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Proof Committee Hansard

JOINT STANDING COMMITTEE ON ABORIGINAL AND TORRES
STRAIT ISLANDER AFFAIRS

**Inquiry into economic self-determination and opportunities for First Nations
Australians**

(Public)

FRIDAY, 19 JULY 2024

MELBOURNE

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JOINT STANDING COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS

Friday, 19 July 2024

Members in attendance: Senators Cox and Stewart and Mr Perrett

Terms of Reference for the Inquiry:

The Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs inquire and report on economic self-determination and opportunities for First Nations Australians, with particular reference to:

1. Opportunities for, and barriers to training, employment and business development;
2. Impediments to building the economic and social infrastructure required to support economic prosperity in the long term, including barriers to building the economic and social infrastructure required to support industry and business to expand and create jobs;
3. Options to unlock capital and leverage intellectual property, the Indigenous Estate and First Nations skills to elevate First Nations people as economic partners;
4. The international and intergenerational experiences of fostering economic independence for First Nations communities;
5. Any other related matters

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CRAWFORD, Mr Angus, General Manager, Economic Policy, Research and Government Relations, First Nations Foundation

USHER, Mr Phil, Chief Executive Officer, First Nations Foundation

Committee met at 09:14

CHAIR (Senator Stewart): I declare open this public hearing of the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry into economic self-determination and opportunities for First Nations Australians. I'd like to begin by acknowledging the traditional custodians of the lands on which we are meeting today, and I pay my respects to their ancestors and their elders past and present. I extend this respect to all Aboriginal and Torres Strait Islander peoples in their cultural and spiritual connections to Australia's lands and waters. On behalf of the committee, I welcome any traditional owners who are here today.

I remind all senators and members that proceedings are to be conducted in a respectful and courteous way. I remind senators and members that this is a workplace, and this is especially true for the public officials and stakeholders who are present before us. It is absolutely essential that they are treated with respect and that they feel safe when they are present in the hearings before us. As chair I will be particularly vigilant in ensuring the cultural safety of First Nations people and culturally and racially marginalised groups during these proceedings.

In accordance with the committee's resolution on 7 September 2022, this hearing will be broadcast on the parliament's website, and the proof and official transcripts of proceedings will be published on the inquiry website. I remind members of the media of the need to fairly and accurately report the proceedings of the committee.

Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement, if you have one, before we proceed to asking you some questions.

Mr Usher: I'd like to begin by acknowledging that we're on unceded lands of the Wurundjeri people, and I pay my respects to elders past and present, and to all the First Nations people in the room and following proceedings online.

I'm a proud Wiradjuri man and also take great pride in my upbringing in Tamworth with the Gomeroi people. I'm one of six kids, who grew up in Aboriginal housing commission. My nan was part of the stolen generation, and Dad often talks about how he lived in a tent for the first four years of his life—and that was the only accommodation that was available for the family at the time. Nan went on to secure some housing commission, and Dad eventually became a homeowner. It's the upbringing in these stories that keeps me focused and motivated to support mob in achieving financial prosperity and seeing what's truly achievable within the one generation.

I join you today in my capacity as CEO of First Nations Foundation. First Nations Foundation, or FNF, is Australia's only Indigenous led financial literacy education organisation, guided by our First Nations majority board since 2006. Later this year we'll commemorate the 25th anniversary of our organisation and its predecessor, stretching all the way back to the establishment of the First Nations Credit Union on Yorta Yorta country in Shepparton.

Today I want to emphasise that financial education is essential for achieving security and serves as a cornerstone for addressing a whole range of social challenges. At FNF, we work directly with First Nations communities, offering financial literacy education and training grounded in culture. Our core brand promise is for mob, by mob. We provide a safe and trusted space for First Nations people to access resources and information to help them achieve financial empowerment, and our initiatives are designed to support and uplift First Nations communities by delivering culturally relevant financial education.

If we think about the impact of instilling financial literacy in First Nations communities, we're looking at giving people the fighting chance at a life of equality. We're looking at helping First Nations individuals who are on a payroll, live in urban environments and are the first in their family with the ability to manage their finances and build assets. We're looking to support First Nations women and children who are unable to exit abusive relationships due to financial constraints. These women are 35 times more likely to be hospitalised due to violence than non-Indigenous women, and six times more likely to die as a result. We're looking to change the 27 per cent representation of First Nations people in prison, who are more likely to reoffend due to a lack of financial support and debt. We're also looking to guide First Nations individuals who pursue higher paying jobs, start their

own businesses or benefit from royalties in native title—yet some of them still fall prey to success due to the lack of financial education and mentorship.

Transitioning from a life of hardship and oppression to one of prosperity is nearly impossible without financial literacy—a stark reality in our communities. While currently there are historic highs of First Nations people having surplus funds, the lack of guidance to manage these resources will often succumb to lifestyle creep. I want to share a case study about an individual who attended one of our financial education workshops. At the time of the training, the learner was receiving Centrelink benefits but had recently been employed in the mining industry. He explained that he left his job despite earning \$175,000 annually in the top end of WA. Due to family pressure, he threw in the job. He couldn't handle the constant asking for money, the humbugging, and the expectation to share his money with family and friends. This case study shows that, despite our best efforts and with a lack of financial empowerment, we will only ever be one or two decisions away from going backwards.

We strive for systemic change within the financial service sector. Our world-class outreach program, Big Super Day Out and Financial Wellness Week, have helped reconnect people with more than \$26 million in super and put it back under the control of the First Nations community. Earlier this year, we hosted the first Indigenous-led First Nations super summit, uniting community members and industry professionals to identify significant barriers to First Nations people accessing and managing their superannuation. We are now collaborating with the sector partners to address those barriers. We take great pride in the work we do at FNF but we recognise our ambition to surpass our own goals, because, when it comes to economic prosperity of Indigenous people, we are committed to leaving no stone unturned. I thank the committee again for inviting us to appear today, and we welcome your questions.

CHAIR: Thank you, Mr Usher, I appreciate that. Senator Cox, I don't know if you wanted to just quickly introduce yourself before I start asking some questions.

Senator COX: Good morning to you both and thanks for appearing this morning. I'm joining from Boorloo—Perth—on the West Coast, so it's nice and early for me here this morning. I appreciate you providing evidence to the committee on this really important issue. Thank you, Chair, for the intro. I'll hand it back to you to start the questions.

CHAIR: Your organisation has delivered financial services and related supports for 17 years. Is that right or is it longer?

Mr Usher: It was 25 years in its first form and 18 years in its current structure.

CHAIR: So you have a wealth of experience. If you could unpack for the committee what you would say are the main barriers and differences, I suppose, between the experiences of First Nations people and non-Aboriginal people across the country when it comes to that kind of financial independence or hardship?

Mr Usher: The main difference we're seeing is that, as Aboriginal and Torres Strait Islander people, we never had the opportunity to manage our own money. That concept is only new. If we look back to historical legislation and policy, we were placed on missions, were told how much we could earn, what we could do with those funds and were often just paid in rations, whether that was blankets and alcohol or tobacco and sugar. That was the exchange. If we shift forward to when we were allowed to go into the workplace, I've had aunties tell me that they had to have a medical certificate to say they were clean enough to work next to non-Indigenous people. These were just kind of factory production line types of roles. We've gone into employment but, by the time you pay rent and get a bit of food, there's no money left over. We've been involved in stolen wages, where funds have been held to be paid at a later date. We've got the cashless debit card, which some in the community find useful but I think the vast majority don't find useful. So we have a range of different policies and experiences where we've never had the opportunity to manage our own funds until now, where we've got a consequence of success, where we're pushing for First Nations people to be employed and to be employed in meaningful roles.

There are a lot of us that might have surplus funds left over but we just don't know what to do with it or where to go to ask. I find my non-Indigenous friends will usually have someone in their family they can ask about investing and property or they'll have a savvy uncle or auntie that will know about those things, whereas, for Indigenous people, it's just not part of our dinner conversation. We haven't had that experience. Where we see the foundation fitting is that place where mob can go, can ask us questions, can feel safe and be confident to then pursue their own financial pursuits.

CHAIR: It has certainly been a theme through lots of the submissions to the inquiry that the impact of not having that intergenerational knowledge around economics and finances has been a real kind of ball and chain—for want of a better term—on the supercharging of First Nations businesses and economy. From the data at least, especially the snapshot out of Melbourne University that tells us that First Nations businesses in particular

contribute \$16.1 billion revenue and 116,000 people, it's pretty incredible when you think about the historical factors experienced by First Nations people. That's not really a nice segue into me asking what are the outcomes for First Nations Australians when they access the appropriate financial supports? You would have some insight into that.

Mr Usher: With our training, we track our impact and what people achieve. We've got specific data points and numbers to show that people feel more confident to talk about finances and engage in mainstream financial services as well, not necessarily just accessing Indigenous products. If we talk them through the complexities of buying a house and what the jargon means, they're just as confident going to an IBA as they are to a Commbank because they've learnt that information.

We've had people go through and eliminate their debts, particularly with payday lenders, which is big in community, and a number of the different fringe credit providers. They get that foundation and that understanding in an environment they can feel safe in, because all our trainers are First Nations people. We talk about the lived experiences we all share—that credit card that we got when we were younger that we shouldn't have. It creates this lived experience that everyone shares. We find that, once we do that, the financial part is quite easy. They then feel much more comfortable to take action for different areas of their life. The success really depends on the individual. For some people it's just getting out of debt and having a little bit of money or food in the fridge. If family come around, they can feed everyone. Other people are really focused on starting that business or looking to acquire properties or build their assets.

CHAIR: It was in your submission you said that one in 10 First Nations people are financially secure. That's a pretty horrifying statistic, really, in a country as rich as ours. It really speaks to the importance of the work that you do in helping build people's financial literacy and competency. It sounds like that builds a whole lot of confidence in them to be able to manage their own circumstances into the future as well. It would be good to understand from your perspective what kinds of practical things you think that the Commonwealth government could do to address some of the some of the barriers experienced by First Nations people or to accelerate growth? It's a big question.

Mr Crawford: I might just disclose and put on the record that, as a non-Indigenous man, I would also like to acknowledge the lands in which we meet, the unceded lands of the Wurundjeri people, and acknowledge the traditional owners, past and present and elders, and also pay my respects to those in the room and following online. To echo what Phil said, part of what we seek to do is shift the conversation from one of the necessities of First Nations economics and the historical legacy of successive governments. Traditionally, at a Commonwealth and subnational level, the policy conversation has revolved around how can we elevate the average First Nations person out of unemployment into employment, and the cycle kind of ends there. 'We've lifted this person out of their situation. They're no longer receiving welfare support. They're gainfully employed, so we'll sort of wash our hands of the situation and move forward.' But what we're keen to do is reframe that narrative to one where we're concentrating on wealth generation, prosperity, asset generation, long-term planning, all the sorts of things that a non-Indigenous person might otherwise take for granted or consider to be assumed knowledge. This is what we're delivering in the financial literacy workshops and taking to community. Part of the work that the foundation does so well is connecting banks and major financial institutions—the Commonwealth Treasury, ASIC and other regulatory and government agencies—bringing them to the table and, in some cases, taking them out to community to meet people firsthand. We make sure that these processes are—I am loath to use the term 'co-designed', because I know that can be inherent problematic in some situations. Not in all cases, but there have been scenarios where co-design involves token consultation and a tick-box exercise, which is not something that we're supportive of, I hope it goes without saying. I think we would encourage governments at all levels, including the Commonwealth, to be more ambitious, to elevate their thinking as it relates to First Nations people and to start designing and delivering policies in partnership with the key economic portfolios. Yes; there's a role to play for DSS and others, but it's really about linking that long-term, strategic, ambitious economic thinking with First Nations people and involving them in the journey to a point where it's self-determined.

CHAIR: I think it is becoming more of a topic of conversation. Certainly, the Treasurer is really interested in this space. We're thinking about the economic situation of First Nations people beyond just social services and what's in the Closing the Gap stuff. Even the Closing the Gap stuff talks about jobs; you talked about that piece. I suppose I'm keen, too, to think about this. We've got a number of measures underway under our government, whether it's in the jobs and skills space, the Future Made in Australia policy or the clean energy transition. It seems like there are multiple opportunities to do what you're talking about, if it's done the right way.

Mr Crawford: Certainly. I think clean energy is a terrific example. I know, if I'm not mistaken, the First Nations Clean Energy Network will also be appearing as witnesses today, which is great. It's something that Phil

and I have discussed in other contexts in relation to clean energy serving as a great example. It's part of the process of transitioning First Nations people from being passive recipients of compensation, welfare and other subsidies to becoming equity-holders, proponents of projects, the drivers of projects and, ultimately, the ones to determine where a particular project goes and how the lands and waters for a particular asset are managed. In our submission, we may have also referenced the final report for the Australian Small Business and Family Enterprise Ombudsman. That looked at the relatively recent changes to Commonwealth procurement rules and how there are some inherent conflicts with the various CPRs—the Commonwealth procurement rules—the whole-of-Australian-government panels and the inbuilt incentives and schemes to support SMEs and First Nations businesses. As it stands, that review identified several tensions. The rules and guidelines in place are not consistent across the board. They are not uniform. Whilst things like the Buy Australia Plan, for example, and the principle of sovereign manufacturing are fantastic, and whilst everyone would support that endeavour, it's just a question of making sure that these things are reviewed consistently and that there's a holistic understanding that we're working towards profiling, considering and elevating First Nations businesses along the way. Are there any clauses or conditions in a grants scheme or another subsidy program where we're not considering First Nations businesses and in fact doing the opposite, where there's conflict in those procurement rules?

CHAIR: Absolutely. There have been incredible gains made with things like the Indigenous Procurement Policy. We've heard about the success that can happen if government gets the levers right, but it doesn't necessarily get them right all the time. It is good to continue to look at those things and ensure they have the intended impact. Another question I have before I hand over to Senator Cox is this. You work with the finance industry and partners. I'm keen to understand more about that. Why was it that you started to focus your work there? What was the driver for that? What impact have you seen for First Nations people? DO you think there's more of a role for government in that space, too? The answer might be, 'No, I don't know,' but I am keen to get your thoughts on how the mainstream finance sector plays in this space.

Mr Usher: Originally, 2014 was, I believe, when we really started working with the finance sector. That's when we had our first Big Super Day Out, and that program has been running for 10 years now. I think the way to progress forward is—before that, we were just kind of going out to communities and saying, 'This is how these Western organisations operate; this is what you've got to do if you want to succeed.' But I think it's equally powerful to go to these organisations and say: 'Let's meet halfway. We're telling mob how you want to operate, but this is how they want to operate, and this is how we do business and this is what we focus on.'

One of the examples of that was the alternative forms of identification for superannuation and now banking. Super funds would want 100 points of ID. Community were saying: 'We don't operate like that. Our identification is not the same.' They'd kind of come together, and now there are six forms of alternative ID for First Nations people that were supported by AUSTRAC. I think that's a great example where both community and industry have come together as an alternative way to go forward. So, rather than just going out to community and saying, 'This is what you need to do; you need to change your practices and processes to work with the financial services sector,' we're putting it back on them as well to say, 'You need products, service and customer experience that connect with First Nations people.'

CHAIR: Why is that important? What was happening before that?

Mr Usher: Not much. With the superannuation, it's been 10 years, and it's 24 or maybe 25 communities, and we've helped relocate \$26 million in lost super for First Nations people. That would probably just have gone to the ATO as a deceased estate. It didn't go anywhere. So taking our sort of initiative is just creating these opportunities where they would have just been non-existent. Things just would have not happened at all. It is the same with the issue that we're working with the ATO on around deceased estates. If your partner passes away and you don't know their super fund, the ATO won't tell you. If you call the ATO, they won't say, 'Oh, they were with AustralianSuper,' because of the legislation that limits them from doing that. There would be no personal information or anything; it's just saying, 'They're with this super fund,' and then you go through their process. So there's all this, I guess, silent missed opportunity that no-one's capturing because there are so many barriers and it gets so complex that First Nations people then don't pursue it beyond that.

CHAIR: Yes. It sounds like the red tape is useful in some instances for protections and all that kind of stuff, but in some instances it can act as a real barrier to people accessing what is essentially their entitlement.

Mr Crawford: I would agree with that. If I could add to that, I would say, from the meetings that we've held—which we referenced in the submission of the Indigenous Super Working Group—we've been fortunate to have a very productive coalition of the willing where on these issues, which may seem niche or administrative in nature, the superannuation sector and the financial services industry more broadly are not only aware of the

matters but broadly supportive of change and recognise, as Phil said, deceased estates, binding death nominations and First Nations kinship structures.

These are not necessarily new issues, and they've been on the radar of Commonwealth agencies and regulators for quite some time, to the point where, as I think we might have noted in the submission, one or two of them had come up during the proceedings of the financial services royal commission four to five years ago—not, strictly speaking, as final recommendations but just heard as evidence during the process. I believe, if memory serves, the Commonwealth Treasury ran a consultation in about 2019 with regard to binding death nominations and, for whatever reason, that didn't necessarily go anywhere—and not only that but the submissions that were supplied in response to that consultation were not made publicly available. We can't speak from an organisational perspective to have requested those submissions, but I certainly know that others in the industry have, and it's been met with a bit of a dead end.

So these are the kinds of things where we know from our conversations, on a biweekly or monthly basis, with those in the industry that they're supportive of change. They recognise that there are things to be done. As Phil said, we know that in some cases there are legislative requirements, so it's by no means an overnight consideration. But, when you see that on-the-ground support from the funds and from the industry, and we know that the issue's on the radar of our Commonwealth Public Service, it can get frustrating at times, I suppose, when there's a lack of progress, if I can put it diplomatically.

CHAIR: You can. I do have some more questions, but I might go to Senator Cox and circle back at the end if time allows.

Senator COX: Can I just go back to your opening statement and the example that you gave in relation to the guy that left his job over here on the west coast and that was working up north. This committee has already heard evidence from several people around the obligations that we have to family and kinship, particularly the obligations that are economic. I completely agree with the comment that you made that we're often two decisions away from going backwards, but I want to go to the data sources, the accuracy of the data and the way that we measure poverty for First Nations people in Australia. Would you agree that some of that data inaccuracy is the major problem given that we absolutely measure our income against mainstream or white Australia? That essentially doesn't look to some of the non-material aspects of poverty that result from our history in particular and also the colonialism that continues—around racism, oppression and dispossession. I don't know if you want to make any comment or have any views that you wanted to express to the committee about that.

Mr Usher: Could you just clarify that. I had a little bit of trouble with the audio in the room. Was that around comparing First Nations income data to non-Indigenous people? Was that correct?

Senator COX: Yes, it was.

Mr Usher: There are a range of different data points we could probably collect for First Nations people, to track more accurately how we are progressing. Income would certainly be one of them, but I think there are other areas—and for you yourself, as an Aboriginal person—like maintaining connection to culture, as well as increasing your income and looking at equity in home ownership, your superannuation balances and your assets outside of superannuation, that start to paint a bit more of a picture as to how we are progressing as First Nations people. That culture part, I think, is really important. One of the barriers we come up against is that, when we're training people, they start to feel a bit guilty or a bit of shame about earning good money or starting to do well for their immediate family, because when they go back home or when they're back on country they're just faced with the socioeconomic challenges of their immediate family. So I think that measurement and tracking that would be phenomenal because it's really important to us and how we can keep tabs on that going forward.

Senator COX: And I suppose those social indicators are really around the non-material factors, which relate to that—the removal of children, the loss of identity, spirituality and connection to cultural heritage, loss of contact and not being on country. They are the things that have culminated over the years, but we also have very clear non-income indicators of poverty, such as housing and health, which are quite critical. We absolutely in many demographics across Australia—I know that you're Victoria based. Is that correct?

Mr Usher: Personally, I'm based in Newcastle. The organisation is Victoria based but is national, so we go all across Australia.

Senator COX: What we know in northern Australia is that there is a significant amount of food insecurity and water insecurity and also the issue of remote housing. So that decent standard of material living conditions is somewhat different from us mob in the south. I'm just trying to get to the data sources and make sure that we, as a committee, are also focused on the way we track this and the way we track progress, because measuring the right things and the indicators in which we are advancing is a critical point of what we do and where we put our money

in order to make sure we're getting the right outcomes. Is the First Nations Foundation doing any of that data collection or working in collaboration with anyone around any of those issues?

Mr Usher: No, not at this point. In 2019 we released a *Money stories* report with the Centre for Social Impact, funded by NAB. That was the first real deep dive into financial resilience and challenges for First Nations people. It was around their experience in the financial service sector, looking at ways they access funds and whether they actually had emergency funds to access, so it was that real surface-level type stuff. One of the questions we did ask was—and this went across urban, regional and remote—what financial comfort broadly looked like for First Nations people. To preface it, non-Indigenous people generally think owning a boat is the pinnacle of financial comfort, whereas for First Nations people it's just having food in the fridge in case the family come around so you can look after each other.

But the point around the water and food security is an interesting one, because, personally, it's a struggle how that ends up being a First Nations issue when it's more of a basic human right, rather than kind of a KPI. I know it relates to Indigenous communities, but I'd certainly hope that's a thing we have to get right for all Australians, and then we progress forward. But I certainly take your point that the lived experiences in the Top End, as opposed to our experiences down here, in the south, are very different and the priorities are different.

For our foundation, we work really well with families and people that have got a little bit of job security and income and a bit of a support network, and it's about taking them to the next level. I find some of the challenges in those areas really require that financial counselling support, where it's one-on-one conversations. They have someone who can advocate on their behalf and can help them get out of any dodgy contracts that they might have been targeted for, and they really need that ongoing one-on-one support. I guess our sweet spot is that, once they've got out of that and they've got that basic foundation set, we can help them progress along that wealth continuum to make sure they're always moving forward and not ending up back in that situation.

Senator COX: I suppose that's really a broader infrastructure issue, especially when we talk about northern Australia and the energy insecurity that's happening there. I don't know anyone in the south, under the 26th parallel, who's currently on a prepaid card for their power. It is phenomenal that in modern-day Australia we actually are putting—and you're right—communities above the 26th parallel, in northern Australia, under that sort of pressure. But it's also exacerbated for our mob who are living under those conditions. So I completely agree with your position on that. Can you outline for me some of the particular problems experienced by First Nations people when accessing superannuation services. Was that something that came out in your report?

Mr Usher: For some of the specific challenges, a lot of it relates to early access. The preservation age and life expectancy for mob aren't great, so a lot of First Nations people don't feel they'll ever be able to access their super. When there is an opportunity to do it before preservation age, they try to. There's the cost-of-living crisis, and things are really tough at the moment. A lot of the challenges are around that point. Whether it's accessing the \$10,000 for hardship or it's on compassionate grounds for other medical reasons, there are challenges just going through the process.

One of the points from our Indigenous super working group is having standardisation in forms. At the moment we've collected forms for a lot of the super companies, and to get early access to your superannuation we've got one form that's five pages long, and another company has that same form, but it's 24 pages long. So we're trying to create something that's a lot more user friendly, particularly if you've got multiple super funds. For one fund, you've got five pages till you're done with the questions in the submission, but then the other one's 24 pages to essentially achieve the same thing. Outside of that, it goes into TPD insurance, where First Nations people might be able to work and then claim insurance within superannuation. This really becomes that financial literacy piece, where insurance, for most people, is complex, but it's even more so for First Nations people in regional and remote areas. And then, as I alluded to earlier, there are deceased estates and superannuation. If your partner passes away and you don't know their super fund, there's really no way of finding out that information and being able to access that.

Senator COX: Within that, do you have a breakdown that you could provide to the committee—what some of those key issues are and what percentage they represent? I'm particularly interested because my personal experience with that is that lots of our people, even from this week, are accessing their own superannuation, particularly our women, on compassionate grounds for funerals. So I'm interested in the data breakdown as a percentage, where that's happening. I'm interested also in the TPD relationship with NDIS and what that looks like. I know that there are many of our First Nations business owners who, with the early onset of diabetes or permanent disability, are finding that difficult through Services Australia. I'd be interested in the breakdown, if you could provide that.

Mr Usher: The short answer is we don't have accurate data. We hear case studies similar to those you hear about compassionate grounds and funerals—a big expense for mob. And we've got the issue with the funeral fund that went under that impacted a lot of people.

One of the priorities of the working group is to have superannuation funds ask their members whether they identify as Aboriginal or Torres Strait Islander, because, like for the issues you just mentioned, there are no data points. We wouldn't be able to say, 'X number of First Nations women are accessing super on compassionate grounds for X, Y, Z,' because no-one's capturing the data, whether they're a First Nations member or not. Certainly, it might sit with the ATO, but there are no cross-reference points from that data in the ATO going to the super funds.

So, for the reasons you just mentioned, we're trying to push the superannuation funds to at least have their members opt into identifying whether they're Aboriginal or Torres Strait Islander so we can start to capture some of those experiences and get some of those critical numbers, to provide a better experience for First Nations people.

Senator COX: Okay, great. That answers my question in a very convoluted way. I've got some more questions, but, Chair, I'm happy to pass back to you.

CHAIR: How about we split the remaining 10 minutes, Senator Cox. You can go for another couple of minutes, and then I'll wrap up.

Senator COX: Great. Thank you. In your capacity, in the work that you're doing, there's a quote on the business.vic.gov.au website:

The First Nations Foundation believes that small business owners should look beyond race and ask, what does this business offer that sets them apart from others? What can I get from this business relationship?

Is this the work that you've been doing alongside businesses—small businesses in particular—in Victoria and also nationally? Does it relate to that?

Mr Usher: Yes, that's right. We're funded by the Victorian government to essentially provide financial education for Indigenous entrepreneurs. We do the personal finance education, but we identified that, whilst Indigenous businesses are growing and expanding, that same need was prevalent for First Nations business owners, where they're not understanding the legal structure of an organisation—if they're going from being a sole trader to a company, what that means for tax obligations, and understanding GST. But it's putting more of a cultural lens on it.

One of the most popular webinars or sessions that we run is around pricing your products and services, because that's tied to, I guess, our oppressed background and our sense of self-worth. I find a lot of First Nations people, when they're starting their business, are really undercharging. I see them start with consulting jobs, and they're coming in at \$200 or \$250 an hour, which is phenomenal from where they've come from—but certainly not as the CEO of an organisation. I'd like to receive more of the ones that are \$250 an hour rather than \$10,000 a day. But it highlights the different experience, where, if you haven't come from a background where you know business owners and you haven't got that sense of self-worth to put forward a quote that stands up in the marketplace, there's an opportunity for these businesses to have that conversation and explain, 'This is the market rate. This is what happens. This is why we struggle with our pricing,' and guide them in education around financing, with that cultural lens as well. That's the crux of what we do in our finance. It's not going into how to write a business plan or how to do marketing. It's really that personal finance element for business owners.

Senator COX: Have you been experiencing or seeing a trend of increases in First Nations businesses across Australia in the time that the foundation's been running this more personalised bespoke service? Has there been an increase in the need for it?

Mr Usher: Yes, there's been a massive increase. We're only funded for Victoria—we've stayed there—but we're getting interest nationally and from banks as well. They have Indigenous business banking teams that are getting applications in to access finance, but they're missing some of the nuances around the structure and the debt obligations. That's where our education comes in. It talks about the liability if you're a sole trader versus the limited liability if you're set up as a company. Sometimes that's the only conversation that you need. Then they can progress forward with accessing capital. As the Indigenous business sector grows, we're seeing that as a bigger area as well.

The other part is within the corporate sector and even within the native title sector, where we see a lot of people that are great cultural knowledge holders and are great in community; they're on the board of a \$100 million or \$1 billion native title fund. There's not a lot of education between zero and AICD or zero and ORIC. I think that's a

growing space as well, where we can softly-softly introduce how a balance sheet operates at that core basic level rather than go to some of the complexities that current training goes into straight away.

Senator COX: With that increase of service, are you also seeing an increase in black-cladged First Nations businesses or in businesses being masqueraded as joint ventures?

Mr Usher: Not directly. We hear about it when it comes to funding, usually. We're talking to most of the banks that do funding for Indigenous businesses as well as IBA for streamed capital. We're just hearing it from their experience, where black cladding's a massive opportunity and where it fits into the IPP piece as well. It's certainly on the rise. So, there's an education piece around what that means. It's really just to be mindful of when you might be in that situation. From a business point of view, it sounds great. You've got a well-oiled machine, a great organisation, coming to you. You get a decent payment if you can just be the Indigenous face of the organisation and get wheeled around every so often to meet the IPP requirements. It's certainly becoming a bigger issue, but I also think the awareness piece is growing as well. There are a lot of people in this space educating on it.

Senator COX: Thank you. That's it from me, Chair.

CHAIR: Did you see the report out of ASIC earlier in the week about some of the big banks taking advantage of First Nations customers? You've talked about some of the vulnerabilities that exist there. Is it part of your role to work with some of the bigger institutions around that stuff? I'm wondering how we got here. Are there further protections needed, and what should they look like when it comes to First Nations people being protected from some of the opportunistic behaviours?

Mr Usher: It would be a combination. The community needs to be educated on what normal looks like. We had an instance where an uncle out in community signed up for a refrigerator—it might have been another of the whitegoods—for 50 per cent interest. We asked him why he signed up to something that high and he said, 'It's half of 100 per cent, so I thought it was a good deal.' So, that education piece is certainly needed with a lot of the community, as is just holding banks and financial institutions to account. In that report, there were people on Abstudy who were paying \$3,000 a year in banking fees. I think that element really comes back to being the responsibility of the banking sector around best practice, and even a code of conduct—three per cent of Abstudy payments is almost 20 per cent of the funds received per year. Even if you're educated, that stuff is easy to miss in your bank account, if those are the fees coming out. It's about working with both parties.

CHAIR: It sounds like a combination of two things. It's making sure that people have the financial literacy so that they know what their rights are, what they're entitled to and when they're being taken advantage of. That kind of prevention piece is really important. Also, when that misconduct does happen, if there's an independent watchdog who calls it out, somebody like ASIC, then there's some accountability for the conduct essentially.

Mr Usher: Absolutely.

CHAIR: I want to ask about buy now, pay later. We know that our mob are some of the biggest consumers of that form of credit, and we've announced some changes to regulate buy now, pay later. What are your views on the impact that might have, for example, on the increased protections and regulations in the buy now, pay later space? And where do you see further opportunities for protection?

Mr Usher: It's had such a devastating impact. I think it was originally pitched as the bigger ticket item: if you can't afford something that's \$1,000, pay it off in four instalments. I think you'll see a café accept Afterpay for your coffee. It's mob-like things that are easy. If someone gets finance from a payday lender and they don't get asked a lot of questions, and their uncle's there telling everyone about it, as opposed to the experience of getting credit from a bank where you have to go through extensive amounts of paperwork, they're assessing you and coming up with a credit rating, which you haven't heard of before—

CHAIR: And that's not good for the trust that people have in those institutions. They're not necessarily seen as a safe bet, and they might not necessarily get what they want. So, instead of going through the rigmarole and not getting the outcome you want, do you then turn to higher risk financing options?

Mr Crawford: Yes, I would say so. The consumer advocates have been on this for quite some time and have been responding to the prevalence of buy now, pay later products. The progressive regulatory changes that have been underway and the introduction of new legislation are welcome from our perspective because, as Phil hinted at, it's a case of it being a practical and useful resource to purchase a one-off asset for your home or a white good or an essential effectively to it now being accepted in almost every retailer, which is great when you're a provider of that financial product and essentially not being regulated as de facto credit, despite that being how it functions. The lack of awareness, I suppose, and the somewhat clandestine nature of the fee structure and the instalments have been problematic, to say the least.

Mr Usher: It's not too dissimilar to the poker machine issue, where they moved ATMs outside of the poker room and you had to get up from your poker environment and go somewhere else if you wanted to draw more money, which kind of distracted your thinking. I think something around that approach for buy now, pay later, because it's so easy just to tap and to sign up. If there's some kind of limit or something around that experience that you can have in a day—

CHAIR: Those environmental factors are really important. You don't necessarily want to make it easier for people to be able to do things that aren't necessarily that good for them. Whether that it's health, finances, or whatever it is, it's human nature to want to take the short cut. It's what our brains tend to do, anyway. Reducing those environmental factors sounds really important. I have lots of questions for you, but I'll ask you one final question. The government announced it's scoping a policy partnership on First Nations economic development, with the Coalition of Peaks and other organisations. What do you believe are the immediate priorities the partnership should focus on—if you could set the work agenda for that partnership?

Mr Crawford: In 30 seconds.

CHAIR: I'll give you a minute!

Mr Usher: It's probably no surprise: education around finances and financial literacy. It doesn't matter how successful we are. We've got members on native title royalties of \$60,000 a year—that's certainly a success—but still not having any money, and living fortnight to fortnight. We've got businesses that are doing well, but still with their own personal debts and tax debts. We've got GP and executives doing quite well and on reasonable income but still not building assets. So I think everything we do in that—

CHAIR: In a practical sense—sorry to interrupt you—where would be the opportunities for people to see that and say, 'Yep, I want to do that'? They could come to you, but where are the other points of intervention that you would think are practical? That's just me thinking: it'd be great to have these things, but where along that journey might they find out about it or might it be promoted to them?

Mr Crawford: I think there's a role for government to play, of course, but also peak and industry bodies as well as coalitions of financial institutions and superannuation funds. I know, for example, the ABA have been quite proactive recently, with their code of conduct and monitoring things like regional bank closures, to protect First Nations communities against malicious conduct or not honouring the code of conduct in those sorts of instances. 'Many and varied' is the broad, largely unhelpful answer.

CHAIR: Do you think there's a place for financial literacy in schools?

Mr Crawford: By all means. That's one of the issues I would say—the lack of connection between financial literacy and fundamental education syllabi. It's really about drawing that linkage between the basics of everyday money management and progressing to the point of wealth, prosperity and asset generation. I was thinking back to the point that Phil made earlier around understanding a market. It almost comes down to an intergenerational thing with First Nations communities—an acknowledgement and an awareness of one's own worth, whether that be cultural, interpersonal or, in this case, commercial worth. It's knowing what you can do from a financial perspective and knowing that it's okay to prosper and it's okay to generate wealth. That still seems to be a barrier in some circumstances.

Mr Usher: On the school thing, it's interesting. ASIC had rolled out an approach for teachers to add to their teaching repertoire, and I think they found that not necessarily all teachers were sufficiently financially savvy to be able to roll it out. But the biggest issue is that it requires a lot of funding but it can only ever produce what we call vanity metrics. We can only ever talk about bums on seats and say, 'Kids felt this confident about money.' You've got to have a very patient mindset to say, 'This child learnt about money in year 3; now they're a 25-year-old and they're doing quite well.' The actual impact of that education is, I think, where a lot of people get stuck. Certainly with our funding, they want reports and they want acquittals; they want impact straightaway. We need to be able to have that patient 15-year window. Apart from that, it's just bums on seats and how many kids attended the session.

CHAIR: Yes, but it's hard. If you're not measuring the right things, you might not necessarily see the difference that it makes in terms of the cultural impact of it being more common to talk about money in your home, for example, in a way that you just never did before. I think about the cultural differences that you can create. I'm not a big podcast person, but all the different podcasts I listen to say it's that culture of talking about money and income and how you manage your finances that's really important. We don't do it well, and there's potentially an opportunity to start that very young.

Mr Crawford: This may be a good opportunity for me to mention the First Nations Foundation's *Rich Blak Women* podcast, where many of these issues are addressed firsthand, and, if I might add, I believe Senator Cox has been a guest on the podcast previously. It's always a good opportunity to make a small, not-so-subtle plug!

CHAIR: Thank you very much for that plug; I appreciate it. I'll have to check it out. We will end our questions there. Thank you for your attendance here today. If you've been asked to provide any additional information, please forward it to the secretariat by 9 August. You'll be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to transcription errors. Thank you very much for appearing today. I appreciate it.

EVANS, Associate Professor Michelle, Director, Dilin Duwa Centre for Indigenous Business Leadership, University of Melbourne

O'NEILL, Dr Lily, Senior Research Fellow, Melbourne Climate Futures and Indigenous Studies Unit, University of Melbourne

POLIDANO, Associate Professor Cain, Dilin Duwa Centre for Indigenous Business Leadership, University of Melbourne

ROY, Dr Cate, University of Melbourne

THORBURN, Dr Kathryn, Senior Research Fellow, Indigenous Studies Unit, University of Melbourne

WEST, Dr Joseph, University of Melbourne

[10:13]

CHAIR: Do you have any comments to make on the capacity in which you appear?

Prof. Evans: I'm a Kurri woman from the Hunter Valley.

Dr West: I'm representing Professor Barry Judd and the University of Melbourne Indigenous Strategy. I'm the Associate Dean (Indigenous) for the Faculty of Engineering and Information Technology at the University of Melbourne. I'm a Murrawari man from regional New South Wales.

Dr Roy: I'm from the office of the Deputy Vice-Chancellor (Indigenous) and Pro Vice-Chancellor (Indigenous) at the University of Melbourne. I'm the Associate Director of Policy and Strategic Initiatives. I'm here in a support role and very happy to be here.

CHAIR: For those who don't know me, I'm a Mutthi Mutthi and Wamba Wamba woman from north-west Victoria.

Senator COX: I am a Noongar Yamatji woman.

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

Prof. Evans: I just wanted to make the opening statement acknowledging country here in Naarm, the Wathaurung and Wurundjeri people and to say it really does make such an important difference to acknowledge that the contemporary Indigenous business sector does come from a place that has risen out of the last 50 to 60 years since the referendum in '67 and the movement of our communities from missions and reserves into employment and different areas. The ability to have our own businesses is only a recent phenomenon. When we start to think about the contemporary Indigenous business centre, which has emerged fighting on its own terms for economic self-determination of our people, there has not been that much support. There are some Indigenous business acumen training programs around, like the MURRA program at Melbourne Business School. There are some specific support packages for certain industries, and what there has been from the federal government, which has followed out from industry and the now into our state and territory governments, is very much a focus on Indigenous preferential procurement programs.

I wonder and I propose, harking back to the 2016 Indigenous Business Sector Strategy that was proposed—and I was fortunate to be part of thinking about some of those things—that the strategy proposed a much more holistic approach that looked at the entire ecosystem of the business sector and started to think about not only procurement as one policy but also—what about training? What about working with industries and emerging industries? What about working with traditional owner groups? What about regional economic development? What about the data and understanding and the research required to understand our sector? What about bringing together Indigenous businesses and business leaders in a leadership forum to discuss economic self-determination? These are the things that are still missing, and I think prioritising networking and education and growing the entire ecosystem is required.

On the numbers we will present today at this inquiry and we have presented in our submission: when we present them, they can be easily improved. To the Australian economy, \$16.1 billion is an incredible contribution by Indigenous businesses and corporations, but, as we've made clear, this is a very partial number. It can be improved on not only by investment more broadly but by better coordination and certainly better data.

I'll leave it there. We look forward to having a conversation and hearing your questions.

Dr Thorburn: I'm speaking to you today from Yawuru country in Broome, which is where I live—so I'm bringing a Kimberley perspective to this discussion. I should add that I'm a non-Indigenous person. I've lived here for some 20 years. The place where Lily O'Neill and I are coming from is essentially to talk about energy as being fundamental to economic wellbeing, whether we're talking at a national level or a regional level or at the level of Indigenous households. There's a lot more detail in our submission, but I'll provide more of that as we go forward.

CHAIR: Thank you. I might start off with a couple of questions for Dilin Duwa. Tell us about the research you've undertaken recently. You've done your snapshot. What does that tell us about the economic contribution of First Nations people to Australia?

Prof. Evans: I'll do a little overview of the project and then ask Cain to present on the numbers. We've been working on this for nearly six or seven years now. There has not been a concerted effort to understand, from a data perspective, the contribution of Aboriginal and Torres Strait Islander people. How do we do that? From our perspective, starting with businesses is one way to do that but it's not the be-all and end-all; it's just the starting point. In the Australian Bureau of Statistics, where a lot of our data is as Australians, there is not an indicator for Aboriginal and Torres Strait Islander business. We've had to cobble together a coalition of the willing, of Indigenous data, of custodians, of people who hold Indigenous business registries to pull together a somewhat clunky list that is cleaned and then integrated into the business longitudinal data environment in the ABS to illuminate Indigenous business data. It's this methodology, which was really fledgling in our first report in 2021, that is now starting for us, as well as data custodians, to gain a little bit more of a better methodology, better sophistication and more data custodians coming on, to now present snapshot 3.0. I'll pass to Associate Professor Cain Polidano to outline our findings.

Prof. Polidano: As Michelle says, it's important to stress upfront that the estimates we have are likely to be an underestimate of the true contribution. At the moment our best estimates are that the sector contributes around \$16 billion in revenue. That's around the same size as the Australian timber industry; however, Indigenous businesses are arguably much more sustainable. In terms of wages, the wage bill is around \$4.2 billion—so Indigenous businesses, by our estimates, pay around \$4.2 billion in wages and employ around 117,000 employees. That's around the same as Coles supermarkets nationally; everyone knows Coles is a big employer, so Indigenous businesses are equally as important in employment terms. As yet we don't know what proportion of those employees are Indigenous, but that's something we're working on now and happy to talk more about.

In terms of the numbers of businesses, we estimate—again, this is conservative—there are around 14,000 Indigenous businesses; that means businesses that have at least 50 per cent Indigenous ownership. One of the most important points to stress is that Indigenous business entrepreneurship is coming from a low base. Our best estimate is that around four per cent of the Indigenous population nationally are business owners. That compares to around eight per cent—so the rate of entrepreneurship is around half of that of the population in general. It's starting from a low base but growth is high. We estimate that in each year of the last 10 years there has been an around 11 per cent increase in the rate of sole traders—that is, the number of sole traders has grown by 11 per cent per year—and the number of partnerships has grown by around six per cent per year. That compares to around three per cent growth in the number of businesses on average across the whole population. So the Indigenous business sector is coming from a small base, but it's growing fast.

CHAIR: What are some of your findings on some of the challenges or barriers experienced by First Nations businesses when compared to non-First Nations businesses? Have you found a difference between small and mature businesses in your work?

Prof. Polidano: One of the things we can talk on is some of the impacts of COVID. The analysis we've done shows that a lot of Indigenous businesses, especially those that are registered, are financially stable. They're quite mature businesses. They are relatively big in size, but in our estimates—again, far from perfect—that's around 20 to 25 per cent of all businesses. The rest of them are mostly small businesses. These smaller businesses post COVID have experienced difficulties compared to non-Indigenous businesses. During COVID we found that Indigenous sole traders and partnerships were less likely to survive COVID compared to non-Indigenous businesses. COVID placed a lot of pressure on small businesses to operate. A lot of Indigenous owners have caring responsibilities in community and other responsibilities that make it difficult for them to navigate through COVID. Our estimates suggest around 70 per cent survived—so around 30 per cent didn't. In summary, we identify two types of Indigenous businesses—ones that are thriving, and smaller businesses that struggled through COVID.

CHAIR: We heard from our previous witnesses about the impact of not having that intergenerational knowledge—corporate knowledge, I suppose—inside your family when it comes to business or finances or whatever. Did your study go to unpacking some of that stuff?

Prof. Evans: Not yet. Ours is very much very descriptive statistics of what the sector looks like—what industries, how big they are, how many employees, how much money.

CHAIR interjecting—

Prof. Evans: Exactly. The qualitative work—and it's great to hear those comments—is because we are coming from no base to a low base of intergenerational wealth. The idea of setting up a business is you go to family and friends and—

CHAIR: Lean on your networks.

Prof. Evans: That's right. If that's not available, we're seeing incredible Indigenous businesses sparking up off the back of people's ingenuity, their expertise in something—they're having to rely on their own selves. I think that's really interesting. It's a different type of entrepreneurship. It's really hitting the road hard on that and growing, which is why the registries are really important because they make the businesses visible, and then they can be open to corporate and government markets. There is a sense of verification or authorisation that these are the businesses that we want to work with, whereas, as Cain said, nearly two-thirds of the ecosystem that we showed in the snapshot report this time is unregistered businesses. So now we've got this ecosystem where we're seeing more of what is out there in terms of Indigenous businesses, but we have this kind of difference between registered and unregistered.

We understand there are great pros to registering your business, but perhaps there are cons too in terms of how much time it costs or whether or not it suits. A lot of the time, the registries have been set up especially for B2B structures, the business-to-business structures, which is more for procurement opportunities. And what we're seeing is all different types of businesses, whether they're retail or tourism, questioning whether it make sense for them to be visible on these directories et cetera. So there's a little bit more maturity in the ecosystem for us to work with there. And, of course, access to capital is the biggest barrier for growth in this space, as well as business education and business acumen, but I would say I'm probably biased as an educator.

CHAIR: Yes, I feel like business acumen and education has come up a fair bit through the submissions process as well. In your submission, you talk about a trust deficit. Can you just tell us what that is and what the impact is on First Nations businesses? Maybe tell us what trust deficit is in the system.

Prof. Evans: Cain?

Prof. Polidano: Thanks for the grenade! We know that trust is really important in the economy. If we don't trust each other, then we've got to bring the lawyers in, and that's really costly. So trust really matters. It helps lubricate transactions between people. If you don't have trust, then it's much more difficult to be able to do business. For Indigenous business owners, I think it is an impost on their business if they need to win the trust of their suppliers, and they often need to win the trust of their customers. If they're not used to dealing with Indigenous business owners—let's face it, we have a long history of Indigenous exclusion from entrepreneurship—people are—

CHAIR: People say that Australia is a pretty high trust economy.

Prof. Evans: It is.

Prof. Polidano: It is. Absolutely, we are.

CHAIR: And Aboriginal people haven't been the beneficiaries of that presumed high trust.

Prof. Polidano: Absolutely. Historically, we haven't seen many Indigenous people in positions of power, and when I say 'power', I mean business. We don't see that. So there is, I think, in the community, some distrust towards Indigenous businesses, and that has implications for both the supply chain and the customer base. And also—

CHAIR: I find it interesting that there's that kind of lack of trust in Indigenous businesses when your data tells us that they're actually more of a sure bet.

Prof. Evans: Right.

Prof. Polidano: Absolutely.

Prof. Evans: Yes. That's interesting, isn't it, that these business live for a long time, longer than non-Indigenous businesses. They're doing well, especially the registered businesses. They're employing a lot of people. So I think it's a complex idea around trust. We've got all of the historical, entrenched baggage around racism and how that informs perceptions and perspectives and behaviours in relation to that. But it also means there's a lack of capital as well. So all of these things create difficulty. We know that Aboriginal communities have, perhaps, not as strong banking relationships over time or that there's mistrust also from the Aboriginal

community around banking and debt finance—those sort of things. It is on both sides as well, but I think that, for Indigenous businesses going forward, a part of building this data is to promote trust. It is to tear down old stereotypes. It is to show that Aboriginal and Torres Strait Islander people are contributing well above what even we expected, hoped and dreamed of for this incredible contribution to the economy. It's only partial.

I would love to be able to take that further so we can really understand it, not just from a dollars-and-cents perspective, which is where we're at now; what about all of the other cultural and social contributions that our people are making? How do we talk about that? That comes in the form of institutional power through having senators and politicians, having business leaders and also having people sitting on ASX 200 boards. All of these things are about changing the tide.

CHAIR: Absolutely. In the discussion that we last had we talked about how incredible it is that in such a short space of time those kinds of historical factors actually did block Aboriginal people from being able to enter into the business world, have their own business or make their own money. There were legal mechanisms that blocked people from being able to do that. So, in the time that we've been able to operate in this space, when you think about the \$16 billion in revenue and the 117,000 employed, that is well and truly punching about our weight in terms of how far we've come. One of my reflections on that, and it really does speak to the work ethic, the entrepreneurial spirit and the absolute drive of First Nations people to want to do well in this space, is that we've got to have that wealth creation and intergenerational passing down for the kids too. It's so fascinating to think about what's possible, when you think about this small snapshot, in terms of all the other factors, and also the people who might not necessarily be on your radar.

You talk about the data stuff. One of the things that's been apparent in my conversations with First Nations businesses in the lead-up to these hearings is how much of a contribution they make to the broader community around them. I'm sure it is measurable, but to my mind that kind of contribution to improving the community and the nation hasn't necessarily been measured. If you go to lots of First Nations businesses' pages or whatever it is, they're doing the education at the broader community level. That's not what they're getting paid for, but that's what they're doing. They're educating people about NAIDOC Week, cultural safety, how to be a good ally and whatever it is. They're doing that piece because they know that that's a part of their give-back piece, but they also know it creates a safer nation for all Aboriginal and Torres Strait Islander people. It creates a better environment that we all want to be in.

I feel like the paths you could go down with this field are endless and exciting in terms of where the opportunities are.

Prof. Evans: It's hard in a way, and if we start to expand beyond just thinking about employment numbers or revenue numbers, we start to even think about how we are becoming more economically powerful: home ownership, and what about how much philanthropic money Indigenous companies and individuals are giving—as you're saying, sponsorship. We've got the rise of Indigenous black excellence funds of venture capital that are starting. There are incredibly exciting moments. We're at that point.

The other point to mention is that we've also got a group of entrepreneurs who are coming towards the end of their time; they're wanting to retire. So we're actually going to see in real time—in the next, I would say, 10 years—this handover of wealth between the generations and these firms going to the next part. What will that be? This is what we've also been dreaming of.

CHAIR: I think of what's possible when our kids have that kind of intergenerational knowledge and that kind of solid foundation. If that's their starting point, the sky's the limit. I might go to Senator Cox now, and then I'll come back with some questions for the Indigenous unit.

Senator COX: Can I just go back to your submission. You highlighted some of the issues with the Job Seeker Classification Instrument. Could you outline for the committee some of the issues in relation to that?

Prof. Evans: What was it?

Prof. Polidano: This is the job classification index that's for unemployed people. Basically, it categorises them according to their level of—

Prof. Evans: Would you like to take that?

Prof. Polidano: Yes, I can talk to that. I think the position that we had was really to do with employment services and some of the issues with employment services in Australia. This is not just a problem for Indigenous jobseekers but for those from all over. It's a problem with the employment services that are provided in Australia at the moment. The job classification index is a way to try and identify the level of disadvantage that jobseekers face in employment. That classification is used to stream people into different types of services. But it's not really an index. It's not really a measure of the barriers themselves.

I guess my issue, and my colleagues' issue, with this measure is that it doesn't really reflect the barriers that people face in employment. The services are not being targeted at the barriers at the individual level per se. You could get two different people who are classified in the same way but face very different barriers to employment yet they're given the same services. Our only point is that employment services should be better targeted at the barriers to employment. For Indigenous people, sometimes that might be education. It might be mentoring, and it might actually be mentoring employers to better meet the needs of Indigenous jobseekers, because there are cultural barriers to employment. Does that answer your question?

Senator COX: Yes, I think so. But I just want to clarify one of the points that you made—that this instrument is essentially a one size fits all across the country and doesn't pick up the diversity geographically and also in terms of some of those non-material income indicators of disadvantage. Would that capture what you were trying to say?

Prof. Polidano: Yes, that's exactly right. The main point is that the classification doesn't take into account the individual barriers to employment.

Senator COX: Okay. Focusing in on that, with the Job Seeker Classification Instrument, obviously their singular focus is on employment numbers. Something I asked a previous witness was around an accurate indication of what our economic advancement looks like. Can you give us a suggestion, or do you have any suggestions, about how we might measure other things that might give a clearer picture of the barriers to employment?

Prof. Polidano: I think it's more to do with the assessment. It's really about having an individual assessment that tries to identify the barriers that the individual faces. I think that the current measure is just way too general. The barriers really need to take into account the geographic location of the individual as well. Some people who live in remote areas, for instance, may have very limited employment opportunities where they are. And for a lot of First Nations people, living on country really matters. If you're telling them that they don't have the skills and they need to retrain, that retraining needs to take into account the economic opportunities that they have in their location. So it's not just that the instrument doesn't take into account the barriers that the individual faces in employment but that it doesn't really consider the economic opportunities for people to stay and live on country and to work.

Senator COX: Also within your submission you've emphasised the role of First Nations businesses. I don't know if I missed this in the evidence that you were giving to Senator Stewart, but did I hear somebody mention a figure on the contribution of First Nations businesses to employment?

Prof. Evans: We're not quite there yet. We have a figure for how many employees the businesses in our dataset currently employ. It is exactly 116,795 people. The next snapshot that we do, we want to really focus in and try to get to the number for how many of that quantum are Aboriginal and Torres Strait Islander. This is what we're all waiting on, because we are seeing qualitatively that Aboriginal businesses and Aboriginal organisations are really great first and culturally safe employment spaces for Indigenous people to grow their career.

For Aboriginal employees in Aboriginal businesses, it's also a space to learn some of those entrepreneurial lessons and then go out into business for themselves, which I'm certainly seeing through a lot of the training that I do. We want to be able to understand what the number is—we can't quite know yet, unfortunately—and then what does it mean? What's the impact of it and what does it mean for individuals who are working in Indigenous businesses? Why are they choosing that as their employment. We'll be able to actually find out quite a bit, hopefully, in future data work. Cain, maybe you can explain why the individual level data will give us that information.

Prof. Polidano: Thanks, Michelle. Within a year we will be able to identify exactly how many Indigenous employees that Indigenous businesses employ. It involves data integration, so it means taking information about Indigenous status from census data and from other administrative data sources that the ABS holds and linking that information to businesses and to their employees. It would be self-identified information on Indigenous status, but it's something that we can do within the next 12 months.

Senator COX: Okay. I'm particularly interested in the demographic of First Nations businesses, and particularly given that part of our terms of reference goes to the Indigenous estate that exists under the future act of the native title legislation, particularly for our PBCs and the transition from the determination into the PBC formation and then into First Nation businesses and employment opportunities that are based on ILUAs and royalties and agreements that they have. Is anybody undertaking any of that work?

Prof. Evans: We're currently including ORIC and Indigenous corporates in our day to work, and PBCs who have an ABN trading will definitely be captured in this as well—especially if they're on registries. But, as we

said, we've been able to figure out a way to include unregistered Aboriginal and Torres Strait Islander businesses. We're doing the best we can on that. We can't go down to that level because its aggregate data at the moment, but we have seen the great work out of the ANU and by Professor Peter Hughes focus specifically on this area and working more collaboratively in a way to shine the light onto traditional owner and PBC organisations and their employment. But I'm also hearing, and I'm sure you've heard as well, the establishment of venture funds and shark tanks. PBC is now encouraging local businesses to set up. Everything's happening right now. Something we need to focus on is what's working and how we encourage Indigenous economic self-determination.

Senator COX: Thank you, Professor Evans. I have heard of some of those issues but I've also heard the disparity in the benefit sharing across some of those areas as well, how it has to be fully inclusive of all mob that are attached to some of those PBCs and that, unfortunately, is a more of a governance issue. But I'm particularly interested in hearing about where that good practice is happening and how we might improve that. It is very important work that you're doing. Thank you for sharing that.

CHAIR: I've got one final question for you before I go to the Indigenous studies unit. In your submission, you talked a bit about data and data sovereignty. What role do you see, if any, the Commonwealth government playing in this space? You talk about a data agency. I was keen to get your thoughts on what that would look like and where there is a role for us.

Prof. Evans: We've been talking about how at the moment there is no central way to capture Aboriginal and Torres Strait Islander businesses. The federal government, working with players like the Australian Business Registry to be able to identify Indigenous businesses when they set up is really important. There is a lot of focus at the federal level, because of Indigenous procurement policies, around the ownership structure—50 per cent to 51 per cent Indigenous owned and controlled and managed. What our research shows is that this is an important discussion, most certainly, but registered businesses are only one-third, 25 per cent, of the whole ecosystem. So what does that mean for Aboriginal businesses that are not registered? What we're seeing is almost a dichotomy emerging. How can the federal government start to think about the entire ecosystem while taking into account decisions about the registered part of the Indigenous business sector? Those are certainly some of the things that I would encourage the federal government to be thinking about as you're making decisions right now.

CHAIR: You're not going to get away without being asked any questions. It would be great to just start with understanding a bit about your work in the in the first instance. Should I direct my questions to you?

Dr West: Education is one of the key enablers for economic self-determination. As we all know, to really be a leader in the workforce and a successful executive, you need an undergraduate degree or higher. It does act as a barrier, preventing Indigenous people from really leading in the workforce, making new decisions and thinking of new ways to run businesses and things like that. Education participation is particularly important at higher education levels. As you are probably aware, we have an underrepresentation of Indigenous people at university. Only 1.3 per cent of high degree research completions are Indigenous, which is pretty small, and that equates to approximately 1½ PhD researchers per university, which is pretty low, but that is just a symptom of that overall challenges. Those challenges begin much earlier. The pipeline for masters students, for undergraduate students, for entry into the undergraduate program are all very low. One of the key challenges nationally is we have to work together on building that pipeline so that there's interest within the university participation landscape for Indigenous people.

My particular area is engineering. Participation in engineering and information technology is particularly low within that already low participation. So there is a body of work to be done to look at how we can make universities an appealing place for Indigenous people to want to go to, to build the value proposition for communities and Indigenous people to strive to want to get university degrees and then to also have the ambition and to recognise that they can go on to those really high-level jobs that degrees enable.

Within the University of Melbourne we've recently released an Indigenous strategy called Murmuk Djerring. It was launched in 2023. It elevates our Indigenous matters across the university. We have engaged a Deputy Vice-Chancellor Indigenous, which is Professor Barry Judd. We have a Pro-Vice-Chancellor Indigenous, which is Professor Tiriki Onus. Building on Murmuk Djerring, we focus on a few things within the university, not least is acknowledging our past, recognising the challenges and the benefits that some of our non-Indigenous predecessors obtained from Indigenous people in their research, without any major findings or benefit for Australia or Indigenous people; addressing current challenges to staff and students and establishing structures enabling First Nations determination within the university. Roles like mine—associate professor in Indigenous—allow faculties to focus on their Indigenous elements and participation and those unique parts to being Indigenous in our academy.

CHAIR: You mentioned at the beginning that you need an undergrad degree, essentially, to be a CEO or executive. Is there data or research that backs that up? I'm sure you didn't pluck that out of the air. Where does that come from?

Dr West: That is an unwritten rule; it's not a formal rule. But there is work that has been done to show that basically almost all C-suite executives have a degree of some kind.

CHAIR: I want to ask about the universities accord and the work that's happened there. It goes to some of the stuff that you're talking about, right? Essentially, it talks about the equity pathways for lots of different groups of people. I wasn't necessarily intending to ask you about this but I'm keen, given your comments, to understand some of the stuff that's in the university accord. Does it go to addressing some of the issues that you've raised around those pathways? You talked about one of the challenges to that pathway being people having that hope or belief that it could be them, which is, I think, a real challenge for our mob. When you see a doctor or a health professional, you think that can't be you—you're not smart enough. People don't necessarily see that the slow build-up of knowledge over years is actually what gets you there. That belief in yourself or having other people around you who have done it is really important to believing that you're no less smarter than the person beside you that's decided to take on this particular career path. Are you doing stuff in that in that space? I am keen to hear your thoughts on the universities accord.

Dr West: The challenge is complex, which is why the university accord has made the recommendations it has. We are very focused on the metrics that occur in the next year or two or three. A lot of programs which are really successful do well in attracting people who have already succeeded in year 12 or are doing well, but they're doing little to bolster that pipeline of people to come along.

CHAIR: I really concur with that. I mean, I was, I think one of over 20 Aboriginal kids that started at Swan Hill College in year 7. I was one of the only ones to graduate year 12, which is pretty incredible.

Dr West: I think the key challenge here is that we focus on some of the soft KPIs rather than the hard KPIs, because there are programs that need to be done which have a long-term view and which relate to real community engagement, which is authentic rather than transactional and which brings the community along over the long term, rather than looking at doing something in the short term.

In the accord's recommendations, some of the critical ones are the establishment of a First Nations council, a First Nations led review of higher education, building a pipeline of First Nations researchers, elevating First Nations knowledge as a knowledge system and increasing the representation of suitably qualified First Nations people.

The body of work that I've done relates to engineering, and, when you go out into remote communities, the first box of the pipeline is empty. The kids don't even want to strive to be an engineer. As you've said, Senator, it's because they don't get to see engineers. They don't know what engineers do and they don't realise that they can do that.

So the work that we could do more of, which I think government can really help with, is to alleviate the funding-cycle pressures that occur when you do research project on research project, which have only short timeframes—and, as you'd probably agree, five years is short term in an Indigenous community. We need projects and focuses that can last 10, 15 or 20 years so that kids can come along on the journey and want to become people like the panel.

CHAIR: Yes, absolutely. If you talk to early education providers, they'll tell you that the journey starts there—building their confidence, growing their brains, in those early years for them to be able to go into the school system. And, particularly if you've come from an Aboriginal youth service, going to a mainstream school system is quite confronting. Then, thinking about what their journey looks like through primary school and into high school, lots of disengagement from further education happens in primary school in terms of the messages that you get about your education and your future pathways. So it's incredible to think about what the longitudinal piece might look like if we're thinking about that success over a lifetime. It is really fascinating.

Dr West: If I can just add to that, the key is that there's a moat between year 12 and universities. The responsibility for getting individuals to some standard which is a prerequisite to be able to complete one of our courses belongs somewhere across the moat, and then high schools have the same idea—that they bring the students up to a particular standard but not necessarily with a focus on participation in higher education, particularly in remote and rural areas; they're very vocationally focused, and I think that that doesn't have to be the case.

CHAIR: As somebody who grew up in Swan Hill, I can concur with that. There's especially the kind of extra pressure of having to move away from home if you want to do further education.

Dr Roy: I want to jump in to mention the Munarra Centre for Regional Excellence. I think I was up in Shepparton when you visited, so I met you then. That's a great example of the university working with regional communities to provide that safe space for Indigenous students to learn about and be exposed to universities and be exposed to higher education. And, in reference to the accord, Munarra is going to apply to become a regional study hub—so an Indigenous led study hub, which I think would be a fantastic outcome for Munarra and that region in terms of providing that pathway not just to the University of Melbourne but to a range of tertiary destinations.

CHAIR: Absolutely, and really breaking down those barriers—the things we know that place that invisible barrier to kids being able to go to university in the first place.

Dr Roy: Exactly.

CHAIR: I don't know who the best person is to direct this question at, but I'm keen to ask about energy.

Dr O'Neill: If it's at the household level, please direct your questions to Dr Kathryn Thorburn, and if it's for the larger-scale projects then it's for me.

CHAIR: I'll ask, and then we'll be surprised by who responds! If you can just do a name check before you answer a question, so, if I need to do a follow up, I can actually get the right person, because the audio is not that great in the room—apologies in advance for that.

Dr O'Neill: I'm in regional Victoria, and the reception isn't great.

CHAIR: That's another thing the Albanese Labor government is trying to fix. I suppose I'm keen to understand what your research shows about First Nations energy costs when compared with those of non-Aboriginal Australians. What are the barriers to reducing some of those costs?

Dr O'Neill: Kathryn, do you want to take this?

Dr Thorburn: I live and work in Broome in the Kimberley, and I have been working with some communities near Fitzroy Crossing for the last year who are in the process of recovering from the flood that happened in early 2023. We've been exploring options for the installation of some renewable energy systems as part of that rebuild process, which have proven to be quite challenging, I have to say. These are kind of state government issues, right? But, in the process of those conversations, we pulled together some data so that we can start to look at what the energy usage of households was prior to the flood so that we can plan for what they need after the rebuild is finished.

There are a couple of issues I'd like to raise with you, and these issues are increasingly well documented. I can send through a number of recent research papers which are focused on remote communities in the Northern Territory. But my work with these communities in Fitzroy Crossing has demonstrated the impacts of the prepaid system. People in these places have an app on their phone, and they pay for electricity as they use it. So, if they run out of credit in that app, they're immediately disconnected from their electricity supply. Some of the households that we've looked at were being disconnected at least once a week—some of them more than that—and some households were paying around \$50 every few days to keep up the electricity to their individual households. We're talking about costs of more than \$4,000 a year, with some up to \$6,000 a year. But because of the nature of this payment system the people in those houses aren't aware of what they're paying; they just keep paying when the money runs out.

There's a lot of talk nationally about how Indigenous people stand to benefit from the energy transition, but I think there's a piece in this picture that's missing, and that is that, in these remote towns and communities, certainly in the Kimberley—and I think, from speaking with colleagues at the ANU, also in the Northern Territory—the financial benefits of that energy transition, which many of the households in towns and cities elsewhere in Australia are enjoying through having renewable energy systems installed on their houses, are not hitting the ground in remote places. Even where solar energy is being installed in towns around the Kimberley, there's no financial benefit. The utility up here, Horizon Power, are talking about a maximum benefit of a 15 per cent reduction in people's electricity bills, which, from our data that we're gathering now, is not really going to make much of a difference. Given that we're at the beginning of climate change and these places are getting hotter, and hotter for longer, I just think this whole issue needs to be elevated.

I believe Senator Cox is on the call. Senator Cox, I have heard that somewhere in the public domain you may have made a call for an inquiry into remote energy security. I just think that would be a really great thing to see, because I just don't think that people in government are aware that this is the current situation.

CHAIR: I suppose I want to ask: what do you see as the kind of practical things or measures that could be done to address some of those challenges that you've just outlined?

Dr Thorburn: I think the first thing that would be really useful—currently utilities in remote parts of Australia, including in the Northern Territory and WA, are not required to report on the number of disconnections that are occurring in these households, so that data is invisible. Data on the expenditure from remote households is not being collected or collated anywhere either. So these costs and these disconnection rates are invisible. If there were simply a requirement that remote utilities report on those disconnection rates, that would be very useful.

In terms of bringing down the cost to remote households, I'm not entirely sure, but I think just elevating the issue and putting it in the public domain would be useful. Utilities would then be required to bring those costs down to reduce the tariffs, essentially, that people are being charged once that transition to renewable energy systems happens, so that remote households are not carrying all this extra cost.

CHAIR: It sounds like there are opportunities with the renewable energies transition, with solar, but what I hear you saying is that it's not necessarily hitting the mark for people who need it, to provide certainty in terms of energy for your home but also the cost savings that are there. You talked about some of the costs that people are having to pay every couple of days.

Dr Thorburn: Yes. There's a lot of talk about energy reliability, as though that's an issue in remote communities, but the only reason it's an issue is that the energy is not affordable. The energy systems are there. They work. There's no issue with the state of the infrastructure. It's transitioning. I think that in the Kimberley there's an 80 per cent aim to have renewables installed across the region by 2030. So there's no problem with any of that. The electricity is there if people can pay for it. The problem is the affordability. So I think that's the crucial issue that needs to be raised that presently remains invisible. Does that answer your question?

CHAIR: Yes, I think so. I've just got one more question before I need to wrap up, which is on a different topic. We're talking about energy. In your submission, you referenced the experience in Canada's energy economy. Just taking a step back, I am keen to understand what lessons there are from overseas jurisdictions about the role of indigenous communities in the energy economy.

Dr Thorburn: I'd really like to give Lily O'Neill an opportunity to speak as well, because she's been researching into large-scale renewable energy projects across Australia, particularly around the agreement.

Dr O'Neill: Yes, but, Kathryn, please answer the Canadian question, though. You're far better at answering it than I.

Dr Thorburn: Yes, sure. I guess there's a lot of interest coming from Australia directed towards what's been happening in Canada. I think we firstly need to acknowledge that Canada is about 20 years ahead of Australia in terms of building First Nations benefit into the clean energy transition. There are a lot of lessons to learn from how the Canadian government—and certain provincial governments in Canada, I should add—has gone about it. There's a lot of variability across Canada but, essentially, a number of provinces now have loan guarantee programs so that First Nation groups are able to access finance to gain an equity stake in large-scale renewable energy developments. And because some of these are already 15 years down the track, we can see what the benefits are from those kinds of investments. We can see First Nations groups building significant capital investment funds, with which they're then able to go on and make further investments in other industries. There's a lot to learn from what's gone on in Canada. The scale of First Nations equity ownership in Canadian projects is, I think, around 25 per cent. So one in four large-scale renewable energy projects in Canada have a degree of First Nations equity.

There are also particular things like—I think in Ontario they have what's called a 'price adder'. Any project that indicates a certain level of First Nations investment or co-ownership is paid a higher price for the electricity they produce, as part of their power purchasing agreement. There are all kinds of mechanisms and lessons that Australia can learn from looking to Canada. A lot of this is also very well documented. I'm happy to send through some summaries or some research out of Canada—some quite recent. In fact, there was an article in *Time* magazine just three weeks ago which talked about this kind of revolution that's happening in Canada around First Nations equity in clean energy projects.

CHAIR: I will take you up on your offer to share that information. Some of the numbers you had in your submission in terms of the Canadian experience are really fascinating. I have a bunch of questions to ask, but I do need to wrap up now because of the time. I've already gone over. I'm keeping you here for longer than you agreed to. I want to say thank you for your attendance here today. If you've been asked to provide any additional information, please forward it to the secretariat by 9 August. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections of transcription errors. I will suspend for morning tea for 10 minutes. Thank you very much for appearing today. We appreciate it.

Proceedings suspended from 11:17 to 11:29

GORDON, Mr Ben, Operations Manager, Federation of Victorian Traditional Owner Corporations

O'BRIEN, Mr Reece, Principal Adviser, Economic Development, Federation of Victorian Traditional Owner Corporations

PATON, Mr Paul, Chief Executive Officer, Federation of Victorian Traditional Owner Corporations

CHAIR: Welcome. We will resume the hearing. The committee does not require you to give evidence under oath. I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement if you've got one.

Mr Paton: Thank you, members. Firstly, let me thank you and the joint standing committee for inviting the federation to provide testimony on the enormously important issue of First Nations economic development and its relationship with and impact on self-determination. Our submission is focused on collective rights and interest as an element in the broader economic development framework. We acknowledge and, indeed, have work programs that are broader, but we see this as an important element for the committee to consider within the broad mix of policies and programs to accelerate Aboriginal economic development and independence.

One of the foundational views that guides the federation is in its work related to First Nations economic development and how it progresses towards indigenous self-determination as understood by the United Nations Declaration on the Rights of Indigenous Peoples. It is directly linked to the level of economic self-determination enjoyed by each nation. While the concept of indigenous self-determination has social, cultural and political aspects, it is economic self-determination and the level of economic independence that underpin the fullest outcomes in these respects.

At its heart, indigenous self-determination is a right that accrues to the collective. It is a right to exist as and, to one extent or another, to be recognised as a nation of people. Indigenous self-determination is a right to nation. As such, the federation is of the view that economic self-determination, economic opportunities and economic prosperity for First Nations Australians has both individual and collective aspects. Rightly, much attention is paid at a policy level to addressing the historical and systemic economic disadvantage suffered by First Nations Australians at an individual level, to closing the gap and to practical reconciliation. Much less policy and legislative attention is paid to the development of a collective national wealth for First Nations, which is so necessary to achieving the collective vision of self-determination. Equally little attention has been paid to understanding the potential of a flourishing First Nations economy to accelerate progress towards those targets and outcomes related to individual disadvantage.

Like any national economy, the First Nations economy is reliant on the exercise of collectively held rights. The strength of that economy is grounded not only in the extent and nature of those rights but also in the ability of the nation to activate those rights to achieve economic, cultural, social or political outcomes. The ability of a First Nation to activate those rights vested in the collective is influenced by both internal and external factors. As noted in our submission, the federation is currently undertaking a significant body of work looking at how Aboriginal economic development can be better supported in Victoria. The work largely focuses on those corporate entities exercising rights on behalf of the collective: the traditional owner corporations.

CHAIR: Thank you. I will start off with a couple of questions before I have over to Senator Cox. You cover lots of things in your submission. From the traditional owners' perspective in Victoria, what are the economic opportunities and constraints here? Where do you see the Commonwealth government being able to support economic growth or remove some of those barriers?

Mr Paton: I'll start with the constraints initially. The way we see it, noting the very little land base that traditional owners hold in Victoria, the lack of property rights is an inhibitor to supporting economic development. That's not unique; it's demonstrated in the broad parcels of land that are under freehold title and the public land that has limited ability to have economic opportunities applied to it through the processes of native title, the Traditional Owner Settlement Act and the cultural heritage functions that traditional owners hold. Not having those property rights makes it more difficult for traditional owners to attract capital and investment to be able to practise culture on country, utilise cultural knowledge through businesses such as cultural tourism and heal country using intellectual property through cultural fire management of country. That is tied to intellectual property rights and protecting those rights through business activities. There are certainly some opportunities that the Commonwealth can play a role in. Where there are large projects such as renewable energy and the Commonwealth has a stake in those activities such as through investment it's providing to those renewable

projects, it can, through procurement policies and the settings that are established for those projects, require greater traditional owner involvement and partnership. It can assert this through its investment.

CHAIR: That would be a deliberate intention of the government to make sure that traditional owners are at the forefront of benefiting from the renewable energies future and those pieces of legislation and works. You talked about the barriers that exist in the way that Aboriginal people have title. I'm sure I'm messing up this language, but there are restrictions on how Aboriginal people can use the land that they have responsibility for under respective agreements. To be able to take advantage of the renewable energies stuff or even the Future Made in Australia stuff with manufacturing, do some of those barriers to the way that Aboriginal people can use the land that they have need to be rejigged? Does that happen at the state or federal levels? I feel like that's a big question!

Mr Paton: We need to think of some novel ideas about how we transfer resources to traditional owners to be able to have a stake in those types of projects. Those barriers that exist through the mechanisms such as native title and the Traditional Owner Settlement Act don't facilitate any handover of freehold title, as we call it, which is equivalent to any other landholder. That doesn't apply; therefore, those opportunities are not realised.

CHAIR: So you've got to do your own sound economic management for your own nation and group. You have to be in a position to do things like buy back land in the same way that Dja Dja Wurrung has, for example. So it's not necessarily part of the state agreements but it's something that you could buy, potentially, with the revenue that you generate as a nation in your traditional owner boundaries, which is a different proposition to removing some of the barriers that exist, I suppose, with the way in which Aboriginal people get title? That was probably very messy way of saying it. If you want to jump in at any point, feel free. You talked about the treaty process here in Victoria. Can you unpack for us how a treaty process here can unlock some of the economic opportunities for traditional owner groups across the state?

Mr O'Brien: Sorry, the what process?

CHAIR: The treaty process.

Mr O'Brien: At the federation, we're very focused on the idea of revesting or the creation of proprietary rights in TOs across a range of issues that can underpin that economic development, particularly in that group sense. So treaty offers a huge opportunity in revesting of proprietary rights in resources, particularly things like flora and fauna. For example, in the Nisga'a treaty, where a percentage of the salmon fisheries was handed back under treaty to the Nisga'a. That would then create the right to be involved in the management framework of that resource and also the commercial opportunities that relate to that resource. Obviously, there are opportunities in land as well through the treaty process—little bits and pieces, perhaps at the state level, just because of constitutional powers et cetera in relation to ICIP.

CHAIR: I was going to ask about that.

Mr O'Brien: You see the new amendments to the cultural heritage act protecting intangible property starting to try and protect that idea of ICIP. Obviously, that protection gives some control in the same way that mainstream IP gives the owner of it some control about how that ICIP is used, and also some control over how it can avail itself of the commercial opportunities around that ICIP. But it's probably more of a Commonwealth matter than a state matter around ICIP.

CHAIR: It is interesting, as we heard. At the first hearing, we heard from IP Australia and the Department of Agriculture and Fisheries and Forestry about some of the work they're doing to better protect Aboriginal knowledge. But the data was interesting. Where businesses have sought to protect some of their interests or rights when it comes to intellectual property, the growth of their business was higher when they understood what their rights were.

Mr O'Brien: We are very encouraging of that. We do a lot with the TOs in getting them along to seminars to get them to understand. I am in the native foods space, and the theory and the legal aspects of ICIP are all well and good but there's an actual business development issue in Victoria around native foods.

CHAIR: Let's unpack that. I am keen to understand what are the practical things—it is good in theory—we need to actually realise that for mob here?

Mr O'Brien: In terms of business development, I'd say land and access to water, things like that are the big inhibitors for groups to establish native foods businesses. There are a whole range of issues that I'm sure you would have heard about around capacity, getting people to live in regional areas, getting skilled people to work, being able to develop business—even down to the level of the lack of housing in regional areas, if people want to come back to country. There's a huge range of issues, and Ben might have some views on more of those issues, like raising capital. There are all those classic issues. In Victoria, apart from the obvious bigger traditional-owner

corporations, the smaller ones have a manpower problem. Even if they were really passionate about starting up a native foods business and getting into that industry, there's simply a resource issue for them.

CHAIR: Resourcing in what sense? Workforce?

Mr O'Brien: Yes—workforce, capital, skill, knowledge.

Mr Gordon: The market itself is fairly young. There's probably a lot needed in terms of how that market will evolve in terms of what governments can do to ensure there's a fair playing field. Some of the work we've been doing is focusing on how that intellectual property is able to be recognised and then managed by traditional owners through access and benefits sharing agreements and protocols and so on, with the idea that traditional owners who have cared for country for millennia are connected to those plant species in particular, to then be able to share that knowledge and understanding with the market as it grows. With the value-add through that, we've gone through a clean-and-green value-add. But can we talk to the indigeneity of these products as well? There are a lot of support mechanisms required around that.

Mr O'Brien: The only other thing I'd add is: in the context of the statewide treaty, there's an opportunity for the Victorian government—and it's endeavouring, in a way, to do so through the self-determination fund—to set up a financial bedrock for traditional owners to tap into, to help support their economic development. That's another aspect of treaty, apart from the proprietary rights, potentially, that you could be vesting. There's also the issue of compensation, financial support—

CHAIR: Taking risks as they start up particular things.

Mr Paton: On the capacity issue, it's worth noting in this conversation that our federation is involved in closing the gap here in Victoria. It's about to undertake a piece of work under sector strengthening that looks at workforce development for traditional-owner corporations here in Victoria. That's just been approved as far as resourcing that.

CHAIR: Are you allowed to talk about what that looks like?

Mr Paton: It will look at the barriers and opportunities around workforce; the future industries we need to build capability in; how we attract more of community into the organisations; how we maintain them in the organisation and build them up through to leadership level; what the educational institutions' roles are to support that; and how we coordinate all that effort to ultimately get that outcome of a stronger workforce in the sector.

Mr Gordon: And how we value that as the workforce—particularly within the traditional-owner corporations, the work they're doing is bringing a cultural dimension that's a unique proposition—and how we value that within the market of who's seeking those services.

CHAIR: It is interesting. You talked about the value-add to a product by essentially having First Nations people involved in it and being grounded in 65,000 years of history and connection to this place. In the department of fisheries and forestry, DAFF—it feels like an odd acronym for a department—they talked about the idea of having an Aboriginal trademark to be able to say if something's an Aboriginal product or not. In the same way that you have the 'Australian made' logo, potentially there's an opportunity to do something around 'Aboriginal made', for want of a better term, and say, 'This is a genuine Aboriginal product.' Opportunities might arise from that, especially in the international trade market. We would be able to sell things at a premium, to your point.

You're value-adding to this stuff, and there's a real opportunity for traditional owners, in particular, to potentially take advantage of the premium market that's there. But you also need the right kinds of protections in place, because one of the other things that we've heard through these conversations is that people are worried about entering the market with their cultural knowledge because they're worried that it's not protected in the way that they need it to be for the future generations.

Mr Gordon: Yes.

Mr O'Brien: Yes, and that protection is not only the thing that protects it; it is the thing that underpins your economic rights within that as well. I think we picked up on this in our submission. There's clearly an increased energy at the national level to draw on Indigeneity as an extra layer to certain products, particularly for exports. So we're seeing this in the native foods industry, and people are trying to put the building blocks in place for that to happen. So we've got the NFF looking at what an Indigenous agricultural product is, with a view to creating a certification system around that. The engagement and the consultation around that with TOs has been lacking, which I think I've pointed out.

Another example is AgriFutures setting up national industry bodies for certain agricultural products—two of them being wattleseed and finger lime. There has been very little engagement, consultation and certainly no

participation in that national industry group around wattleseed. So there's a real keenness for people, researchers, to do the research around food safety, which needs to be done to support the market. There is little involvement of traditional owners and little understanding of the cultural factors at play when you're doing that research. So that is something we're seeing—this drive towards using Indigeneity as a layer to add value but with no real cultural authority coming from the TOs to do that.

CHAIR: That's interesting.

Mr Gordon: That speaks to the business arm of things—capital, skills and workforce. Then there's the institutional requirements and these points about how traditional owners' views and authority is placed within these frameworks, which is going to be critical for economic development, regional development and business development. The weakness is that it's a new way of thinking about self-determination. What that means is not well understood. There is a lot about individuals and the way in which economic development can happen—closing the gaps—but how self-determination at that collective level is thought of is still really an emerging area that needs some further teasing out, I guess, in the Australian context.

CHAIR: It is a really interesting area. You talked about some of the things that government already has underway. From your view, there needs to be some strengthened engagement and consultation around those measures. Are there other things that you see the government could do? One of the things I'm particularly interested in is making sure that where we do have those kinds of big initiatives, whether it's A Future Made in Australia or the clean energy transition—you know, name your government initiative—First Nations people are beneficiaries of the good work of a Labor government. Where do you see that those opportunities might be? I suppose that's a very big question, but, if you can think about a couple of practical things that the government could do to make sure that Aboriginal people are in the driver's seat to take advantage of those things, what are they? You talked about one, which is engagement.

Mr Paton: Yes.

CHAIR: Is that the primary one?

Mr Paton: One thing that comes to mind is a conversation we had earlier this week with Regional Development Victoria. They are part of a Regional Development Australia arrangement, and one of the emerging themes that came out of that conversation was around traditional owners being in partnership with those regional development institutions so that they're not just being stakeholders but sitting alongside the decision-makers on what the future of those regions looks like and how traditional owners can be recognised as authorities within their own country and be able to influence the economic environment within those defined regions. Given that Regional Development Australia obviously is a national entity, that thinking or that modelling is something that could be applied at a very broad scale.

Mr O'Brien: I'll also tell you, in a legislative sense, what the Commonwealth can do. I think the recent Nature Repair Act is a good example. I'm not sure if you picked this up in the submission, but from our submissions to that process you'd be aware of the general kind of structure of the act: it sort of incentivises landowners to obtain biodiversity and conservation outcomes. Our view was that if you added extra incentive for farmers to achieve those biodiversity and conservation outcomes through a cultural landscape lens—which could have been drafted into the bill as a requirement—then you're automatically pulling in traditional owners in the planning process, in the actual doing of the work on country, and in the monitoring and reporting. So I think it is about being able to identify where those opportunities are when you're drafting these types of bills, to be able to leverage TO interests into those things. In the native food space, when we argue about ICIP, there's a sense that you're sort of saying to others, our non-Indigenous population, 'There are limits to how you should be involved in the native food industry.' So you're, in a sense, asking to take something away from someone else. But in that Nature Repair Act, if a farmer chose to achieve those conservation and biodiversity outcomes through a cultural lens, there was extra incentive to do that. So they're not missing anything by not engaging in that process. There's just added value there if you do.

CHAIR: You could have a premium.

Mr O'Brien: Yes, correct.

CHAIR: I have a number of questions, but I have taken up a lot of time. Senator Cox, I'll hand over to you.

Senator COX: I just want to touch on the point that you were just making about the legislative changes and also the extra incentive. What sort of response was received to your suggestion of that?

Mr O'Brien: I think the person who drove that isn't here today, so I can't tell you what response they got back. I was responsible for inputting into the submission that little section about that idea, but I can't talk to what response we got back.

Senator COX: Is there somewhere that that's working effectively? Essentially, is there somewhere that you've seen this work in relation to extra incentive?

Mr O'Brien: It's really just a conceptual kind of idea. On economic principles, that would have been rights that had been drafted into that that would drive traditional owner economic development in that space. So we don't have any—no is the answer. I'm sure, if we looked hard, there probably are examples internationally where that that kind of framework's put in place, but—

Senator COX: Yes, I'm sure that there are, particularly given that places like New Zealand, under their treaty system, would probably have that and they also have GIs, geographical indicators, around some of their botanicals and their bush foods for Maori as well. I was wondering if you'd actually undertaken that work or if it's something that the committee might be able to do as part of that framework and the important discussions, so thank you for bringing that up.

To pick up the thread, have there been any further conversations around intellectual property and understanding how that is adding value to products and services? Have you specifically been involved in any of those discussions?

Mr Gordon: Sorry, I couldn't quite hear the last part of that.

Senator COX: I think Senator Stewart mentioned some of the government departments that we've already met with or have provided evidence to the committee, such as IP Australia and the Department of Agriculture, Fisheries and Forestry. Have you been specifically involved in or had any conversations about the First Nations elements of intellectual property, rights or interests and what that looks like in the way of protections or rights from your perspective?

Mr O'Brien: We work closely with a few organisations outside of Victoria, like the Northern Australian Aboriginal Kakadu Plum Alliance and Noongar Land Enterprise Group. They very firmly have a view that the Indigenous layer to their product is a real value-add to the market. Their experience shows that you can give some protection, even through a market mechanism—with the Traditional Owner Native Foods and Botanical Strategy in Victoria, we're taking almost a market driven approach to embed some of these rights in the way consumers go about choosing a product. I often talk about a kind of three-lane highway of legislative solutions, ethical solutions and commercial solutions through the market.

We're very much in that space with native foods. We're about to launch a campaign around the ethics related to consumerism around native foods and encouraging consumers to have a bit of a think about where their products come from, where they're sourced and whether they've been produced by traditional owners—things like that. I'm not sure if that's going directly to your question, but that's certainly the space that we're in. Certainly, legislative protection of ICIP for traditional owners would, in the same way that mainstream intellectual property protection drives innovation, invention, creative expression and creative input, essentially provide a bit of an economic base for them to be able to launch from.

Senator COX: That's great. That specifically answers my question. Thank you for that. That's all from me, Chair.

CHAIR: Excellent. I thank you for your attendance here today. If you've been asked to provide any additional information, would you please provide it to the secretariat by 9 August. You'll be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to transcription errors. Thank you very much for appearing today.

CARTER, Mr Rodney, Group Chief Executive Officer, Dja Dja Wurrung Clans Aboriginal Corporation

[12:05]

CHAIR: I now welcome the CEO of the Dja Dja Wurrung Clans Aboriginal Corporation, Mr Rodney Carter. While the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make an opening statement, if you have one.

Mr Carter: Wawa. Hello. Dhumar—thank you—for allowing us the opportunity to talk to our written submission. If time permits, I'd like to unpack, so you can become a little bit more familiar and understand, the suggestions and statements that we make in our submission. The Dja Dja Wurrung people, through our corporate entity and now our substantial corporate structure, is a unique success story that I sometimes think is lost on other people as an exemplar to others as we try and address the idea of prosperity for our people, to look at our homelands and to understand that they have been significantly mistreated and modified beyond what our ancestors created, not just two centuries ago. Over the last 10 years, since our recognition settlement agreement with the state of Victoria, which is an alternative process around native title, I'll just very gently mention that we've had very little to no attention or support from the federal government. Given that the Native Title Act, which we chose to set aside, has significant costs associated with litigation, we have always hoped in our hearts and thought that, if we were doing something so significant here in Victoria, others would come to us and want to understand how we've improved our lives.

Looking at healing country, we've inadvertently found that we've healed people, and we're a significant contributor to local, regional and now the state's economy. Ten years ago, when I started as the CEO, we had six employees, our annual budget was \$600,000 and we had one subsidiary entity. Last year we traded at \$28 million, we have over 200 employees, and we are a significant partner and contributor to multimillion dollar projects. We can provide evidence and substantiate that with the strategies that we've created that look at making improvements over the decades, generations and centuries in healing country through gardening the environment; galk-galk dhelkunya—forest gardening; trying to be a positive contributor to redressing upside-down climate; nyuawi mutjeka—to respect and keep the sun safe in terms of renewable energy—the stories go on. I'm hoping youse can go away today with a little bit of a better understanding of, or even become curious about, the successes that we've had in central Victoria.

CHAIR: Thank you, Mr Carter, I really appreciate that. Understanding what it is that contributes to the success of the Dja Dja Wurrung people through your work, through the corporation's work, through the traditional owners' work and your subsidiaries is absolutely what we're here to do this afternoon.

Taking a step back, at a high level, what do you see as the economic barriers and opportunities that exist for Dja Dja Wurrung people specifically? What are those barriers and opportunities that you see and have seen over your time in particular?

Mr Carter: Like with all things that we do in life, there are probably peaks and troughs and hurdles, so this idea of barriers. We think that we want to participate commercially, and there are a lot of challenges, immediately, as a creative, to understand the administrative burden that's required around laws, regulations and all that sort of stuff. We've created one of our subsidiaries to provide all of that type of support to a creative as an entrepreneur so they can focus on the product they want to develop. That can be very broad across all forms of arts—artistic endeavours as opposed to just the physical arts themselves, through to the tourism and that sort of stuff. I think that's a barrier that faces all people to effectively get into some sort of area of a market.

There is still an underlying discrimination that can be hurtful to people. It's framed as forms of bias and racism with people's approaches now to us as a First Nations people. I think that's still really significantly unspoken and unaddressed. That can really hurt and break people emotionally. To that point, a success we've seen with our people is the family parental approach taken as a family, as a community, to try and heal and be resilient, facing these challenges that are hurtful and emotional and very unjust to people. That's not always easily achieved in a corporate structure where there are certain things that have to be met in running a business.

I think those are two key areas for us as a people.

CHAIR: It is interesting, when you've got all these external factors that really contribute to your sense of self and hope for what the future looks like for you. You can see how the work of Dja Dja Wurrung in creating a really proud people is so important to people's sense of safety in community, and it gives you a strong foundation to want to go off and do a whole bunch of things, because you've got this safe space that you've created that's your

spirit of entrepreneurship. You can do the wealth creation stuff. You can do the administrative stuff. But you can also have this space to be proud of who you are.

Mr Carter: To be yourself.

CHAIR: Absolutely. I've gone off topic there. I suppose I'm keen to understand what it is that the Commonwealth government, in terms of frameworks or policies, can do to support your aspirations as a nation.

Mr Carter: There are some emerging opportunities. Listening to Paul and Ben presenting before, agriculture is a significantly emerging area where we've seen federally how we've tried to protect what's ours, as Australians. Some species have been stolen, for want of a better word, and taken overseas, and then they've been applied commercially and sold internationally in their own right. Then, weirdly, we become a purchaser of those products. As an example, there's the Queensland nut, the macadamia, and now we're seeing it with the finger lime, which is really disappointing. Somehow, we need to have a really useful protective barrier as Australians to protect these species for local First Nations people. We need to develop the commercialisation.

We've got an example with *Themeda triandra*, kangaroo grass—for us, it's called gurri buwatj—and we've taken the approach that the system's not ready immediately to protect us. So we're copying the model around the Australian Wheat Board, the single desk, where, if you treat a product as a commodity and you have the majority of that product in your control, you can then have a significant influence over the supply of that product. With support from the federal government, a few years ago, through the then Department of Agriculture, Water and the Environment, we've systematised the process around growing kangaroo grass in a commercial environment.

Dja Dja Wurrung are the experts and the most efficient nationally around doing that. We can sell that to a farmer in a share-farm environment to put that species in their paddock, under a business model where they understand what the return would be for receiving that grain. Then, if Dja Dja Wurrung can control a majority of that grain in Australia, now we actually have control in the market, and we can reduce the sale price of that grain. What we've found, though, by using our plants back at country that's modified, is that it now has a significant positive effect for biodiversity and ecosystem functions. We apply a commercial context process to try and mitigate against protective measures that aren't ideally suitable for us at the moment, and then we heal country at the same time. So that's one example of what we've been doing.

CHAIR: I feel like all of that sounds incredibly complex to get to that point. I know there are lots of traditional owner groups that aren't where you are. What was the process like, in terms of growing to the scale that you are at now? Are there things that you think other traditional owner groups could learn from in terms of your mistakes along the way or the things that you did well? Are there things that we can do to make that journey easier?

Mr Carter: As I said in our opening too, in the complexity of our lives and even in our own lanes that we operate in, it's about the attention to detail you can afford to understand what we've done or what others have done, so then you become a useful voice to replicate that message for it to be understood by others. I genuinely believe that, for all of our endeavours and for what we do, there's a focus and a lane that sometimes doesn't afford us an opportunity, even through these types of inquiries, to see the breadth of achievements and then to understand them enough to usefully borrow the how, why and what was achieved to get to the end success. I think we understand the need to do case studies and to get examples. Again, unless there are thesis types of descriptions, you never actually get to the detail of what step 1, step 2 or step 3 is. We've always kept an open door, and we've wanted others to copy our process to then make their own design for what suits them to do stuff. I think there is an opportunity.

CHAIR: Yes—to learn from one another. I might ask one more question before I hand over to Senator Cox. In a different frame, later today we'll hear from the First Nations Clean Energy Network about where the opportunities are in that space. What do you think we need to do to make sure that Dja Dja Wurrung people are best positioned to take advantage of those types of opportunities in the energy space? Maybe that's not a space you're thinking about at all.

Mr Carter: We'll put some thought to this. We always go to the norms around offering jobs and skills development. We do need that. I always take the approach that there are still some things wrong in our own immediate families and communities. That's really at the foundational levels of the family with the child. Parents are in an empowering position to allow their child to have the best opportunity, which the parents or the parents' parents didn't have, to break that cycle of disengagement from the really good things that society can offer and for our children to be raised to be healthy, to aspire, to have their own goals and to be educated in whatever they choose as the child.

I still think—in all of this industry development, when we are putting billions of dollars into infrastructure—that it's okay not to contribute some of that to jobs and skills development. What does it look like if you actually try to get to the root of the problem, to allow a child to have the beautiful future that they should have? Dja Dja Wurrung do this for our own Community Support Program. We hold families to account in terms of behaviours—what's really good and what's unacceptable—and we're seeing a generational improvement from doing that stuff. So, I think it's okay for industry to do those types of things. Like I said, we throw billions of dollars.

It's not always easy to bring your culture to, say, the transmission line development, but what we do bring now is presence and an advocacy. This is a future that we need, and if people think that these types of infrastructure look ugly, it's incumbent on us to understand that these built forms are beautiful. They're things that we need to understand—just as people, as citizens—that we need to have. We can no longer tolerate, 'It looks ugly.' We are also now trying to positively influence some of the designs of towers so that they become forms of beacons or communications of our country every time they put a footprint on our country. With the current VNI West development that affects us, as Dja Dja Wurrung country, we are trying to bring a really constructive approach. We do want to benefit when people put billions of dollars into projects, but we also want to be a significant contributor and tell people that this is the future, whether it's turbines, solar panels or all of this stuff. We need to unpack it ourselves. As I said, it has to be beautiful, and we've got to be accepting of it because these are the things that will help us with climate change and all of the other challenges as people.

CHAIR: So, it's what you're doing and how you're doing it.

Mr Carter: Yes.

CHAIR: I'll hand over to Senator Cox.

Senator COX: Thank you for appearing today, Mr Carter. I want to acknowledge that I'm here on Noongar Whadjuk country and pay my respects to my elders past and present. I'm a Noongar-Yamatji woman and Greens senator for Western Australia. I've been watching with great interest Dja Dja Wurrung's amazing work that you have been embarking on and the work that is coming down the pipeline, so to speak, particularly around big renewable energy projects.

I know that you mentioned you'd been best positioned in some of that, listening to you speak around the recognition and settlement agreements that you have. You mentioned that jobs and opportunities for people are critically important. You also referred to infrastructure. I just want to clarify if you were meaning social infrastructure for families and communities in your response.

Mr Carter: No—engineered built structures. What would a cultural element to those structures look like? We're trying to understand. There's a certain strength structural need in the design, but how do we bring a cultural element to it? It might be textures, colours or materials. We're even exploring, for some of the proposed alignments, given that there are some impacts on historical cultural heritage and landscape, what that alignment might look like to us culturally from an aerial or an above view. We've taken the extremely creative approach that this is infrastructure that we need to have societally. So, at country, what can Dja Dja Wurrung's unique contribution to that project be? We've got two significant examples, amongst others, in central Victoria, where we have contributed and partnered: the Bendigo law court design—I know that's a building, so it provides different opportunities—and the Galkangu, which is the multipurpose government hub in central Victoria. Again, it's architecture and landscaping design. We're trying to borrow from those understandings that we've got now in applying our culture to a major transmission line development.

Senator COX: Great. Thank you for clarifying that. Do you feel that Dja Dja Wurrung has the negotiating power to roll out and be involved in the project under the current arrangement you have around the recognition and settlement agreement?

Mr Carter: I didn't understand that question, sorry.

Senator COX: Do you think you have the power for a negotiation—

CHAIR: Senator Cox, can you repeat the question? The sound is a bit muffled.

Senator COX: My question was: do you think that you are in a good position as a corporation to negotiate under the recognition and settlement agreement with the Victorian government? Do you have the negotiating power to be able to put forward the critical things that you think your group needs?

Mr Carter: Yes. There are probably a couple of things to explain around that. Our rights, under the recognition and settlement agreement with the state of Victoria, are given greater and more substantial recognition than what is afforded to other First Nations groups in Victoria. Therein lies a problem where broadly, at state and then at federal level—it's really hard to understand—you need to give Dja Dja Wurrung what is rightfully

recognised as their rights. It becomes uncomfortable because that's beyond what you might then, in a legal sense as a minimum standard, have to afford other traditional owners.

We've found, as Dja Dja Wurrung, amongst other things, that we've become victims of our success. We want our immediate mob and all of our people to benefit and to be recognised. But there's the issue that I raised at the start, with the federal government. We've forgone something that was extremely significant, subject to federal legislation, and it doesn't get easily or clearly understood by others. We've forgone that as a benefit today and tomorrow. It disappoints us that that can't always be easily translated to another First Nations group. That's been extremely challenging for us. We've found that—I think I used the term 'beside all things' earlier—we actually just have to get on with trying to do the best that we can. To that point, when AEMO and others have come to us, we've been recognised as having the nature of doers, and our achievement can be seen; it's tangible. Then there becomes this comfortableness with others to be treating us uniquely because we can do things that we haven't seen other First Nations groups able to do in the state of Victoria. So there's sort of two elements to it.

Senator COX: Are there any references to intellectual property within the recognition and settlement agreement?

Mr Carter: No, there aren't. But, as we've learnt, like others along the way, we've got a pretty sophisticated template system and protection of storage of data systems within our organisation. And, unusually, we've found that, when we were even engaging our own people when we were developing our joint management plan for our Aboriginal titled lands in central Victoria, even talking amongst ourselves, we were probably acting inappropriately in taking knowledge amongst ourselves. So that really heightened an understanding around the protection and the need for protection of people's intellectual property. Along the way, we've engaged Terri Janke and Company a few times to support us in testing how good our agreements are. We've applied those quite frequently across a number of academic institutions. So, at the moment, we've had no breaches around our rights, and we feel as reasonably comfortable as we can with those rights being protected at the moment.

Senator COX: Critically, me and my mob here, on Noongar and Yamatji country, are also part of settlement agreements with our state government and, quite often, the land back concept is land that has asbestos on it or land that's not fertile or for good use and so the land back concept becomes quite 'useless', I think is the word. I think you answered, Senator Stewart, in relation to the prospect of the agricultural sector and what that could mean. Are there any opportunities, or do you see any potential industries, apart from what you've already mentioned, that might grow from the land use that you have available to you?

Mr Carter: There are two key industries working with us. There's agriculture, as I touched on, and, at the moment, we're building the biggest yabby farm in the Southern Hemisphere that will hit full-scale operations at the end of 2025. The other key thing for us is tourism. The recent federal inquiry around our involvement, or lack of involvement, in tourism, given that we've got a unique product and that it's not always easy to develop culture as a product and package it as good and appropriate for us culturally and educative to others—it's amusing, entertaining and immersive—all of those things that stimulate enjoyment and pleasure responses, we need that in tourism, and a mob needs to understand that. Hand back of land can be weirdly a nuisance or a problem in trying to manage country, because you can't just lock it up and leave it. That's a really faulted process. Scientists at COP15 also identified that we can't tolerate this internationally any longer. It's the same for our homeland.

We've come up with the word 'Djandak', which is Dja Dja Wurrung people. So we've created a word called 'Djandak Wi' so that wherever we go and do things, we're trying to Djandak Wi places and our homeland. So, for us, in tourism, in joint management national park areas and state parks, we have a colour palette that we've created. We have a texture influence where we borrow materials from other countries, so stone will now be used in our design of campgrounds and day visitation areas. We're recreating our mines as shelters, like our ancestors would have had at country, so there's a standardised approach that makes it easier for us to replicate us being present culturally in landscape through signs and, like I said, through the colours, the textures and the palette. And I think once our mobs can start to understand that we can design this and that they can be subtly different at other locations at country but that there's a foundational nature of it being common because it's about us and our culture that needs to be present at country, I think that we'll find—and Dja Dja Wurrung have been very successful; we invest \$2 million a year in management and in improvement of all of these public spaces at country—that, in the coming years, people will actually see how unique this is for us as a people, but it will also help tourism and, again, local and regional economies.

Senator COX: That's great. Thank you very much for that. I don't have any further questions.

CHAIR: Thank you, Mr Carter. If you've been asked to provide any additional information—which I don't think you have—please forward it to the secretariat by 9 August. You also might have things you want to

forward, in any case, after today. You'll be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to any transcription errors.

BERG, Mr Rueben, Co-chair, First Peoples Assembly

MCDONALD, Mr Troy, Reserved Seat Member, Gunaikurnai Land and Waters Aboriginal Corporation; and Council Member, First Peoples Assembly of Victoria

[12:38]

CHAIR: I welcome witnesses from the First Peoples Assembly and the First Peoples Assembly of Victoria. I've got a short spiel I need to run through. The committee does not require you to give evidence under oath. I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement if you've got one.

Mr Berg: Terrific. Ngata. Thank you for having us here. I'm helping to lead the work alongside my co-chair, Ngarra Murray, and other members, including Troy McDonald, who's here, to progress the interest of treaty here in this state. We're very interested in the overlap of the work that's happening across the nation around economic self-determination for First Peoples.

Mr McDonald: Thanks, Rueben. I'm a reserved seat holder for the Gunaikurnai Land and Waters Aboriginal Corporation. I'm the chair and a director of that organisation. I'm also an elected member of the First Peoples' Assembly of Victoria. In my role there, I serve a couple of purposes for community, and that includes being chair of the Self-Determination Fund committee. I am also chair of the economic prosperity working group, which is a working group that's going to help shape some critical thinking that will go into our negotiation brief later on down the track. I'm honoured to be here. I'm honoured to participate in this, and I'm looking forward to doing my best to answer some great questions that I'm sure are coming from your way, Senator Stewart.

CHAIR: It seems like this is right up your wheelhouse then, given some of those committees that you're sitting on.

Mr McDonald: I've got really good people that stand beside me, so it's not a unilateral effort.

CHAIR: Absolutely. I will kick off with a couple of questions. I really just want to draw on your submission to the Yoorrook Justice Commission's inquiry into economic prosperity. It's interesting we're running very similar inquiries at the same time. Can you just unpack for the committee: what are the economic barriers and opportunities for First Nations people in Victoria and nationally?

Mr Berg: Just unpack that briefly?

CHAIR: In 30 seconds! No, I'm joking—you've got longer than that.

Mr Berg: I think it has been powerful that we have this Yoorrook process to help us have these conversations at a statewide level. From my perspective, when I think about this idea of economic self-determination and economic opportunities for First Peoples, it really stems from the generational impacts of colonisation and the lack of ability for First Peoples, for countless generations, to be able to participate in society like other members of the community. We haven't been able to do that. We were prohibited, because of the impact of colonisation and the discriminatory practices, from participating in the economy as other communities had, and that has left a lasting legacy, particularly in terms of intergenerational wealth. It's just not something that exists within our communities. And so we've never had the opportunity to leverage from wealth to generate more wealth. We see it happen all the time for other communities, even if it's as simple as getting a loan from your parents so you can start your own business. That's just not an opportunity that our communities have had across generations. That has a significant impact on where we see ourselves today.

Mr McDonald: To try and value add to some of the comments Rueben made, we're talking about barriers. I think across all tiers of government there's a proclivity to allocate resources to what some of us call the deficit program areas. There's a consideration that Aboriginal people, First Nations people, traditional owners, desire to be a part of a strength based approach to the development of their wellbeing through effective participation in the economic structures that we have, notwithstanding the current ones but the ones that First Peoples create themselves. They may not actually yield a return but may have a more philosophical value, such as the health of the cultural estate. You can't put a price on that. But we all know that having healthy landscapes has a significant shared benefit for not only First Nations people but the rest of the community as well. So we want to try and activate more robust conversations. Whilst there is important work that goes on around the service sector and opportunities around closing the gap, there is less emphasis to believe in Aboriginal people and traditional owner corporations that we can effectively participate in the economy and actually contribute in a realistic way to

regional and Victoria's growth which has a long-term positive impact for the nation, I think. So it's about changing the paradigm a little bit in terms of the conversation.

CHAIR: And we've just heard some really great examples. Like, Dja Dja Wurrung are doing that now in a really practical way—to your point of improving the lives of everybody who lives on Dja Dja Wurrung country. I'm keen to understand what role you play in their economic self-determination—in enabling that kind of economic self-determination of First Nations people in Victoria.

Mr Berg: One of the key aspects of the treaty process we're progressing here in Victoria—and this all stems from the Advancing the Treaty Process with Aboriginal Victorians Act that has already been established—is, alongside progressing the work around treaty specifically, through the Treaty Negotiation Framework and the establishment of the Treaty Authority, the establishment of the Self-Determination Fund. That's really one of the key drivers for us in terms of that sense of economic self-determination. It's in the name of the fund. It's called the Self-Determination Fund for a reason.

CHAIR: It's very aptly named.

Mr Berg: Indeed. That has two main purposes. The first is to support traditional owners who want to be able to participate in the treaty-making process to have, as much as possible, equal footing in that negotiation. That's quite a narrow focus, but it has, as its second priority, a much larger aspiration around wealth and prosperity for First Peoples. Our aspiration is to build that into a fund that enables us to leverage wealth like we've never been able to before and have that pool of resources that we can use to invest in financial generation, but that investment is in Indigenous led ideas through which we can generate revenue to then put back into community to bring, as it says, wealth and prosperity for our communities. That's one of the key drivers of our work around economic self-determination.

CHAIR: We've had a few conversations this morning about the initiatives that are underway in the federal space with the renewable energies future and the Future Made in Australia. If a group was to come to you and say, 'We want some money out of the Self-Determination Fund to become a project partner on some of these,' essentially taking up the opportunities available under these initiatives, is that something that the Self-Determination Fund will be able to do? I feel like that's potentially a hypothetical, which I'm not allowed to ask, but—

Mr Berg: Sure. It's important to establish that the way the Self-Determination Fund is being set up is that the First Peoples Assembly is responsible for the fund. We've established a trust that actually does the day-to-day management of the fund.

CHAIR: So you're at arm's length from that?

Mr Berg: We're at arm's length from it. Establishing it at arm's length was a really important decision to be made. They're responsible for setting the investment strategy. We provide them with guiding principles, but essentially, if they see an opportunity to use our fund to invest in something that will both bring positive benefits for the community and generate income for the fund, that's something we encourage to happen through the fund.

Mr McDonald: I think it's really important to point out that the scope of that fund is not really to replicate social services activity. One of its primary purposes is to build that economic independence when we need to do so. Sometimes, when we're doing community consultations, there's a bit of a misunderstanding. But, if I can, I will—through you, Laura—submit to both of you to take away the structure of the Self-Determination Fund. You could come back to us at another time if you've got further questions around it and we could do more presentations about structure of it. What we want to amplify is that the deployment of the money is one element of it, but our thinking when we crafted this was that governments need a surety that you actually know what you're doing. In terms of managing it, ultimately the investment in it is going to be around \$65 million. We're not too far off getting the final tranche of government funding for that Self-Determination Fund—around \$15 million. I think it's going to happen in late August or early September, if my mind's right with the sequencing. But this has got a lot of firewalls around it. It's got a lot of probity. It's got really strong governance around it. I guess what I'd point out through you, Senator, to your colleagues is that it's a fairly robust system in terms of governance about how we're managing that, and we do have a little bit of separation from the First Peoples Assembly.

CHAIR: Yes, which makes a whole lot of sense, really. It sounds like, if all the pieces line up in terms of the criteria, it potentially could invest where it generates that kind of benefit that you're talking about for country and people, and you could get involved in some of the initiatives that are happening federally. There's nothing that prevents that from happening, I suppose.

Mr Berg: Correct.

CHAIR: One of the things that I want to see happen, through the things that we've got afoot federally, is that First Nations people really are benefiting from the direction that the government is going in, whether it's our sovereign capability here in manufacturing—whatever that is—or whether it's the renewable energies future, where we've got that shared interest in looking after country and our environment. It makes absolute sense for First Nations people to be key drivers in that space. We're hearing from the First Nations Clean Energy Network later on today, which would be really interesting.

You've talked about the Self-Determination Fund, which I'm really interested in. We'll table this a little bit later, and we might come back to you with some questions on notice, potentially, about this. How can the Commonwealth government help generate that kind of wealth and prosperity? What do you see as our levers, for want of a better term, in this space?

Mr Berg: The initial funds coming into the Self-Determination Fund have come from the Victorian state government, but the fund is open for funds from any source, including from the Commonwealth.

CHAIR: Is that a shout-out to Treasurer Chalmers to chip in?

Mr Berg: Absolutely. We're open to all sorts of opportunities. We want to make sure we're not just limited to the resources provided by the Victorian government. Our fund is open to receiving income from philanthropy as well, and we've got processes to make sure that, if there are some corporates who want to get involved, they can do that too. So we're very flexible, but there's definitely scope for the Commonwealth, if it sees value in the work that we're doing, to support that, because we see that, if there's going to be a process where funds are allocated to support the interests of First Peoples here in Victoria, there's no better way to do that than through a fund that's overseen by First Peoples, and there doesn't need to be duplication with multiple different funds for different purposes. We've tried to make sure we create this fund in such a way that it's flexible and adaptable so that, if there's a need to have a pool of resources to support First Peoples, we've got a mechanism to do that through this fund.

Mr McDonald: One of the important things around the fund is that we've already been successful in allocating six separate tranches of that funding to six separate groups, up to—most of them have hit this mark—around \$200,000. That's really about what we call phase 1 of the funding so groups can get treaty ready and potentially start identifying what they want out of treaty as well—certainly at the local level. But it also will enable them to have the conversations that they need to have about how they interact with this process right at the grassroots level. It's quite a unique approach; I'm not sure if it's done like that elsewhere in Australia. So we're still rolling that out, and this funding is going to keep rolling out till Christmas this year. Then we'll move into a different phase of the funding rollout.

I think there are opportunities. I'm the chair of Gunaikurnai. We've got a pretty large cultural estate. We're managing 14 parks and doing a whole bunch of other funky stuff in community that's all about a capability uplift and a different way of doing business in terms of land management. But there are a lot of groups that may never ever get native title in Victoria, so we've got to start thinking about how we support those groups more broadly. One concept is that a portion of the ILSC fund comes to Victoria, in line with our fund's intent. There's the potential for some of those traditional owners that are unlikely to gain native title to purchase some land themselves and do that—

CHAIR: That buyback thing.

Mr McDonald: funky bit of work around an economic uplift based on whatever criteria they design themselves.

Certainly, from the Gunaikurnai perspective, we've been pretty challenged in terms of what we can use our cultural estate for and what we can't. I've just recently come out of a review that we informed around joint management of our parks. It's great to be at the table for these things, but I don't want to be sitting there for a planning framework to realign caravan parking spots to accommodate a 22-foot glamper. That doesn't go to economic prosperity, but that's what some of the asks are around partnerships, rather than how we actually want to develop the park in a way that can enable us to economically prosper.

CHAIR: There's a lot in what you said. But does part of that come down to the resourcing piece? You can do the responsive stuff to what people might need in the here and now, but then you've also potentially got other resources to have the capacity to think big about what the longer term aspiration piece is for wealth creation and caring for country and all that kind of stuff.

Mr McDonald: In our case, and from what I can see around the state, there are some pretty robust plans out there. But here's the challenge: in our case, we received support from the state government to develop what we called a Gippsland Aboriginal economic development strategy. It's great to get the money to develop that and do

some aspiration setting and set some priorities around that, but there's never any opportunity to actually take that to the next level. How do you actually deploy it? And where's the money to actually realise some of the key objectives that are identified in a plan like that?

It generally ticks off a Commonwealth box or a state box around what's going on in identifying aspirations, but it's about how we move to the next phase of that. We have to be clever in how we do that. One of those aspirations that we have is a pilot program for growing black Sydney rock oysters in the Gippsland Lakes. But the challenge is going to be how you upscale that to a commercial level or get a great little bit of promotion. There are some blockers there in terms of accessing capital to do those types of things.

CHAIR: The issue of barriers to access to capital has been raised in the submissions that we've had to this inquiry. It's also not the first time some of the challenges around the use of land under native title agreements or recognition settlement agreements aren't necessarily conducive to economic development for First Nations groups, which is just interesting, really. I'll ask one more question before I hand over the call to Senator Cox, because I'm sure we will run out of time in no time. In your work, have you looked to overseas jurisdictions? And what have been some of the learnings from there that you've taken on board for yourselves? Or maybe you've got some lessons for us too, as the Commonwealth government.

Mr Berg: For the whole treaty process, we've definitely been mindful that there are many lessons to be learnt from overseas, particularly in terms of the economic side of things. One of the key international examples we've looked at is the New Relationship Trust, in British Columbia, which is an independent, non-profit corporation created back in 2006, and it was seeded with \$100 million from government. So that's one of the overseas examples. We did also look at other examples across other parts of the nation, including the Victorian Traditional Owners Trust, the Indigenous Land and Sea Corporation and the NSW Aboriginal Land Council's statutory fund, amongst others. We've looked at a lot of those different examples both internationally and nationally, as I said. We're always mindful that the model we're operating on is very distinct from all those different models, so it's never going to be a like for like. But there are, I think, some global examples at both a state level and a Commonwealth level that we should be drawing from.

I think that's particularly important through the lens of any concerns that might arise out of these sorts of conversations, any perception that somehow Australia or Victoria are going out on some limb and doing some strange thing by considering how we engage with First Peoples in the economy. But this is a standard thing that happens across the globe, and there's nothing to be concerned about with this. This is a good way of doing business to ensure that there's consideration of economic prosperity for First Peoples.

CHAIR: When you look internationally, there are some really solid data around what the economic benefits are for treaty making—for everybody, not just for First Nations people. Everybody stands to benefit.

Mr Berg: Absolutely. If your neighbour has more funds to be able to buy things, that benefits you, and First Peoples are the neighbours of everybody here.

Mr McDonald: It's really hard—it's not hard; it's paradigm shift in thinking. In Victoria—I can't speak for any other state—or certainly in the community that I live in, when you say things like, 'Our traditional owner corporation is contributing to regional growth, and this is how we're doing it,' it's a really hard thing for people to get their head around, because, in an industrial community like Latrobe Valley, it's always been about coal. You take it out of the ground, you burn it, you get electricity and you get jobs. But, when you're talking about land management, the effective land management of parks and the millions of tourists that come in and visit our cultural estate, they don't see the economic value. There's a return on that land management, which is not normally realised by the corporation itself as part of the broader community.

In some way, when we're talking about economics, it's not always about value or a dollar exchange; it's all about shared benefits and what that can actually contribute to the better wellbeing of a community or a society. We don't get recognised for that. You could do the modelling and put a value on it—100 per cent you could. But I think there's more to it than just making a quid.

So I just wanted to say that there's a lot of work to be done to socialise the powerful work that traditional owners in Victoria are leading, in the conversations and the partnerships around the renewable and wind energy transition—we're right at the forefront of that here in Victoria—and in our work with groups that are not familiar with the traditional-owner landscape here in Australia, let alone Victoria, about how important it is to engage us in these projects.

At the end of the day, it's not always about making a buck. Come through the door and develop a relationship first; you can't put a value on that. From my time as a chairperson of a pretty significant organisation here in Victoria, we've been open to cultivating those relationships, because you can't put a value on that. But they know

that, corporately, there is a value for them as a part of their overall end state. One of the things I'd be asking you guys to amplify is: What is the real benefit? How are traditional owners in Victoria contributing to regional economies and the state's growth? And most of the work's done without handouts.

CHAIR: For me, this inquiry is really important for you to be able to do that. We've heard a lot about how First Nations people, traditional owners, contribute to our—not just in a dollar sense, in revenue terms but how we actually make the communities and the people around us better. We need to really start positioning Aboriginal people as economic partners, to your point. We contribute enormously to the economy, but we're not necessarily thought about as economic partners—

Mr McDonald: That's right.

CHAIR: which is really interesting.

Mr McDonald: I saw Rodney Carter walk out. He talks about this concept of a multiplying factor, and that's right. I reckon you could translate this under every traditional owner corporation in here. We got native title settlement in 2010. We had nobody working for us. We had a CEO. We're an organisation with a hundred people and will probably have 170 this time next year.

CHAIR: 175?

Mr McDonald: This time next year.

CHAIR: Excellent.

Mr McDonald: And 75 to 80 per cent of our people are Aboriginal people. So here's the multiplying factor: of that 75 per cent of our staff—and let's say it's 75 people—each one is caring for an elder and for kids, are now buying a house, are paying their taxes and are contributing in their local economies. They're getting their kids to school and the getting their kids educated. It's a major capability uplift there. What would be happening if we didn't have native title or traditional owner settlement in Victoria? Where would those 75 people be? A part of that work is bringing people on a journey who have never had work before. You can do the algorithms and you can do the maths about what that means in government's expenditure to try and put the wraparound systems, the social support systems, in place that not all of them but a proportion of them might have been exposed to prior to these opportunities in the traditional owner space. When we talk about economic prosperity, we're talking about a far more not complex but common sense thing about how important it is in terms of our people's progression out of systems and into more astute strength based systems that are quite transformational for some of those people. You might be able to back it up, but in a lot of cases these people never had jobs before.

CHAIR: Senator Cox.

Senator COX: Thank you, Mr Berg and Mr McDonald, for joining us this afternoon. We really appreciate your input and the amazing work that you're putting in, particularly around the self-determination fund of the First Peoples' Assembly of Victoria. How important, particularly as we start to talk more about the economic development and empowerment of mob in Victoria, was the Yoorrook process in redefining or defining what self-determination is for mob in Victoria?

Mr Berg: The Yoorrook process happening in parallel to our treaty process has been really powerful. In particular, it's made the state reassess how it defines 'self-determination'. I think the state had many different and varied perspectives on what 'self-determination' meant, and none of them probably met communities' expectation of self-determination. By having to participate in that Yoorrook process, I think it became much more clear to parts of government what 'self-determination' actually is intended to mean. That's been really critical.

Also for elements of the state to really think about the economic impact of colonisation and the lack of benefit that First Peoples have achieved through the impacts of colonisation—that was also brought home very clearly and directly to members of parliament and ministers as part of that Yoorrook process. So it has been really critical to have that happening in parallel to our treaty process.

Senator COX: As someone who visited Yoorrook commission only a few weeks ago, one of the things that they said to me in a conversation around land justice, but also about defining self-determination, was about collective self-determination for our people, because 'self' obviously, in some people's interpretation, links it back to the individual versus a collective model.

Going to Senator Stewart's question around the parallel treaty process, what we do know globally is that some of those treaty processes have then been interpreted in English into something different, particularly when it relates to sovereignty and the relationship to land and resources. And, at a time when we are talking about the Future Made in Australia strategy and the Future Gas Strategy, Victoria is going to be at the forefront of some of those extreme weather events that we know are the impacts of climate change. Has the Self-Determination

Fund—I know that you've talked a little bit about renewable energy, but are there any other factors that you've considered giving mob more information around, like the Critical Minerals Strategy and the supply chain value and what that might mean from an economic point of view?

Mr Berg: I'd say that's probably a level of detail that we don't get into, from the assembly's perspective, around how the fund operates. We try and enact the aspirations around self-determination and empowerment that we hope the government will enact, by saying, 'We don't claim as the 33 members of the chamber to be the experts on these things. We empower the trustees as the experts in those areas and give them the scope to use their expertise.' That's definitely a consideration, though, for our trustees to take on board.

If we are looking at investments, we do give broad parameters around the types of investments. We don't want to be investing in things that are harmful to our communities or to the environment. We want to make sure we're investing in things that can actually generate positive outcomes as well as generate revenue. The extent of the detail we get involved in is giving directions to the trustees, and our directions definitely involve ensuring that any investments they make are in things that are going to bring benefit and be mindful of issues around the climate space, around sustainability and around renewable energy. Those are all key factors that we expect our trustees to factor in.

Mr McDonald: On the page that outlines the self-determination structure—and I know the good senator won't have it—those questions that were put to us just now are framed up and discussed in a box that says 'the advisory investment committee', and that informs the investment strategy, which comes back to the Self-Determination Fund committee to endorse and debate and those types of things. So we're largely guided by some of the broader technicalities and language around economics that are shaped by that group. I'm not an economist. I know what block chains are and I know what all that stuff is, but it's not my area. But we've got the key people that do it.

Senator COX: Yes, great. Just from experience, in our neck of the woods this is a critical conversation, given that investment is being stalled by government, and state and territory governments, for mob. And, noting that you said that your determination was in 2010 and we're now in 2024, I think the agreements and settlements and treaty processes that are happening across the country see us needing some investment where we're actually going to get adequate return for our communities. I'm concerned that it's being stalled by many different processes. This government has put hurdles in front of us, and we're not able to do some of that stuff. It was just a question about whether that was something you were particularly concerned about. I take your answer that it's not your area of expertise.

In one of the submissions, they recommended the incorporation of Indigenous knowledge into agriculture to build ESG frameworks. Obviously, that needs to be balanced by protections for Indigenous cultural and intellectual property. Do you have any views about how we strike that balance?

Mr Berg: This is in relation to leveraging off Indigenous knowledge but then the balance between data sovereignty and those sorts of things; is that correct?

Senator COX: Yes—protecting Indigenous culture and intellectual property but building it within, say, an environmental and social governance framework that protects the IP for mob, particularly in how it's used within the agricultural sector. ILSC and the National Farmers Federation are embarking on a pilot project at the moment, so I think it would be good to know how you think that might strike a balance, from a Victorian point of view.

Mr Berg: I'm afraid it's not something I've got detailed expertise around, but I'm always very mindful of the fact that, from a collective benefit perspective, we want to make sure that we can leverage off and harness Indigenous knowledge but do so in a way that is 100 per cent respectful and provides credit where credit is due—if it is drawing from Indigenous knowledge, then that's where the credit should go but also where the profit should go. There needs to be adequate understanding of how they are compensated for that knowledge, always abiding by those key principles of Indigenous data sovereignty. We need to find that good balance, as you say. One extreme is that we could keep all our knowledge to ourselves out of fear of what might happen to it, and the other extreme is where it gets extracted from us without our interests being recognised at all. It's continually about trying to find the appropriate balance. I think all of us would like to see Indigenous knowledge being used to its fullest to bring benefit to everybody and to find better ways of managing this land, in the new time that we're in and the new climate that we're in, but it has to be done with that balance, as you say. The more we can empower First Peoples as decision-makers in the space, the more we're going to be able to find that balance more appropriately. When it's non-Indigenous peoples imposing their will on these things, we're less likely to find that balance appropriately, but when First Peoples are empowered to be the decision-makers, to determine where that line needs to be, that's where we'll get the better balance.

Mr McDonald: There's another side to all that. Throughout the State of Victoria, there's a lot of innovation happening around propagation of certain species of plants, and there's a fair bit of traditional ecological knowledge that sits behind that. The proof of concept around the benefits of Indigenous agriculture is a specific science, and it's the specific output of a lot of hard work. One of the problems is that, once we get past a proof of concept and are ready to scale up, we've got industry peaks that do not allow organisations through the door to take a seat at the table to grow out their product or grow out their IP. The way it has been put to me is that it's seen as a threat to mainstream agriculture and, in turn, the political body that has farming and agricultural interests in Australia at heart chooses not to be engaged in what's going on in the emerging traditional owner / Aboriginal culture sector. I think there's a bit of a philosophical or political conversation to be had about how we penetrate markets and how we get the peaks, which are generally focusing on specific mainstream activity, to incorporate some of the conversations about Aboriginal agriculture into some of their strategic frameworks. That's a conversation at which I'd like to be a fly on the wall.

Senator COX: Thanks.

CHAIR: I'm sure that's not all the questions we have for you today, but it's all we have time for. My task now is to say thank you very much for your attendance here today. If you have been asked to provide any additional information would you please forward it to the secretariat by 9 August. That could include any additional information that you might want to provide, as well, not necessarily just what you've been asked to provide. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to any transcription errors. Thank you very much for appearing today. We'll take a short suspension for lunch.

Proceedings suspended from 13:20 to 14:12

THOMPSON, Ms Laura, Chief Executive Officer and Co-Founder, Clothing the Gaps [by video link]

CHAIR: Welcome. I have a bit of a spiel I need to read out before I go to you, Laura. I need to let you know that the committee does not require you to give evidence under oath. I should advise you that this hearing is a legal proceeding of the parliament, and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. Do you have any comments to make on the capacity in which you appear?

Ms Thompson: I'm a Gunditjmara woman.

CHAIR: I will now hand the floor to you if you would like to make an opening statement.

Ms Thompson: Thank you. Clothing the Gaps is probably one of the country's biggest Aboriginal retailers at the moment, and we've been operating since around 2020. We started during COVID and really grew during the Black Lives Matter movement. We're a certified social enterprise. We're also a certified B Corp and were the first known Aboriginal business to be accredited with Ethical Clothing Australia. Our tagline is that we unite non-Indigenous and Indigenous people through fashion and a cause. We make merch with a message. We have led significant social movements and use our brand and the power of fashion to fuel that. The most significant one was the Free the Flag movement that we spearheaded and drove through the business. So that's a little bit about Clothing the Gaps.

CHAIR: Thank you, Ms Thompson. While we are waiting for Mr Perrett to join us, I might go to you first, Senator Cox.

Senator COX: Thank you, Ms Thompson, for joining us today. I also want to acknowledge that I'm joining you from Boorloo/Perth, Noongar-Whadjuk country. Thank you also for your submission to this inquiry. Are there any state or federal government programs that have been useful? I know you mentioned the campaigns, but was there any additional funding or support that was given to you through government? I know you're based in Victoria, so was there any support offered through the Victorian government?

Ms Thompson: That's a great question. I'll just also say that we are a certified member of Kinaway, the Victorian Aboriginal chamber of commerce, and Supply Nation. When we started Clothing the Gaps, one of the first things that we did was to certify with both of these entities, because we found that for our consumers it was important to them that they knew that we were a verified Aboriginal business.

In terms of support, I think this is what's really tricky about Aboriginal retailers. I think we need to think more broadly about Aboriginal businesses and what industries they belong in. For retailers that are B2C, or business to consumers, the level of support available for us has been significantly less. This has mostly been because most of the government initiatives have been around procurement targets, which has been great, but we have never been eligible for procurement because we're selling to individuals. So the challenge for retailers is what's actually on offer from us and how can we tap into government support, because mostly it's around businesses who are procuring, not businesses who are selling to individuals.

In answer to your question, other than certification and using that logo on our website and our products to send a message to our customers that we are, in fact, an Aboriginal business, we have found it difficult to find funding that would specifically help us in the retail, e-commerce space. So the answer is probably that there hasn't been much to tap into or to leverage to support us.

Senator COX: I sit on the trade committee that looks at the development of Australia's free trade agreements and treaties with other nations, and a lot of my questions have circled around how we profile small businesses in particular but also Indigenous businesses to make sure that they're part of the supply chain and that they do have opportunities. Given that fashion or retail is such a growing and emerging space, do you think there could be any changes we could make in relation to access to markets or export, given the unique space you're using?

Ms Thompson: When those opportunities have arisen for retailers, it's been around export. For closing the gap, as I mentioned earlier, it's probably one of the biggest Aboriginal retailers, certainly in streetwear. We are not mature enough yet as a business to be thinking about exporting. At the moment we're down 30 per cent on sales; in the cost-of-living crisis, retail has been hit really hard. From the conversations I'm having with other Aboriginal retailers, they too are feeling the pinch. Businesses are putting off staff—certainly we've put off staff—and they're not looking to recruit for the time being because T-shirts and fashion and all those things are non-essential, and Australian consumers are feeling the pinch. If they are buying, in fact, they're waiting till there are sales. We're seeing this across not just Aboriginal retailers but all across the retail sector. We've been hit hard.

The opportunity, though, is to think about our Australian market first. We have got strength as Aboriginal businesses and power in numbers. I feel that what is missing is whether it's an online marketplace or whether—we've been throwing up the idea of a national Aboriginal retail association that holds all our Aboriginal retailers. In fact, we educate Australians, most importantly, about what difference it makes when they buy black. We spoke a bit about it when we talked about closing the gap. We know that if we build our economic self-determination through business we can help close the gap. We need to let Australian consumers know and educate them to change their spending habits. If they spend their dollars when they're buying their soaps, when they're buying their tea, when they're buying their next pair of socks and undies, at Aboriginal businesses, that is going to change the livelihoods of so many Aboriginal businesses and retailers like ours. And we know Aboriginal businesses are 100 times more likely to employ Aboriginal people.

I would love to see the government run a really strong marketing campaign—maybe pull together an association of retailers. We have specific challenges that impact on us. Kinaway or Supply Nation are not across what the challenges are in retail. We've got specific challenges but we've got opportunities to educate the public about what difference it makes if they buy black. My belief is if we start focusing on educating Australia about what the difference is in buying black, building our capability of Aboriginal retailers through industry specific knowledges, connections and mentors—who are those other retailers we can lean on? A lot of the challenges in retail are in buying power. We don't have the economies of scale that a lot of other non-Indigenous businesses or more established businesses have. But when we create a network of Aboriginal retailers together we can leverage stories and marketing dollars. A nationwide 'buy black' campaign would really raise the profile of what difference buying black makes.

On the flipside of that, one of the biggest risks to Aboriginal businesses is collaborations. Whilst there are some great things about them because it's great for the artist, we know the non-Indigenous business who benefits from the collaboration is not reinvesting its profits back into Aboriginal communities the same way an Aboriginal business does. So we need to educate the Australian consumer because more and more non-Indigenous companies are selling Aboriginal products in their store through collaborations and they're making an absolute fortune. We need to educate our consumer and say that, whilst you might love that poster or artwork at Kmart or that cup from Coles that's everywhere now and you might get it at a cheaper price because Coles can produce that—and, yes, it's great for the artist—if you were to buy that same cup from an Aboriginal business, your dollar spent on that Aboriginal business is going to be profoundly more impactful.

Senator COX: That brings me to my next question, which is about IP and the things that we could do at the federal level to protect, particularly, cultural IP. You spoke about production of a cheaper product—but not the authenticity of it. Is there any [inaudible] you think that we could do as a committee, in recommending through this inquiry, to tighten that up?

Ms Thompson: There is a question in thinking about Aboriginal retailers at the moment—and I'm talking specifically about retail because that's what I know—and thinking about packaging and marketing our product, which is what we have to absolutely do in order to sell it. If we had a product certification logo that the government was able to create, that was specifically a bit like the 'Australian made' logo and that was recognisable and created for the purpose of letting the consumer know that this was an authentic product made by an Aboriginal business, that would certainly make a difference.

We've seen from other companies as well that they're, for lack of a better word, blackfacing. They're non-Indigenous companies—you see it a lot in the food industry—and they're selling, let's say, native teas. The packaging is covered with a whole lot of dot paintings. They're using photographs of Aboriginal people. It looks like it's from an Aboriginal business. You have to then research to find out that it's not. That business would never be eligible for this Aboriginal business certification. So that certification in and of itself is an education piece for the consumer about it being a black business product.

Then I think the next step will be explaining to the consumer what differences supporting a black economy make. We say it all the time: 'Where you spend your dollar is a vote on what country and what world you want to see.' Certainly, supporting black self-determination when you purchase any product, whether that be coffee or tea, is one way that you can actually support reconciliation in this country. That sort of messaging on a grand scale, supported by the government, would certainly raise the profile of so many Aboriginal businesses, which I believe would then get us to a point where we're able to think of what exporting would look like. But I'm talking from my experience and that of some of the other businesses that I know, and we're in survival mode at the moment.

Senator COX: I've got one final question. Your business started in COVID, as you mentioned. There would have been many, many barriers, and you mentioned the 30 per cent drop in sales for you. But were there any particular significant hurdles that you faced? We've spoken a lot to the ATO about pay as you go, superannuation

and the operational parts of business, but do you think there are any particular challenges for you as a First Nations business?

Ms Thompson: Clothing the Gaps invested early in HR and external accounting to support the operational functions of the business, so we had really strong foundations. I think the major challenges would probably be navigating retail and ecommerce as lone rangers. Certainly we haven't been able to tap into our local chambers or even Supply Nation for support around being a retailer. I just don't think they have specific enough knowledge just yet.

On the idea of having a national Aboriginal retailers conference, it's exciting to see the emergence of so many Aboriginal brands; we've just never actually been all in the one spot. There's an opportunity there for the government to bring together all of our Aboriginal retailers and for us to learn off each other. Then I guess the next step would be: let's learn off some of the biggest players in retail. Who are those non-Indigenous companies who can mentor and support and help grow Aboriginal businesses? If we go in and see collaborations, let's see more collaborations that are business to business, because we know that's how we're going to get the biggest bang for our buck and the biggest rewards for our community.

Senator COX: Thank you. I appreciate that. That's all, Chair.

CHAIR: Thank you, Senator Cox. I'll hand to you now, Mr Perrett.

Mr PERRETT: Thank you very much. My first question is about recruiting and retaining First Nations employees. I wonder if you could tell us a bit more about that. When I transferred from my car to the office, I just missed a little bit of your testimony, so I am sorry if you've already answered that.

Ms Thompson: No, I haven't answered that. I'm happy to touch on that. Thank you. I love this question, partly because, when we've advertised a casual retailer job or a casual warehouse operator job, we have had over 40 applications. We hear from non-Indigenous companies with reconciliation action plans all the time, saying, 'We're just really struggling with our recruitment.' But, when you're a Black business like we are, you're not trying to retrofit your space to be culturally safe. You are already culturally safe, because you are a Black business. Employing staff has never been a problem for us, nor has retaining staff. So I think that, in and of itself, Aboriginal and Torres Strait Islander people want to work for Aboriginal and Torres Strait Islander businesses. In fact, I was speaking to a big corporate the other day, and they were saying, 'How do we employ more Aboriginal people in our company?' I said: 'Well, why would they want to work there, with all due respect? What about if you spent more money with First Nations business and helped grow them, so you're not stealing our great staff to work with you but they're staying in a culturally safe place where they want to work? Why not help to grow Aboriginal businesses?'

The issue for us—just to finalise that—is not that recruiting and retention are a problem. The issue in our industry is how it fluctuates so quickly in retail with our shopping periods. I'd really like to have it on the record that Aboriginal retail is very different to non-Indigenous retail in terms of when our peak periods are. From Clothing the Gaps' experience, we are busy around 26 January—Invasion Day, Australia Day or whatever you want to call it. We are also busy around Reconciliation Week and NAIDOC Week, and we're seeing an increase around Christmas. During the other times of the year, we are relying on those times that I've just mentioned to prop us up. We are not busy. I think the issue with Aboriginal retail is educating our consumer about how we're not just Aboriginal themed merchandise that you buy, where you just drink black tea during NAIDOC Week or you just wear a black T-shirt during Reconciliation Week, but in fact we provide quality products that you can use all year round. The challenge for me to retain staff is that I don't have enough shifts, unless it's those certain times of the year, and that it's unreliable work in retail because of those peak periods.

Mr PERRETT: That's a good problem.

Ms Thompson: It is a good problem, but, for the rest of the time, they don't have work with us, because our non-Indigenous consumers don't want to buy from us in February if there's not an Aboriginal significant day on the calendar. That's the challenge.

Mr PERRETT: In terms of dealing with challenges outside of employment, could you talk to me about innovation? We've been informed that First Nations businesses are often leaders in innovation. Could you tell me about some of the creative ideas that you've encountered or that have come out of your organisation?

Ms Thompson: Yes. I think we do innovation quite naturally, but we need to be innovative in fashion right now more than ever because of its impact on country and the environment. We're about to implement—other companies are starting to do it, but I think we'll be one of the first—a circular fashion model. That means that Clothing the Gaps are essentially the custodians of every item that we make. We will pay for people's postage to return any Clothing the Gaps T-shirts to us, and we'll either responsibly recycle that or give those T-shirts back to

Aboriginal communities. Essentially, fashion can create a whole lot of waste, but we're making sure that, for everything Clothing the Gaps creates, we're responsible for either recycling it or giving it back to Aboriginal communities. Some of this innovation's what we need to see in the industry. I think our consumers want to see as well that we are looking after country the best way we can. So they're some of the initiatives.

Mr PERRETT: Would they pay a premium for that? The circular model does cost a little bit more. Putting it in the dump costs the planet.

Ms Thompson: It does. We have to pay to responsibly recycle our materials, actually, so it is going to cost us money and it will cost us money to pay for postage to send it back. This process is going to cost us, but we're also talking to a conscious consumer. These are the challenges where these consumers will say, 'Hey, these are, in fact, the brands that I want to continue to buy from because they're actually putting their money where their mouth is and doing what they're saying they're going to do.'

Mr PERRETT: Does that mean that First Nations businesses need to target the top percentile of people—the top quintile or 20 per cent of the market—that have slightly more discretionary funds?

Ms Thompson: I guess it depends on whether you specifically want to target that group or not. I think consumers—certainly younger consumers—might buy less and choose to buy quality. Certainly, I think the message to non-Indigenous Australians is, 'If you buy black, this is the difference that it's going to make.'

Mr PERRETT: To buy quality black products rather than cheap Chinese products, shall we say, or whatever.

Ms Thompson: Yes, and buying from black businesses will contribute to more Indigenous employment, more self-determination and future economic security.

Mr PERRETT: Did you receive any local, state or Commonwealth support for any of the initiatives in your business? If yes, how has it worked out? If no, why not?

Ms Thompson: To be honest, when you're running a business like we are, your head's very much in marketing. I'm doing Google ads and Facebook ads. My head's in Shopify. It's a different world. I'm not looking at what government grants are available to support the work that we do. I think we might have got—no, we didn't get that. We haven't really actively got grants, and we haven't got grants for any employment subsidies. Perhaps we could have got some grants, because we've employed up to 40 Indigenous people in our businesses when we've been at our peak, but if they're not selling there is no work. We're hustling to stay alive. The worry for us in business is that if there's soft money in the business we may start to rely on that to stay afloat, rather than putting our focus into creating what's going to be our next bestseller. Because we can't rely on the government money and—

Mr PERRETT: You sound like a neoliberal—that you want to be lean and end tariffs! That's not meant as an insult.

Ms Thompson: Yes. But that's the reality of running a business that's independent of the government. Some of the suggestions that I think will make a difference are actually not about one business, or about closing the gap separately. It's about a cohort, a powerhouse of Aboriginal businesses together, and promoting all of us, and it's the difference that all make that's going to make the biggest impact.

We've got a really impressive mailing list and we've got a really impressive social media reach. I want to promote all Aboriginal businesses through our platform because there is enough room for everyone in this space. But what I don't have is one peak body that says: 'Hey, here's a list of all your Aboriginal retailers. You can buy them all in this one place, and this is the difference that it makes.' Because all Aboriginal businesses are selling directly to the consumer, and we've all got our different reaches out there. We just need the right products to collectively promote.

Mr PERRETT: So how the Commonwealth—or state or local government, I guess, but Commonwealth is what we're about—could help is by, rather than picking winners, just making sure it's a level playing field by saying, 'This is a genuine black product.' Which is what we do with Australian Made; we don't try to compete on price with other countries, but we do give the information that something is Australian made so you know it's got a certain quality and a certain provenance—for our wine or for our beef or for our whatever.

Ms Thompson: And there may be a national First Nations retail association that supports that, and that actually supports that industry as well. Yes.

Mr PERRETT: They don't have to reinvent the wheel but just give the wheel a bit of support and rigour, in terms of taking that message around the world.

Ms Thompson: That would be incredible, right? And then we are naturally starting to export, because people are becoming aware of what Aboriginal businesses are and what they offer.

Mr PERRETT: Thank you very much for your evidence, Ms Thompson. I appreciate it.

Ms Thompson: No worries.

CHAIR: Thank you, Mr Perrett, and thank you, Ms Thompson. That's all we have time for this afternoon. I want to thank you for your attendance today. If you've been asked to provide any additional information, which I don't think you have, would you please forward it to the secretariat by 9 August. You'll be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to any transcription errors. Thank you very much.

KNEEBONE, Mr Jonathan, Director, Policy and Engagement, First Nations Clean Energy Network

NOLAN, Ms Karrina, Co-Chair, First Nations Clean Energy Network

WEBBER, Mr Joel, Member, First Nations Clean Energy Network

[14:44]

CHAIR: Welcome. Before we begin, I want to let you know that the committee does not require you to give evidence under oath. I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make an opening statement, if you've got one.

Ms Nolan: I will kick off with a few comments, and we'll see how we go. The First Nations Clean Energy Network was established in 2021. We have now got over 1,000 First Nations members and land councils and organisations right across the country. We established ourselves after doing lots of consultation in meetings with people around the country because it was very clear that our communities were being left behind when it came to the clean energy transition.

The network is solely focused on making sure that we're front and centre. We've been doing a lot of work with the federal government around the First Nations Clean Energy Strategy and a whole range of things, but I thought it would be useful to very briefly talk about the three things that we're hearing from our communities around the country. This is the largest transition we're going to see of the electricity energy system in our lifetime, but it is also potentially the biggest opportunity for economic development for our people that we're also going to see in our lifetime too. We think it's really important that we're very organised around that.

We did roundtables and all sorts of things right around the nation, and there were three key things we heard from these people. The first piece is around engagement and consent. A lot of the large-scale projects are being designed without our communities, without early engagement, without thinking about where they were sited. Approvals take longer and people just aren't able to genuinely consent to those sorts of developments. Obviously there's a whole bunch of reasons why consent is critical, but from an economic perspective it means we can have good agreements, sound projects and people can genuinely benefit from them.

It feels obvious to us, but when we look around Australia there are three million rooftops with solar panels. Very few of those are First Nations rooftops. The second piece is what does it look like for us to have clean, affordable, reliable power. There is also a whole range of economic development opportunities that come with that: retrofitting substandard households, moving people off diesel, changing and upgrading houses out in remote communities et cetera. Of course, the flip side of that is all the savings in health and welfare costs that we're seeing for people who are having to move off community, the impacts of that, but also when you're living in places where it's over 35 degrees regularly, actually cooling the house is almost impossible. We're hearing stories of people cooling one room and then taking it in turns sleeping in that one cool room in the house.

I won't go into the impacts of climate change; I think we're across what that's looking like for lots of our people, but I think this piece around energy security is key. We want to make sure that we're not seeing large-scale projects export power past people who need it the most. And of course that economic development opportunity is in there too.

And finally, the third piece we've been hearing about a lot from people, and it's great that the National Native Title Council is here to talk about this as well, is that our traditional owner groups, our prescribed body corporates, our land councils are sorely lacking capacity and resourcing. We know that when our communities and traditional owners are organised, we can really determine what happens in our country and its done much more on our terms. What we're seeing is proponents coming to us and flooding lots of our communities with 30 different projects. People aren't ready to respond to those well, so there's that response part, but the flip side is what does it look like when our mob are actually owning and running the businesses and actually running First Nations led projects.

We can talk about examples from Canada. Over there they have at least 400 First Nations owned or majority owned projects. In Australia we have 15—they're not yet built, but we're slowly getting there. Investing in our traditional owners and entities to make sure that we can really engage and generally see some economic development come our way is pretty key as well. There's lots more I can say, but I thought these could start the comments.

CHAIR: That was a good little snapshot. Thank you very much for that, because I am interested in where you see the economic barriers and opportunities in the transition. I feel like that's a big, broad question to start with.

And what are the barriers in the clean energy transition and the Future Made in Australia Act? I'm very keen to hear some of the solutions and where the opportunities are for mob to be in the driver's seat for that stuff.

Ms Nolan: We've had some specific suggestions on the Future Made in Australia Act. One of our concerns around the act at the moment is that it has a whole range of community benefit principles in there. It considers us First Nations as part of the community, sure, but actually we have separate rights and responsibilities and therefore need to be separated out from any community benefits that are separate First Nations and traditional owner engagement benefits. So there's a lot of funding. We understand that there's something like \$23 billion attached to the Future Made in Australia Act. Some of that will go through ARENA and an innovation fund, and a whole range of other places. So, again, what the Canadians have told us is that, where there are specific pockets of money earmarked for First Nations led projects, that's where we're seeing results. We've written a best practice guide and others have as well. Where we're seeing proponents do the right thing, such as more First Nations employment, equity stakes for communities and a whole range of other benefits, we're actually seeing better outcomes. So government incentivising best practice, which it can do through Future Made or through Rewiring the Nation or other initiatives, then we're seeing better outcomes.

Mr Kneebone: I'll add to that. To go back to your first question about the different ways that energy can facilitate economic development outcomes, there is a range of ways we've broken it down. I'll start with the Future Made in Australia Act. And I'll just pick up on something Karina said about separating out the First Nations outcomes from the general community things. There's precedent for the way the Commonwealth has done that in the Net Zero Economy Authority Bill, where it separates it out, and also in the National Reconstruction Fund Corporation Act. So there are mechanisms and precedents to look at as to how they've separated out general community benefits and First Nations specific outcomes, which we'd love to see in the community benefits framework for the Future Made in Australia Act.

CHAIR: Before you move on from that, what difference has that made?

Mr Kneebone: I have an example to get even more in the weeds. To facilitate this transition, the Commonwealth has come up with an amazing policy mechanism called the Capacity Investment Scheme, which is \$67 billion of taxpayers' money that will underwrite new projects, which is really essential to facilitate the outcome of the transition. And essentially what that does is provide guaranteed revenue for your project if you meet certain criteria. It's really just a procurement policy play. Of course, in First Nations policy we've seen procurement used as a tool to direct particular outcomes. So it's essentially a set of criteria that you deploy for the way that public money is spent, wanting to see a particular outcome at the end of that process. That's what the Capacity Investment Scheme does. We've been in there trying to articulate why, including criteria around First Nations outcomes and ownership. Not just jobs and business opportunities but ownership and genuine participation is really important. If you have highlighted to decision-makers that they need to consider First Nations outcomes when they're making decisions, then we think that could be really transformative in terms of directing people towards the sorts of things that the parliament expects to see from this transition. So that's why we think putting that in the Future Made in Australia Act would be a really good step in the community benefits principles.

CHAIR: And specifically separating it out?

Mr Kneebone: Yes. Otherwise, as a decision-maker, you might have the general community wanting a new netball court or footy club, but actually the First Nations community members in that region will probably want vastly different things and people might not be organised to have the power agency to articulate what it is that they want because of various factors. That's why having people have a hook in there, in a decision-making sense, is really critical.

Ms Nolan: And that benefit is separate to the consent piece, so that's in addition.

CHAIR: I am interested in the best practice piece you spoke about. At a very high level, just because we don't have a lot of time, could you talk us through what that looks like on the ground when someone's doing things right to engage and get consent?

Ms Nolan: The best practice principles are very straightforward, but they include, obviously, free, prior and informed consent. We've talked a lot with proponents about early engagement. On the other side, in supporting our traditional owners, it's about not getting to the negotiating table until step 10. So people need the capacity to do that, which might be to hold decision-making meetings, to have legal technical experts or to have cultural advisers et cetera. So there's a range of resourcing there. But then there are a whole bunch of other things in there around stewardship, economic development, benefits and rehabilitation. They're more about the project development itself and the project cycle. But, yes, of course, those other key elements are in there too.

CHAIR: I think in your submission you said that, if you do that work upfront, you'll have fewer layers down the track.

Ms Nolan: Country planning—that kind of idea?

CHAIR: Yes.

Ms Nolan: Country planning—supporting people to think about where they might want certain developments or where they might not?

CHAIR: Yes. Engaging early means you're going to have a less—I can't remember quite what the words were now; I think 'adversarial' was the word you used, actually—adversarial approach to some of this work.

Ms Nolan: We just did an interesting trip around the country talking to traditional owners about hydrogen. What was really interesting was that these projects were quite developed, and traditional owners didn't know about them. What that says to us is that none of those basic principles are being applied, and people aren't getting information nearly early enough. And then, when it is coming to people, it's almost like 'Here's the design, here's the location,' and then, if people are really upset with it or don't want it, don't consent to it or don't have enough information to really engage, then they have to go back and start again. It's pretty basic: come to people as early as possible and genuinely engage with people. Make sure people have capacity to join you at the table.

CHAIR: So there's a way to avoid all that frustration down the other end. They could avoid having to go back to the drawing board by engaging early.

Ms Nolan: Yes.

CHAIR: Traditional owners mostly get the blame for that stuff, because they're seen as the people who are holding it up.

Ms Nolan: Yes. I think the other bit is that we need to lift the aspirations at our end, at a community end, around what's possible from clean energy. In WA it's probably less so; people are a bit more advanced and understand the potential. But some of our communities are still getting their heads around what is possible from this. It's about moving us beyond thinking it's a certain number of jobs and First Nations procurement opportunities to actually having equity stakes in the project and thinking about this at scale and beyond what we might have thought of before. I think that's the bit that we're all responsible for. So, if government incentivises that, industry does the right thing, community aims higher and is more organised, then I think we're going to see all of us benefit.

CHAIR: And those opportunities are really exciting to think about. We don't necessarily want to be engaged, but give us an equity stake in some of these projects that are happening. It's pretty cool, really. I have a bunch of questions, but I'll hand over to you, Senator Cox.

Senator COX: Thank you all for appearing this afternoon. There was a lot of information that was coming at me just then. We had a lot of conversations this morning about energy security in north Australia, and it's something that's constantly being brought to the forefront of the conversation about economic empowerment, when we still have mob who are living on prepaid cards in this day and age. I'm interested to pick up on the point that Ms Nolan made around renewable infrastructure and the potential for equity investments. Is that something that the clean energy network has specifically talked to the federal government about?

Ms Nolan: That's thinking about projects that have equity as well as dealing with energy security?

Senator COX: Yes, that's right.

Ms Nolan: Yes, we have been talking to the government about this. What's been difficult is that every jurisdiction has different barriers in place to projects being developed by community, and then, also, not all communities want to operate and generate their own power systems.

A couple of examples are in the Northern Territory. One of them is in a community called Marlinja. It's been done without the government, but we've supported people to do it philanthropically. It's a 100-kilowatt solar array for 30-odd houses. That got energised this week, and so people are going to see a 75 per cent reduction in their energy bills. They're paying six grand a year. They're on prepaid meters. It's going to be really life changing. It means people have got more money to spend on other things: keeping the kids in school, doing the washing, keeping food in the fridge, keeping the power on. It is life changing for people.

I think that demonstrating how to do that at scale is something we're struggling to get all governments to see, because it's taken a lot of work to get the right entity in place for traditional owners to get organised to do that. Then we've tried to bring in public money, and, if you want to do that at scale, you also need to crowd that in with private investment, getting government to do that initial funding. Yes, ARENA is looking at it. The most

successful conversation we've had is on the microgrids program through ARENA, but we think there needs to be a lot more investment in that.

Senator COX: I just want to pick up on that point. Something we heard from the University of Melbourne this morning is that the data for some of those regional providers is actually invisible. There's no hope of creating a policy around this if we don't know what the data looks like. So I concur with what you're saying. Do you feel that the Australian government should institute project ownership targets for First Nations people upon whose land renewable energy projects are built? This is similar to the Canadian model.

Ms Nolan: Sorry, it's a little bit difficult to hear. This is about projects being built like the Canadian model?

Senator COX: Yes, that's right—project ownership targets for First Nations.

Mr Kneebone: That's a great question. I think the quick answer is that, no, we're not at the same level yet. If, as an example, I go back to the Capacity Investment Scheme I mentioned—a great, big policy piece about incentivising particular outcomes—it's actually a really similar policy tool that's been deployed in over 100 countries around the globe. We've looked at it and in South Africa—in 2013, I think it was—they had a very similar mechanism. They were trying to get off coal and gas and move to renewables and they mandated 13 per cent equity ownership by black people just to get your project into that scheme. In Canada in 2009, similarly, it was something like 11 per cent had to be First Nations owned. That was in the province of Ontario. And most recently in British Columbia we've seen the British Columbia energy authority's call for power, and that mandates 25 per cent First Nations ownership just to get into the scheme.

In Australia, our Capacity Investment Scheme hints at First Nations ownership being a good outcome and something that will make you score more highly, but it doesn't mandate a level; it just encourages people to consider that. It's not an eligibility criterion; it's just something that you might consider further on. So we're heading there. I think there's good noise about it, but we don't have the same level of aspiration that other countries around the world have.

Ms Nolan: I would just add, though, that thinking about whether there are minimum targets on equity is one option, but another is making sure people can determine for themselves what is most appropriate. I think there are a couple of examples in Australia where equity has been offered, but in the early stages of a project, and it's a project which actually is quite a speculative project and has some potential risk. Then there are also projects where people have had to buy equity, and that's also quite risky. So just think about the stage in the project cycle. We don't have a First Nations clean energy fund. It's something we've been talking about that would help people with loans for equity or other financial mechanisms.

Senator COX: Thank you. I just want to pick up on your point around the processes around the FPIC, given that we are in this government cycle of talking about Future Made in Australia and the Future Gas Strategy. As the peak body, I think you've outlined that some of those principles are not actually being adhered to, if that's the correct representation. Do you have a view of how this process might be improved?

Ms Nolan: How the process might be improved?

Senator COX: Yes, for FPIC—free, prior and informed consent.

Mr Kneebone: There are various ways, and I'm sure the National Native Title Council will get to it next. Our pillars have been community, industry and policy, and we've actually seen great appetite from the renewables industry to pick up these best-practice principles, which are very clear that there's free, prior and informed consent as best practice and seek to deploy it. Of course, the concept of free, prior and informed consent is not one that's well understood in Australia, because our current laws and systems don't incorporate it, but the market is keen to move towards it, I think it's fair to say. Financiers are moving towards that sort of principle in how they make financing decisions. So, even though it might not be there in law, people are genuinely wanting to move towards arrangements where traditional owners consent, are given information early and upfront and genuinely participate. Certainly, there are still improvements to be made, but we're seeing with many, though not all, proponents—of course, there are still what you might call cowboys out there that are not doing the right things at all—that things are heading in the right direction.

Senator COX: Well, those cowboys are well and truly in the gas cartels of Australia! We see it every single day that our mob has to go to court against them, because, even though we have FPIC and best practice, it's not good enough. We have it in regulation, and they're still not following it. So I think 'cowboys' would be a bit of an understatement for that. Do you have any projects that you can point us in the direction of that would give us the shining diamonds in the models that are working currently across the country?

Ms Nolan: Thanks for that question—and I do agree with you on the consent issue. We do have a long way to go. There are numerous projects where I think it would be terrible if the government in this next round, including

for hydrogen, critical minerals and others, put public money into projects that don't have consent. So, yes, we are watching that.

On the shining examples—we've got a project tracker, to make us feel like we're actually getting somewhere, which are the 15 projects that are majority First Nations owned and led or are a joint venture. I'll got through a couple of them quickly. There's one in the Kimberley—the Clean Energy Project. That's a great collaboration that's worth having a look at. There's also Yindjibarndi Aboriginal Corporation and Michael Woodley, who have been doing an amazing job. They've got the right ingredients. I think they've got strong land tenure. They've got an offtake agreement with Rio, which means they've got someone to buy the power. They've got a really good history of negotiating good agreements and good governance. So that means that that kind of the equity arrangement is very strong. Another one is Wilan Wind Farm, which the Nari Nari Aboriginal council negotiated. That's a collaboration with Kilara Energy. It has a five to 10 per cent equity. That is land-tenure blind, if you like. So we're also trying to say to people, 'It shouldn't matter whether you have strong native title rights or not.' Then the other one would be Borroloola, which is still in its early stages but is looking to be developed next year, which is a traditional owner led microgrid that will power a 1,500-strong community. At the moment that will be fully owned by the traditional owners. So there are couple, but we've got a long way to go.

Senator COX: Great. Thank you. That's all from me.

CHAIR: Thank you, Senator Cox. Over to you, Mr Perrett.

Mr PERRETT: Thanks for the evidence. You touched on it in your earlier answer to Senator Stewart, but I just wondered if you could talk me through the energy transition workforce opportunities for First Nation communities in the bush and in the city.

Ms Nolan: Sure. We have actually just released a jobs report, which has got 12 recommendations. But we really need to build the capacity of First Nations businesses and First Nations job providers, because our mob employ our mob. That's what the Canadians have said, and that's what we know—and I'm sure you've been hearing that all day. I think that's a really key thing. Let's invest in those where we can. Then there's setting targets. Some people are like, 'Oh, yeah, will that work?' It only works if you really support those targets to work. That, again, is investment in those relevant businesses and job providers. There are some specific recommendations. I don't know if you want to talk about those, but—

Mr PERRETT: Sorry, I'm—

Ms Nolan: Can you still hear me?

Mr PERRETT: Yes. Could you just hold for one sec. As the chair of the Public Works Committee, we hear about Commonwealth projects and First Nations content requirements all the time. That has been a policy for a long time. Is that not the reality on the ground? Is that not translating into training and employment?

Ms Nolan: Do you mean are people meeting the targets?

Mr PERRETT: Yes, because we're hearing from the head contractor, who's saying, 'Yeah, we're committed to this percentage, and this is how we'll do it.'

Mr Kneebone: We looked at this in our jobs report, which is called *Powering First Nations jobs in clean energy*. It's quite a weighty tome, but we did a good executive summary to make sure that people didn't have to read through the whole thing.

We don't see that targets are necessarily the solution, but they're part of it. Yes, we've heard lots of stories about targets not being met. Indeed, we know that in New South Wales they've held these great targets through the way they've been trying to get clean energy projects developed, and they're not being met. So we think the other side of the system also needs to be developed. First Nations job providers, First Nations community led organisations, group training organisations et cetera all need to also be equipped to supply labour into the workforce. We also need to start at school age. We need to be telling our kids in school about what the opportunities are in the transition, because the broader challenge Australia has is that we're going to need a million new workers in clean energy, and that means 30,000 to 40,000 First Nations people. So there's huge opportunity, we think. The reason for doing the jobs report was to highlight how we might make sure that our First Nations people get into those roles. Targets are not the solution on their own. There's a whole other supporting system, which is what the report goes into, that is required.

We also think a core part of that is compliance. If people aren't meeting targets and they've said that they will and they're winning contracts on that basis, we need to have some kind of ramification for not meeting the targets.

Mr PERRETT: If I made you the First Nations minister or the infrastructure minister tomorrow, what are the government policy settings that you would bring in to support these First Nations controlled service providers? When I sit in Canberra and look at it, we get the box ticked saying, 'Yes, First Nations component—tick.'

Ms Nolan: I agree that there's a lot of enabling infrastructure that's needed to build this sort of workforce. When you asked the question about the bush, my mind went to the Canadian program. They've got two: the diesel reduction program and one called Bringing It Home. What they did was that they had to retrofit hundreds of thousands of homes, and then they had to upgrade all these homes, and then they were trying to also install battery and solar for people who were moving off diesel, which provided huge emissions reduction savings. So governments had all this reason to do it. Then they built that local workforce. Some of those same places also had great solar potential, so then they were like a bridging workforce to the sort of utility-scale builds that needed to happen. So I think there are some creative ways we could think about how we build a local workforce that also does some of the work that needs to be done on our own homes.

Mr PERRETT: Is it comparing apples with apples in terms of the Canadian model? Is there collective ownership on collectively owned land, or does it work better if there's private property on collective land? This committee has looked at Canada tangentially, but not in great detail in terms of exporting that model to Australia.

Ms Nolan: It's a great question. I don't think it's totally apples and apples, but I think there are some places where it is, where there's a land trust equivalent, which is what we have here. But actually, having said that, I note that even in the Northern Territory some of the arrangements around land trusts have meant it has been difficult for people to do collective projects, even the microgrids. But the microgrids have been easier than rooftop solar, because then it was: who owns the homes? Even in rental properties, we're seeing this challenge around not only who owns the homes but also, if we install assets, who's going to own and maintain the assets. So I think you're right to raise that point. I think there's a whole bunch of really specific jurisdictional policy reform that's going to be required to do some of the household-level work, let alone thinking about the workforce development that goes with it. But I think there are some examples that we could use from Canada.

Mr PERRETT: I'm speaking to you from Queensland, where we have this wonderful thing called DOGIT lands, deed of grant in trust lands—

Ms Nolan: Oh, yes.

Mr PERRETT: which is another nightmare in and of itself. Anyway, I take your point. My next question is about stimulating investment and unlocking economic opportunities for First Nations communities. We're developing the First Nations clean energy policy. If I were to get you writing it, what are some of the things you would be adding to the strategy?

Ms Nolan: I'm looking down the line here. I think there are a whole bunch of financial mechanisms. Currently, the special-purpose vehicles where people can get loans aren't really suitable for any of the projects that our communities want to run, operate and own ourselves. Thinking about a special facility that encourages First Nations ownership would be important. That could be enabling people to do a feasibility or pre-feasibility study, getting the technical experts—advisory as well as financial—or different kinds of loans. Again, the Canadians set up an aboriginal loan guarantee facility. They also set up a special fund within one of their mainstream banks so people could loan it at a lower interest rate with longer term repayments.

Mr Kneebone: I'm going to maybe go a bit high level too: energy is an enabler for all sorts of different things at a household level, a community level and a nation level. We need it to keep our economy ticking, and a household is exactly the same. It's a very heavily regulated sector, full of rules and full of experts, and we often forget that it's meant to serve people and communities. One thing that we've been really keen to highlight in our work—and it's demonstrated by the projects in Marlinja and Borrooloola—is that, if you create an energy system that's designed around what First Nations people need and want and aspire to, then you get better outcomes. It unlocks opportunities for economic development. Karrina mentioned the thousands of dollars more in people's pockets from having access to solar and batteries, and not having to be cut off from power because of disconnections, in answer to the question Senator Cox asked. If we think like that, if we try and put people in the centre of our energy system and our First Nations communities in the centre of an energy system, then we can develop rules around it that are much better and help unlock those economic opportunities.

Mr PERRETT: I was on another committee up near Uluru—

CHAIR: Last question, Mr Perrett.

Mr PERRETT: Okay. I just wanted to know how we qualify the value. If you have to go and pay for your own power with a power card, you have a clear understanding of the value of the power, whereas with collective

ownership of solar panels there are lots of value opportunities but people don't necessarily understand the value. It might be a bit hard to ask that as a question.

Ms Nolan: No. I think that's a great question. Actually, we are literally working on an example this week out in Marlinja. We did that with Jacana, with the retailer. In the community centre, which is where we did the first install to help educate people about the benefits of renewables—and then we did the microgrid a year and a half later—there's a screen that shows people the kilowatt hour and the number of cents that people are saving. So we've been helping people do that kind of energy literacy while we've been doing this work.

Mr Kneebone: The upfront cost of renewables is very high, and that's what acts as a barrier to many First Nations households, including First Nations communities, but once you've got it there you're getting energy for free. The regulator system in the Northern Territory, for example, says that people have to pay \$0.34 a kilowatt hour for their energy as their pre-paid metering, and there's research coming out soon, I think, that will show that First Nations people have been subsidising the energy system in the Northern Territory through that rate. If people are getting access to renewables, they're able to have more money in their pockets. They're getting free energy and we're reducing emissions, so it's a win-win situation all around.

Mr PERRETT: Thanks very much.

CHAIR: You talked about the First Nations jobs in clean energy. Do we have that report? If we don't, can I ask you to provide it to the committee? It sounds really interesting. I'd be interested in reading the executive summary that you've put together.

Ms Nolan: Yes, and we can send some of the Canadian examples through, too, if that's useful to you.

CHAIR: Yes. That would be great. Now my job is to thank you for your attendance here this afternoon. If you have been asked to provide any additional information, can you please provide it to the secretariat by 9 August. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to any transcription errors. Thank you very much.

LOWE, Mr Jamie, Chief Executive Officer, National Native Title Council [by video link]

STOREY, Dr Matthew, Legal Representative, National Native Title Council

[15:20]

CHAIR: I'll start off with a bit of a spiel, and then I'll get you to introduce yourselves. The committee does not require you to give evidence under oath. I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective Houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. Do you have any comment to make on the capacity in which you appear? I'll hand over to you, Dr Storey, before we go to Mr Lowe.

Dr Storey: Thank you and good afternoon. I'm a solicitor with Storey & Ward Lawyers, and we're retained by the National Native Title Council in relation to a number of matters, including preparing the submission for this inquiry and assisting today.

CHAIR: Thank you. Mr Lowe?

Mr Lowe: Hello. I'm a Gundjitrara Djab Wurrung man from the south-west of Victoria. I'm on Whadjuk Noongar boodja over here in Perth, Western Australia. I'd like to acknowledge the traditional owners over here and pay my respects to their elders past and present. I also pay my respects to the Wurundjeri Woiwurrung people—where I understand you're dialling in from today, over in Naarm—and pay my respects to their elders, both past and present. Thank you for having me.

CHAIR: Thank you, Mr Lowe. Do you have a brief opening statement, or are you happy for us to proceed straight to questions?

Mr Lowe: I do have a brief opening statement, but all that is spelt out in our submission to the inquiry that we made a couple of weeks ago. We, as the council, and through various different capacities, are doing quite a bit of work on economic self-determination for First Nations people across the country.

I'm also a joint council representative on the Coalition of Peaks with the portfolio of economic development. I'm also a member of the newly formed First Nations Economic Empowerment Alliance, headed up by Peter Yu and Leah Armstrong, driving the fiscal relationship between First Nations people and also Australian governments. We know that that's been missing probably forever, particularly with the Commonwealth government. I'm happy to speak to you today.

Our submission points out the organisations that we represent. The NNTC is a peak body for native title and special owner groups across Australia. These organisations play a key role in giving effect to the right to self-determination and the principle of free, prior and informed consent under the United Nations Declaration on the Rights of Indigenous Peoples. These rights of self-determination under UNDRIP are collective rights. I'm getting quite a bit of feedback. Maybe we can just jump into the Q&A if that's helpful.

CHAIR: I might kick off first and start with something you talked about in your submission. You talk about the structural barriers Indigenous businesses face: having access to finance; a trust deficit; and building business networks. How can the Commonwealth empower Indigenous businesses to succeed?

Dr Storey: Can you just repeat that, sorry?

CHAIR: You outline what some of the structural barriers are. I'm keen to understand what it is the Commonwealth government can do to empower Aboriginal businesses to succeed. It's a very broad question.

Dr Storey: Yes. The submission sets out some of the quite well-known barriers to Indigenous businesses succeeding. It refers to some of the research; the research by Associate Professor Michelle Evans and Dr Cain Polidano is well known. Those two academics from that centre have already put in their submission; they're well qualified to answer.

CHAIR: Is it unique barriers for PBCs and traditional-owner groups?

Dr Storey: What the submission is getting at is that, from an economic point of view, there's a program logic. Essentially the program logic is that low employment outcomes have a range of socio-economic factors that are well known; we don't need to go there. The best way to improve employment outcomes is through growing Indigenous businesses. There's a growing body of research around the greater percentage of employment coming from Indigenous businesses and non-Indigenous businesses, but it's massive—0.7 compared to about 74 per cent employment in Indigenous businesses. There's also, if you look at the figures, very marked, higher unemployment rates in regional, remote and very remote regions. Essentially the logic is: how, then, can you grow Indigenous businesses in those regional, remote and very remote regions? The submission is saying the traditional-owner

representative institutions who use the UN Declaration on the Rights of Indigenous Peoples, the PBCs and the land councils in those areas are existing businesses; we need to understand them as businesses. If we can facilitate their growth, you'll see that targeted growth in the regional, remote and very remote areas that should be an objective.

Getting back to the barriers: as I say, those PBCs are businesses, and, like all Indigenous businesses, they suffer very similar impediments to their own growth. Some of them are quite well done. Access to capital is always an issue. Evans and Polidano focus on the issue of trust. I think they're being quite discreet there, or delicate; what they're saying is 'racism'. It is well known that Indigenous businesses will suffer the effects of racism in their business dealings, and that manifests itself in a range of ways. There are issues about levels of formal education, lack of access to capital and low intergenerational wealth transfer. Many of those issues can be overcome by focusing on the existing organisations that exist under Commonwealth law in large part, so it is possible to overcome many of those issues. But the way the Commonwealth can focus on that is—I think this is where Evans and Polidano focus; the Commonwealth can be very effective in overcoming what they describe as a trust barrier, or what I've suggested is really racism. By using policy levers, you can break through any latent systemic racism that exists. Examples of those policy levers are things like procurement policies.

Despite any inherent racism in those doing the procurement, if the policy is directing them to do business with Indigenous businesses, they will do business with Indigenous businesses. Some of the other policy suggestions included—the First Nations Clean Energy Network before me was talking about the Capacity Investment Scheme, which is a great scheme and very important. At present, it's a marginal loading towards a desirability to have the consent of traditional owners in a project. It's open to the Commonwealth to say—and it's something the National Native Title Council has been pressing for for a long time—'If you're accessing Commonwealth funds, you have to have the consent of traditional owners. Government policy is to give effect to UNDRIP. So, if you're accessing Commonwealth funds, you should comply with Commonwealth policy, and Commonwealth policy is to grow Indigenous businesses and to give effect to FPIC.' So there are a range of mechanisms like that that are possible to essentially break through what I'm saying is that trust barrier and, frankly, racism.

CHAIR: This is the last question from me before I hand over to Senator Cox. If you were to have that 'must' element in the consent piece that you're talking about, I would assume then there would be a bunch of resources, for want of a better term, that will be needed from the traditional owner groups to be able to engage in those projects in a way that actually aligns with FPIC and with doing it properly. What are the resourcing requirements for PBCs and traditional owner groups to be able to engage properly in some of those projects in a way that fulfils FPIC?

Dr Storey: For a start, the PBCs and the traditional owner groups generally need the base level of resourcing, and the submission draws the example of Victoria—and in fact from the committee that came from this room—recommending that there be a base level of funding for those traditional owner organisations so that they could carry out their statutory functions. I don't think the Victorian government at the time recognised—they were more interested in ensuring the effective discharge of the statutory functions—that, by empowering those traditional owner groups, you also empowered quite effective regional businesses. This is the reason we've provided the figures about the employment numbers coming from the Victorian registered Aboriginal parties. What you're seeing is that, once you build the capacity of those organisations to effectively discharge their statutory functions, they also start adopting additional economic functions. The benefits of that economic growth are located in the region where the PBC or whatever traditional owner organisation exists. That way, very effectively, you can both target regional and remote unemployment and deliver a human rights agenda by ensuring economic self-determination and a broader implementation of FPIC and a range of other measures in the UN declaration.

CHAIR: Absolutely. I've always got a bunch more questions, but I'll hand to you, Senator Cox.

Senator COX: Thank you, Dr Storey and Mr Lowe, for appearing today. To start, I'll just go back to some understandings. What's the average timeframe for a native title determination, and how many currently do we have outstanding across Australia?

Mr Lowe: It's a good question. It can take anywhere ranging from five to 10 years and up to 15, 20 and, in some cases, 30 years. Since the inception of the act, some communities are still going through the process of getting a native title outcome through the federal court. So it's kind of like: how long is a piece of string? There are 272 PBCs existing at the moment. We envisage that, once native title in this country is largely resolved, around 300 to 320 PBCs will have been created, covering probably about 60 per cent of Australia. At the moment, I think there are maybe just over 100 claims in the system, and they won't necessarily be creating new prescribed bodies corporate; they can be other claims that that particular PBC are running to expand their native title territories. So that's the answer to that.

Senator COX: And you've referenced today the work of the University of Melbourne, who appeared this morning for us. When we talk about First Nations businesses, essentially, that are attached to some of our PBCs, do you have a working definition of that which you use?

Dr Storey: Perhaps I'll answer that one. For Indigenous businesses generally—as opposed to traditional-owner organisations, which is what the NNTC's submission has focused on—the current definition in the Commonwealth procurement rules is 50 per cent ownership and fewer than 200 employees. I've got my view about both of those things, but that's the current definition. On the whole, it's been working. One might wonder about the requirement or suggestion that you're not Indigenous if you have greater than 200 employees, but there you go.

Senator COX: Just picking up on your note that you feel the Indigenous Procurement Policy has had some impact, do you think it had a measurable impact on our First Nations businesses from the NNTC's perspective?

Dr Storey: Yes. The short answer to that is definitely yes. We do know from the Commonwealth figures, because the Commonwealth, unlike a number of other agencies, state government and some of the private sector, is required to report on that. You do see fairly extraordinary growth in the IPP numbers. In fact, my original doctoral research back in 2016 looked at before the targets were introduced. In a period of four years, I think \$10 million was spent. I haven't checked this year's figures, but it's now heading into the billions. Many people will argue those figures aren't entirely accurate because, for example, they would include the money that has been spent on the non-Indigenous portion of a joint venture. To some extent, a lot of those funds are specified in construction companies, and there are now some very large Indigenous construction companies. I think the important point to make is that, even if that's true at the margins, it's inescapably the case that the IPP has led to a huge growth in Indigenous businesses. Even though, along with Professor Evans and Dr Polidano, I'm engaged in research that updates the figures, it's also well established that, when Indigenous businesses grow, they employ more Indigenous people. There will be those that say, 'Well, some of those businesses are not employing enough Indigenous people,' and I wouldn't disagree with that, but they certainly are employing Indigenous people. Is it quite the headline that Prime Minister and Cabinet likes to print out? That's arguable, but it's inarguable that it has made a huge improvement. It has been a very effective policy.

Senator COX: Yes. But it also has brought with it a lot of black cladding, would you not agree, Dr Storey? You can walk down the main street in Perth here, and there'd be a couple of blackfellas who will tell you they've been burnt considerably by being in JVs that are black cladded. They've been the ones who have lost their properties and livelihoods, because they've gone into joint ventures with people under the Indigenous Procurement Policy. Has that been the experience of the NNTC and some of our PBCs and First Nations businesses?

Dr Storey: Unless Mr Lowe wants to jump in before or after me, I can't report on any direct or even anecdotal information I've had from prescribed body corporates in relation to black cladding. I am, in my own private research capacity, aware of some of the issues, and I'm certainly aware of the NIAA policy proformas around black cladding—from my own point of view; I don't suggest this from the NNTC. I think one of the issues with black cladding is that there's often a lack of definition around what constitutes black cladding, and that lack of definition is then thrown around. What would be useful is if, for example, what's pure fraud were just identified, called out and prosecuted as pure fraud. But I've heard of examples of black cladding where it has been suggested that the owner of the Aboriginal business was a late identifier. That raises issues to me. The suggestion is that the late identification is a manner of manipulating the system and fraud. But the first cases I ever worked on were the Northern Territory Stolen Generations cases. I think it's a big jump to say that somebody who has identified their Aboriginality late, which can arise for a range of reasons—quite legitimate reasons—has been doing that just to defraud the IPP. But often that's cast around. So I do think in the black cladding debate that there needs to be some certainty in definition.

Senator COX: I would agree with that comment. As someone from the five generations of the Stolen Generation in my family, I can tell you everyone in my community knows where I come from and my family connections. So I think there's a much more diverse and rigorous conversation we need to have about black cladding. I'm sorry—did I cut you off, Mr Lowe?

Mr Lowe: Yes, I was just going to jump in there, thank you. It sounds like you may be touching on the issue of black cladding through this inquiry. I think that maybe even outside of the inquiry, to your point, that probably requires a bit more of an in-depth analysis of black cladding and what's happening out there within our communities. Just from anecdotal conversations with community members, not so much the PBCs—I guess the thing with PBCs, as another traditional owner group entity to that, is that, as you'll see in our paper, we've got some good examples where traditional owner groups, group entities and institutions have been able to access

business opportunities when many of them haven't got the resources and the capability to actually be a player in the game. It comes down to capability, resourcing et cetera. That's probably more the point. But, coming back to the black cladding, I think they also kind of get romanticised by the business sector, so then they can enter into and access the IPP. Because they don't have the resources and the capability themselves, they say, 'This might be a good deal for me,' but inevitably it ends up not being a great deal for them. To your point, once the business venture goes sour, the business entity goes their way and the community members are left out by themselves. So I would encourage government to have a bit of a deeper dive into black cladding and what that entails. That's for sure.

Senator COX: Great. I know I'm probably a bit short on time. Is that right, Chair?

CHAIR: We've got time for one or two more questions, depending on how brief the question and the answer is.

Senator COX: Thank you. One of the submitters in this inquiry, and in some of the conversations that we've been having over the last two hearings, has circled around the incorporation of Indigenous knowledges, particularly in areas such as agriculture, and the opportunities particularly for the Indigenous estate into the future that would strike a very fine balance in relation to the protections of Indigenous cultural and intellectual properties. Mr Lowe, you were at the table during the development with the environment minister of the business and investor guides around the protections of cultural heritage and other elements. Are you able to tell us what striking a balance to protect both our cultural and intellectual property rights looks like from an NNTC point of view, as well as being able to make sure that there is benefit sharing across our traditional owner groups under the future act regime?

Dr Storey: It's a good question. I think the traditional owner sector, whether it be PBCs or other traditional owner entities, has a varying degree of being able to be in the self-determining seat around intellectual property, cultural protections et cetera when business comes knocking on their door to develop, whether it be for a renewables project, building a road through their country, mining or any other development that happens on their country.

So part of the business development guide and other work that we're doing with state, territory and Commonwealth governments is making sure that First Nations representative groups are actually resourced to be in the seat of self determining and to be able to hold that intellectual property themselves. We find that most of the entities at the moment don't have a person employed at all, let alone a place where they can keep that intellectual property internally. That's a pretty big issue—their being able to respond to their statutory responsibilities, rather than trying to get in front of other issues they have a cultural responsibility for as well, and being able to hold that intellectual property on behalf of their people and determine what does and doesn't happen on their country. That being supported by state, territory and the Commonwealth government, in most instances, hasn't actually occurred. So that's the work that we're trying to tap into.

I think the renewables space raises some big concerns for traditional owner groups about the acceleration of the nation into a renewable future when they haven't got the supporting policy and legislation where intellectual property or heritage is protected in this country. I think that, within the not-too-distant future, there are going to be some significant issues raised around proponents getting out there on country and not doing the right thing by our people.

Senator COX: I think that's a consistent pattern with my next question. I have constituents contacting my office on a regular basis regarding the instances where they have concerns about the management of some of our PBCs. Some of these concerns were brought in front of ORIC, and these matters were, in fact, referred back to the PBCs themselves that were the source of the concern, or even dismissed altogether. The sorts of things we're talking about are unpaid contractors, problematic personal behaviour and a lack of inclusive consultation by members of those corporate bodies. Do you have any concern, from a native title perspective, about the capacity of ORIC to actually oversee and regulate some of these concerns? What has your involvement been, as the national peak body, in ensuring that some of these things are working for the benefit of everybody on the ground?

Mr Lowe: We've advocated, through ORIC and CATSI, that PBCs need to be dealt with in a special section to the act. They're quite a unique entity. They're not like your general community-controlled organisation. They have a greater statutory responsibility but also a cultural obligation—to your point—to represent all native title holders and people that have connection to their country. That's one issue: the legislation doesn't support self determining and governing models that can be determined by ourselves. If you set up a corporate entity that has 12 board members, can those 12 board members be representative of the whole mob? That raises big concerns. We've been a long-term advocate to get CATSI, in particular, changed to be able to deal with PBCs and other traditional owner groups in a special section.

It also raises concern about the capacity of PBCs to represent. We know that 60 per cent of the PBCs have zero resourcing, so their ability to consult and talk to the mob and represent effectively is extremely limited. It's been suffocated for 30 years now, since the introduction of the act. Then problems arise, as you identified, where certain members of any particular traditional owner group feel undervalued and underrepresented because the community or the PBC can't consult with them effectively. So, it's a circular thing, and it becomes a bit of a political football or a federation black hole where the states aren't resourcing them and they're the land managers. The Commonwealth isn't resourcing them either, so we get the issue that you correctly identified.

Senator COX: This is also something that's consistent with the recommendations of the Juukan Gorge *A way forward* report, which outlined that we actually need legislative reform and resourcing to address this issue. Is that consistent with what you're saying?

Mr Lowe: Yes, that's right—100 per cent. That's what we hear across the board. Matthew spoke strongly about the PBCs being able to create their own business entities. They're struggling just to meet their cultural and statutory obligations under the 35 pieces of legislation sitting with the Commonwealth, let alone with the states. Their ability to then go to that next step and really mature as a regional authority that could represent their people but also access business opportunities on country—we've got 30 or 40 great examples, but then we've got 200 examples where that's not the case. So, we're imploring the Commonwealth to inject resourcing just to fulfil the statutory obligations, let alone to create jobs for the mob. We know that when PBCs are well established they employ our community within those systems as well. So, that's the situation that we are in right now.

Senator COX: Thank you. Thanks, Chair. That's all from me.

Dr Storey: Senator Cox—

CHAIR: Dr Storey, I need to move on.

Dr Storey: What a shame.

CHAIR: You can have a very brief contribution in response to something Senator Cox has asked.

Dr Storey: Jamie's already outlined the extensive legislative regime around regulating PBCs. To give effect to the rights under the UN declaration, you need to have some sort of representative body. That's the only way you can have collective rights. I must admit that I do find it slightly frustrating because often the result of criticism of PBCs seems to be the doubting of the legitimacy of the PBC. In so doing, the consequence is that we're doubting the legitimacy of those collective rights under UNDRIP. If there are legitimate criticisms of PBCs, as I think Jamie was saying—and you were agreeing—the necessary consequence is to enhance the capacity of the PBC, not to question its legitimacy.

Senator COX: Thank you.

CHAIR: Mr Perrett?

Mr PERRETT: Thank you for your evidence. I note that recently the ANU announced the establishment of an alliance of major economic reform with you, First Australians Capital, Indigenous Business Australia and the Indigenous Land and Sea Corporation. What are the objectives and immediate priorities of this alliance?

Mr Lowe: We have established that. That's been established for about 12 months. Professor Yu has done the media rounds over the course of the last week, announcing that the alliance has been formed. We signed the MOU with Canadian entities, particularly the fiscal management entities over there and First Nations groups. We've been trying to use their experiences and bring them to Australian shores.

The main objective is to change the fiscal relationship between First Nations Australians and the Australian governments, with particular focus on the Commonwealth government. We know that's been largely missing from the beginning, so we're trying to shift the thinking from a program based, piecemeal type relationship, which Indigenous Australians have been subjected to, to a more enduring fiscal relationship where wealth benefits can be shared, with a particular focus on some of the things that have been mentioned here today. We know that the clean energy spruiking from all governments has been big. For us to be able to access and be a player within the clean energy market, we need to have the resources to do so. That's just one example.

Mr PERRETT: I just want to revisit the conversation that we had with the honourable senators about black cladding and Indigenous procurement policy. I'm just putting it out there as a concept; I'm happy for you to knock it down. It has been successful in promoting economic empowerment, but how could we make it better, particularly when it comes to regional and remote communities? I'm happy to see a city perspective as well, but regional and remote especially.

Mr Lowe: This is just my perspective, but I think we have to be really careful in talking about the economic opportunity, particularly in those remote communities. For a lot of those remote communities the economic

opportunity is limited. The procurement opportunity in those really remote communities—does it exist, or does it need to be created? I think we don't want to create the situation where our communities are thinking, 'Why can't we succeed in business?' when the actual business doesn't exist. We know that groups like IBA and others are doing a bit of work in that space, but it probably doesn't go deep enough in being able to support those really remote communities and get them to the table. We know it starts earlier—

Mr PERRETT: Can we just do a sidebar? Is it the job of government or NGOs to train 10 baristas in an economic community that doesn't have a coffee machine, or is it the job of government to train the 10 baristas and say, 'You need to leave where there is no coffee machine and go where there is economic opportunity'? I know that's a loaded question.

Mr Lowe: Yes, it is. Is that a rhetorical question? I'm not sure that baristas are the best example, but—

Mr PERRETT: In terms of economic opportunity in a community that doesn't have an economic base—it doesn't have private equity flowing into it, shall we say?

Mr Lowe: So the work needs to be done on what the economic growth may be in that community, whether that's building and maintaining community houses. That could be one thing. We heard the last caller speak about renewable energy—getting them off diesel and putting them on renewables. That could be another opportunity. There needs to be some in-depth work on regional development to these communities, rather than just saying: 'Hey, why aren't you accessing the IPP? What's the matter with you mob? Why can't you do it?' That's a really loaded question for communities. They feel like, 'Well, why can't we access it?' particularly when the Australian government hasn't invested effectively with housing. They're in remote housing. They're struggling to have adequate housing, let alone accessing business opportunities. And it's about starting early with the education in those communities. We're getting them on the back end, when they're young adults. The education system has failed them, and we're saying, 'Why can't you access the IPP?' It becomes a pretty big issue, and it affects people's self-esteem and their ability to grow.

Dr Storey: Just to add to Jamie's answer, in terms of the IPP, the mandatory set-aside for remote areas has been quite effective. The difficulty is, of course, you get a mandatory set-aside for an Indigenous business and it's still not based in the remote area. That's one of the reasons the NNTC's submission suggests that aspect could be enhanced by trying to ensure that the local traditional owner organisation, which already exists and which is carrying out functions—not necessarily making coffee, Mr Perrett—is given the opportunity to avail itself first of that mandatory set-aside. Of course, many of those organisations, as we say, don't have the capacity to do that yet, but a targeted program would enhance the capacity of those local, regional, remote and very remote organisations to take advantage of a mandatory set-aside, where, because it's a procurement policy, not a grant policy, government is already committed to make the expenditure. It isn't going to solve all the problems of a lack of economic development in very remote Australia—of course not. Will it make a difference? Yes.

Mr PERRETT: Thank you.

CHAIR: That's all the questions we have time for this afternoon. I thank you for your attendance here today, Dr Storey and Mr Lowe. If you have been asked to provide any additional information, would you please provide it to the secretariat by 9 August. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to any transcription errors. Before we close, I want to say thank you to the secretariat and to Hansard for all of your assistance for today's proceedings. I declare the public hearing closed.

Committee adjourned at 16:00