use video conferencing, which is - is not as effective but - and talking with people on the ground.

45 COMMISSIONER McEWIN: And perhaps an additional question is, do you collaborate with other departments to also try to get a sense of the bigger picture? Like Health, Education, etcetera?

5 MS WALKER: Yeah, look, and that was my comment earlier, that we really need to work in a partnership model with - you know, sort of anyone that is close to the person, whether it's the local council services or the aged care services, the medical service, in terms of them being aware that we are involved and sharing information. And that would flag to us that something might not be going well and that we need to give some closer attention.

COMMISSIONER McEWIN: Thank you.

10 MR GRIFFIN: I assume, Ms Walker, that your office keeps a separate file in relation to each person who is subject to guardianship?

MS WALKER: Yes, that's correct.

15 MR GRIFFIN: And that file, would it typically contain records relating to your contact with that person and issues arising from your role?

MS WALKER: Yes, that's correct.

20 MR GRIFFIN: And would that in turn enable you, for example, in dealing with issues involving the NDIS, to build up a history for that person of your office - office's dealings with the NDIS on their behalf?

MS WALKER: Yes, yes, definitely.

25 MR GRIFFIN: And are those sorts of reports part of what's informed the view you have expressed in your statement?

MS WALKER: Yes, absolutely.

30 MR GRIFFIN: And you have also, I understand, consulted with your colleagues within your office -

MS WALKER: Yes.

35 MR GRIFFIN: - in preparing this statement?

40 MS WALKER: Yes. And, unfortunately, situations where our usual processes aren't able to address the issue satisfactorily, my team will escalate the matters to myself. So, the more complex or difficult matters, I probably have been involved with personally.

MR GRIFFIN: So even people with under a guardianship order, where you may not have primary responsibility for dealing with them, in the more serious matters, you would be brought in at some point?

45 MS WALKER: Yes, and, look, on the guardianship orders, it names me as the Public Guardian. It's a role I take very seriously and - and that I have a responsibility to the people that I've been appointed guardian for, and my team assists me to do that. So, they keep me well

informed, and I want to be well informed, so that we - we can be doing the best that we can within the resources that we have available.

5 MR GRIFFIN: I want to take you to some of the trends or issues that you've identified in relation to the NDIS. Can I commence by asking, do you understand what the concept of a thin market is?

10 MS WALKER: Yes, I have the Beth Walker version of the thin markets. And I was a Public Guardian when the NDIS was rolled out. We heard earlier about the Tennant Creek pilot. We weren't heavily involved with the pilot, and then the subsequent rollout of the NDIS in the Northern Territory. I think that it's important to acknowledge that we have seen many positive changes in the landscape due to the NDIS, and that it has made a big difference in many people's lives. But the purpose of the hearing today, and what I want to highlight is the things that are not working quite so well.

15 MR GRIFFIN: Okay. Thank you for that. Can I take you back to the question about the understanding of a thin market.

20 MS WALKER: Yes, sorry, thin markets. Yes. Look, I mean, the NDIS is - is very much that insurance-based model and a market-based model, and, theoretically, by funding people's plans, that will drive the market and creation of services, so that people can go and choose the best services that they need. It's a model, and I think particularly in places like the Northern Territory and top end of WA and Queensland, particularly where we see a high First Nations population and it's difficult for service providers given remote distances, there's market failure.

30 And thin markets is a term that's probably a step before you have market failure. But, essentially, what we are saying is that the market hasn't responded, and so people's needs are not being fully met because of the lack of availability of services.

MR GRIFFIN: Ms Walker, if we work on an assumption that First Nations people in remote and very remote communities struggle to access a full range of disability support services, what, in your experience, are the reasons or barriers that prevent that happening?

35 MS WALKER: Gosh, it's a very complex issue and there's definitely not a one-size-fits all solution. But there are a range of issues, such as availability of housing, availability of land, availability of service providers to be able to respond to the needs of First Nations people in remote communities.

40 MR GRIFFIN: Let's pause there and explore each of those. The question of housing. What are the inhibitions in relation to housing in those communities?

45 MS WALKER: Housing in remote communities is, as I mentioned, a complex issue. There are issues about land ownership and the availability of land to build dwellings. Typically, we already see high demand in communities and potentially overcrowding and also the suitability of some dwellings. A lot of work has been done in that area. You know, some - the Commonwealth Housing, NT Government is involved in those housing issues, but there's

also been a lot of work around community and First Nations ownership of solutions to those types of housing issues and problems.

5 But when we are talking about people with high disability needs, it means that housing is a critical issue. So, for example, if - you know, even access to therapy solutions, if you are organising an allied health therapist to visit a community, they're not able to stay the night in that community if there's not suitable accommodation for them to stay in that community. So that limits the number of people that they are able to see in a day if they have to travel in and out because of housing.

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So that's a very simple example of where there might be many more people in that community that need to see the allied health therapist but because of housing and accommodation issues, there might be a limit for how many people they can see in that day.

15 MR GRIFFIN: Before we explore that further, can I take you back to the simple question of housing.

MS WALKER: Yes.

20 MR GRIFFIN: If one was unfamiliar with these communities, intuitively you would think that, given the part of the world we're in, the availability of land wouldn't be an issue. Explain to me why that is intuitive reaction is misplaced.

25 MS WALKER: Look, there's multiple issues. I mean, the cost of building housing in these remote communities is - is very expensive. Building the same equivalent dwelling in Melbourne or Sydney would be much cheaper. So, there's just the economics of the building costs. Availability of materials and tradespeople to - to do those types of work. The availability of land. As I touched on, often it may not be - you know, there's Commonwealth, you know, land. There's leaseholds, you know, with Aboriginal traditional owners, so the issue of land ownership is complex as well.

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35 And, look, I can't pretend to be across the issue of land and the building of dwellings. I know there's a lot of good work that is happening. There is a program that's - I think it's called Room to Breathe, and that's about adding additional bedrooms or bathrooms or making existing dwellings more accessible. But that benefits people who have already got a house, not someone who may or may not have a house. So, yeah, it sounds like an easy issue. We're in the Territory, there's lots of space, so why is land an issue? It is a bit counterintuitive.

40 MR GRIFFIN: You also mentioned the lack of service providers in those communities. In your experience, is that issue being addressed on the basis of your office dealing with people? Do you have any first-hand knowledge of what is or isn't being done in that area?

45 MS WALKER: Look, there are some very good service providers, and I think what we've seen is that the existing providers in the space - so the councils, the Aboriginal medical services and some of the local community-operated services are providing services. There is the

complexity of NDIS registration and what NDIS registration entails. Sometimes that can be a deterrent.

5 So, for example, an art centre in a community that wants to operate some art classes for people with a disability, there's some registration requirements, and that might actually be outside of their reach and I think should be looked at in terms of the registration for operating a supported independent living service should be different to, say, an arts centre who wants to make some accessible art classes in their community and obtain some NDIS funding.

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So, I think that's potentially one of the barriers. But new service providers in those spaces, we have seen some, but it's really not sufficient to meet the needs of people. And my observation is that there's not a primary driver or a primary agency that is driving the creation of - of those types of services. So - and pulling those threads together. So what does a community already have in place? There might be a swimming pool, there might be the art centre; how can we maximise those existing, you know, operations within a community through NDIS for First Nations people in remote settings.

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MR GRIFFIN: If there were a well-established service provider based in Darwin dealing with the whole range of NDIS participants, both First Nations and others, is it safe to assume you could take them to a remote community and they would be able to provide the service at an adequate level?

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MS WALKER: Again, a very complex issue and not always the case. I mean, there's been a lot of work with First Nations people around the suitability of service providers and the appropriateness and the cultural safety of service providers. So just picking up a national service provider or someone from Darwin and popping them in Tennant Creek is not necessarily going to meet the needs of people in that area.

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MR GRIFFIN: In your experience, what are the component parts of cultural competency that you would be looking for if you were going to recommend a service provider for someone that you had guardianship of?

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MS WALKER: Again, a really complex question. We're heavily guided by the views of people that we are representing, and so it's about their level of comfort in - and safety in using a service provider. And, I mean, we get feedback and look at the credentials, if you will, around the service providers that are in place. So, for instance, there's very established Aboriginal-controlled organisations that provide healthcare and disability services in certain settings - so, say within Alice Springs and surrounds - that if - that we would strongly encourage and welcome, you know, them expanding providing their services. But they've got, for want of a better term, street cred with the community and with people who use those services, and that makes a very big difference.

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MR GRIFFIN: In trying to obtain constructive feedback about a service provider, is there any way you can contact the NDIA and ask for details of their experience of dealing with a provider, if they have any?

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MS WALKER: Not formally. So informally, you know, they're the types of - I may be able to ask that question. There is also the interface with the NDIS Quality and Safeguards Commission, and I guess we are often involved in making complaints or having concerns. So often my team will be telling me that they, you know, have some concerns or might not be recommending particular service providers. We also see services, I guess, evolve, especially when there's people that move around or move - changed services that they might be working for. So that's another thing that we also look at.

MR GRIFFIN: I was going to come to the question of complaints later, but let me deal with it now. What's been your experience of making complaints either to the NDIA or to the Quality and Safeguards Commission on behalf of your clients?

MS WALKER: Yeah. I think there's a long way to go in terms of responsiveness and ability to - you know, communication around those types of issues. I think that one of the key points - and I think it follows on from our earlier speaker to the Commission - that the scheme is very transactional and very bureaucratic and can be very difficult to navigate. So even for myself, if I come across information which is extremely concerning in relation, you know, to perhaps some fraudulent claiming, finding the right person to lodge your complaint with or who you should be talking to can be very difficult at times.

And I think that I - I speak for everyone involved in the scheme that it is often very difficult to find the right person to talk to, to point you in the right direction or help you work out or navigate the scheme, and I refer to our earlier speaker Emily who highlighted that issue as well.

MR GRIFFIN: If you were making a complaint about what had happened to a participant in the Northern Territory, to whom would you initially raise that complaint with?

MS WALKER: If in they were a NDIS participant, it would be Quality and Safeguards Commission.

MR GRIFFIN: And, in your experience, is there a typical turnaround, firstly, by acknowledging the complaint and then providing a substantive answer?

MS WALKER: Typical is probably - probably not. It will vary on the seriousness of the complaint and that - the level of work involved in investigating that complaint. The Commission is a relatively new organisation and quite complex with their different registration complaints, monitoring of restrictive practices and types of things. But I have found that - that they are very keen to improve what's happening for people. But there's often times when we're chasing matters up or it's not clear what has become of it, but I - I do see work in that space to try and make improvements.

But I think it is a frustration for people when there's information of situations that are very - are concerning for that individual to feel like that there's not a timely response and good communication. However, that being said, I have seen some very complex and very worthwhile investigations that have taken a bit of time but have been done very thoroughly and with good end results.

MR GRIFFIN: When you lodge a complaint is the response usually in writing or does occasionally somebody from the Quality and Safeguards Commission actually ring up and ask?

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MS WALKER: Look - and, again, this probably goes to my point about the bureaucratic nature of the organism that we have created in that, you know, automatic email responses say, "Thank you. We have received your complaint and it's complaint number XYZ", yes, you get those. You don't get a particular contact person. You don't get a particular timeframe. And should you want to follow that up, in all likelihood, you probably have to ring the dreaded 1800 number again. When there's active investigation, there is more personalised interaction.

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MR GRIFFIN: If someone makes a complaint about your office, do you respond by giving them a contact name and number?

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MS WALKER: We actively do a little bit more than just a contact name and telephone number, but we're much smaller than NDIS Quality and Safeguards Commission. But, yes, the response to complaints is a very important aspect of service delivery.

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MR GRIFFIN: Before I leave the question of dealing with remote communities in the way we've been discussing, when you're dealing with your clients and they speak in language, what do you do within your office to assure yourself that you are understanding what their wishes are?

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MS WALKER: Yeah, look, the Aboriginal Interpreter Service in the Northern Territory is critical in terms of bridging that language barrier. We still experience, you know, issues in that there's a high demand for that service. The availability of all the languages can be difficult, depending on what else is happening. But we're very grateful that it's available and available to use with people.

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You know, we have seen the level of interaction of people increase dramatically when we have used interpreters, and there is a risk that if - you know, if people can't communicate because of a language barrier or access to interpreters, that people misconstrue their level of disability. So the appearance of the disability can be greater, but what it is, is actually a communication and language barrier which - which is something that all service providers need to look at to overcome.

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MR GRIFFIN: So, is it a fair summary that if a participant is dealing with your office and you have the access to interpreter services, the quality of that interaction, that communication, is improved immeasurably?

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MS WALKER: Yes, that's correct.

MR GRIFFIN: And is that primarily for obvious reasons, including the chance of miscommunication is reduced?

45

5 MS WALKER: Yes. Absolutely. Because sometimes people's functional understanding of English might be reasonable, but when you're dealing with abstract issues like guardianship, or medical treatment, or talking about service providers or people's experience, it gets more challenging to be able to use a language. And often people - English is their third, fourth, fifth language because they have got their First Nations languages.

10 MR GRIFFIN: If you're trying to explain a concept or a complexity about, for example, guardianship, how does your office satisfy itself that the person understands what's been explained to them?

15 MS WALKER: Again, we've put a lot of effort into trying to look at, you know, the use of interpreters. You know, some information in easy English. We've got some information that's been translated and - but sometimes you are doing the best that you can in the circumstances. But I think it's about the effort and the goodwill, you know, have a strong commitment to making information about guardianship available to people.

20 We've got a road to go on that but, yeah, there are ways of doing that, but the ways of doing it usually involve specialist expertise, resourcing and - and the concept of co-design and testing with the consumer group who are going to be the end users of those products are all resource-intensive.

25 MR GRIFFIN: Ms Walker, this might seem like a very simple proposition, but does your office in effect say to people you are explaining something to, "Can you tell me in your own words what you understood I just explained?"

MS WALKER: Yeah, look, that's a - I guess that's a strategy that most professionals will use and in other settings. It's a way of checking in that has what I've been talking about been understood. So, yes, that's - that's a fairly standard tool.

30 MR GRIFFIN: This is not a question. It's really ultimately a matter for submission. But I suggest to you that that's not as commonly done as you might imagine.

MS WALKER: I think, unfortunately, you're correct. Yes.

35 MR GRIFFIN: Can I take you to paragraph 92 of your statement when you talk about cultural consultants.

MS WALKER: Yes.

40 MR GRIFFIN: This is in the context of supported decision-making services. Can you explain to the Commissioners why you engage consultants in relation to cultural matters and what benefit do you see from doing that?

45 MS WALKER: Absolutely. The cultural consultants or brokers or whatever title that one wants to give them have a greater understanding of First Nations culture, and I would liken it to - to the use of a guide. So someone who is able to, I guess, be an intermediary and help with some of that understanding and, you know, even the language that's been used. The

reality is that, you know, I'm not a First Nations Australian, so I have a different lens to - to someone who is a First Nations Australian.

5 And so the brokers or the guide have the ability to understand that lens or have that lens themselves. And that's been demonstrated in the Territory to have some really good results. So Aboriginal mental health workers are a good example where Aboriginal people are utilised to assist people with their mental illness journey. So that's similar to what we're talking about. I mean, the - the Commission heard about, you know, the different Deaf signing across Territory communities.

10 So that's a good example of where some specialist expertise is required to help overcome that communication barrier in terms of those - those different First Nations sign languages.

15 MR GRIFFIN: I think you are referring particularly to the evidence of Jody Ann Barney, and you know Ms Barney has her own business as a specialist consultant. I take it from your answer that you're also referring to utilising the services of people that work in other areas, but have those skills?

20 MS WALKER: Yes, that's correct. And we, in a number of instances, have actually utilised Jody Barney's services and there's also some First Nations psychologists and professionals like that who are able to assist in - in working through the issues. So sometimes it's even just about unpacking, you know, where the person thinks that they might like to live, understanding the money story around Public Trustee, so that - that can really be useful to have someone explaining that to the person in a way that they understand.

25 MR GRIFFIN: And that person -

30 COMMISSIONER McEWIN: Ms Walker, is it your view that the Northern Territory government recognises the importance of cultural brokerage, as you have described, in terms of across the Northern Territory government system? And, secondly, do you - has there been research to show positive outcomes from that arrangement?

35 MS WALKER: Yeah, look, obviously different areas within the Northern Territory government have different needs. So somewhere like Department of Planning and Infrastructure would not have as high a need these type of things as, say, the Department of Health, you know, or some of the Human Services-type departments. But I think that, within the Territory, that generally there is acknowledgment that the cultural competence, cultural safety ability to meet the needs of First Nations people is a really important area and it's not a one-size-fits all, and that the best way to source that expertise is - is through First Nations people themselves.

40 But we have in the Territory seen a number of initiatives, the Aboriginal Mental Health Worker initiative. Primary Healthcare Network has done some work as well. The Aboriginal Medical Services play a critical role in terms of accessibility and information and improving the health of First Nations people in the Territory. I don't think that we've necessarily cracked the code and found the solution, but I think there's a strong commitment to working collaboratively and making sure that it's First Nations people who are finding or

collaboratively working on solutions. And I think that's an area that NDIS and the scheme needs to improve in.

COMMISSIONER McEWIN: Thank you.

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MR GRIFFIN: Ms Walker, I think in paragraph 94 of your statement you summarise some of the things you've been saying. For the purposes of those listening into this hearing, you say:

10 *"The use of a cultural consultant and advisor ensures that a participant's experience of the NDIS is culturally safe, optimising the participant's engagement with the NDIS and the outcomes they are able to achieve."*

15 And then you go on to make a recommendation. And that recommendation that participants should be entitled to receive sufficient funding for cultural consultants or advisors, is that based upon your first-hand experience of that need?

MS WALKER: Absolutely, yes.

20 MR GRIFFIN: With your examination of the plans of people you are responsible for, is that raised in any of the plans that you've seen as a need that the NDIS should consider funding?

25 MS WALKER: There isn't a specific line item within the NDIS pricing guide that covers cultural advisors or brokers specifically. What we have had to do is choose, because we are using our choice and control, for some of the other line items to be used for those purposes. But that's what we've had to do. And I think the key message in terms of the cultural advisors and brokers and return to country, it would be nice to see a culture change within NDIS where that is viewed as reasonable and necessary and that you don't have to fight tooth and nail to have these things included in people's plans.

30 And that the question should be - really be, you know, at the start, of would this person like - would there be a benefit for having a cultural advisor or return to country visits and that it's not approached in a punitive kind of fashion where you have to fight to have those things included in plans.

35 CHAIR: Could I raise perhaps a more fundamental issue that arising out of what you've just said. What you've just said assumes that the NDIS, the NDIA as the agency, are capable of making that cultural change that you've just referred to. When I read - read your statement, you make some fairly cogent criticisms of the operation of the NDIS. Paragraph 23:

40 *"The choice between providers that deliver basic services in remote and very remote communities is marginal or non-existent."*

24:

45 *"The staff of service providers may speak English as a second language. Difficulties arise when these staff members work with First Nations people who also do not speak English."*

Paragraph 25:

"The principle of choice and control cannot be realised practically in these settings where the market for disability services is thin or does not exist."

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26:

"As the result of the lack of appropriate services, First Nations people with complex disability needs often have no choice but to move away from country, causing new issues such as grief associated with disconnection from culture, kin, community, and country."

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Paragraph 35:

"In my view, your office's issues in relation to SIL funding arise because there is a fundamental lack of options in the housing and supported accommodation market."

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Paragraph 78:

"These significant disadvantages accrue to NDIS participants who do not have access to an advocate. This is particularly the case for many First Nations people with disability in remote communities because of the complexity of the NDIS system plans and processes, the technology and digital literacy required to navigate the scheme, language barriers, multiple stakeholders involved - for example, NDIA plan and support coordinators and service providers and so on."

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I'm sorry for that to be so long, but I think these are very valuable and interesting comments, and I'm going to ask you about where they lead. You have also said just now that communications require specialist expertise. They require resources. They require co-design with First Nations people. You pointed out that you, no doubt along with me and Commissioner McEwin, are not First Nations people so we may have a different lens to First Nations people.

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My question is, is the NDIS as a scheme - and this involves no criticism of the NDIA - capable of adaptation to achieve the goals that you perceive are important for First Nations people with disability in remote and very remote areas? Is this a case that, as well-intentioned as the suggestions may be, it's effectively putting a bandaid on a much more fundamental organic problem that the bandaid won't solve? That's a long question. Please feel free to take it apart or reject it or ask for clarification.

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40 MS WALKER: Yes.

CHAIR: But it just does seem to me that some of the criticisms you have made - and they are not - you're not alone in that, as far as the evidence goes - really lead to a conclusion that something more fundamental is needed.

45

MS WALKER: Yes. The points - I stand by the points that I made in my statement.

CHAIR: No, I'm not trying to -

MS WALKER: But I guess that there's a lot of good people who are doing good work and that even organisations - Commonwealth organisations or government organisations can make changes that benefit their customers and people that are using - using their services. I don't think it will be easy. I don't think it necessarily will be 100 per cent. But I do think that in are things that can be done. I mean, you know, I point to the Community Connecters program that very well-established organisations like Miwatj and Congress have been involved with in terms of getting people access.

And I do also - you know, could put my hand on my heart now and say that every single person that I represent is better off with NDIS now than before there was an NDIS, and so I think that that - the recipe is there, but we need to refine it so that - so that it's giving First Nations people an equitable service to the rest of the -

CHAIR: I should make it clear that nothing in my question was intended to be critical of the NDIA or the people who administer the services.

MS WALKER: No.

CHAIR: I'm talking about structural institutional issues.

MS WALKER: Yes, yes.

CHAIR: Which in a sense stem from the goals of the NDIS, which are stated in section 3 of the Act, and you see there that the goals revolve around supporting the independence and social and economic participation of people with disability, providing for choice and control and so on and so forth. All of those are thoroughly admirable aims. But do they really fit for First Nations people with disability in regional and remote communities.

So it may be a question of whether the assumptions upon which the scheme is based - recognising that those responsible, including the Productivity Commission, were actually alive to some of the issues we are talking about today - it may be a question of whether the assumptions underlying the statutory scheme are really apt for the people that we are talking about today.

MS WALKER: That's a very good point. And I do think that the - the values and - of the scheme still hold true. But I think, in some ways, the implementation and the approach, you know, that's evolving - perhaps by cost pressures, perhaps by workforce pressures, and other issues like that - that we're not seeing the wholesome implementation of those values and principles as fully as I think they could be realised.

CHAIR: Thank you. Sorry for that lengthy interruption, Mr Griffin.

COMMISSIONER MASON: Mr Griffin, can I just make a comment?

MR GRIFFIN: By all means.

5 COMMISSIONER MASON: The NDIS came into realisation in the period after we had a  
National Commission for Aboriginal and Torres Strait Islander people. And also we had our  
First Peoples Congress. And so, in a sense, we're in that post era of not having a national  
body which also had regional areas of leaders with a responsibility. And I - in reflecting on  
the Chair's observations from your statement, in this post-period of ATSIC and the First  
Peoples Congress, is that, particularly at the Commonwealth level, there is no peer  
leadership of - of a commission or a body which has that national leadership to guide other  
national commissions. And, therefore, it's being reconstructed over many years within  
10 sectors.

MS WALKER: Yes.

15 COMMISSIONER MASON: And, therefore, we have the Closing the Gap agreement, a  
national agreement, which is an agreement between the Commonwealth, States and  
Territories with a coalition of peaks. That's a result of being in the post-ATSIC period. But  
what I'm listening from you and your statement is that one of the major consequences of  
that decision is that we don't have local representatives who can be peer leaders.

20 And, in fact, you know, that co-design process at the beginning of the NDIS, having a peer  
leader to design that sense, to co-design it to ensure the interest of First Nations people was  
central to the benefit of that scheme, I would say it wasn't there to the extent that it would  
have been if we had a national commission, Aboriginal and Torres Strait Islander  
Commission.  
25

30 So the second observation I make - we are talking about thin markets - is that with the  
abolishment of ATSIC, those regions then started to understand that they were part - and  
this is talking about First Nations organisations - not for all, but for some - that they were  
now part of a competitive tendering process with other non-government organisations  
around government services. And so if there was going to be a time of market growth, that  
would have been the time as the - as creating the conditions for this time of the NDIS, when  
we needed those services and we needed those - we needed a workforce, whether they be  
First Nations or non-Indigenous, working in remote areas and very remote areas. But we  
don't have that.  
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40 And so we know the investment prior to the NDIS and the abolition of ATSIC was investment  
in remote and very remote communities into First Nations organisations. So we are dealing  
with a different landscape of bureaucracy where there is no anchor. There's no federal  
commission to help guide that peer design and conversation and accountability in that  
sense. It's now coming through individual sectors and leaders.

45 So it is very challenging but the elements of what we had prior to that change, we still have  
very much the knowledge base still within the First Nations community control sector, and  
we have seen it, and we will hear from those leaders this week. So in a sense, as a nation,  
we're all grappling with an issue that is not of our making, in a sense, but it now becomes  
our responsibility of how we make better decisions. If we know good, we do good decision.  
If we know better, we make better decisions.

MS WALKER: Yes. Yeah, no, absolutely. And the - the Aboriginal Controlled Organisations are critical in coming up with the solutions and I would argue are best placed. That what I am commenting on is my observations based on - on the situation of this group of First Nations people with disability but the only option available to us is partnerships and promoting partnerships and encouraging that type of peer leadership and development.

And I think - I mentioned earlier that there's the lack of a driver and that in - you know, that could potentially be the driver, but I think that there needs to be movement around, you know, the issues that are facing First Nations people. What are the solutions or how do we work towards these solutions? You know, often it's not quick. It's concerted effort by - by key people, and I would strongly encourage that and welcome that, and definitely don't purport to have any ownership on the solutions.

I've got some ideas and can contribute, but it really needs to be those Aboriginal controlled organisations and community organisations. And there's unique solutions for the different - different places. It's - one-size-fits all approach has not worked well previously.

COMMISSIONER MASON: Thank you.

CHAIR: That's the fundamental problem, isn't it, how you achieve what you've just said, and Commissioner Mason has talked about within the context of a so-called insurance scheme and a scheme which depends upon the existence of markets and then must engage in remedial actions where there are no markets. That's a comment and I won't delay in Mr Griffin any further at this point.

MR GRIFFIN: Ms Walker, the best laid examination plans of mice, men and Counsel Assisting die on the secular altar of the Chair's intervention due to its comprehensive nature and conclusionary nature. In order to just elicit a little bit more information on the transcript, can I just briefly go to some short issues. You refer to your observation that there's been a reduction in SIL funding for many of the participants. The gravamen of your criticism of that is that it appears that the people don't get any warning that that's likely to happen. Could you just explain to the Commissioners briefly what a typical meeting would look like when it's announced there's going to be a reduction in funding?

MS WALKER: Absolutely. And I think the key point is that it's often not brought up at the planning meeting. So we are - for some of our participants, they're potentially into their third or even fourth annual plan. You know, COVID has played havoc with, you know, plan reviews and things like that. But we have had - probably since the scheme commenced, where you attend a planning meeting and you talk about what it is that the person would like, and there's often no warning.

So there might be some conversation. We've had examples where the discussion has been around someone with two active night shift and the conversation has been about, can we reduce the night shift to one passive and one active overnight shift. You know. The - one of the aims of the scheme is that we want to be working towards independence, and so

changes in things like that level of support, when they're done well and when they're considered are a way that it can increase someone's independence.

5 We've gotten the plan and the person's support, which was two workers for one person, has been cut to one worker to for that person. There was no discussion, there was no warning, and it's just opening the plan and discovering that that was the decision. And I think that's one of the key points that I would like to make, that the rationale and the transparency and being able to have a dialogue around why was that daytime funding reduced?

10 It wasn't discussed; it wasn't on the radar. Often people that are in supported independent living have a range of providers and a complexity of their needs that really should be not interfered with without very serious consideration and planning. And that's what I see is missing.

15 MR GRIFFIN: It must be very difficult if you're in the middle of a meeting and you find out for the first time that these changes are being proposed.

20 MS WALKER: Yes. And what it is usually is an email with a plan and - saying, "We've cut the daytime funding from two-to-one to one-to-one." And that's the - what's been funded in the plan. You've already got service providers who that day are providing two-to-one funding. We often see a delay in the plans being delivered, so by a few weeks to a month. And so there's then the creation of an issue in that a service provider in good faith has been providing two-to-one support but there's a backdated plan that's now saying, "Oh, it's only one-to-one support."

25 So it's very difficult and it doesn't leave us much room to move. The centralised group within NDIS that make these decisions, I have never ever spoken to anyone on that team to be able to say, "Can you explain to me why this person's funding has arbitrarily been changed from two-to-one to one-to-one with no apparent reason."

30 MR GRIFFIN: Isn't the effect of that approach you describe that you drive the participant into the review or appeal process because a decision is presented as a fait accompli?

35 MS WALKER: Absolutely. Absolutely. And even if things are discussed at a planning meeting, we have another matter where we have asked for certain things in the planning meeting - which I think are quite reasonable and necessary. My office doesn't ask for things that are outlandish or not - shouldn't be considered reasonable and necessary. We haven't seen the plan yet, but we've been told we didn't get everything that we asked for so we should put in a Section 100. Now, we physically haven't seen the plan yet, but yet we're being advised to put in a Section 100 review.

40 MR GRIFFIN: And do you say that these meetings should be conducted as an open transparent discussion of those issues rather than meetings where it's simply - the participant being informed that a decision has been taken?

45 MS WALKER: Absolutely. I mean, the earlier example, there was discussion about two active night shifts and one becoming passive and one becoming active. And that was at the table,

the players were discussing that. It was something that people were going to move towards. The - there was no discussion at that planning meeting about the daytime staffing ratio and the consequence for this person, who had significant level of disability.

5 And the - being pushed into that review process - so if you make a Section 100 review request, the legalistic response that you get doesn't actually give you the reasons for why was that decision made, why has it been dropped in that instance, which then potentially pushes you into that AAT appeals space.

10 MR GRIFFIN: In broad legal terms, instead of the existing plan being the status quo and any change to that plan being required to be explained and defended, it seems like the onus shifts to the participant to try and overturn a decision that's been made without any consultation with them.

15 MS WALKER: Yes. And, look, and I think that goes to the Chair's point about the scheme and my comment about that the culture within the organisation needs to be changed, that we should be celebrating and pleased when things are going well. And, yes, we should ask the question of, "Can the supports be reduced? Is this a good time for the supports to be reduced?" But it should be the person with the disability's input and decision and their  
20 supporters and the people around them - you know, the behavioural support specialists, the allied health practitioners should have the opportunity to comment on what is the consequences of these decisions. Because the consequences can be very negative and very - have major impact for people with disability.

25 MR GRIFFIN: And did I understand your previous answer correctly, that your office struggles to get an explanation as to why these changes are made?

MS WALKER: Absolutely. We - we are not provided with any cogent argument of why things have changed or why they've been reduced. And some of the matters that have gone to  
30 appeal, some of the rationales are based on misinformation, and it's that misinformation that we would like the opportunity to correct. For example, we had someone whose SIL funding was reduced. When it came to appeal time, there was some discussion about, "Well, they've got some informal supports."

35 When we asked, "Well, what informal supports?" "Oh, well, there's an uncle." What they hadn't put together was that the uncle was also an NDIS participant and also resided in a SIL accommodation, and so the informal support that they were talking about was another NDIS participant being supported by another organisation. So that's a very good example of where misunderstanding and miscommunication has led to quite a negative pathway.

40 MR GRIFFIN: Ms Walker, does it take up a significant amount of your office's resources to seek reviews or to make appeals in this process?

MS WALKER: A great amount of resources. And the administrivia of dealing with NDIS takes  
45 up a great amount of time. A quick example of that is I'm the Public Guardian. There's delegated officers. One delegated officer has - has been noted as the contact person. They have moved on to other opportunities and then someone else contacts NDIS and they are

told, "Sorry, I can't give you any information because your name is not written down on this person's file or case." So that's a really - really good, clear example where we have to make certain things happen and explain why we should be involved or given information.

5 MR GRIFFIN: But you're the Guardian.

MS WALKER: Absolutely. It's - it's -

MR GRIFFIN: If you're not entitled, who could be?

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MS WALKER: This is the frustration that I think many people experience because the response that you're given is, "But that's not the name on the file."

15

COMMISSIONER MASON: Mr Griffin, can I just ask about the time it takes for your office to prepare these documents around an appeal or review. Can you give us a sense of that time period that it takes away from what you would ordinarily be doing elsewhere?

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MS WALKER: Yeah. Yeah, absolutely. I - the actual time, you know, we haven't quantified, but the consternation it causes, the phone calls with service providers, following up, you know, those reviews. The AAT appeals process - and I'm really glad that you asked that question - there's organisations that are funded by Commonwealth Government to assist people with appeals process. We don't have in-house expertise. We just kind of, you know, do the best we can.

25

We use the legal service. NT Legal Aid Commission is funded for briefing counsel in terms of appeals. We were advised by them in February that due to the number of requests that they had received, that they had run out of funding. And that their funding - that they wouldn't take new referrals until 30 June, and it was possibly going to be longer. So we are fortunate that we've got a couple of matters that they are involved with, and their involvement has

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been critical. But I think, coming back to my point about the scheme, this is a really classic example where we can't get answers to pretty basic questions about why has something happened or not happened. We're funnelled into this review-appeals process, but then the organisations that are funded to assist NDIS participants with their appeals are not being adequately funded. For me, that leads to a really big dilemma, because do we go and put the appeal in, which is the ethical and moral thing to do, knowing that we've been advised that we're not going to be able to get legal help from the Legal Aid Commission.

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And at the end of the day - and the examples about the supported independent living and the cuts in staffing, I think that, it's been lost sight of that this is people's lives. We heard from Emily beforehand where the wrong scooter or if she doesn't have access to the scooter and the cost of clothing, they're the things that really affect people's lives. Whether you have two-to-one funding or one-to-one funding, whether you have occupational therapy funded in your plan. A support coordinator. I think what I am seeing as Public Guardian is the winding back of people's plans, and it seems to have a financial driver rather than the needs of the person at the centre of what's happening. And that really concerns me.

45

CHAIR: I understand, Mr Griffin, that there are some logistical constraints that we are under because of the witnesses that are yet to appear. So can I leave it to you to determine how far we go with this particular session?

5

MR GRIFFIN: I was going to propose to go for another five or 10 minutes with this witness, and then we will consider whether we can swap the witnesses if the next isn't available. And inquiries are being made at the moment.

10 CHAIR: Yes, all right. You go ahead.

MR GRIFFIN: It seems like the Commonwealth Government or the Northern Territory government are paying a lot of money in the ways you've described simply because there's not a conversation with a proposal that a plan is going to be authored.

15

MS WALKER: 100 per cent.

MR GRIFFIN: Can I ask you very briefly about support coordinators. In your statement, you indicate that there are some very good support coordinators but, by omission, some of them are not so good. Based on your experience, what are the characteristics of an effective support coordinator when dealing with First Nations participants and NDIS?

20

MS WALKER: Okay. Well, firstly would be the level of cultural competence of that support coordinator. And sometimes it might, you know, be as simple as that they have spent time working in a remote community. Ideally - and we are seeing some in Darwin, and I think that there's a couple in Alice, but are First Nations people who have set up support coordination businesses or Aboriginal-controlled organisations who have entered into that space.

25

Miwatj in East Arnhem is one of those organisations where the work that we see them do, I believe that they achieve outcomes that would not be able to be achieved otherwise. The different skill levels is a matter of training, and I think that there's - there's work that needs to be done around the role of a support coordinator. But I think, again, back to the scheme and its genesis, there needs to be an acknowledgment that, for some people and for some situations, a large amount of support coordination will be needed, and for some people, that will be ongoing. And I don't know that the NDIA share that view.

30

35

MR GRIFFIN: So, in your experience, the very good support coordinators in dealing with First Nations people in remote communities have a high awareness of the importance of connection to country and a high level of cultural competency.

40

MS WALKER: Yes.

MR GRIFFIN: Why is connection to country, return to country trips important to the people that you're guardian of?

45

MS WALKER: Yeah. As I mentioned earlier, unfortunately, particularly with people with higher support needs or where their needs are not able to be met on community - and it

may even be a historic fact from when they were younger that they've been brought into some of the regional centres - and research, history, people's lived experience, the importance of connection, of culture, kin and country just cannot - cannot be overstated.

5 And there's - there's people that you will be talking to that will be able to speak about that much more. But what we see is that that disconnection causes more problems and so increased depression, increased problems with mental health, increase with wellbeing, increase with anti-social or problematic behaviours increases because there's that - I will use the term grief or loss of those of those connections. And so I see where we're - we are  
10 having to intervene and pay for services that could, in fact, be less if there was more importance or acknowledgment of the importance of that connection to country and family and culture. And the partnerships with Aboriginal-controlled organisations in that space and process are critical as well.

15 MR GRIFFIN: Does it flow from that answer that even if it makes sense for someone to leave country to receive a specialist disability service, if they stay away from country, their quality of life is more likely than not to decline.

20 MS WALKER: I would agree with that statement, and people from communities do make efforts. But with, you know, the recent COVID experience, there's - there's difficulties in terms of being able to travel to those centres and catch up with people.

25 MR GRIFFIN: And flowing on from that, you made reference in your statement to the funding of return to country trips or the absence of funding. Explain to the Commissioners your experience of endeavouring to have people under your guardianship be able to return to country.

30 MS WALKER: Yeah. Again, we're in that space that I would like to see us move out of where the NDIA doesn't really get the importance of those return to country trips. They are viewed a little bit like a holiday rather than a cultural connection that's really important to First Nations people. And, again, there's no specific line item in - in the NDIA pricing guide that covers return to country trips. And so we're often trying to manoeuvre around people's day-to-day services and pull out little bits or use other areas to fund the return to country trip, including the participant pays for some travel costs as well.

35 But the staffing support and some of the - and, look, the logistics of some of those trips are extensive. So if someone requires two people to lift them, you know, because of their mobility issues, showering and those types of things might require specialist equipment, and so often there can be challenges. If they do need to take a charter plane, there's the  
40 accessibility of the plane and also, you know, if people do need to drive, the car trips and things like that. So they're not necessarily easy things to plan, depending on the needs of the person. But the benefit - and the - the joy that you see on someone's face of returning and being with family is - there's really no words to describe that.

45 MR GRIFFIN: Would you like to see the pricing guide contain a specific section dealing with, firstly, acknowledgement of the importance of return to country and, secondly, the mechanics of how that might be incorporated within the NDIS?

MS WALKER: I think that would be a good step towards the - you know, the - I would love to see First Nations people with the entitlement where they're entitled to ask for, you know, some - a couple of trips a year, however frequently or - you know, obviously that would  
5 need to be negotiated but where there's a view that it's an entitlement. The same with the cultural brokers. That it's not something that should be extra and special and that we should have to make an enormous effort to obtain, but where it's viewed as just part of the reasonable and necessary for First Nations people who have had to move to obtain specialist disability services, that it's - they're entitled to those types of return to country  
10 trips and the cultural brokers.

MR GRIFFIN: So is it moving from a position of having to establish some exceptional circumstances or, to use my word, not yours, "manipulating the price guide" to one where you think the Commissioners should consider creating an entitlement as the first point and then work from there?  
15

MS WALKER: Absolutely.

MR GRIFFIN: Chair, they are my questions for this witness.  
20

CHAIR: Mr Griffin, do we have enough time for Commissioners to ask some further questions, if they wish?

MR GRIFFIN: Yes, we do.  
25

CHAIR: Thank you. Commissioner Mason?

COMMISSIONER MASON: Just on that point of return to country, I have heard it being described as a holiday, and as a First Nations person - not with a disability, but with family - I  
30 would describe it as psycho-social wellbeing. Is that how you would describe it?

MS WALKER: Yes, absolutely. And, yeah, the importance of that connection to someone's wellbeing is - is critical.

COMMISSIONER MASON: Thank you. Thank you very much for your evidence today.  
35

MS WALKER: Thank you.

CHAIR: Commissioner McEwin  
40

COMMISSIONER McEWIN: Thank you. I have one more question. Ms Walker, at paragraph 109 of your statement, you make the observation that when Betty had stable living arrangements, that had a positive impact on her sense of wellbeing and safety. Is it your  
45 observation of your clients that when they do - or if they are able to get secure, stable, accessible, appropriate housing or living arrangements, that also has a positive effect on other things in their lives like community participation, other things?

MS WALKER: Yeah, absolutely. The - having somewhere where the person can be located, they're safe, you know, basic things like nutrition and medication. When those things - those basic needs are being taken care of, then we can move to things like, you know, participation in activities, return to country kinds of activities. And we have been in the  
5 unfortunate situation where we've had a very, very well-funded package of support, but because the person didn't have a permanent address, the support package wasn't able to be activated or commenced. So that - that's a very poor state of affairs.

10 COMMISSIONER McEWIN: And connected to what you said earlier about where you believe the NDIS has been positive for your clients, do you think the NDIS has been flexible with participants being able to transition from inappropriate living arrangements to what they would like to be living in?

15 MS WALKER: Yeah, look, the issue - there's - I'm sure the Commissioners are aware that there's some touch points with NDIS and other service systems, so Corrections, Health, Housing. And what - what we see or get told is housing isn't an NDIS problem. And so - but sometimes there's not an awareness of what it means for the individual. So I think - I've talked often about the package of, you know, somewhere to live and support, and that's one of the areas alongside Corrections and Health and some of those other touch points  
20 that I think the scheme needs to - to be slightly re-modelled to make sure that we're not - not creating gaps at those spaces.

COMMISSIONER McEWIN: Thank you. Thank you, Chair.

25 CHAIR: I just have one very specific question. In paragraph 12, you say where you or your office acts as guardian for an NDIS participant, the guardian is not the plan nominee. What are the - what's the division of functions, then, between the guardian and the plan nominee?

30 MS WALKER: Okay. The term "plan nominee" - and this is the Beth Walker version of the world - is basically a construct by NDIS. And so I could nominate for Lauren to be my plan nominee to help me manage my plan. But there's no legal standing for that plan nominee, whereas with adult guardianship, you've gone through that legal process and there's a guardianship order. So - so we work with NDIS and the participant in the role as - of adult  
35 guardian, not as a plan nominee.

CHAIR: Thank you. I assume before Ms Walker finishes that there's no application from any of the represented parties to ask Ms Walker any questions. I shall pause briefly to see whether there is. There isn't. In that case, Ms Walker, thank you so much for, again, some  
40 really very interesting evidence that you've given and very thought-provoking, both in your statement and in the oral evidence today. We are very grateful to you and, if I may say so, for the work that you do in the Northern Territory and your office does on behalf of perhaps some of the least advantaged people in this country.

45 MS WALKER: Thank you very much for the opportunity, and I think it's important that, you know, the two case studies of Betty and Alan are - have been pivotal to my evidence, and

that's their stories. So I would like to acknowledge that and thank you for the opportunity and the work that the Commission is doing.

CHAIR: Thank you so much.

5

**<THE WITNESS WITHDREW**

CHAIR: Mr Griffin, what do we do now?

10 MR GRIFFIN: If we adjourn until 1.15, we can then have evidence from the NPY Women's Council, and in the interim, we will further pursue the position of the Namok family.

CHAIR: We haven't, I hope, created an insuperable problem for them?

15 MR GRIFFIN: No, I understand it's just a problem within Cairns of getting them to the location they need to be at. And that's being worked on at the moment.

CHAIR: I see. All right. Thank you very much. In that case, we will adjourn until 1.15 pm Central time.

20

MR GRIFFIN: 1.15.

CHAIR: Thank you.

25 **<ADJOURNED 12.15 PM**

**<RESUMED 1:15 PM**

CHAIR: Yes.

30

MS McMAHON: Good afternoon, Commissioners. The Royal Commission will now hear from Kunmanara Margaret Smith and Kim McRae from the NPY Women's Council. NPY stands for Ngaanyatjarra Pitjantjatjara Yankunytjatjara, the three local languages spoken on the NPY Lands. The NPY Women's Council it's an Anangu organisation led by women's lore, authority and culture. Ms Smith is the deputy chairperson of the organisation and Ms McRae is the Tjungu team leader - team manager, I should say.

35

Just to remind the wider audience - and if the operator could please show the map - the NPY Lands is vast country. As you can see on this map, it consists of 25 very remote communities spread across 350,000 square kilometres across Western Australia, South Australia, and the Northern Territory. The region has a population of about 6000 people, with an average of about 200 people per community. Chair, Ms McRae and Mrs Smith will take affirmations.

40

CHAIR: Yes. Thank you very much. I understand that you prefer to be described as Mrs Smith. Is that right?

45

MRS SMITH: Yes.

CHAIR: That's the preferred designation?

MRS SMITH: Yes.

5

CHAIR: Okay. Mrs Smith and Ms McRae thank you for coming to the Royal Commission and for the detailed statement that you have provided which we have all, that is the three Commissioners, have read with great interest. Thank you for that and thank you for being prepared to give evidence today. We appreciate the assistance you are providing to the Royal Commission. Can I ask you, please, to follow the instructions of my associate, who is over there, and she will administer the affirmations to each of you. Thank you.

10

**<KUNMANARA MARGARET SMITH, AFFIRMED**

15

**<KIM MCRAE, AFFIRMED**

CHAIR: Yes, thank you very much. Please now attend to the questions that will be asked, and we shall take your oral evidence. Thank you.

20

**<EXAMINATION BY MS McMAHON**

MS McMAHON: Thank you, Chair. Mrs Smith and Ms McRae, you have provided a joint statement to the Royal Commission dated 12 June 2022. Are the contents of that statement true and correct?

25

MRS SMITH: Yes.

MS McRAE: Yes.

30

MS McMAHON: And, Commissioners, for your benefit, that's Hearing Bundle A, volume 1 at tab 19. There's three annexures to your statement. The first is your annual report outlining the breadth of your services and support that you provide to your community, and that's at tab B. The *To Give a Good Life* report, in which there are detailed recommendations, and, Commissioners, I draw your attention to pages 43 and 45 in relation to those recommendations at tab 21.

35

CHAIR: Thank you.

MS McMAHON: And also the *Looking after Children with Disabilities* report. And that's at tab 22. And, again, Commissioners, there are detailed recommendations at pages 51 to 53. Ms McRae, if I could start with you. Was the research underpinning the findings and recommendations of both of those reports conducted in a culturally safe and appropriate way?

45

MS McRAE: Yes, it was.

MS McMAHON: And does the research and findings and recommendations still reflect the desires and needs of NPY people living with disability?

MS McRAE: Yes, it does.

5

MS McMAHON: Mrs Smith, could you please tell the Commissioners or provide an overview of how NPYWC was formed and who its members are?

MRS SMITH: It was formed in 1980. And the first program was disability, to look after the disability and the aged care. Everybody as a family looking after everybody. So that's how NPY was formed. From the members. From the NPY region.

MS McMAHON: Thank you, Mrs Smith. Ms McRae, could you provide a brief overview of NPYWC's work, particularly in relation to being a NDIS provider.

15

MS McRAE: Yep. NPY Women's Council provides a range of human services and advocacy for people living in the NPY region. Our NDIS services are mainly support coordination for NDIS participants who choose NPY Women's Council to be their support coordinator.

MS McMAHON: Thank you. Now, I wanted to start firstly in relation to house shortages and poverty. At your statement at 52, you've indicated that poverty is endemic throughout NPY Lands. What impact does living in poverty have upon access to the NDIS and disability services?

MS McRAE: I think that poverty becomes - is the kind of biggest issue for people out in communities. When you don't have enough food and shelter and safety, engaging with your NDIS plan is just not a priority. So many of our families live in overcrowded housing, they are relying on Centrelink benefits and pensions for their income, and, yeah, it's often very difficult for people to prioritise the NDIS plan when, yeah, every day is a struggle just to survive.

30

MS McMAHON: Mrs Smith, did you want to add to that? How does the poverty on NPY Lands affect people getting services, disability services?

MRS SMITH: It's a very hard country, you know, that is it, and living is very hard out there. Store price and everything is very high. Sky limit. Everything is not cheap in communities. Living in communities. Looking after your families.

MS McMAHON: People have a lot of demands upon them?

40

MRS SMITH: Yes.

MS McMAHON: You've said this at your statement:

45 *"It is our view that the NDIS..."*

And this is paragraph 96:

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*"...is designed with an inherent assumption built in that all people with disabilities start from a baseline where their basic needs are met each day, that everyone has a moderate level of literacy and access to food and shelter and that a wide range of services are available to all."*

5

CHAIR: Ms McMahon, what paragraph is that?

MS McMAHON: 96, I'm sorry, Chair.

10 CHAIR: Thank you.

MS McMAHON: What impact do these assumptions have on the operation of the NDIS on the Lands?

15 MS McRAE: The impact is that people with disability often don't understand their NDIS plan. They don't have access going on to the NDIS portal to check their plan. They don't necessarily think that the supports included in their plan are the most important things for them when they're struggling every day around getting enough food for the family. When they're living in overcrowded housing and often having obligations to support the extended  
20 family, it can be very difficult for people to think that the NDIS plan is important or a priority.

MS McMAHON: Mrs Smith, Ms McRae just spoke about getting on to the portal and that, of course, involves having technology.

25

MRS SMITH: Mmm.

MS McMAHON: Do people and people with disability on NPY Lands tend to have phones and iPads and computers?

30

MRS SMITH: No. Nobody use computers in their house or in - in the community. Only in the office and school and youth. That's the only main place to have computers and telephones.

MS McMAHON: Does that make it hard for people with disability connecting to the NDIS?

35

MRS SMITH: It's very hard.

MS McMAHON: Now, Mrs Smith, I would like to ask you something else. And this is at paragraph 100 of your statement. You talk about having trouble with the Lands and hearing  
40 from your clients and people you support about what they're not happy about with the NDIS. Can you please tell the Commissioners some of the things that you hear over and over?

MRS SMITH: Well, the forms that NDIA takes it in, to fill in the forms are very hard. They  
45 can't even do it on their own. Somebody else could be doing it on their wishes.

MS McMAHON: Can their family always do it?

MRS SMITH: No.

MS McMAHON: Who helps with that?

5

MRS SMITH: They struggle themselves, families. I couldn't understand for my brother.

MS McMAHON: And it indicates in your statement that people are saying that it's very complicated, the NDIS. Do you agree with that?

10

MRS SMITH: Yes, I agree.

MS McMAHON: Now, I might just move on to talk about the Tjungu team for a moment. Ms McRae I will direct this to you, because you are the manager of that team. Could you please tell the Commissioners about the Tjungu team and the work they do?

15

MS McRAE: The Tjungu team is the disability and aged care and carers team. So we provide supports to older people. We provide supports to people with disabilities with NDIS plans who choose NPY Women's Council. We provide support to people who don't have an NDIS plan because we have some advocacy funding. So we're able to support those people through advocacy and through our integrated carer support services. We get subcontracted to deliver those services out on the Lands, and we're able to help carers through ICSS funding.

20

MS McMAHON: And who funded the Tjungu team prior to the NDIS rollout?

25

MS McRAE: Yep. Prior to the NDIS rollout there was the tri-State disability agreement, between the Northern Territory government, South Australian government and Western Australian government, and that provided case management and flexible respite for people with disability and their families in the NPY region.

30

MS McMAHON: And how has the introduction of the NDIS affected both your funding and the services that the Tjungu team provide to people with disability?

MS McRAE: Yep. The funding, of course - the previous state and territory funding that we received through the tri-State agreement ended because funding was being handed over to the Commonwealth for the NDIS. So we lost quite a lot of funding to start off with, and it's taken quite a number of years for us to build back up in terms of the amount of funding that we receive. And in terms of providing supports for people with disability, under the previous agreement, under the tri-State agreement, we were able to provide much more family-centred supports, whereas the NDIS funds individuals, and it can be difficult to use that funding to work with the whole family. So, yeah, it has changed our model quite significantly.

40

MS McMAHON: I might just pick up on what you've said there. You've mentioned family-centred support delivery. What's the difference, as NPYWC see, between family-centred supports and person-centred supports?

45

MS McRAE: Yes. Family-centred is the way that we live in communities. People live in family groups, and people's identity is very much centred on their family and their position in the family. I think that previously under the previous funding, we were able to do things in a  
5 much more family-centred way, like working with the whole family to build the capacity of the family to continue providing support for people with disability.

With individualised funding, yeah, it can be quite difficult, because that funding is focused on the person with the disability and not all the people around them. We - we work with the  
10 families because families provide the care out in community. There are very few services and very few supports in local communities. We acknowledge the role that families play in providing the care, and we think that we should be able to use the NDIS plan to actually support that whole family to continue providing that care.

15 MS McMAHON: Mrs Smith, do you agree with what Ms McRae just said?

MRS SMITH: Yes. Yes.

MS McMAHON: Did you want to add anything as to why supporting whole family is so  
20 important to your people?

MRS SMITH: Family is the number one key in our community.

MS McMAHON: In the *Living a Good Life* report, Mrs Smith, you say that Anangu have  
25 clearly said that they want to continue living on traditional country with family and culture.

MRS SMITH: Yeah.

MS McMAHON: And that was one of the key findings of that report. That's right, isn't it?  
30

MRS SMITH: Yes.

MS McMAHON: Do you find that NDIA staff who come to the Lands understand this?

35 MRS SMITH: I'm not sure if they understand.

MS McMAHON: Ms McRae, what's your observations?

MS McRAE: I think, yeah, like Margaret, it's pretty difficult. We're not involved in planning  
40 meetings and it's difficult to know what they understand. I think that plans - the goals in plans are starting to improve a little bit, and to be a bit more reflective of that. But certainly our previous experience has been that the goals in plans don't reflect the need for people to stay on country with their families with access to culture and participating in cultural  
45 business.

MS McMAHON: I will come to plans in a moment, but before I do, just in relation to the two reports that we've just been discussing, have those reports ever been shared with the NDIA?

5 MS McRAE: Yes, they have been shared with the NDIA.

MS McMAHON: And has there ever been any meaningful discussion with NPYWC about the contents of the report or the recommendations that are set out in those reports?

10 MS McRAE: No. No, there hasn't.

MS McMAHON: Now, I just want to move on to some barriers to accessing the NDIS, and I want to start talking about children first. You've raised some difficulties in your statement about obtaining assessments and diagnosis, particularly for children. What are some of the issues that are causing that problem?

MS McRAE: I think that there are some cultural barriers to having assessments done, which are related to shame and blame. If a child has a disability, sometimes families are concerned that people in the community might blame them or think they did something wrong and that's why that child has that - that issue or disability. There are a lack of practitioners able to provide culturally appropriate assessments or to travel out to the Lands and provide those assessments.

25 There's the whole issue of families just worried every day about food, shelter and safety, and so making the time and having access to the resources so they can go and get assessments done, it can be a real challenge for families out in the Lands.

MS McMAHON: If there were providers who were able to - who were permanently on the Lands, would that make a difference in terms of obtaining assessments?

30 MS McRAE: Yeah, I think it would make a big difference.

MS McMAHON: And I might just ask you, in terms of allied health professionals that do come out to do assessments, how often would you say those professionals are coming out to do that work?

MS McRAE: I think it varies hugely. But I would think maybe three or four times a year, the allied health professionals get out on to the Lands.

40 MS McMAHON: And is that just for assessments or does that include other disability supports as well?

MS McRAE: Yeah, that includes other disability supports.

45 MS McMAHON: Thank you. Mrs Smith, I just wanted to ask you a question now in relation to, again, the *Children with Disability* report. It says in there that, for the most part, that children with disability, living on NPY Lands are cared for by their families.

MRS SMITH: Yes.

5 MS McMAHON: And the report also says that about a third of the children that were referred to in that report were living off NPY Lands. So do you know why that is?

MRS SMITH: Because it was hard for the parents to take care of them.

10 MS McMAHON: Is one of the issues that there's a lack of other services at NPY Lands?

MRS SMITH: Yes.

MS McMAHON: As well?

15 MRS SMITH: Yes.

MS McMAHON: And for those children who are not living at home in their community with their families, what impact does that have on them, not living at home?

20 MRS SMITH: Well, it brings sad memories to the families, also they are missing them, because they like to keep an eye on their children, you know. Every mother does that.

MS McMAHON: Yes.

25 MRS SMITH: You - you can never trust anybody else looking after and caring for your kids with a disability.

MS McMAHON: Do the parents tell - and carers and extended family tell you how they feel when their children are not at home with them?

30

MRS SMITH: Yes.

MS McMAHON: What sort of things do they say?

35 MRS SMITH: Well, we have a lot of issues at NPY Women's Council, families ringing us up and families coming into NPY, to the office, asking for help to get their kids back to the Lands and stuff like that.

40 MS McMAHON: And, Ms McRae, some of these children are going into out-of-home care, is that right, those kids that are not on NPY lands.

MS McRAE: Yes. Yes.

45 MS McMAHON: Can you tell us a little - tell the Commissioners, rather, a little bit more about that?

MS McRAE: Yes. When - if a child has high support needs, they inevitably end up in out-of-home care in an urban centre and they - I mean, in some - we've got examples of kids who their families actually lose touch with them. They've got no idea where they are or who's looking after them once they go into out of home care, because it's very difficult to maintain  
5 contact and cultural connection, and sometimes those children, yeah, lose language. They don't get to necessarily go home and see their family and participate in important cultural activities. Yeah, it can have a devastating impact on the child and on the family when children have to go into out-of-home care.

10 MS McMAHON: And you're talking here, are you, about children with disability?

MS McRAE: That's correct.

MS McMAHON: Now, I might just move on now to talk about plans, the issue that you  
15 raised earlier. Now, in your statement you indicate that NPYWC worked with 119 participants, and you said to ensure that they had the supports they need, including helping people understand their plans. What were people not understanding about their plans? And I might start with Mrs Smith. Were people having trouble -

20 MRS SMITH: Start with Kim first.

MS McMAHON: Start with Kim. Thanks, Ms McRae.

MS McRAE: I think Margaret summarised it well when she said people don't understand  
25 anything about their plan. It's written in English. It's written. It's nonsensical to people. People don't know what it is or what it means or how it can help them on a day-to-day basis. Plans are largely inaccessible and incomprehensible to people out on the Lands.

MS McMAHON: And, Mrs Smith, something that's in your statement, I can draw the  
30 Commissioners' attention to perhaps paragraph 137 and 138. And - that you have observed some goals in plans not being created by participants themselves. Have you seen that?

MRS SMITH: I seen it and I heard about it. People just go and do the forms themselves  
35 because no understanding between Anangu and that staff, whoever is on the Land.

MS McMAHON: But you hear that, do you?

MRS SMITH: Yeah. And English is - they are talking in their foreign language, not proper  
40 English, you know. Slow English, Anangu can't understand what they say.

MS McMAHON: So language is a barrier -

MRS SMITH: Yeah, big barrier.

45 MS McMAHON: - for making plans. Making proper plans.

MRS SMITH: Yes, to make a proper plan. I really don't know what they're doing or - it could be that person is bringing the form and just ticking everything off from his point of view, not that Anangu's point of view.

5 MS McMAHON: Yes. At paragraph 137 - I might just read this particular goal. It says this - and this is a goal that was in a plan of one of your clients, I understand, Ms McRae:

10 *"I would like support to enable me to make good decisions in my daily life. I will achieve this goal by having a personal mentor who will assist me to make good decisions in my daily life and to build independent skills and abilities. I will be supported by my coordinator of supports to engage a culturally and linguistically appropriate person to assist me."*

15 What can you tell us about that goal and the interactions you had with the person whose plan that was in?

MS McRAE: Yeah, that is - that goal was not a goal that she would have set for herself, yeah.

MS McMAHON: Why do you say that?

20 MS McRAE: She doesn't talk like that. She doesn't think like that. She doesn't actually think that her decision-making needs any help or support. She's quite happy about the decisions she makes herself. Yeah, that goal was imposed on her, and it was kind of assuming that she - she doesn't have the capacity herself to make decisions and that she needs help with those decisions.

25 MS McMAHON: And, Ms McRae, did you have a conversation with this participant about that particular goal?

MS McRAE: I haven't directly, but I have known that participant for almost 18 years now.

30 MS McMAHON: I see.

MS McRAE: So I know her very, very well, and that is not something she would ever say or ever think or ever want.

35 MS McMAHON: I understand. Thank you. Now, just finally, on plans, if I may, are you finding that cultural activities and supports to stay on country are finding their way into plans? Mrs Smith, are you seeing that for people on NPY Lands, people having cultural supports in their plans?

40 MRS SMITH: I really don't know.

MS McMAHON: Ms McRae?

45 MS McRAE: I think that the goals in plans are improving. We have seen some improvement recently and we've been dealing with the NDIS on the APY Lands since 2013. So it's taken a long time to start putting appropriate goals in. But, I mean, one of the difficulties is for

people from the Lands who are in supported independent living here in Alice Springs or in an urban centre and whether there is funding in their plan for them to return home, funding in their plan to take part in funerals and cultural business and other really important things that they need to do back home on country.

5

And what we're finding is the money is all tied up in people's supported independent living and that there is no capacity within the plan for people to return home. And that's a big issue. That creates a lot of sadness.

10 MS McMAHON: I was about to ask what impact is that having on the people that you speak to.

MS McRAE: Yeah, definitely. People are - I mean, Margaret has got some family members who are in town in that situation. So she might want to talk to this a little bit.

15

MS McMAHON: Margaret, for people who are not living on NPY lands that want to get back and are having trouble doing that with their plans, what are they saying to you? What sort of feelings?

20 MRS SMITH: My nephew and his wife both live in that [REDACTED], hey. His name is [REDACTED] and he's been ringing up NPY, NPY, telling me, "Ring NPY, I want to go back to NPY. Move back to NPY." Because he's been asking - him and his wife to go home for funerals and Sorry Business and -

25 MS McMAHON: It's hard for him?

MRS SMITH: Now, the people who are caring for them is not listening to them or understanding them, and there's no help in that, you know. They are being ignored all the time. So they have been ringing Kim and Di.

30

MS McMAHON: I see.

MRS SMITH: Yeah, NPY. So he kept telling me - he's coming to my place every day and telling me, "Them staff, the workers, it's just ignoring us, you know." Not willing to talk to them. Like, there's no plan - in their plan, there's no plan for them to go back home.

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MS McMAHON: I see.

MRS SMITH: Maybe that's the way it is.

40

MS McMAHON: And, Mrs Smith, I also wanted to ask you, you said in your statement that the NDIS is designed for urban areas or cities and not for NPY. Can you talk about that and tell the Commissioners more about that?

45 MRS SMITH: Well, when it was first released, we heard about it, because I know the urban people was, you know, wanted really badly that program to go ahead. And Anangu people had a lot of issues and worries, you know. Because it's - they was all saying, we all was

saying, it's not going to fit into our background, you know, our backyard. It's not fitting into the remote.

MS McMAHON: Can you tell us some of the reasons why it doesn't fit?

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MRS SMITH: Because it wasn't meant for us, you know. It was meant for the urban - the coastal people around the urban area. And the centre, we knew where to deal with it. Like, we had our own organisation. We started it 1980s. We thought, you know, we - now we thought we're going to be safe holding on to our Tjungu team, but I don't think so, you know. It's taken our funding away too.

10

MS McMAHON: Was it working well for people with disability before the NDIS, when you were in charge?

MRS SMITH: Yes, yes. It was all families, friend working together. The Tjungu team had all their staff going out into the community everywhere.

MS McMAHON: Would you agree with that, Ms McRae?

MS McRAE: Yeah, yeah, I would agree with that, definitely.

20

MS McMAHON: Now, I just wanted to move on -

CHAIR: Sorry, can I just ask a question there. Does that mean that the people with disability with whom you typically work are now worse off because of the NDIS?

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MS McRAE: There's more money. So there's much more money out on the Lands than there ever was before in people's plans. But that money can't be used necessarily in the way that people with disabilities would like to use it. So some people say there were better services before because we were able to be much more family-centred. But I acknowledge that there is heaps more money out there now.

30

CHAIR: And what, then, are the problems in utilising the money in the way the people whose plans we're talking about would want the money to be used?

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MS McRAE: It's - I think it's about the way that the NDIA interpret the *NDIS Act*, sometimes. I can give you an example. We had some - some families with children with disability who wanted to come into town and access some blocks of therapy. Because whenever the therapist had gone out to see them, they had been away from the community and so they kept missing the therapist. We thought, okay, good plan, bring them into town. But when we talked to the NDIA about using the plan to pay for the family - now, we could pay for their transport to come into town, but we couldn't pay to accommodate them out of the plan.

40

And the staff member at the NDIA actually said to me, "The NDIS does not pay for family holidays. That is not what we do." He missed the point completely. When we bring that family into town for that block of therapy, we accommodate them, we provide three meals

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a day, we take them out and do a couple of really nice things like going to the movies or going to the football or going to bush bands or whatever is going on, but the focus of that is having them in town where they can get the therapy every day.

5 They are not distracted by what's going on in the community or in their family. They are able to really focus. The parents and primary carers have got a lot more ability to - to build their own capacity in that environment, and they identified that they would much prefer to come into town and access that therapy than to have the therapist go out to them.

10 CHAIR: How did you or they learn that the NDIA would not permit funds in the plans to be used for the purposes you've mentioned, such as accommodation? What - what's the decision-making process that applies there?

15 MS McRAE: Yeah, we actually called up one of the staff from the NDIA to ask the question directly, because we don't want to be using funds in a way that's not deemed appropriate. And, yeah, that was how we found out then, that we were told very clearly that the money could not be used to accommodate the family in town for a week so that they could access a block of therapy and capacity-building.

20 CHAIR: And in that particular case, who had authority to approve expenditure from the plan?

25 MS McRAE: That's a good question. I guess we assumed, when we spoke to the NDIA, that they would have the - because, at that stage, the children's plans were all agency-managed rather than plan-managed so it was up to the agency.

CHAIR: Agency. But is that different if the plans are not managed by the agency? Are there plans, for example, that are self-managed?

30 MS McRAE: There's - I'm not aware of any self-managed plans out on the Lands but there has been a shift to a lot more people being plan-managed rather than agency-managed.

35 CHAIR: And does that make it - sorry, Ms McMahan. Does that make it more feasible to get funding for the purposes you mentioned?

MS McRAE: It does make things a lot easier in many ways, yes.

CHAIR: Sorry.

40 MS McMAHON: Not at all. Thank you, Chair.

COMMISSIONER McEWIN: Do you mind if I ask a follow-up question. Would it help if there was more - it sounds like you need more flexibility?

45 MS McRAE: Absolutely.

COMMISSIONER McEWIN: Much more flexibility in terms of, you know, you get the funding and you can broadly use it within the - you know, what the plan agreement is. Was that your thinking?

5 MS McRAE: Yes, that's a perfect summary. Flexibility is the key to be able to use the plan in a way that's really responsive to people with disability on the Lands.

COMMISSIONER McEWIN: Thank you.

10 MS McMAHON: Thanks, Commissioner. And indeed, Ms McRae, the two strong themes that come through your statement and Mrs Smith are the need for flexibility and a family-centred approach. Is that - are they the two key issues as you see them?

MS McRAE: Definitely.

15 MS McMAHON: Mrs Smith, would you agree with that?

MRS SMITH: Yes. Yes.

20 MS McMAHON: Now, before I move on to asking you some questions about solutions, I just wanted to talk about two further barriers. And the first one is in relation to negative interactions that Anangu people have had in the past or presently with government agencies. How does this affect access to the NDIS and services? Mainstream services, I should say?

25 MS McRAE: Yep. Do you want that one Margaret, or me?

MRS SMITH: You.

30 MS McRAE: What it means is that, because of history, because of the history of children being removed from families on the Lands, the Stolen Generation, people have very negative experiences of having interaction with mainstream organisations and government organisations. And so they are reluctant to engage because of that history and that you need to build up a lot of trust with people. They need to feel very comfortable in your presence, and they need to understand how you operate and what you are going to do with the information that you - that they give to you.

35 MS McMAHON: Mrs Smith, do you hear that as well, that people are worried about kids being taken away?

40 MRS SMITH: Yeah.

MS McMAHON: You've heard that from people in relation to the -

45 MRS SMITH: Even me, I could be worried for my kids. Taken away.

MS McMAHON: And does that also relate to interacting with the NDIA and mainstream services?

MRS SMITH: Yes.

5

MS McMAHON: Another key barrier that's mentioned in your statement is about language or perhaps lack of traditional language. Mrs Smith, can you talk about how language can be a problem in terms of people understanding and engaging with the NDIS?

10 MRS SMITH: Yeah. Where shall I start? There's a lot of different language groups. Starts from going in to do the forms, and it's very hard understanding them. Even I can't understand.

MS McMAHON: Have you ever seen any NDIS documents in traditional language?

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MRS SMITH: No.

MS McMAHON: Have you ever had NDIS documents explained or seen or heard them explained in traditional language?

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MRS SMITH: No.

MS McMAHON: Ever?

25 MRS SMITH: No. Not even the interpreters they got, you know. To explain it.

MS McMAHON: And does that affect how people engage with the NDIS or if they do at all?

30 MRS SMITH: I think doing the forms and, you know - and with their style of English, nobody can fill out form like that, you know.

MS McMAHON: Do you think people have difficulty understanding because of language?

35 MRS SMITH: Yes, yes.

MS McMAHON: Now, in - I just move on to talking about some solutions that you've proposed, and one of which is building a local workforce. What is it going to take to build a local - would it take to build a local workforce on NPY Lands?

40 MS McRAE: Yeah. I think that to build a local workforce, the NDIS pricing at the moment is probably one of the barriers. I think that local people need a lot of support and mentoring to be able to learn that work and to be able to do that work themselves. We've done some workforce projects where we got some State and Territory government funding, and we went out and talked to people about the opportunities available through the NDIS.

45

We talked about how Anangu can become support workers, and we talked about all the range of things that support workers do in the community, that it's not just about doing

5 personal care, that support work can be about taking people out to activities that are going on and that it's very important work and it's very valued work. So we have quite a lot of people who are interested in doing that work, but what we found is that they really needed a lot of support because of the complexity of their lives, because of their family obligations, because of they may have health issues themselves.

10 There were a lot of barriers to people taking on that work. But we believe that that's - in the end, that's going to be the only way for the NDIS to work, for local Aboriginal people to take up the jobs that become available through the NDIS to work with people with disabilities in their own community. But, at the moment, the funding is not available to support that.

15 MS McMAHON: I was going to ask - that was my next question, Ms McRae, is if there was sufficient investment, both in terms of money and time, and - actually, Mrs Smith, I might direct this to you. If there was enough money to invest in local people, could you build a local workforce?

MRS SMITH: Yes.

20 MS McMAHON: To support -

MRS SMITH: You can.

MS McMAHON: - all people with disability on your lands?

25 MRS SMITH: Yes. We can build that.

CHAIR: When you gave that answer, are you thinking of support within the framework of the existing NDIS? Or are you thinking a new scheme all together.

30 MRS SMITH: No. No. I know - on the Land, I'm talking about. To support them to get that job of them staffs - staffs that's flown in and out, in and out, wasting government money. The grounds people could be doing that, our people could be doing that work.

35 CHAIR: And who - who would pay them, do you think?

MS McRAE: They would be paid out of the NDIS plan to do that work. But they - yeah, there are lots of - lots of things that would have to be put in place for that to happen. The - we think that new workers out on the Lands need almost wraparound supports so they can learn how to do that work, so they can manage their family obligations and cultural obligations and still provide really good support for people with disability. Yeah, we think that that is really the most logical solution to supporting people with disabilities stay living on country.

45 CHAIR: But you do see that, as I understand your answer, as operating through the present system which involves providing plans for individuals and then the individuals then determining one way or another how their funding is to be used.

MS McRAE: Yeah, well, I mean that's not happening at the moment. Which I think there is a message in that and that there need to be new models of funding organisations to provide the support for the workers to do that work. Because I think that, out of an individual's plan, there is not necessarily adequate or it's not necessarily appropriate to be funding the support needed by the worker. I hope that made sense.

CHAIR: I think it makes a lot of sense, because one of the points you make is that there is a fundamental difference between providing support to individuals and the - if you like, the communal way of culture, association with the land and so on. So I'm just wondering whether the logical outcome of your ideas is actually a move away from the individual funding of particular people with disability and something much more adapted to the communities that you describe in your statement.

MS McRAE: Yeah, that - that does make sense.

CHAIR: I'm very glad to hear that.

COMMISSIONER MASON: Ms McMahan, can I ask a question?

MS McMAHON: Yes, please.

COMMISSIONER MASON: I just had a question, Ms McRae. We often hear about, within the Royal Commission, around the social model of disability, and I've heard First Nations people talk about the social model of disability as being a First Nations model of support, because that accessibility is done through families in the community. Do you think the Aboriginal community-controlled sector has a social model and, therefore, that next step into social model of disability positions are in a very strong position to do this type of leadership?

MS McRAE: Absolutely, yeah. The capacity for local Aboriginal organisations to take on those roles is definitely the direction that needs to be taken. Yeah. You can't bring people in from outside to do that work. Those local organisations know people in the community. They know about culture. They know about language. It just completely makes sense to just work with the local organisations to try and develop supports for people with disability.

COMMISSIONER MASON: My second question I had is around some - people sometimes use the word "entrenched", or they are aspects of community life that cannot be changed or through other outside influences, it impacts on community like Mrs Smith was talking about, the cost of prices in the store, or the cost of fuel, and that impacts on service delivery. So as they - an Aboriginal community-controlled organisation working with people across the Ngaanyatjarra Pitjantjatjara Yankunytjatjara region, the organisation has made assumptions about the way that it works with families on the Lands.

And you talked about some of those assumptions, which is the significant level of poverty, the low income across the board, low educational attainment, cost of living; all of those factors. Do you think that those assumptions - that they are not optional, but they actually are essential assumptions to make prior to the co-design of a model? Because those are intractable issue. They are not changing quickly, you know, despite everyone's best effort.

MS McRAE: Yeah.

5 COMMISSIONER MASON: And that applies also to the NDIS model on - in remote and very remote communities particularly.

MS McRAE: Yeah. Yes, I completely agree with all of that. I think that poverty is one of the big barriers for people to engage with their plan and to - to get the best outcomes from that plan. Because people are, yeah, they're fully engaged in trying to survive - people are in  
10 survival mode all the time, and that takes them away from thinking about, you know, being in a particular place at a particular time to see a therapist or, yeah, the things that are in their plan just aren't a high priority. I mean, I think if we could address poverty in remote communities, that people would benefit much more from their NDIS plans.

15 COMMISSIONER MASON: Thank you.

MS McMAHON: I just have a few short questions about the thin market trials for you, Ms McRae, and then I have one final question for Mrs Smith. Now, Ms McRae, there were two thin market trials that took place on NPY Lands. One was the coordinated funding  
20 proposal, and the one was direct commissioning trial, which is ongoing. Now, in relation to the coordinated funding proposal, that involved the commissioning of 10 assessments for children by pooling funds?

25 Now, there is correspondence between NDIA and NPYWC. How would you describe the quality of NDIA's consultation with you in that trial - or your organisation, rather?

MS McRAE: Yes, I think the quality of consultation with the NPY Women's Council was really good. They involved us right from the beginning. They were very supportive and, yeah, we were - we felt very positive going into that proposal that it was being handled appropriately.  
30

MS McMAHON: But I understand, at some point, there was a tension. Can you tell the Commissioners about that?

MS McRAE: Yes. The tension came because we - we sought quotes for organisations to go  
35 out to the Lands and do those assessments, and when the quotes came in, we met with the NDIA Thin Market team to discuss the quotes and make decisions about which organisation we were going to go with to do the assessments. The tension came because they were very, very focused on the best quote being value for money. So they were very, very interested in, basically, the cheapest quote.

40 They thought that was good value, and the best way to go. Whereas we were much more focused on the quote that was culturally appropriate, that came from an organisation that had significant experience working out on the Lands already and had really good staff who had lots of knowledge about working with Anangu. So, yeah, there came a point of tension  
45 where we felt we were being pushed towards the value-for-money quote, as opposed to the best cultural fit.

MS McRAE: I see. But at the end of the day, your preferred provider did those 10 assessments?

MS McRAE: That's correct

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MS McMAHON: And, as a result - well, if you could just confirm, as a result, there were particular support needs identified for each child; is that right?

MS McRAE: Yes, that's correct.

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MS McMAHON: As far as you know, have those particular supports been followed up or met?

MS McRAE: No, they haven't.

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MS McMAHON: And why is that, as far as you know?

MS McRAE: Because there aren't - those supports for children aren't available on the Lands at the moment.

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MS McMAHON: So the assessments were done, but there was no services to actually provide what was identified in the reports.

MS McRAE: That's correct.

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MS McMAHON: Now, in relation to second direct commissioning trial, you explained in your statement that there was a significant reduction of participants' - the funding in plans; is that right?

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MS McRAE: Yes. That was one of the things that happened. Yeah.

MS McMAHON: And how did you address this with the NDIA?

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MS McRAE: We initially sent an email - when we realised what was happening, we sent an email to the Thin Markets team saying, "What's going on here. We wouldn't have participated in this process if we thought it was going to result in people automatically losing funds out of their plans. Can you explain to us what happened?"

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MS McMAHON: And have you made any inquiries and are you aware as to whether or not those reductions have been rectified?

MS McRAE: We have some made some inquiries, but, in some cases, it's unclear whether they have been rectified yet or not.

45

MS McMAHON: And just finally - and, Mrs Smith, this is a question for you. If you were asked to design a model to assess and deliver services to people with disability on NPY Lands, what would that model look like, Mrs Smith?

MRS SMITH: I reckon, Tjungu Team, NPY Women's Council would partner with another organisation.

5 MS McMAHON: So who would lead the model that would assess and deliver the services?

MRS SMITH: NPY Women's Council.

10 MS McMAHON: And who would ultimately deliver those services to people on your Lands with a disability?

MRS SMITH: NPY.

15 MS McMAHON: And do you think the NPYWC has the capacity or build up the capacity to do that job?

MRS SMITH: With the help of a partner, we can.

20 MS McMAHON: And would that be partner be Aboriginal controlled, in your view?

MRS SMITH: Yes.

25 MS McMAHON: And what do you think that would mean for your people with disability on your Lands?

MRS SMITH: It would mean a better life for our people and, you know, better achievement and happy people. Happy family. Happy organisation.

30 MS McMAHON: Thank you, Mrs Smith, and thank you, Ms McRae. Is there any questions from the Commissioners?

CHAIR: Yes, thank you. I will ask Commissioner McEwin first. Any questions?

35 COMMISSIONER McEWIN: No, thank you very much.

CHAIR: Commissioner Mason?

40 COMMISSIONER MASON: I just want to say thank you for your evidence this afternoon and working with the Commission for us to be able to hear from you today. And it's been really important to the work of the Royal Commission to hear about working in the Ngaanyatjarra Pitjantjatjara Yankunytjatjara region. Indeed, a very, very remote part of the country. So thank you very much.

45 CHAIR: In paragraph 45, you say that the Tjungu Team still supports clients and carers to access the services they need, including the NDIS. That "they" - I assume that means the team - offers practical help for people, including specialist equipment, bedding and clothes. Is this a very significant part of your work?

MRS SMITH: Yes.

5 CHAIR: And does that mean that people who might be eligible to participate in the NDIS can come to you and say, "Please, help me fill in the forms and deal with the NDIS, so I can get my plan approved"?

10 MS McRAE: We tend to direct people to the organisation that's funded to get people on to the NDIS. But, yes, we certainly help and support them to get access.

CHAIR: And within the Lands that you're dealing with, what are the organisations you can refer people to provide the kind of assistance that they would need to access the NDIS?

15 MS McRAE: The Health Services are funded to help people test their eligibility. So it's Ngaanyatjarra Health in WA and Nganampa Health in the APY Lands.

CHAIR: Will they help people fill out the forms, as well as do whatever diagnostic tests may be necessary?

20 MS McRAE: Yes, they do. They help with all your requirements.

25 CHAIR: You have said, I think, elsewhere in your statement that a barrier to people gaining access to the NDIS is that they find it just too difficult to navigate, don't understand the forms and the bureaucracy. Does that mean the organisations that help, what, don't have the resources to help everybody or that they - somehow there's a difficulty in connecting the people who need assistance with the organisations that are providing assistance? I'm just wondering why these organisations would not ease the path for people to the NDIS.

30 MS McRAE: I think they have eased the path quite significantly, particularly on the APY Lands. But I think that - I mean, we've got examples of people with disability who basically run away every time the NDIA are in town because they don't want to talk to those strangers. There's still a lot of trust building to do. Even working - through the health services has been really positive, but there are still people out there who feel they don't understand what the NDIA is and will avoid at all costs because they - they feel  
35 uncomfortable, they don't know what's going to happen, they are suspicious about how that might impact on them and just don't engage.

40 It just - it takes a long time. Building trust takes a long, long time. And, I mean, one of the good things is when people can see in their own community that someone is benefitting from being on an NDIS plan, and, at the moment, in a lot of communities, it's still not hugely evident that there's a big benefit for people to be on the NDIS.

45 CHAIR: And is that message difficult to get through even if it's conveyed by First Nations people themselves that may be associated with these organisations? Do they have difficulty persuading First Nations people with disability that the NDIS might actually help them?

MS McRAE: Yeah. I think it's difficult for - the NDIS is really complicated. I mean, it's hard for people with English as a first language.

CHAIR: You don't need to persuade me that it's complicated.

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MS McRAE: Yeah. And so using, for instance, Remote Community Connectors is a really positive thing. We support that idea of someone with language and culture and understanding about community, but the scheme is - is largely, yeah, very, very difficult for people to understand. And Community Connectors, you know, are really - it's a positive step but there needs to be a lot more done than that.

10

CHAIR: Okay. And at a more general level - and, to some extent, we've talked about this - you've said at paragraph 31 that:

15 *"The NDIS model of developing individualised plans with goals and budgets does not feed neatly with the Anangu tradition and culture."*

And you have also said at paragraph 160 that:

20 *"The NDIA is highly individualised and is focused on increasing choice and control with individuals with disability. A narrow focus on the individual without an understanding of the importance of family and community, conflicts with the Anangu way of living."*

25 Is it your view that the NDIS can be adapted to overcome this apparent contradiction between an individualised model and - that emphasises choice and control for individuals and a model that emphasises the importance of family and community? Can the NDIS be adapted to make that transition?

30 MS McRAE: I think it can if - if there's a willingness and if there's flexibility and if the NDIA are really committed to making the NDIS work in remote areas. It's just about acknowledging that it's very different and that, yeah, there is not a one-size-fits all solution, and that Aboriginal people needing to driving it. It needs to be owned by local Anangu people, and they need to get the support in the way that they want it. And it needs to be family-centred to acknowledge the role that families play in caring for people with disability in community.

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CHAIR: Mrs Smith, do you agree with that?

MRS SMITH: Yes.

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CHAIR: Is there anything you would like to add?

MRS SMITH: Not really.

45 CHAIR: It was said very well, in that case.

COMMISSIONER McEWIN: Chair, do you mind if -

CHAIR: No, no. Go on. You go.

COMMISSIONER McEWIN: Commissioner Mason, sorry.

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COMMISSIONER MASON: Mrs Smith and Ms McRae, just to the Chair's point around flexibility and can it be adapted, what I'm hearing is that Anangu - Aboriginal people, First Nations people - and Piripa - non-Indigenous people - actually, we might agree on the goal. It's just the destination how we get there. And that should be having the flexibility. It's not that we're going in different directions. And the second point I would like to reflect on, after hearing what you're saying is, if family have always cared for family members with disability, then running parallel to anything around like an NDIS system on - in remote and very remote areas, where families do a lot of informal support, that service of respite is really critical.

15

And do you want to just talk a little bit about that, why it's so critical? Because it seems to me that, without respite, things could really unravel because people aren't really getting time to have psycho-social wellbeing, the Anangu with disability as well as family who are supporting.

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MS McRAE: Yeah, respite is definitely in demand, and that's a reflection of there are lots of kind of stressors on families and community. I mean, we do respite very differently. We don't just bring someone with a disability in all on their own and put them somewhere. Respite is about bringing someone with a disability with a family member or maybe with their whole family in with them, coming into town, doing something that they really enjoy, going to the footy, going to whatever is going on at the time.

25

And it actually builds the strength of the whole family. So respite is - is a critical factor to maintain the care in the community, as is the capacity to provide practical assistance, swags and blankets and clothing, bedding. These are the things that people ask for all the time, and these practical things can make the difference around maintaining the care arrangements. If you can respond really quickly and provide blankets to people because there's 16 people in a three-bedroom house and some people don't have enough bedding, it's being able to respond to what's going on for that family at that time in a really practical way is really important.

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And I also agree that we are not advocating for the NDIS to go away. We just want it to better meet the needs of Anangu. And that just requires will to do that and willingness to do that and flexibility that's required to meet the needs of Anangu people.

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COMMISSIONER McEWIN: Perhaps just on that point and in response to something you said to the Chair earlier, was about the trust that your community members have in, say, your organisation and the other local organisations. So can I put it to you - both of you, do you think the NDIS should be investing more time and energy into working more closely with those organisations - organisations where you have the trust - before they commence the individual planning process? Is that something that we should consider?

45

MRS SMITH: Yes.

COMMISSIONER McEWIN: And what would that look like?

5 MRS SMITH: Do you want to -

MS McRAE: I think that, yeah, just working with the local organisations, acknowledging that they have that trust already - I mean, it's ignoring a resource, when you don't work with the local organisation to connect with Aboriginal people. We already know people with  
10 disability out there. We've been working with them since the mid-1990s. We know the families. We could have provided a lot of support to help those people access the scheme, but it got very complicated.

15 It became a conflict of interest because we were an NDIS provider. We started to be treated like we were - yeah, not appropriate to help out with connecting people with disability with the scheme because, yeah, it was seen as a conflict. But I think that it's a waste of resource.

COMMISSIONER McEWIN: So, again, more flexibility is required.

20 MS McRAE: Yeah, absolutely.

COMMISSIONER McEWIN: Thank you. And thank you again.

25 CHAIR: Just one more question. What's the football team of choice for most people on the APY Lands?

MRS SMITH: Port Power and Adelaide Crows.

30 MS McRAE: There you go. Port Power and Adelaide Crows. According to Margaret.

CHAIR: Well, unfortunately, Commissioner McEwin apparently is a supporter of Port Adelaide, which is an entirely misguided view on the whole. Thank you very much for coming to the Commission. Thank you for the very detailed statement that is very thought-provoking, very helpful, as has been your evidence today, and has given us a lot of  
35 things to think about and a great deal of help as to how we might try and address the problems that you have identified. So thank you both very much.

MS McRAE: Thank you.

40 MRS SMITH: Thank you.

CHAIR: Ms McMahon, what do you do now?

45 MS McMAHON: Mr Griffin will take the next witness.

CHAIR: Straightaway or?

MS McMAHON: Yes, I understand we won't be having a break, if that suits the Commissioners.

5 CHAIR: He's leapt up and is positively trotting towards the bar table. In that case, we are going to continue, I take it? You will need to move out of the way so he can trot up.

MS McMAHON: Thanks very much. Thank you.

10 CHAIR: Thank you very much.

**<THE WITNESSES WITHDREW**

CHAIR: Yes, Mr Griffin.

15 MR GRIFFIN: Thank you, Chair. The next witness is Ms Joanne Houghton, spelt H-o-u-g-h-t-o-n. Ms Houghton has provided a statement for this public hearing dated 21 June 2022, ID number STAT.0557.0001.0001. This statement is in Hearing Bundle A at tab 34. And the annexures to her statement are in Hearing Bundle A at tabs 35 to 38A. Ms Houghton will take an oath.

20

CHAIR: Ms Houghton, thank you also for your statement and for coming to the Royal Commission. You have travelled, I think, from Queensland, have you not, to be here today?

MS HOUGHTON: Correct.

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CHAIR: So thank you for making the rather long trip to Alice Springs, and we look forward to hearing your evidence. If you would be good enough, please, to follow the instructions of my associate, who is in that direction. She will administer the oath to you.

30 **<JOANNE HOUGHTON, SWORN**

CHAIR: If you would be good enough to listen to the questions that are about to be asked, then we will be grateful for your responses.

35 MR GRIFFIN: Chair, I understand Ms Jerry Tucker, a solicitor in Cairns, is supposed to be online representing this witness.

CHAIR: By telephone?

40 MR GRIFFIN: No, just observing the proceedings. And is available.

CHAIR: I see. Thank you.

**<EXAMINATION BY MR GRIFFIN SC**

45

MR GRIFFIN: Ms Houghton, you are the managing director of Creative Consultancy Proprietary Limited.

MS HOUGHTON: Creative Consulting Proprietary Limited.

5 MR GRIFFIN: Thank you. And you provide support coordination services for people in remote communities in Far North Queensland under the NDIS?

MS HOUGHTON: Correct.

10 MR GRIFFIN: You're a First Nations woman?

MS HOUGHTON: Yes, I am.

MR GRIFFIN: And you come from the Stolen Generation?

15 MS HOUGHTON: Yes.

MR GRIFFIN: When did you first set up the business of providing support coordination services?

20 MS HOUGHTON: February 27, 2019. So, I actually started the business or registered an ABN in December of 2018, so December 26th, and started operating in the support coordination space from 27 of Feb 2019 to now.

25 MR GRIFFIN: And what prompted you to set up this business?

MS HOUGHTON: Two things. I was exhausted from the last job I had, and that was managing a personal helpers and mentors program in Yarrabah. I was worked to the bone and thought, I'm going to start my own business. I have issues with my own functional capacity, and I sometimes can't work from an office-based environment. I have to work from bed.  
30 And so I thought, if I start a consulting business then there's going to be times that I can't leave my bed, but I could still continue to work and pay my mortgage.

MR GRIFFIN: Very briefly, what are the chronic health conditions that you suffer from?

35 MS HOUGHTON: I don't know if I have to answer that.

MR GRIFFIN: That's okay.

40 MS HOUGHTON: I don't believe in speaking about private medical conditions publicly.

CHAIR: That's fine.

MR GRIFFIN: That's fine. Now, do you employ people in your business?

45 MS HOUGHTON: Yes, I do.

MR GRIFFIN: And how many in total?

MS HOUGHTON: The last count was 38.

MR GRIFFIN: And the vast majority of those employees are First Nations people?

5

MS HOUGHTON: Correct. All but two.

MR GRIFFIN: And in addition to providing support coordination services, do you also provide psycho-social recovery coaching?

10

MS HOUGHTON: We have just started stepping out into that space, yes.

MR GRIFFIN: Can you tell me what that means?

15 MS HOUGHTON: Okay. So psycho-social recovery coaching, it's a new initiative bought in by the NDIA to work alongside support coordinators, in a sense, to assist the individual to manage and navigate the mental health system and all of their mental health supports.

MR GRIFFIN: And do you also in your business deal with the area of short-term accommodation for respite purposes?

20

MS HOUGHTON: Correct.

MR GRIFFIN: What led you to provide that service?

25

MS HOUGHTON: Originally, as a coordinator of supports, we would find other agencies and give individuals choices around which agencies they would like to go with to provide respite/short-term accommodation. And we did that and it - there were instances where that just did not work where we saw providers were babysitters - glorified babysitters, literally taking the money and not really offering anything substantial to the individual.

30

And then apart from that, separate to that, we would - when we did start looking at delivering ourselves, obviously, we didn't have a respite house or anything like that at the time, so we would - I would book individuals into motels in the Cairns region that were coming down from Cape York, and I found a lot of racism. So individuals being treated differently because they are First Nations people.

35

MR GRIFFIN: And according to your statement, you currently have 94 current clients.

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MS HOUGHTON: Just under 100, yes.

MR GRIFFIN: Whereabouts are those clients located?

MS HOUGHTON: Yarrabah, Far North Queensland. Cairns. So the majority are Yarrabah, Cairns, Aurukun.

45

MR GRIFFIN: How long does it take from you to get from Cairns to Yarrabah?

MS HOUGHTON: Depends. On a good day, 45 minutes.

MR GRIFFIN: And that's the closest location you go to of the areas you mentioned?

5

MS HOUGHTON: Sorry, I'm not sure what you mean.

MR GRIFFIN: You mentioned having clients in different locations.

10 MS HOUGHTON: Yes.

MR GRIFFIN: Is Yarrabah the closest location you have clients, or do you have clients in Cairns itself?

15 MS HOUGHTON: Yes, in Cairns as well.

MR GRIFFIN: Right. Thank you. You also indicate in your statement at paragraph 14 that the word "disability" does not exist in many Aboriginal languages. And you refer to the term "cultural services provider". Can you explain to the Commissioners your thinking behind that?

20

MS HOUGHTON: Absolutely. So in this NDIS space, we talk about people with a disability. Majority of our clients do not identify as having a disability, and that's one of the issues that we've found straight off the bat. So if you don't identify and you're talking to NDIA planners and they - they are telling you that you have a disability and you're saying, "No, I don't, but I do need extra assistance with this, that or the other", that's - it's a major difference.

25

For me personally, yes, I have medical conditions that impact on my functional capacity. I was using assistive technology long before I knew what assistive technology even was. I still do to this day. And found out about those terms when I came into this space. So very recently in the past maybe two to three months, maybe two months. I solidified my stance in this business, that we are not a disability service provider; we are a cultural services provider. Because people don't come to us for disability support. They come to us because we have Aboriginal people on the front line.

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35

MR GRIFFIN: In your experience of dealing with the NDIS and NDIA, is that distinction understood?

MS HOUGHTON: Sorry, can you repeat the question?

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MR GRIFFIN: Yes. In your dealings with people at the NDIA, do they understand that distinction you just drew between having a disability and describing as such or being a cultural services provider?

45 MS HOUGHTON: They don't know this yet. They're soon to find out.

MR GRIFFIN: So has this been a change in your thinking as well?

MS HOUGHTON: Absolutely, absolutely.

MR GRIFFIN: And what prompted you to change the way you wanted to express?

5

MS HOUGHTON: Myself, first of all, I struggled to - the very first time I had identified myself as being a person with a disability was just under two years ago. Excuse me. I'm 45, 46 next month. I've had issues with my spine since I was - I remember the first time I woke up at the beginning of grade 9 and I couldn't stand straight. I was bent over like this. And so that's where it started for me.

10

But it was two years ago, when I was defending my position as a provider going into - into Aurukun specifically, that I wrote it down on paper, and it irked me. It really, really irked me that I had to write, "I am also a person with a disability", because it's not something that I had ever identified with in myself. I just know that I have issues with my back. I can't clean like regular people can; I can't do yard work. There's a lot of things I can't do because of my functional capacity.

15

So moving into this cultural space came to me recently, when I realised, you know, I've got a lot of clients that still are in that space of "No, I don't have a disability. I just need more assistance." And I thought really hard about, you know, why do people come to my particular service? They came to us because we have First Nations people on the ground. And they came to us because we have an understanding, and we listen. And it was always about being inclusive of culture and family and those connections. Disability comes last.

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25

It was about the assistance they needed, starting with culture, rather than starting with a disability. And we don't - we are also - sorry, we also are not a - my consulting business does not just deal in that NDIS space. We also provide services, pro bono and paid, that we - sorry, work that we get paid for in community and social development work. So that's my degree and that's - everything in this business was based around myself and my history. So we do work with other organisations, and the funding does not come through the NDIA.

30

MR GRIFFIN: Does it follow from what you've just explained that the word "disability" becomes a label and that the people you deal with are seen through the eyes of their disability rather than who they are?

35

MS HOUGHTON: Correct.

MR GRIFFIN: You mentioned in your statement the question of support coordinators and what their role is. Briefly, on a daily basis, what does a support coordinator do?

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MS HOUGHTON: So many things. A support coordinator has to be across absolutely everything. It's almost expected that you're the knowledge-holder of everything, and if you don't know, you need to know very quickly where to find the information. So you need to be across, you know, what is respite, what is intellectual, how do you order a specific assistive technology item or equipment for individuals. It can range very, very different for many

45

individuals. Like, it could be making referrals to services and things like that, but there's just so much more entrenched in support coordination than I think people understand.

5 MR GRIFFIN: When you decided to work in the area of support coordination, did you have cause to purchase a product called the Support Coordination Toolkit.

MS HOUGHTON: Yes, I did.

10 MR GRIFFIN: Was that produced by the NDIA?

MS HOUGHTON: No.

MR GRIFFIN: Who was it produced by?

15 MS HOUGHTON: There's two services that come to mind. I'm not sure which one so I'm not going to say, unless you want me to.

MR GRIFFIN: That's all right.

20 MS HOUGHTON: Yes.

MR GRIFFIN: Anyway, it was a non-NDIA product, if I can use that term. Was that useful when you were setting up your business?

25 MS HOUGHTON: No.

MR GRIFFIN: Why not?

30 MS HOUGHTON: There was nothing, I guess, in that toolkit - no offence to the creators of the toolkit. It's a fantastic toolkit. It's just not relevant to Aboriginal people, and it's certainly not relevant to how we work. And it's also aimed at registered providers and not unregistered providers.

35 MR GRIFFIN: Did you approach the NDIA to see if they could provide advice or assistance in setting up?

MS HOUGHTON: No.

40 MR GRIFFIN: So is it the case that you worked on trial and error?

MS HOUGHTON: Correct.

MR GRIFFIN: What about your staff members? Where does their training come from?

45 MS HOUGHTON: Me. Directly

MR GRIFFIN: And have you devised a training for them?

MS HOUGHTON: It's been ad hoc on the fly, as we're running out the door, sitting in a car together, when we're travelling up the Cape in a vehicle. Training is happening as much as I can. Unfortunately, I wish I could deliver a lot more, but there's only one of me.

5

MR GRIFFIN: I noticed in paragraphs 92 to 93 of your statement, you referred to Facebook support groups.

MS HOUGHTON: Yes.

10

MR GRIFFIN: Can you briefly describe what those groups are like and what support they provide, if any?

MS HOUGHTON: They're fantastic. Absolutely fantastic. So one of the first groups I joined, I believe was the Costs and Plan Managers Unite. Absolutely amazing source of information and lived experience from other support coordinators

15

MR GRIFFIN: Were these support coordinators throughout Australia?

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MS HOUGHTON: Yes.

MR GRIFFIN: And this is a voluntary group?

MS HOUGHTON: Yes.

25

MR GRIFFIN: And do you meet online on a regular basis or is it just a daily check-up -

MS HOUGHTON: Yeah, we don't meet or anything like that. It's just that everyone goes in there - you might post a question you have regarding an issue that you're facing, and you need assistance, or, "How did you deal with this? How does someone else deal with this particular thing" and you get feedback. And so others are very willing - amazing people in that group share their information and their resources freely.

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MR GRIFFIN: And do I take it that the people sharing information and resources are not being paid to do that. That's a mutual support group?

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MS HOUGHTON: No. Correct.

MR GRIFFIN: Have any members of that group, to your knowledge, approached the NDIA to see if something more formal could be provided by way of training and information?

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MS HOUGHTON: I have no idea. I couldn't answer that, sorry.

MR GRIFFIN: Sitting here today, do you think it would be worthwhile making that approach, given the experience you had in setting up?

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MS HOUGHTON: Repeat the question but maybe a bit differently. I wasn't understanding that, sorry.

5 MR GRIFFIN: Okay. I was wondering whether anyone had contemplated approaching the NDIA and saying, in effect, can you provide training and resources to enable people to set up the sort of business you have set up?

10 MS HOUGHTON: I don't know if anyone else in that group has. I don't know people personally in that group. It started out with about - when I joined originally, I think it was around 700 of us and then - and now there's thousands and thousands of people in there. I don't even have that much in my social circle. So I wouldn't know everyone or what their intentions are. But I just love the group itself. It's been a fantastic source of, I guess, comfort for me. When I know that I'm at a loss of what to do, I go there and seek help. So the NDIA, sorry, is the last resort.

15 MR GRIFFIN: Why is it the last resort?

20 MS HOUGHTON: Mainly because my own personal experience, when I have spoken to individuals in the NDIA, the time - they don't give you the time to sit and listen. I want to preface this also, just to say that I work with some amazing people in the NDIA, especially the remote planners up in Weipa. And there's a remote team, and Wendy Tucker, who leads a lot of those teams, she's amazing herself. So this is not against the individuals in this space. This is very much about the NDIA as a system. They do not give us the time. And even if we asked for the time, you know, an hour or two is not going to cut it.

25 MR GRIFFIN: Is the most important single characteristic of a good support coordinator the ability to listen to the needs of the client?

30 MS HOUGHTON: Absolutely. Yes.

MR GRIFFIN: And you've come across many good support coordinators?

MS HOUGHTON: Yes

35 MR GRIFFIN: But you have come across ones that, to use my expression, didn't cut the mustard?

40 MS HOUGHTON: Baseline work. So they would be happy to do, I guess, a level 1 support coordination, telling people about the services and not doing much else. Level 2, we are required to link them in and make those warm referrals.

45 MR GRIFFIN: And I take it by inference from your answer, that when one is dealing with First Nations people in remote and very remote communities, there is a high level of special skill required to be a good support coordinator?

MS HOUGHTON: Correct. And you have hit the nail on the head there. There should be a lot more funding of specialist support coordination, which there isn't.

MR GRIFFIN: And would that extra funding you advocate for also include training?

5 MS HOUGHTON: Yes. Absolutely. Sorry, hang on one sec. I just want to make sure that I've heard your question correctly. If you could repeat that.

MR GRIFFIN: You would advocate for more funding to assist people becoming support coordinators in those communities; is that correct?

10 MS HOUGHTON: You can't get funding for training.

MR GRIFFIN: I appreciate that. But I'm asking you whether you would like the system to -

15 MS HOUGHTON: Absolutely, absolutely. And separate from the hourly rate.

MR GRIFFIN: Yes. And so rather than just being paid for the provision of coordination services, there would be an allocation for training and what, in modern parlance, might be called up-skilling to be able to do the job well?

20 MS HOUGHTON: Absolutely, yes.

MR GRIFFIN: And do I further assume that such people should be at a high level of ability to identify culturally safe approaches to doing that job?

25 MS HOUGHTON: Yes. Excuse me one sec. I might get a tissue.

CHAIR: Take your time. Do you want some water?

30 MS HOUGHTON: That's someone else's water. Thank you. Okay. I'm good.

MR GRIFFIN: Can I talk to you about the question of being registered with the NDIA.

MS HOUGHTON: Yes.

35 MR GRIFFIN: Creative Consulting decided to remain an unregistered provider. What are your reasons for that?

40 MS HOUGHTON: A lot of reasons. So when I first started - sorry, I will give you the reasons, and then I will tell the story. So the main reason is this scheme was bought in to create change. It was bought in to give people choices. It was bought into give them control over their supports, their services. So I speak this out often, that if we are going to be funnelling people down the same pathway to registered providers that there had been prior to the NDIS rollout in Australia, what difference does that make to the previous models of disability supports and services? It makes no difference at all. So in order to have choice and  
45 control, you need to have a variety of providers, whether registered or unregistered.

MR GRIFFIN: You, as I understand it, initially explored registration.

MS HOUGHTON: Correct.

MR GRIFFIN: What made you decide not to pursue that?

5

MS HOUGHTON: I am still a registered provider as a sole trader. But I have never made a service booking online to claim money directly. I have always gone through plan managers. When I went into a company model - by the time I had gone into a company model, sorry, I had done enough research, learnt enough about the system, really looked at the options but also looked at, you know, my own people. If it's hard for me as someone who has had access to resources, education, and other opportunities to learn this scheme and to go into - and to start up as a provider - and it's been difficult - then to find the additional potential \$7,000 - which was the cost of an audit at the time that I had started my business as a sole trader.

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Without a single client and without any income, how was I going to afford \$7,000 worth of auditing costs? It was completely unreasonable. And so I then ended up somehow finding a registered provider that I could sit under their registration. So that I could still deliver to people that were coming to me with agency-managed support coordination in their plans.

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MR GRIFFIN: One of the other barriers to registration that you refer to appears at paragraph 61 and 62 of your statement. If I can summarise, you say:

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*"The requirement that staff have a Blue Card to work with children and a Yellow Card or a Disability Worker Screening Clearance is difficult in circumstances where First Nations potential staff members may have a criminal record."*

MS HOUGHTON: Correct.

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MR GRIFFIN: Now, without going into detail, we know that First Nations people generically are overrepresented in the criminal justice system. To obtain the necessary cards, is one disqualified simply because you have a criminal conviction? Or does it depend on what the nature of that conviction was?

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MS HOUGHTON: It's the nature of the conviction. Your intentions behind what it was that you were convicted of and the outcomes and whether or not that resulted in any significant harm towards a person with a disability.

40

MR GRIFFIN: And what's the administrative time taken for you to make those inquiries and secure those cards for a potential employee?

MS HOUGHTON: At the moment, I don't know because I don't do that anymore in my business, thank goodness.

45

MR GRIFFIN: Okay.

5 MS HOUGHTON: Someone else does that. So - but when I was doing it, that's hours and hours of work, depending. It really depends on the individual, what their criminal history looked like. I myself had a criminal history from when I was 17, 18, 19. And I didn't know that there was a 10 year - what's the - where it stops? And so for 20 years I was telling the government -

CHAIR: Statute of limitations.

10 MS HOUGHTON: Statute of limitations, thank you. I didn't know about the statute of limitations. So every time I applied for a job, Federal Government, State Government, I would always tell them, "I'm a criminal from, you know, when I was a teenager" and I would have to write a statement. I didn't realise that wasn't a thing after 10 years, that the statute of limitations had expired, and I didn't need to do that anymore. But in that, I still had to explain why I was charged, what I was charged for, and what I've done, I guess, to better myself or improve my circumstances. That enables me to get a job in government.

MR GRIFFIN: In paragraph 62, you elaborate upon what you've just said, and you finish by saying:

20 *"Many people do have criminal records, often for minor offences resulting from punitive policies such as alcohol management plans."*

MS HOUGHTON: Correct.

25 MR GRIFFIN: Can you give the Commissioners an example of a person in that situation?

30 MS HOUGHTON: Sure. I'm just thinking my mother calls it an Aboriginal management plan, and I agree. So we don't call them alcohol management plans because they are targeted at Aboriginal communities. When - when the alcohol management plans came out - sorry, when all of this came out and especially in places like home at Yarrabah, you know, you have the police sitting up on hill waiting for a car to come over to pounce on the car, take your vehicle away if you've got more than or even a cup more than what you are supposed to take in, and automatically you're sent straight through to the justice system.

35 So when the alcohol management plans came out and even the - Income Management in the Cape, because I was the face of Income Management when it first came out. Myself and another went up and delivered that. So we were front and - frontline, as far as understanding where people were caught up in the justice system because of anything in, I guess, child safety, and other areas. But the Family Responsibilities Commission ultimately would make decisions around, you know, what's going to happen with that person after the fact.

45 I'm sorry, my memory is not that great at the moment. But what we found was that you might be charged with a criminal offence under child safety or under, you know, something to do with alcohol or some other issue, and then they just keep adding up. So instead of having maybe one issue that you should have been charged for, you have a multitude of

issues. So it looks like you're a major criminal when really all you are trying to do is live your life.

5 MR GRIFFIN: Yes. Can I ask that Map 5, which is the map of Far North Queensland, be brought up. Can you see that map, Ms Houghton?

MS HOUGHTON: Yes, I can.

10 MR GRIFFIN: Now, you're based in Cairns which is, I think, clear for everyone to see. You can see the road going up to Weipa, which used to be called the Development Road, but I think now has a different title?

MS HOUGHTON: Peninsula Development Road.

15 MR GRIFFIN: Yes. And in my time in that part of the world, it was unsealed completely, and I still to this day remember every corrugation I drove over. What's the current situation of driving from Cairns to Weipa?

20 MS HOUGHTON: They have done some really good work on that road in the past six months to a year. I believe there's only 250km left of unsealed road.

CHAIR: Did you say only 250km?

25 MS HOUGHTON: Only 250km. Yes.

CHAIR: I thought you might have meant 250 metres.

MS HOUGHTON: No.

30 MR GRIFFIN: There are no short, sealed sections outside the local councillor's house?

MS HOUGHTON: I'm not sure.

35 MR GRIFFIN: How long would it take you to drive from Cairns to Weipa, assuming good weather conditions?

MS HOUGHTON: 12 hours.

40 MR GRIFFIN: And so on how many occasions would you or representatives of your business ideally travel to see clients in Weipa?

MS HOUGHTON: We don't have clients in Weipa. We have clients in Aurukun.

45 MR GRIFFIN: Sorry, in Aurukun, I should say.

MS HOUGHTON: And recently Mapoon.

MR GRIFFIN: So that's another two hours between Weipa and Aurukun, so is it still a 12-hour trip, or?

MS HOUGHTON: It is. So we go to Weipa to see the planners.

5

MR GRIFFIN: Yes. And then you go down to Aurukun.

MS HOUGHTON: And then we go down to Aurukun. Correct.

10 MR GRIFFIN: And you're often there for between two days, three days.

MS HOUGHTON: Yes

MR GRIFFIN: And then you've got to repeat the drive back?

15

MS HOUGHTON: Correct.

MR GRIFFIN: For how much of the year can you do that trip by road?

20 MS HOUGHTON: As often as the weather will allow. Majority of the time, it's based on weather - wet weather season. So we had a really big wet season over this last six months, leading up to - our first trip this year was in May. So that was only two months ago. Less than two months ago.

25 MR GRIFFIN: So is it your ambition, given good weather conditions, that you might travel there six times in a year?

MS HOUGHTON: More would be great. I have found an amazing - amazing person who I've employed in Aurukun now. She's a local lady, traditional owner. Very smart woman. I'm  
30 really happy that she's on board because, hopefully, that will reduce our need to travel to Aurukun, and we can then focus on another community.

MR GRIFFIN: Why is it important for support coordinators to travel to a community such as Aurukun?

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MS HOUGHTON: Language. Understanding. People speak multiple languages. English isn't everyone's first language. Body language is a big part of Aboriginal people. We can have a whole conversation without speaking at all, using facial expressions, body movements, ways that we might move our body or our head or - so it's capturing some of those - that you're  
40 never going to see or hear via a Zoom conversation or phone consult.

MR GRIFFIN: What do you miss if you have to use a Zoom facility, as opposed to being there in person?

45 MS HOUGHTON: I think I've only ever had one Zoom conference and that was the very first one. That led to us becoming a provider in Aurukun.

MR GRIFFIN: Right.

5 MS HOUGHTON: And that was really difficult. It actually wasn't even Zoom. We were scheduled for Zoom but I was running between clients, pulled up at a shopping centre car park, got on the phone and did a phone consult in the car park with these potential new clients that wanted to come on.

10 MR GRIFFIN: And I take it that by being on the ground, you also have the ability to build rapport with the people you are dealing with?

MS HOUGHTON: Absolutely, yes, and that's so important.

MR GRIFFIN: Because you're not simply coming in and leaving a few hours later?

15 MS HOUGHTON: Yeah. And I need for people to know that we're here for them. We're not here for the government. We're not here for the scheme. We're here to deliver according to their needs, their wants, their desires, their hopes, their dreams. And so the only way to capture all of that information is by building relationships with those individuals on the ground.

20 MR GRIFFIN: How does your business try and make it cost effective to travel such large distances?

25 MS HOUGHTON: I don't. I've suffered financially as a result of travelling north. But I wouldn't change that. As in I wouldn't change the service delivery side. If I could capture the money back, that would be amazing. Because I didn't have a vehicle that I could travel with. I was getting around in an old nineteen-ninety - oh, no, 2002 Nissan XTrail, and luckily, I had a staff member, a lady who came with me on my very first trip and she had a Toyota Prado.

30 And so then I paid her - from the very get-go, every staff member whose vehicle I've used, I have always paid 87 cents per kilometre for a 2,200km round trip, which equates to around \$1,760 after we return. Not including accommodation, wages, overheads, all of that.

35 MR GRIFFIN: Just splitting out the transport costs as a discrete item, does that 1700-odd dollars actually meet the cost of fuel, maintenance, registration of the vehicle?

MS HOUGHTON: Not when you're travelling over hundreds of kilometres of corrugated road.

40 MR GRIFFIN: And is that because firstly it's compulsory in those parts of the world to have a four-wheel drive?

MS HOUGHTON: Absolutely. Yes.

45 MR GRIFFIN: And so has your experience been in your business that the reimbursement you receive for travel doesn't cover the actual cost to you of the travel?

MS HOUGHTON: Can I be completely honest and say that I didn't know, and the NDIA did not bother to even make me aware that I could claim the travel component of going up to remote communities until one of them turned up at my office because they needed my assistance with something and was using that as, I guess, bait to get me to sit and work with them. And so my first time ever claiming travel was in May. And that's also the same for my partners in this business, Active Performance, the therapists we travel with. May was the first time that they also had claimed travel for the first time. And yet we have been delivering up there for two years.

MR GRIFFIN: The NDIA would know from their own records of invoices that you had been there.

MS HOUGHTON: Correct.

MR GRIFFIN: Did you ask them why they hadn't told you that you were entitled to compensation for travel costs?

MS HOUGHTON: No. Until that lady came to my office. But it was - like I said, she had an underlying reason for being there, and that was for me to support her to do her job.

MR GRIFFIN: Under the NDIS, can one make a claim for what I will call backpay?

MS HOUGHTON: There's a - so you can send your invoices off to provider payment. I'm not too sure if I sent invoices now for travel from plans two to three years ago that I could actually get that money back. I know that now if a plan ends, you have three months to claim from the old plan.

MR GRIFFIN: So effectively the three-month limit is a cut-off?

MS HOUGHTON: Correct.

MR GRIFFIN: And you lose any entitlement after that.

MS HOUGHTON: And it's ridiculous, yes.

MR GRIFFIN: Why is it ridiculous?

MS HOUGHTON: Because there's people like me who just don't know, and had we known or had we been shown how to make those claims, that would have made life a lot easier. I'm still learning a lot in this space. Like I said, it's a very big, very complex system and so, for me, the travel component was the least of my concerns when I've got people on the ground that are suffering without supports.

MR GRIFFIN: Ms Houghton, the Royal Commission received an email from a solicitor on behalf of the Aurukun Shire Council who had the opportunity to read your statement, and in that email, they acknowledge the work you've been doing. And they don't make any criticism whatsoever, but they do point out that the shire council has a group called

Chivaree, which is C-h-i-v-a-r-e-e, Centre, which, I understand, prior to the NDIS and post-NDIS has been providing some services in the disability area. Are you aware of the work they do?

5 MS HOUGHTON: Correct. Yes.

MR GRIFFIN: And they go on in this letter to indicate that they have what I will call nine clients and that two of those, you provide support coordination services for.

10 MS HOUGHTON: Possibly, yes.

MR GRIFFIN: That could be right? Commissioner, what we will do in due course is we will tender this email, because it's been sent by way of a submission.

15 CHAIR: Thank you.

MR GRIFFIN: Now, I'm told that I have to wrap up within 10 minutes, Ms Houghton. So I will do my best to move quickly. You comment in your statement from paragraphs 33 onwards about the lack of service providers. And I think you outline that in some detail. But then, importantly, you refer to respite and the limited options available. Have you set up some short-term accommodation to provide respite care?

MS HOUGHTON: Yes, I have.

25 MR GRIFFIN: What prompted you to do that?

MS HOUGHTON: The lack of culturally appropriate responsive services that would look after our mob properly.

30 MR GRIFFIN: And that was really important because of your clients in Aurukun?

MS HOUGHTON: Yes.

MR GRIFFIN: And it's also important because people have to travel from Aurukun to Cairns or elsewhere to receive certain services from time to time, don't they?

MS HOUGHTON: Yeah, and it's good for them to get out of community to come to Cairns to participate in - if it's a physical disability, say, to come and trial equipment, to look through the mobility stores, things that they don't have access to in those communities.

40

MR GRIFFIN: And when they make those trips, do you arrange accommodation for them?

MS HOUGHTON: Always.

45 MR GRIFFIN: And was that because, previously, there wasn't, in your view, appropriate accommodation available?

MS HOUGHTON: It wasn't so much the accommodation but people.

MR GRIFFIN: Yes.

5 MS HOUGHTON: Humans are horrible. Can be.

MR GRIFFIN: You also comment -

MS HOUGHTON: In the sense that - racism. That's what it comes down to.

10

CHAIR: Yes.

MS HOUGHTON: We had a lot of issues with clients getting kicked out of motels because other family members were standing outside wanting to come in, and Aboriginal culture of sharing was not accepted. So someone who wants to bring a family member in with them had a - one particular incident, the client was inside asleep in his room in the motel. The family member was outside, talking to the security guard. And then that resulted in some kind of scuffle.

20 The client who had no idea what was going on woke up and was kicked out of the motel because the family member was outside wanting to come in and share the room because they knew that there were two beds and there's only one person in that particular room. The support worker was in another room. So Aboriginal culture of sharing, you want to give your family member a bed to sleep on. Unfortunately, that particular client had no idea, but it resulted in him getting kicked out of there and being told not to come back. And so that was the clincher for me to start respite.

25 MR GRIFFIN: And do you hope to expand that service?

30 MS HOUGHTON: I've just rented another house in East Trinity last week, two weeks ago, and I'm setting that up. Because the first respite house has been overtaken by men, and so we are setting up a new house now that's - it's a three floors. So I've got elders on the top, respite in the middle for women, and psycho-social recovery coaches, and on the floor it will be children's therapies, because there's nothing for children in Yarrabah. But this is - that particular building is for people from Yarrabah and Giangurra, but the respite will be for anyone that wants to come in or needs respite. Any females and their family.

35 MR GRIFFIN: On the question of the complexity of the NDIS plans, can I summarise what I understand your evidence to be. That the NDIS plans are too difficult for your clients to understand without a lot of support?

40 MS HOUGHTON: Correct.

45 MR GRIFFIN: And as a consequence, somebody from your business will sit in the planning meeting with the clients.

MS HOUGHTON: Yes.

MR GRIFFIN: Firstly, to let the clients know what the plan involves and how it works, but also to educate the planners. Tell the Commissioners about what you mean by educating the planners?

5

MS HOUGHTON: How many issues have we educated on? Is there something specific you want me to speak about?

MR GRIFFIN: Well, in relation to Aboriginal culture and the very limited understanding that some planners have of country, culture and community.

10

MS HOUGHTON: Absolutely. Understanding the geographical distance between places or lack of services and how long it would take them to actually get out of community or drive to the nearest service provider, if there was one. We have had to educate planners on the need for - what I call four-wheel drive wheelchairs because the landscape is completely different to regional and urban centres. So we have to make sure that people who are needing equipment on the ground, that the equipment is suited to the environment that they live in. That's a big thing.

15

And so we always put that out there first. We don't wait for the planners to come back to say, "We have issued you funding for this wheelchair" or what not. We make sure we are requesting in the planning meeting a four-wheel drive wheelchair to make sure that the person can get around safely.

20

MR GRIFFIN: And then you have a section in your statement from paragraphs 98 through to 102 dealing with the question of exploitation. You also, I believe, have a concern, firstly, that your clients are vulnerable to exploitation?

25

MS HOUGHTON: Correct.

30

MR GRIFFIN: And, secondly, a general concern about whether the services said to be provided to them are always provided.

MS HOUGHTON: Correct.

35

MR GRIFFIN: If you have a suspicion that services have not been provided but have been charged for, do you raise that with the authorities?

MS HOUGHTON: Yes.

40

MR GRIFFIN: Have you had cause to do that?

MS HOUGHTON: Yes.

MR GRIFFIN: And have you had a positive response to raising that issue?

45

MS HOUGHTON: No.

MR GRIFFIN: Why not? What happened?

5 MS HOUGHTON: I discovered fraud or fraudulent claims against 18 of my clients in  
November of last year. Spent about eight hours investigating all of the invoices and what  
appeared to be multiple carbon copy invoices for time apparently spent with clients. I had  
two of those that were affected by that were flying in that morning for respite. So I met with  
them. That was the first meeting I had of the day, the minute they got off the plane from  
Aurukun - because I had three gentlemen come down.

10 I took two of the gentlemen aside and sent the other one off with a support worker. And  
then I had an ad hoc meeting with these two gentlemen, a couple of my staff and  
Queensland Health - three Queensland Health reps in Aurukun to explain what I had  
uncovered. They explained it - they went and saw clients in community, talked to them  
15 about it, found out that these services weren't delivered. Very long story short, within that  
two-day period I had contacted the NDIA, spoken to them, nothing came of that.

And I also contacted the Commission, and they told me to put it in an email. And I knew that  
20 putting that in an email was not going to go anywhere because there is unbelievable  
amounts of people waiting for outcomes of this - of their own issues that they've taken to  
the Commission, and they haven't been actioned. And this is two years later.

MR GRIFFIN: So is it the case that in relation to what you've just been mentioning, you've  
25 lost confidence in that system.

MS HOUGHTON: Yes, I have.

MR GRIFFIN: Finally, can I just deal very briefly with the question of travel by air. During the  
30 wet season, is it economically viable to travel by air to Aurukun?

MS HOUGHTON: For who, sorry?

MR GRIFFIN: For you, firstly, and then for -

35 MS HOUGHTON: No

MR GRIFFIN: Is that because the cost isn't properly compensated for?

40 MS HOUGHTON: Correct.

MR GRIFFIN: Is it also the case that Queensland Health have provided some financial  
assistance on occasions?

45 MS HOUGHTON: They don't give me money in my pocket, no. What's happened is they have  
a patient travel scheme. So they have included when I've contacted or asked for assistance  
for a client, "can we get them some kind of specialist appointment in Cairns so they can  
come down and get their OT assessment done", which is NDIS-related. I've had significant

help in that. And because we had had this happen so often, but then we had a lot of clients with psycho-social disability up there, and they saw the benefits of those individuals coming and staying with us, and when they got home their whole demeanour was so different.

5 I just quickly wanted to say, the last lady that gave evidence around respite and taking people out of community and bringing them into places where they have access to different opportunities, we do exactly the same thing. We love this because we get to see people grow right in front of us. And then they get to go home with this new fresh perspective. So for the Queensland Health, sorry, they saw this. They saw those - those individuals coming  
10 back in and how beneficial this was for their mental health.

And so they asked me to start putting together a letter, at first, as to why we were requesting flights through the patient travel scheme. So we did that for a few individuals. And then after a while we got word that they had made it into policy for themselves or they  
15 changed something within their own system to allow for respite to become a valid reason for patient travel to fly clients with an escort to Cairns.

MR GRIFFIN: And final question in relation to transport is, is it your understanding NDIS will not fund a carer to go with a client?  
20

MS HOUGHTON: They don't.

MR GRIFFIN: And is it also your understanding that the local airline in the area we are talking about requires a carer to accompany such a person?  
25

MS HOUGHTON: They do.

MR GRIFFIN: Commissioners, I want to give you an opportunity to ask any questions, given the time.  
30

CHAIR: Thank you very much. I will ask, first, Commissioner Mason whether she has any questions for you.

COMMISSIONER MASON: Thank you very much for your evidence this afternoon and for the work that you are doing, and thank you for sharing that experience around respite, because it's so important in remote communities, a service for - it's actually for the whole  
35 community when people are given the right emotional and psycho-social need with good support. So thank you for that. I just was interested, this Facebook page, which has been a great source of information and also problem solving.

40 Since you have been working and providing support, have you - has there been an opportunity for businesses like the ones that - the one that you run to come together with other First Nations businesses together to talk about and share and exchange knowledge, a bit like that Facebook page? Since you have started in the business, has there been any  
45 opportunity?

MS HOUGHTON: I do that myself. As in, I have assisted personally to date now 26 individuals and organisations with starting their own business in this sector. But we have - we have come together and had little meetings here and there. Usually before travelling together or things like that. But, honestly, you don't really have time because there's no - like even me  
5 being here today, there's no money for me. I'm losing money sitting here, but I'm here for a reason.

Same with any meetings that happen regarding anything that's do to with the sector and not directly relating to a client. We can't claim any of that. So it's not viable for services to  
10 often come together and share information and knowledge. I will say one thing, though, is that the State Government, Queensland State Government, I will be seeking to have a meeting with them at some stage soon because they came and consulted me, and I poured out all of my intellectual experiences - sorry, my intellectual property and my experiences to them, and they have now created a program which is exactly everything I've done and given  
15 me absolutely no acknowledgment of my blood, my sweat, my tears for the last few years in this space.

And they are taking up what I've been doing and making it their own, which is really disgusting, and I'm going to speak that out. So, no, there haven't been any opportunities. I  
20 was explaining to my DRC counsellor outside just earlier on, around - sorry, my brain has just stopped. Can you please -

COMMISSIONER MASON: That's okay. So what I understand is, any way of having a community of practice, if I can use that term, of exchanging and learning and helping you to  
25 work smarter and not harder, that's your effort as opposed to a system that helps everyone to be up-skilled and improved across the board. It's done by individual people.

MS HOUGHTON: So the remote or the very remote team - I'm not sure what they call themselves, but they have had meetings with support coordinators where we all have sat  
30 down in a Zoom session and whatnot. I just found the meetings weren't valuable. It was, like I said, one hour or two hours. And you really need time to nut out a lot of things. You can't cover, you know, 10 topics properly when you're only given a very short timeframe.

The other issue I had with attending - or the reason I no longer attend those meetings is  
35 because, at the very last meeting I attended, I had asked a question about medical consent for clients, because I found that a lot of our clients had plans that were carbon copies of each other. And so we try to help them to gather the evidence to get prepared to make - you know, for a - to prepare, sorry, for a plan review. And so when I asked about medical consent and things like that, the person who was facilitating the session just said,  
40 "That's not our job" and so I immediately shut down because I just thought, well, you have no idea what it is that we deal with on the ground and yet you're one of the leaders in this space. And so I never went back.

COMMISSIONER MASON: So was that meeting for the department to improve their practice  
45 or was it - what was the point -

MS HOUGHTON: For coordinators to improve their practice in the Cape.

COMMISSIONER MASON: Okay. But there was also some limitations in what they would do in terms of improvement, as to what you just said?

5 MS HOUGHTON: It's very of a model for rural Australia. Not very remote. So they are great people, don't get me wrong. But one of the things I'm really strong on is you weren't there when I started this business. You didn't help me start this business. You weren't there giving me information and advice and support. You did not help me to build my business model, so don't think you can come in three years after the fact and say, "Well, this is how you should  
10 be running it". Does that make sense?

I'm a private business. I'm a private company. I'm not an organisation. I'm not government-funded. I've never had government funding. I've never had a grant, I've never had a loan. I have built this up from day one by myself. And now I have an amazing team of  
15 people. For the NDIA to bring out this new support coordination manual that they have brought out about three, four months ago and say, "This is how you are supposed to do business", well, no, I'm sorry, we've been doing this a lot longer than what you have, if you've done it at all.

20 Because the manual itself does not recognise anything in that Aboriginal space, and even the NDIA - I was explaining to the counsellor, they - as a Commission, you guys have some kind of funding to allow you to do engagement properly. The NDIA has funding for themselves and their staff to do engagement properly. They don't give that same - that thing to us. They don't afford us the same thing. And so when we claim our time, if we claim  
25 outside of that - if I was to put an invoice to say three hours spent engaging with clients to build a relationship, I would be shut down in a second. Because I need to be sending an email or making a referral or one of those things. But you can't do that without the initial engagement.

30 COMMISSIONER MASON: Thank you very much.

CHAIR: Commissioner McEwin?

35 COMMISSIONER McEWIN: No questions. Thank you for your evidence.

CHAIR: In asking this question, I don't want to have any figures from you, but what are the major sources of revenue for your company? Where do you get your funds from?

40 MS HOUGHTON: For the last three years, support coordination; the last 12 months, respite; and the last - well, 12 months as well, support work, but that's only because of the respite. So we had to get - I had to employ people to look after the people in respite.

CHAIR: And where does the money for the respite care come from? Who pays you for that?

45 MS HOUGHTON: The NDIA.

CHAIR: The NDIA pay you directly?

MS HOUGHTON: Through a plan manager.

CHAIR: Through a plan manager. And the same for support coordination, I assume.

5

MS HOUGHTON: Correct.

CHAIR: Yes. I follow. Thank you. You explain why you use the designation "cultural services provider" rather than a disability services provider. Does that create any problems of understanding in the sense that you present your company as a cultural services provider but, in fact, what then has to happen is for the people you are assisting, they need to be regarded by the system as people with disability -

10

MS HOUGHTON: Correct.

15

CHAIR: - and they need to get a plan approved in their capacity as a person with disability. Does that create any sort of conflicts? I don't mean between you and your clients, but any conflicts in perception as to what it is you actually do?

20

MS HOUGHTON: It shouldn't do. Because this scheme, again, is supposed to allow unregistered providers and allow individuals to access mainstream services, so things that have absolutely nothing to do with disability. How do you promote inclusion when everything is disability?

25

CHAIR: So the answer is, no, it doesn't present a problem?

MS HOUGHTON: No, it doesn't.

30

CHAIR: Okay. All right. Thank you very much for your evidence, for the statement, and for explaining things to us today. It's been very helpful and very interesting. Thank you. Mr Griffin.

35

MR GRIFFIN: Chair, the hardworking people in the background of this Royal Commission need a break. We also need a short break to set up the next witness, the Namok family. So can I suggest 10 minutes?

CHAIR: Who is the next witness?

40

MR GRIFFIN: The Namok family.

CHAIR: Right. That's been organised. I see. That's from earlier today. Very good. All right. We will adjourn for 10 minutes. Thank you again.

45

**<THE WITNESS WITHDREW**

**<ADJOURNED 3:25 PM**

**<RESUMED 3:47 PM**

CHAIR: Yes, Ms Tarrago.

5 MS TARRAGO: Commissioners, we will hear from the Namok family, who will appear on the  
AVL from Gimuy, Cairns. Commissioners will see on the screen Mrs Bakoi Namok, Bernard  
Namok, Kernisha Namok and Simeon Namok. From time to time, Bernard may assist in  
communication and the Namok family is also supported by Tyron Day of the Royal  
10 Commission and Ms Wallace of FPDN. Bakoi Namok has provided a statement for this public  
hearing dated 9 July 2022, and this statement can be found at Hearing Bundle A tab 33. The  
family will all be taking an oath.

CHAIR: Yes. Thank you very much to the entire family for coming to the Royal Commission  
remotely. We are very grateful to you for being willing to give evidence and for having  
15 provided a statement through Bakoi. If you would be good enough, we will administer the  
oath through my associate, whom I hope will you be able to see on the screen - no. My  
associate will explain what needs to be done, and if you would be kind enough to follow her  
instructions, that will be the administration of the oath. So thank you very much again.

20 **<BAKOI NAMOK, SWORN**

**<BERNARD NAMOK JNR, SWORN**

**<KERNISHA NAMOK, SWORN**

25

**<SIMEON NAMOK, SWORN**

CHAIR: Yes, thank you very much. I will now ask Ms Tarrago, who is in the Alice Springs  
hearing room, to ask you some questions. And I'm sure it's been explained, but just to be  
30 absolutely sure, I should indicate that in the Alice Springs hearing room, I have on my left  
Commissioner Mason, and on my right Commissioner McEwin. And I am the Chair of the  
Royal Commission, and it is the three Commissioners who are sitting on this particular  
hearing. Ms Tarrago.

35 **<EXAMINATION BY MS TARRAGO**

MS TARRAGO: Thank you, Chair. It is also customary, throughout the Torres Strait, to  
acknowledge the coming of the light and, in particular, the celebrations of the 1 July that are  
40 held each year throughout the Torres Strait. It is a recognition of the acceptance and  
representation of Christianity throughout the region, and Mama Namok will lead her  
evidence in a short prayer.

CHAIR: Yes, thank you. Please go ahead.

45 BAKOI: Thank you, Father. We thank you once again to be here, Lord. Lord, I pray that you  
have your way, Lord. Listen, Lord to our needs of our people, Lord, of this land and, Lord, I  
pray in Jesus' name, Lord, amen.

CHAIR: Thank you very much. Yes, Ms Tarrago.

5 MS TARRAGO: Thank you, Chair. Mama Namok, you provided a statement to the Royal Commission that was a document that you signed, and the document, are the contents true and correct?

BAKOI: Yes.

10 MS TARRAGO: Today, you will all be giving evidence, so, Mama Namok, you with your children today, and you will be speaking of the experiences of Simeon, Boyzie, who is seated next to you, and sharing in that journey. And he's asked you and the family to do that for him.

15 BAKOI: Yes.

MS TARRAGO: And, as a family, it is customary throughout the islands that family can speak on behalf of family.

20 BAKOI: Yes, that's correct.

MS TARRAGO: But I first would like to ask, Boyzie, thank you for coming today. You are a very quiet person.

25 SIMEON: Yes.

MS TARRAGO: And you are also a father?

SIMEON: Yes.

30

BERNARD JNR: Yes.

MS TARRAGO: Could you tell the Commissioners the things that you like to do?

35 BERNARD JNR: What are the things you like to do? Like, in your spare time, what are them things you like to do?

MS TARRAGO: Do you like fishing?

40 SIMEON: Yeah, fishing. I like -

MS TARRAGO: Do you like - sorry.

BERNARD JNR: Yeah, fishing. Simeon was saying he likes to fish and -

45

SIMEON: Yeah.

BERNARD JNR: Yeah.

MS TARRAGO: And you like spending time with family?

5 SIMEON: Yeah.

MS TARRAGO: And you like being back home on the islands?

SIMEON: Yeah.

10

MS TARRAGO: Thank you. Mama Namok, how many children do you have?

BAKOI: Four.

15

MS TARRAGO: And you have three of your children here on screen with you. Your other daughter is back home?

BAKOI: Yes. Due to work commitments, she's back home.

20

MS TARRAGO: Yeah. And today we had to reshuffle a little bit the timetable, and was that because even though there were very good plans to book transport, the taxi decided not to come?

BAKOI: Yes.

25

MS TARRAGO: And is that something that happens quite often in Cairns?

BAKOI: Yes.

30

MS TARRAGO: Is there only one taxi that can transport Boyzie to certain places? Or are there many different taxis that can do that?

BAKOI: Only wheelchair taxi service for the needs of here.

35

MS TARRAGO: So how many of them?

BAKOI: I'm not too sure.

40

MS TARRAGO: Okay. But it has been a problem in the past that even in Cairns, a city, that it's very difficult to get transport for wheelchair access?

BAKOI: Yes.

45

MS TARRAGO: But we're here today, all together, so we will continue. Mama Namok, can you tell me a little bit about your family and your late husband?

BAKOI: My name?

BERNARD JNR: I think it's like your name and -

5 BAKOI: My name is Bakoi Pau - nee Pau - Namok, been married to Bernard, and together we have four children, Bernard Jr, Betty, Kernisha, Simeon and Sandra. Yeah.

MS TARRAGO: And your husband is very well-known throughout the Torres Strait and Australia?

10 BAKOI: Yes. Designer of the Torres Strait flag, yeah.

MS TARRAGO: So I'm going to ask for the operator to play a video which talks about your husband, and Bernard is also in the video. And it's called '*Carry the Flag*'. Operator, I ask that you display Doc ID TTP.9999.002.0001.

15

**(Video '*Carry the Flag*' plays)**

Traditional singing)

20 BERNARD JNR: It's hard living on the mainland. You leave your family, you leave your culture, and you leave your lifestyle back on the island.

(Traditional singing)

25 BERNARD JNR: A lot of people don't know that I'm a Torres Strait Islander. Or even where the Torres Strait is.

(Traditional singing)

30 SPEAKER: Australian Government recognise the flag in 1995, but it was first flown for the Cultural Festival 1992.

35 BERNARD JNR: My dad, Bernard Namok Senior, designed the Torres Strait flag. The flag was important because it represented us, Torres Strait Islanders. The Aboriginal people had the flag that represent them. It identify us as a race of people from Australia. We were different to the Aboriginal people.

40 SPEAKER: I would like to call upon Bernard Jnr to come forward now. Boy Boy is going to raise the flag here at this monument.

BERNARD JNR: It makes me feel proud to be asked to raise the flag at any events. It's a responsibility that was passed on. I feel like it's my job to continue on where Dad left off.

**(Video ends)**

45

MS TARRAGO: So Commissioners had the benefit of seeing you all in that video, and we also saw Boyzie and Bernard raising the flag. Thank you, operator. That '*Carry the Flag*' video was

produced by Tamarind Tree Pictures. Bernard, are you able to share with the Commissioners the importance of your father's journey and the responsibility for you and your people?

5 BERNARD JNR: Yeah, so I wanted to continue on the legacy of my late dad and also to - to carry on, I guess, you know, where Dad left off. Designed the flag in 1992, passed away in '93. I was seven years old?

BAKOI: Nine.

10 BERNARD JNR: I was nine years old when Dad passed on, so I wanted to do a nice little - I guess, a documentary for the 25th anniversary of the flag five years ago, and, yeah, just to continue on, and I guess the importance of that flag and what that flag means and who it represents.

15 MS TARRAGO: And this year you celebrate the 30th anniversary?

BERNARD JNR: Yeah, 30th anniversary of that flag which was May 29th. A couple of weeks ago now.

20 MS TARRAGO: Mama Namok, how old was Boyzie when you lost your late husband?

BAKOI: Five months. Yeah. Kernisha was two. Betty was eight and Bernard nine.

25 MS TARRAGO: Can you tell the Commissioners about Boyzie growing up and his health journey.

BAKOI: He was really quiet boy.

30 MS TARRAGO: And was he sick from time to time?

35 BAKOI: Yeah, he was sick, yeah, 12 - 12 months, yeah. He had - well, we didn't know back at the time when he was sick, he just had rheumatic - high temperature, all the time from baby onwards. Growing up, yeah. From - yeah. High temperature. And we take to hospital. They just say, diagnose, give him Panadol and go back home. So he's been going right through his childhood, yeah. When we usually go to our church rallies, when he got sick, then we visited hospital.

40 We know that New Mapoon, Bamaga, we went there and last one we went to Weipa church rally. He got sick there. Then I remember taking him to that community centre -- and the doctor, Dr Wong, diagnose him with - he had a touch of rheumatic fever. And back then, I didn't know anything about rheumatic fever, how - yeah. So he told me went - go back to Thursday Island, take him to the hospital and told the - tell the doctor that he has a touch of rheumatic fever. Yeah. And that's it.

45 MS TARRAGO: And he was one of the first people in the Torres Strait to have been diagnosed with rheumatic heart disease.

BAKOI: Yes.

MS TARRAGO: And when he was about nine or 10, he had surgery to have a mechanical valve put in?

5

BAKOI: Yes, that's correct. We went to Brisbane, now, when he was nine, yeah. He had that - yeah, Prince Charles Hospital. That's where we - he had that valve replacement, yeah. They had to put that mechanical valve, yeah. Back in 2002.

10 MS TARRAGO: And since then, he's had to take some medication from time to time. And - and last year in September, he had missed a little bit of medication and became sick.

BAKOI: Yes, that's correct.

15 MS TARRAGO: Okay. So I just want to talk about that time. Boyzie had been going between your house and also Hammond Island where his partner lives and the baby?

BAKOI: Yes.

20 MS TARRAGO: And can you tell me a little bit about what happened in September?

BAKOI: Yeah, when he was with his partner - weekend trip, yeah, at the same time they had that Sorry Business or that, yeah, partner, grandma, yeah. Then his dad came over to me that morning, Wednesday. He asked me about Simeon medication. And I told him that - I  
25 tried to ring Simeon, to find out, you know. I always check up on him, how he's going, is he on tablets and remember to take his tablets and, yeah, all that. Then his dad came, yeah, talked to his dad. Then I was really angry with my - yeah, because Boyzie that type of person that he won't tell you if he's sick. He just do things for family out of - yeah.

30 MS TARRAGO: So when you are talking about the dad, that's Boyzie's partner's father?

BAKOI: Yes.

35 MS TARRAGO: Yes. And so, Boyzie, you became sick, and your partner's father took you by dinghy to TI, to Thursday Island?

SIMEON: Yeah.

40 MS TARRAGO: And a dinghy is the normal way that people travel between the islands day to day.

SIMEON: Yeah.

45 MS TARRAGO: So Mama Namok, you and Kernisha ended up travelling to Townsville, where the hospital had transported Boyzie because he was unwell?

5 BAKOI: Yes. Like - I got a phone call from Kernisha, because I was at home. She rang me and told me that - that they were going to go send Boyzie down to Townsville because, yeah, he was really sick. I said, okay. So I - the second call when Kernisha rang, is I got panic, and I catch a cab from my place to - down to the hospital and went in. They say that they had to emergency, send Boyzie down to Townsville. And Royal Flying Doctor on 3 September. Yeah.

10 MS TARRAGO: And so in various times, you all - you and Kernisha travelled down to be with Boyzie in Townsville, and he received treatment there. And then some time after that, did he go to Cairns for rehabilitation?

15 BAKOI: Yes. Kernisha came down October to be with me, because I couldn't take it, yeah. Came down to be the support. Then we stayed in Townsville for - until November. Then we flew back to Cairns, yeah, from Townsville University Hospital to Cairns Base Hospital. 4 November.

20 MS TARRAGO: And how important is it for your family to support one another and be with one another during those times?

25 BAKOI: Important?

30 MS TARRAGO: Is it important?

35 BAKOI: Yes. It is really like be with - at this time, we need to be connected with one another. With families, yeah.

40 MS TARRAGO: And so you have to travel a long way and sometimes very costly, but because of that connection, it's very important to be together.

45 BAKOI: Yes.

50 MS TARRAGO: And people back home in the islands also supported to make sure that you were okay, both of you, to support Boyzie?

55 BAKOI: My immediate family, yes. Very supportive in financial, yeah. Yeah.

60 MS TARRAGO: And so, while in Cairns, do you remember hearing about the NDIS?

65 BERNARD JNR: So you -- something about the NDIS when you were in Cairns?

70 BAKOI: No. Not really. It was like new to us, yeah.

75 MS TARRAGO: So had you heard about the NDIS before?

80 BAKOI: We heard about NDIS, because we got that services up in TI, but not like people come out and -

85 BERNARD JNR: Like, have you heard about that services before?

BAKOI: No. Not really.

5 MS TARRAGO: And so when you were at the hospital, did you meet with some people on a teleconference from the NDIS? Do you remember that?

BAKOI: Yeah.

10 MS TARRAGO: Can you tell the Commissioners about that?

BAKOI: You can speak now.

15 BERNARD JNR: Like -- NDIS on teleconference over in Cairns? Before, like, when Boyzie be come back from Townsville.

BAKOI: Well, only the one - the one time there. I didn't know where we - we meet up. But we had that TV -

20 BERNARD JNR: Teleconference.

BAKOI: - teleconference, yeah, with Boyzie.

25 KERNISHA: I think it was November - November last year. We - that was the first time we've got introduced and heard of NDIS, but didn't have a proper understanding to how it all works and, yeah.

MS TARRAGO: Did you have any interpreters?

30 KERNISHA: No.

BAKOI: No.

MS TARRAGO: And did you get any papers that might have been in Creole?

35 BAKOI: No.

KERNISHA: No.

40 MS TARRAGO: Did you feel like in that meeting that you needed more time to understand things?

BAKOI: Yes.

45 KERNISHA: Yes.

MS TARRAGO: And in that meeting did Boyzie - was he asked questions?

BAKOI: Yes

KERNISHA: Yes, he was present at that time.

5 BERNARD JNR: Was he asked some questions too?

KERNISHA: They have asked - they have asked him questions what he wants, what he want - where he - where he wants to stay, living arrangements. If he wants to be in a facility with others or living at home with family. And he responded and gave them an answer.

10

MS TARRAGO: And what was that answer?

KERNISHA: He told them that he wants to live with family.

15 MS TARRAGO: And was that back home, Boyzie, back on the islands? Is that where you wanted to go to be with family, back in the islands?

SIMEON: Yes. Yes.

20 MS TARRAGO: Is it important to you to live back home on the islands?

SIMEON: Yeah.

25 MS TARRAGO: And what about now, Mama Namok or Kernisha, do you understand what the NDIS is about?

BERNARD JNR: -- any understanding now?

30 BAKOI: Yes, yeah, through now, yeah. What is about, then, because we didn't get that chance or offer us, like the service. They didn't give us no support.

BERNARD JNR: Better understanding back then. So you better understanding now?

35 BAKOI: Yeah.

BERNARD JNR: Yeah. So what Mum - what Mum is saying that back then they didn't have any understanding about what NDIS is about. But now because of Boyzie's condition they had to kind of relearn or learn about the services themselves. Because of, yeah, no, I guess, representation or better understanding back then but they - they do now.

40

MS TARRAGO: And do you think that the NDIS understands Ailan people?

BERNARD JNR: Do you think NDIS understand about Ailan people?

45 BAKOI: I'm not too sure.

MS TARRAGO: Do you think they understand Ailan culture?

BAKOI: I'm not too sure.

MS TARRAGO: Do you think they understand where you live, back on Thursday Island?

5

BAKOI: No.

MS TARRAGO: And why - why do you think they don't understand? Have you seen people on Thursday Island from NDIS before?

10

BAKOI: Yes. Yes, I've seen people up there, yeah, up in TI.

MS TARRAGO: And what about now since you've been able to go back home, have you been able to go into any office in - on Thursday Island for NDIS?

15

BAKOI: No.

MS TARRAGO: Is there an office?

20

BAKOI: Yeah, I think - yeah.

BERNARD JNR: Yeah. So Mum doesn't really know where the office on the island is.

MS TARRAGO: You haven't been there?

25

BAKOI: No.

MS TARRAGO: Would you be able to tell me how you would get back to the islands? So if you were to leave Cairns today, how would you be able to get back to TI?

30

BAKOI: By a plane. Plane from Cairns to Horn Island, yeah. And from Horn Island transfer in a bus from the airport down to the wharf where the ferry cross over to Thursday Island. Yeah.

35

MS TARRAGO: And is it possible to have wheelchairs go that journey on the plane and the bus and on the ferry?

BAKOI: Yes.

40

BERNARD JNR: Do you think it is easy for -

BAKOI: Yeah, we still need them things accessible for people in wheelchairs.

MS TARRAGO: So you need - you need more accessibility?

45

BAKOI: Yes.

MS TARRAGO: Okay. And do you think that if Boyzie was to go home today that you would be - you would struggle to get him back home because there's no accessibility?

5 BAKOI: Yeah.

MS TARRAGO: And what about through the Thursday Island. Is it easy to get around town in a wheelchair?

10 BAKOI: Transportation - yes. Because not much taxis service with that access too. No, yeah.

MS TARRAGO: What about the roads? Can someone go on the sidewalk, or do you have to go on the road on a wheelchair?

15 BAKOI: No, we - we do have sidewalk there around the island, yeah.

BERNARD JNR: For people with wheelchair, is it easy for them to be -

BAKOI: No, not -

20 BERNARD JNR: Do you reckon it is easy for them to access the footpath on the island or is it too rough for them?

BAKOI: Yeah. Yeah. Not much.

25 MS TARRAGO: So would it be too rough to go on the footpath?

BAKOI: Yeah. Yeah.

MS TARRAGO: And what about your home. Is it on stilts?

30 BAKOI: Yes.

MS TARRAGO: And about underneath, can anyone live there or is that open?

35 BAKOI: Just open downstairs, yes. Laundry downstairs.

MS TARRAGO: And so you would have to carry Boyzie up the stairs for him to be home?

40 BAKOI: Yeah, or help him up.

MS TARRAGO: And so would you need to modify the house to make sure that Boyzie could access it?

45 BAKOI: Yeah. Yes.

MS TARRAGO: And why is it important for Boyzie to come home? Is that where family is?

BAKOI: Yeah. Home is where the heart is. Family. And it's good he's back home for his wellbeing. Emotionally.

MS TARRAGO: And to be around his people?

5

BAKOI: Yeah.

MS TARRAGO: And for Ailan people is it important to have that connection to the sea?

10 BAKOI: Yes.

MS TARRAGO: And also to be close to his newborn son?

BAKOI: Yes.

15

MS TARRAGO: Now, I want to talk about the support services. Boyzie has since been discharged from the hospital and been living in supported independent living, but he shares that with two other men?

20 BAKOI: Yes.

MS TARRAGO: When you were talking as a family together about him moving into that accommodation, was it important to you to be able to go to his new home and be - spend time with him and cook with him? Was that something that was important to you all?

25

BAKOI: Yes.

MS TARRAGO: And did you also want some privacy so you could be a family together?

30 BAKOI: Yes.

MS TARRAGO: And were you concerned that maybe if you were all there and there was two other people that that may be upset that they don't have family there at the same time? Was that making you worried a bit?

35

BAKOI: Yes.

MS TARRAGO: Did you also want to stay overnight, be able to stay overnight?

40 BERNARD JNR: -- did youse want to stay?

BAKOI: Yeah. Yes.

MS TARRAGO: And that wasn't possible in that accommodation?

45

BAKOI: No.

MS TARRAGO: And those are the things that are important in Ailan custom, to be able to do for your family that needs help.

5 BAKOI: Yeah.

MS TARRAGO: Looking to the future, today the big bosses will be listening. What would you want to tell them if you can change things to make life easier for Boyzie?

10 BAKOI: Service in the Torres Strait to support people who have a disability, so family don't have to relocate down to Cairns. And access public transport, like ferry service for people with disability, yeah. And plans - yeah, for family living in the Torres Strait. And number two - the most important one is housing, improving housing accessibility for people with disability up in the Islands and in the Torres Strait. And for support independent living as for Boy Boy who wants to go back home.

15 MS TARRAGO: Is it also important that they understand - the NDIS has interpreters or that people can access information in Creole?

20 BERNARD JNR: Like do you think that NDIS should have like information in Creole so will be more understanding for us?

KERNISHA: Yeah, so they can communicate, and both will have a better understanding.

25 MS TARRAGO: And do you think that they should - the big bosses should go to the islands to understand Ailan people and Ailan life?

BAKOI: Mmm.

30 BERNARD JNR: Do you think that the big bosses should go up and see how we live up there, to have a better understanding?

BAKOI: Yeah, yeah. Yes, come and observe, yeah.

35 MS TARRAGO: And if in are any other Ailan people that might be listening today, do you have any messages for them?

BAKOI: No. Just to come - come forward with your request, and say your story, and so your story may be heard. If help people, the Torres Strait Islanders.

40 MS TARRAGO: And are many Torres Strait Islander people very quiet and reserved. So might not talk up?

BAKOI: Mmm.

45 MS TARRAGO: Yeah. So - sorry. You go, Bernard. So it's important that other island people talk up?

BAKOI: Yes.

MS TARRAGO: Boyzie, is there anything that you would like to say?

5 SIMEON: No.

MS TARRAGO: Thank you, Commissioners.

10 CHAIR: Thank you very much. If you don't mind, I will ask the Commissioners whether they have any questions for you, and I will start by asking Commissioner Mason if she has any questions for you.

15 COMMISSIONER MASON: I just had one question. Thank you very much, all of you, for giving your evidence this afternoon. I wanted to know if you have met any workers in the NDIA from the Torres Strait community. Anyone that you know that works for the NDIA who is from the Torres Strait?

BAKOI: No.

20 COMMISSIONER MASON: Thank you. I just wanted to know that because we talked about communication during today, and you have mentioned that again, being able to communicate with people who know your community. That there is a connection. So I was interested in that question. So thank you very much.

25 I also want to say that I've been to St Paul's village, I liked it very much. Thank you.

CHAIR: Commissioner McEwin?

30 COMMISSIONER McEWIN: No questions. I wanted to express my gratitude and appreciation for your information and evidence. Thank you.

35 CHAIR: Yes. And I would like to add my thanks to you Mama Namok, Bernard, Kernisha and Boyzie as well. Thank you so much for coming to the Royal Commission and for telling us about Boyzie's story and your own experiences. It is very important for us to get stories from people with disability throughout Australia, and in a sense, you are representing the Torres Strait Islands because you have obviously come from there, and we have now heard evidence from people from Thursday Island; yourself. So we are grateful to you for allowing us to hear something of your story and of Thursday Island and to share Boyzie's story with us. I've been to Thursday Island, and I seem to remember that there was a white man who was buried - was it upside down in Thursday Island? Is that right?

40 BAKOI: Yeah, I think so.

45 CHAIR: Is my memory correct?

BAKOI: Probably Douglas, I think.

CHAIR: All right. Well, thank you very much again, and we hope that some of the things that you would like to see come about will come about in due course. Thank you so much.

5 BERNARD JNR: Thank you.

CHAIR: Ms Tarrago.

**<THE WITNESSES WITHDREW**

10 MS TARRAGO: Thank you, Commissioners. That concludes the evidence for today.

CHAIR: Thank you. Mr Griffin is threatening to take your place again.

15 MR GRIFFIN: Commissioner, thank you to you Commissioners and to the support staff for sitting late for the second day. Tomorrow, we wish to start at 10 am and we will deal with Fitzroy Valley witnesses all day and all will be by AVL.

20 CHAIR: Thank you very much. Thank you everybody. I endorse what Mr Griffin has said. Thank you. It's not unusual for us to go over time and it does take the commitment and dedication of staff and of the Law in Order people, the interpreters that enable us to do that. So thank you everybody. And all I can do, a bit like Churchill, is offer you the opportunity to do the same thing again tomorrow, Thursday and quite possibly Friday as well. So we will adjourn until 10 o'clock tomorrow.

25 **<ADJOURNED AT 4:28 PM UNTIL WEDNESDAY, 13 JULY 2022 AT 10.00 AM**

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