



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

STANDING COMMITTEE ON SOCIAL POLICY

(Reference: [Inquiry into Annual and Financial Reports 2023-24](#))

Members:

**MR T EMERSON (Chair)
MS C BARRY (Deputy Chair)
MR J HANSON
MISS L NUTTALL
MS C TOUGH**

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 25 FEBRUARY 2025

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**Secretary to the committee:
Ms K Langham (Ph: 620 75498)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Privilege statement

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Amended 20 May 2013

The committee met at 2.29 pm.

Appearances:

Orr, Ms Suzanne, Minister for Aboriginal and Torres Strait Islander Affairs, Minister for Climate Change, Environment, Energy and Water, Minister for Disability, Carers and Community Services and Minister for Seniors and Veterans

Community Services Directorate

Rule, Catherine, Director General

Simpson, Mr Christopher, Executive Branch Manager, Aboriginal Service Development Branch, Children, Youth and Families Division

Moyle, Mr Brendan, Executive Branch Manager, The Office for Aboriginal and Torres Strait Islander Affairs Branch

Sabellico, Anne Maree, Acting Deputy-Director General, Children, Families & Strategic Reform, Community Services Directorate

Justice and Community Safety Directorate

Ng, Mr Daniel, Acting Executive Group Manager, Legislation, Policy and Programs

THE CHAIR: Good afternoon, and welcome to the public hearings of the Standing Committee on Social Policy for its inquiry into annual and financial reports of 2023-24. The committee will this afternoon hear from the Minister for Aboriginal Torres Strait Islander Affairs.

The committee wishes to acknowledge the traditional custodians of the lands we are meeting on, the Ngunnawal people. We wish to acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region. We would also like to acknowledge and welcome any other Aboriginal and Torres Strait Islander people who may be attending today's event or listening online.

The proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and web streamed live. If witnesses take a question on notice, it would be useful if they use the words, "I will take that question on notice," which will help the committee and witnesses to confirm questions taken on notice from the transcript.

Welcome, Ms Suzanne Orr MLA, Minister for Aboriginal and Torres Strait Islander Affairs, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege, and draw their attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

We have several witnesses for this session, so when you first speak, please state your name, the capacity in which you appear and confirm that you understand the implications of the privilege statement and agree to comply with it. We are not inviting opening statements, so we will now proceed to questions.

I have a question about essential action 3.5 coming out of the Productivity Commission's progress report on the National Agreement on Closing the Gap.

Action 3.5 is a commitment to embed responsibility for improving cultural capability and relationships with Aboriginal and Torres Strait Islander people into public sector employment requirements. Was this action agreed?

Ms Orr: Thank you, Mr Emerson. Mr Emerson, I think in the previous—

THE CHAIR: Minister, could you please acknowledge privilege statement.

Ms Orr: Sorry, yes; I have read and acknowledge the privilege statement. Thank you very much. Referring back to the previous area, I think we went through quite a bit, and this was covered in that, but as it probably feels like a lifetime ago for the committee, I might just pass to Mr Moyle, to get him to go over some of the previously agreed and announced agreements that we have there, noting that some of the bits that are coming up that have formed part of the discussions in the previous hearing are still before government for consideration, and still need to go through cabinet processes. But where something has been agreed by cabinet and is publicly available information, I think Mr Moyle will be more than happy to help you out.

THE CHAIR: Thank you, Minister.

Mr Moyle: I am the Executive Branch Manager for the Office of Aboriginal and Torres Strait Islander Affairs. I have read and acknowledge the privilege statement. I would also like to echo and pay my respects to the traditional custodians of the land on which we are meeting today, the Ngunnawal people, their elders, past present and emerging, other family groups that some have ancestral connections to the ACT, but all other Aboriginal and Torres Strait Islander people here and online.

In terms of your question around the agreement, the Joint Council on Closing the Gap has agreed to all but one of the recommendations. The one recommendation that was not agreed was 2.2, which was the establishment of an Indigenous data bureau. So, in summary, yes, Joint Council had agreed essential action. Sorry, was it 3.4 or 3.5?

THE CHAIR: It was 3.5.

Mr Moyle: Yes, 3.5.

THE CHAIR: Okay, great. So in this commitment, the idea is to follow the Queensland government, which, in early 2023, implemented legislation requiring public sector CEOs, executives and employees to enhance their cultural capability and support, in their case, the state government, in reframing its relationship with Aboriginal peoples and Torres Strait Islander peoples. The reason I ask about this recommendation is it seems like a master key to delivering the others. I am new here and we have just started a new term; I have not seen legislation focused on this. Has that legislation been drafted, or is it being drafted?

Ms Rule: I am the Director-General, Community Services Directorate. I have read and acknowledge the privilege statement. There is not specific legislation related to that. I will note that matters around public service employment are the remit of the Chief Minister's directorate. Those are the people that set the terms and conditions and are responsible for the legislative framework under which ACT public servants are

employed. So, in terms of progress against that action, that is the responsibility of CMTEDD.

What I can say is that all directors-general have embedded into their performance agreements, targets around Aboriginal and Torres Strait Islander employment in their individual directorates, and that forms part of our performance discussions with the Head of Service. I can obviously only reflect on the content of my own performance agreement, but my understanding is that those are set according to where each directorate is currently at and to drive an increase in performance.

For example, in my performance agreement, our target in CSD is higher than others because we are already at a higher level of employment of Aboriginal and Torres Strait Islander staff than some other parts of the public service. I do not want to set my target lower than what we already have; it is set a bit above where we are currently, to drive ongoing attention to that matter. But in terms of the question regarding the legislation, I am sorry; that is one for CMTEDD.

THE CHAIR: I understand that, but one of the four items we are here to discuss is performance monitoring on the National Agreement on Closing the Gap. That is squarely in the remit of this office, so this question is to you as to whether you are aware of legislation being drafted, or a timeline for that legislation being drafted.

Ms Orr: Mr Emerson, if you would indulge us, I think what might be really helpful is to get Mr Moyle to run through how performance monitoring against Closing the Gap works, because it is quite complex, and there are a lot of parts. There is reporting to Joint Council; there are cabinet processes; there is what the Productivity Commission does. I dare say, in the lines of inquiry that might come up, everyone having a common understanding of what the other people are talking about might be helpful in answering some of the questions that you have.

THE CHAIR: We are going to have various questions. I do not want to spend too long on this one. I am aware of the agreement, that it is complex and that it covers all of government, but it is this office's job to ensure it is delivered. I am curious about this specific recommendation.

Ms Rule: Mr Emerson, just to be clear, I already answered the question about the legislation. There is no current legislation to that effect. I cannot answer the question about whether that is planned or intended. As I said, that is a matter for CMTEDD. In terms of the role of—

THE CHAIR: You have not seen any legislation? You have not heard about anything being drafted or—

Ms Rule: I would not expect to, because it is not in my portfolio of responsibilities. The role of the Office for Aboriginal and Torres Strait Islander Affairs, in terms of reporting, is a coordination one. We coordinate with others at the key reporting periods to ask about progress that has been made. We tried to get to that a bit in the last hearing. I cannot answer the detailed implementation questions and the things that are the responsibility of other portfolios.

THE CHAIR: Thank you, Ms Rule.

MS BARRY: Minister, my question follows on from last week's hearing with the Children and Young People Commissioner. The commissioner advised that she had concerns about sex trafficking in out-of-home care run by CSD. Minister, what are you doing about that?

Ms Orr: Ms Barry, it is obviously a very serious position that the commissioner has put forward. That hearing is the first time it has been raised to my attention. Out-of-home care protection would actually sit with Minister Pettersson. Ms Sabellico or Ms Rule might have some understanding because they also report to Mr Pettersson. They might be able to help you a bit with an initial response to that question. But, given it is not strictly within my remit and given that it had not been brought to my attention prior to it being said at the hearing, we are limited in what we could say today. It is a very serious issue that has been raised and it is certainly one that we are looking into.

THE CHAIR: I quickly indicate that we have listed here, as the fifth item, the Aboriginal and Torres Strait Islander Children and Young People Commissioner as a topic. That is probably why Ms Barry framed her question that way.

Ms Orr: The commissioner does report to me. The issue that the commissioner has raised is not within my portfolio responsibility. As I said, the commissioner has not raised this topic with me prior to saying it at the hearing. I am now seeking further advice around this particular issue.

MS BARRY: When did you last meet with the commissioner?

Ms Orr: I have offered to meet with the commissioner and the commissioner has requested to meet with me. We have been working out a time to do that. Having said that, though, we have been in communication outside of face-to-face meetings.

MS BARRY: What, if anything, can you add to that, Catherine or Anne Maree?

Ms Rule: Without going into the details, obviously—individual child protection or youth justice matters—

MS BARRY: Of course.

Ms Rule: we work closely with the commissioner on issues that she identifies in her work or issues that we identify in our work that cross over. We have regular meetings with the commissioner or her office. We have regular correspondence with the commissioner and her office. Ms Turnbull-Roberts and her office make frequent representations to us regarding issues that they identify with the children and young people with whom they are working, and we then take action in accordance with the Children and Young People Act to address those issues. Sometimes it is a long process of discussion with the commissioner or we bring the commissioner or one of her staff members to some of our case management activities. It depends on the set of circumstances. They are all different. Certainly, whenever an allegation like that comes to our attention, we act very quickly. We clearly take it very seriously. We work through those details with Ms Turnbull-Roberts and her office as they arise.

MS BARRY: When was the last time? More broadly, how many times have you had the commissioner come in to witness case management activity?

Ms Rule: We will have to take the actual number on notice, but it is ongoing. It is a daily, weekly or monthly proposition where we work very closely with Ms Turnbull-Roberts. Ms Sabellico may have some more data to add.

Ms Sabellico: I have read and acknowledge the privilege statement. Only this week, the commissioner and I have been exchanging about a particular family matter, and we continue to answer any and all of her questions as they arise. There is a formal process that we have in place for all those queries. We are following up on a particular matter this week. I believe that last week we also received some correspondence. It is ongoing and regular.

In terms of any concerns around perpetration of abuse, we take all of that seriously. We look at not just individual cases. If there is a cohort of children experiencing the same thing, we also look at what we can do there. That might mean some expert training around how to respond, as well as working with all of our counterparts, such as police, who have responsibility in terms of the issues of sexual exploitation. We have systems in place to formalise the approaches for all government agencies in order to respond to the issues presented.

MS BARRY: Thank you. It is really good to see that you are taking that issue seriously. Obviously, we will continue to monitor and see what comes out of the police investigations. Still on the commissioner, I understand that she has concerns around the level of staffing in her office and has asked for funding for a case management system. Is that something you are looking into?

Ms Orr: I might get Mr Ng to come to the table. The commissioner works with the JACS Directorate but reports to me around leasing premises, staffing and so forth, even though it is separate to government. He will be more than happy to help you with this one.

Mr Ng: I am the Executive Group Manager of Legislation, Policy and Programs Division in JACS. I confirm that I have read and acknowledge the privilege statement. Thanks for the question, Ms Barry. I understand that there are ongoing discussions with the commissioner's office about the sourcing of a case management system. From my perspective, we—my office in Legislation, Policy and Programs—do engage with the Commissioner on issues of legal policy. For example, we engage on the functioning of a legislation framework, the appropriateness of her powers and all those types of things. It is a separate part of JACS, but it does deal with the ICT upgrade proposition, and I understand that there are ongoing discussions with her office about that process.

MS BARRY: Do you have any information about the staffing levels? I know that she said that she has one person there now. I think my understanding is that there is funding for two FTEs.

Ms Orr: So Ms Barry, the commission would have a budget allocation for running her office—

MS BARRY: And she gets to—

Ms Orr: Yes.

MS BARRY: Right, okay.

Ms Orr: And then, as per a lot of the other official visitors, it all the same.

MS BARRY: Yes.

Ms Orr: They can bring things forward to budget rounds, when they see a need for an ongoing allocation of resources or there might be a short-term project, as necessary. They would work, in this instance, with the JACS directorate to take those forward, because it is not necessarily the minister, given that they have a slightly separate, independent role. I guess what I am saying is that certainly the commissioner has a budget that she can administer—

MS BARRY: Yes.

Ms Orr: And should she feel that there are things required in addition to that, there are avenues for her to raise those and have them considered.

MS BARRY: Yes.

Mr Ng: Ms Barry, if I could add, I think your question was around how many staff she might have in there at the moment, on a day-to-day basis. I think that is probably best answered by the commissioner. And I am not necessarily privy to all the ins and outs of her office, but I can provide what the budget allocation and the staffing allocation was.

MS BARRY: Yes.

Mr Ng: In the 2022-23 budget, government committed \$3.592 million over four years to the commissioner's office. And that was not just for staffing and the commissioner's salary, but also for the accommodation and the like. And as part of that funding, it provided for the commissioner and four staff to support her statutory functions.

MS BARRY: Four staff?

Mr Ng: This is correct.

MS BARRY: Okay.

THE CHAIR: Yes. I think she indicated she has one staff member currently.

MS BARRY: One, yes. Just on that, Mr Ng, I note that the commissioner is not currently based in the ACT, and is being staffed by one staff permanently now. Are you satisfied with the level of support that the commissioner has to run the very important role that she has?

Ms Orr: Ms Barry, at the point of being asked to potentially offer an opinion, I might just rephrase my answer; not so much to give you an opinion. What I would say is that the commissioner has a budget allocation. The commissioner can staff the office as she sees appropriate. Should she feel that that is not appropriate, or that additional resources are needed, she has avenues there to have the conversation.

Getting down into how the office is run day to day is not necessarily my focus. I am more focused on the outputs and what the commissioner is doing. And certainly from the time I have been here, I think it is fair to say that the commissioner, for someone who is relatively new in the role, has been building up relationships across the community, making representations and acquitting her responsibilities. So that will continue to be my focus in that. I continue to leave the office to the commissioner in conjunction with the officials.

THE CHAIR: I have a quick supplementary question on building relationships. You mentioned that the commissioner has not met with you yet in your role as minister?

Ms Orr: I said that we have not met in person, but we have had communication. And we both want to meet; it is just finding a time to do that.

THE CHAIR: Did you reach out shortly after the election and say this is appropriate?

Ms Orr: I think I had an email from her within two days.

THE CHAIR: Okay.

Ms Orr: I think I got the email account and then I got an email. Mr Emerson, if your concern is that the commissioner and I do not have open lines of communication, or that communication is not occurring—

THE CHAIR: No, I was just curious.

Ms Orr: I do not consider that to be an issue, and if the commissioner feels that there is an issue, I would be surprised.

THE CHAIR: She has not indicated it is an issue.

MS BARRY: No, no.

Ms Orr: She is very happy to drop me a line whenever she feels the need.

THE CHAIR: May I ask, Ms Rule and Mr Moyle, what was the last time that either of you met with the commissioner?

Ms Rule: It would be unusual for Mr Moyle to meet with the commissioner, but he can obviously address the question for himself. I would have to check back through my diary to find the last time that I met with the commissioner. When she was appointed to her role, I reached out to her and offered, firstly, my contact details and the opportunity to meet whenever she was ready to meet. That was not taken up for quite

some time. And I followed it up a few times.

I have had many meetings with her at various things where there have been lots of people, but I have had, I think, from memory, two meetings with her one on one. But the day-to-day relationship appropriately with the commissioner is with the staff in—

THE CHAIR: It is going to be at an office level. I understand.

Ms Rule: Yes. And as Ms Sabellico has said, they are meeting with her, or her office, on a very regular basis, depending on what matters are on hand. But Ms Turnbull-Roberts also writes to me regularly when there are particular matters where she feels that she is not getting the progress that she wants. Or, when there is some matter that she is particularly concerned about, she will write directly to me. I will write back to her. We make sure that we get all of those things dealt with appropriately.

THE CHAIR: Have you met or sought to meet with her?

Mr Moyle: We cross paths at various community events, but the Office of Aboriginal and Torres Strait Islander Affairs does not have a professional intersection with the commissioner. If there is mutual participation in various community events run by an Aboriginal community-controlled organisation or the community itself, we do catch up. We do not go into detail. It is outside our remit.

MISS NUTTALL: I have a quick supplementary question, going back to child and sexual exploitation. You mentioned, Minister, that you had sought advice. What sort of advice are you waiting on?

Ms Orr: Just for the avoidance of doubt and clarity, with respect to the issue raised by the commissioner in the hearing, that was the first time I had heard about it.

MISS NUTTALL: Yes.

Ms Orr: We are currently seeking initial advice as to what is going on there. I guess I am trying to think of that fine line between telling you what I do and do not get advice on, and respecting the privacy of it, with respect to what I can tell you. Instead of speaking specifically I will talk in general terms. If something was to be raised of such a serious nature, my approach would be to go back to the directorate and say, “Has this issue been brought to your attention? If it has, what is your advice around it? What is your response to it? What work is underway?” There are all those general parts. It would not just be specifically for this; it would be for a range of matters across my portfolios, so that I am informed and have an understanding of what is going on, particularly, and, for something this serious, that it is being addressed and given the consideration and the response it requires.

Having said that, though, it is a very preliminary thing when you go and ask for that initial advice. And depending on what advice comes up, the directorate will say, “This is what we know. This is what we do not know. And this is the appropriate way.” So it might be that referring it to a different entity is the most appropriate way to address that concern. That is a broad approach as to how that sort is working. I do not know, Ms Rule, if there is anything you want to add to that.

Ms Rule: The only other thing I would add is to note that most of the interactions that we have with the commissioner are in relation to matters covered by the Children and Young People Act, for children in out-of-home care or children and young people in the youth justice system—sometimes both. There are very strict information provision requirements in that legislation. So, appropriately, the sharing of information under that legislation is very tightly guarded.

So, where the commissioner raises information about individual cases under that act, we are very careful about the handling of those. For example, Mr Moyle and the staff in OATSIA would not be aware, because they do not have a role under the Children and Young People Act. The staff that report to Ms Sabellico in Children, Youth and Families, within the child protection or youth justice stream, will have a need to have access to that information. They are the ones who will be working on those cases, so those are the people that we would be referring those inquiries to. So the briefing is very tightly held. The minister may not be briefed on matters where they are outside of her portfolio. And other staff, certainly within CSD and across government, would also not be briefed because of those very tight information protection provisions within the Children and Young People Act.

Ms Orr: Going back to the general example I gave, I might go to the directorate and say, “I have heard this has been raised on the public record. Can you please provide me with some more information.” And the advice that might come back to me is, “No, we can’t because there are privacy concerns, but the matter is being considered in the relevant area.”

THE CHAIR: Do you have more supplementary questions?

MISS NUTTALL: A couple more, if that is okay. Have you been given any kind of indicative timeframe for receiving that advice and whether any actions have been taken? I appreciate that it is very much something that has to be in confidence, but is it the kind of thing you can put a timeframe on given the severity of the situation?

Ms Orr: Ms Rule might be better placed to answer this than me. I think it is fair to say, that the directorates will work to timeframes within which they would like to get briefs up to you, and so forth, but while there are those general timeframes, it does not mean that every single brief that comes up will have that standard timeframe. It would depend on the complexity of the matter, the urgency of the matter, the issues that are at hand, how much information can be provided. I think it is very hard, in respect of any piece of advice or brief that comes to me, to say that it will always be in x timeframe. It is, just in reality, not the way it works.

MS BARRY: I think the question is about this particular one.

Ms Rule: The thing that I would say, just to be really clear, is that wherever an issue like this is raised in terms of an individual case, we will act immediately.

MISS NUTTALL: Yes.

Ms Rule: It is not a matter of briefing ministers. The responsibility for children and

young people under the Children and Young People Act actually sits with me. The act prescribes that the children are in the care of the director-general, not in the care of ministers. In some other states and territories, ministers have a legislative responsibility; that is not how the legislation is written here. So, I am the responsible person and therefore when those things come to the attention of me personally, or my delegates within the directorate, we clearly act very quickly.

So, depending on the nature of the issues being raised, we will refer them to police. It is hard to give you a global answer, because every case is different, but certainly as it relates to these matters, we work very closely with ACT Policing on these things, and we act in accordance with the legislation as soon as we become aware of these things.

In terms of briefing ministers broadly about systemic responses to these things, we need to have a follow-up conversation with the commissioner about some of the things that she raised in the hearing and what some of the specifics sitting behind that might be. We can have that conversation with her in a way that perhaps the committee has not been able to, and seek to find out a little bit more about what is behind some of the concerns she has raised. That will then give us an opportunity to think about which ministers need to be briefed and how they need to be briefed, as well as any particular actions we might take.

MISS NUTTALL: I have a question about the Ainslie Volcanics, and I am hoping that it is particularly relevant to this hearing. Minister, today the community woke up to news that work was starting on the Ainslie Volcanics site, despite community opposition and with no notice of the work starting. I understand that the Ainslie Volcanics has been declared to not have heritage value under the Heritage Act. I appreciate that you are not heritage minister, but to the best of your knowledge, is this the case? I will have follow-ups.

Ms Orr: Miss Nuttall, I am not the heritage minister, so it would not necessarily come to me for briefing. While the question you raised has had a lot of very timely considerations on behalf of the community it is just not within the remit of us. So it is not something I could comment on right now.

MISS NUTTALL: I am hoping, then, that maybe the supplementary questions will go more to the point.

Ms Orr: Okay, yes.

MISS NUTTALL: I understand there might have been a consultation process involving Canberra's First Nations people about heritage values on the site. Could you tell me about that process?

Ms Orr: Miss Nuttall, if it is the case of a heritage assessment, it would go through the minister with responsibility for heritage. They would be briefing him, in this instance, on that. It would not be coming to me. It is also that the approvals for any development that is going to happen, and the heritage considerations that would go into it, are also going to sit with the minister with responsibility for planning. It is not going to be me as the Minister for Aboriginal and Torres Strait Islander Affairs.

MISS NUTTALL: Got you. Have you been approached by anyone in the community, for example registered Aboriginal organisations, that might have been consulted on this issue? Are you aware if any registered Aboriginal organisations were consulted as part of this issue? Is that the sort of oversight you have?

Ms Orr: I would not have oversight of the consultation process for something that sits outside of my portfolio responsibilities. Who has or has not been consulted as part of that is a question best put to the relevant minister. In trying to act in good faith and answer you as best I can, even though it is well outside of my remit, to the best of my recollection, while I have met with a number of people and groups since coming into this portfolio, I cannot recall this particular issue coming up. I have had a number of issues brought up; I cannot say this has been at the forefront of them.

Having said that, though, I am also the Minister for Environment, so it has come up in the portfolio—not necessarily from a particular perspective; just from a lot of different perspectives. But to the best of my recollection, no, I do not believe it has been raised through this portfolio. That is not to say it has not been raised.

Mr Moyle: Absolutely. I am not aware of this issue specifically, but what I can say is that the Office of Aboriginal and Torres Strait Islander Affairs has been working with EPSDD to look at how we strengthen cultural heritage protections, particularly in accordance with the priority reform 1 of the national agreement. Over the last 12 months or so, we have worked with EPSDD, particularly to look at community consultation around the registered Aboriginal organisations, the RAOs, who are required to be consulted on heritage matters. Under that act, I would need to pass to EPSDD in terms of provisions of the act itself, but we have been working closely with them on it. There was quite an extensive community consultation as well about how to consider strengthening cultural heritage protections within that.

So while it does not respond directly to that, we are working closely as part of our cross-government role, to look at how we support other directorates increase and improve those protections Aboriginal and Torres Strait Islander community engagement. In this case, it is about traditional custodians and ancestral connection, and how they work with those groups.

Ms Orr: Miss Nuttall, given that I do have some other hats, and they go into this area, I think we did discuss quite a bit in the environment session around the work that the environment division does. We have Aboriginal and Torres Strait Islander people within the ACT and there are various bits and pieces that are there for engagement and so forth, but anything to do with the Ainslie Volcanics would really be quite far outside the remit of this. I would suggest maybe putting a question on notice to the relevant minister, who I think in this instance is going to be the planning minister.

MISS NUTTALL: Got you.

Ms Orr: And if you have any follow-up questions, you are always welcome to come and have a chat.

MISS NUTTALL: So, to confirm: while you are responsible for making sure that registered Aboriginal organisations are consulted, and the EPSDD is working with them

in a general sense, individual cases are not within your remit at all?

Mr Moyle: That is correct. And my understanding, in the work that we have done with EPSDD, is that the RAOs themselves are engaged when there are matters of potential cultural heritage issues. Everything goes to the Heritage Council, I think, but, again, that sits outside of our portfolio. Our remit and our work has been to look at how we strengthen Aboriginal and Torres Strait Islander participation—or Aboriginal participation specifically, in this regard.

MISS NUTTALL: Got you. Just quickly on participation then, is it the case that the Heritage Council has a First Nations member on it?

Ms Orr: That is a question for the heritage minister.

MISS NUTTALL: Got you.

Ms Orr: But it will be in the legislation, too, if you want to do a quick review.

MISS NUTTALL: Beautiful. I am just interested to know whether that position is—

Ms Orr: Miss Nuttall, operational questions about the Heritage Council and so forth, are really best put to the heritage minister. Certainly, while we will do everything we can to help you out, it does put us in a little bit of an awkward position, because we cannot answer on behalf of another minister. So it is just a very fine line between trying to help you out and not frustrate the committee's line of inquiries, but also paying due respect to the fact that it does sit with someone else.

But what we can say, and what Mr Moyle has quite eloquently put, is that the role of the Office of Aboriginal and Torres Strait Islander Affairs, is really to build that capability and that support. So, should the Heritage Council come to us and say, "Even though we have a range of things in place we would like to increase our capability and develop a bit more," that is the kind of thing where we can start to provide some advice and assistance with. But the operational day-to-day parts of the Heritage Council and the administration and the legislation will be for the relevant minister.

MISS NUTTALL: I am assuming that is not necessarily a process where you could initiate conversations with heritage if you receive representation from registered Aboriginal organisations?

Ms Orr: Again, going back to the general principles that we were discussing before, if I have members of community coming to me, or advice from officials, saying, "Here is an issue that we feel sits outside your remit, but a representation needs to be made on behalf of a community," certainly, I could reach out to another minister and have a discussion about something like that. That is what I do, and I will continue to do so.

THE CHAIR: I have a question on the delivery of the ACT Aboriginal and Torres Strait Islander Agreement. I was looking at the original agreement, and phase 1 was from February 2019 to December 2020. Phase 2 was to happen from January 2021 to December 2023, which would indicate that we would be well into phase 3 by this time, 14 months in. But I have seen action plans which show phase 2 being delayed by at

least a year. Which phase are we in?

Mr Moyle: We are currently in phase 2. There were negotiations with the Elected Body, particularly in response to the Productivity Commission recommendations. Essential action 1.5 has a requirement that Closing the Gap implementation plans, a strategic goal, are strategically uplifted. There are some key precursor requirements around that—Aboriginal and Torres Strait Islander engagement and participation, and a whole range of things.

There have been consultations and agreement with the Elected Body to postpone phase 3, so that phase 3 becomes a response to the Productivity Commission's essential action 1.5. We are currently in the process of briefing government. Once we get formal agreement, in terms of the approach, which has currently been developed across directorates, and with some consultations with the Elected Body, we will be in a position to start to roll that out and have negotiation rapidly. That will then have to come back through to the ACT government for agreement, because it is a government and Elected Body agreement.

THE CHAIR: The original commitment to phase 3 was for it to commence in January 2024?

Mr Moyle: Correct.

THE CHAIR: That was delayed—

Mr Moyle: Yes.

THE CHAIR: to January 2025, according to the phase 2 action plans; but that has been further delayed?

Mr Moyle: That is correct. We met with the Elected Body in December. To make sure that we can align the two agreements and that we are honouring the Elected Body and the community's representation by delivering on those additional requirements, there was an agreement to delay that further. While it is not an agreement of government, the Elected Body have told us that they were happy, and they passed a motion delaying implementation until 1 July, which will allow us time to be able to go through that design process with them.

THE CHAIR: Phase 3 starts on 1 July this year?

Mr Moyle: Once agreed by government.

THE CHAIR: Will this push back the delivery of phase 4, or will phase 4 be a really—

Mr Moyle: That is to be negotiated with the Elected Body, particularly when we are looking through the whole lens of what we are dealing with. The ACT agreement precedes the national agreement, but it actually aligns with it. There is a bit of crossover and a little bit of a mismatch. What we are hoping—again, working in partnership with the Elected Body—is that essential action 1.5 will become the ACT formal implementation plan against the national agreement. That will be Phase 3; then the

transformation strategy, which is essential action 3.1, will be about the priority reforms.

Some elements of the ACT agreement fit directly into the priority reforms. When we look at inclusive community, leadership, cultural safety and those kinds of elements, those fit within the transformational elements within priority reform 3. With the remaining focus areas of the ACT agreement, many—not all—align with the 17 outcomes and 19 socio-economic targets under the national agreement.

Ms Orr: When Mr Moyle says “aligned”, the actions under both agreements have a lot of symmetry. What is not aligned, though, because our agreement came before the other one, are the structure, the names, the titles and how they report and feed into each other. A large part of the work that Mr Moyle and his team have been doing with the Elected Body is to look at how we can continue to do the good work that responds to both, without having to do it twice, by bringing that reporting into alignment. That is the essential action priority that is coming in there.

The reporting will fall out of that, once Mr Moyle and the Elected Body work through the very complicated administration numbers. But the work has not stopped. The implementation has not stopped. It is ongoing. The work programs are aligned, and it is about bringing the reporting and the governance into alignment.

THE CHAIR: My understanding is that phase 3 is yet to commence, but there are actions within phase 3 that relate to the Productivity Commission’s review from last January.

Mr Moyle: The two will be aligned. Phase 3, done correctly, will allow us to deliver against Productivity Commission recommendation 1.5.

THE CHAIR: That report is due in May. I could make some assumptions about what may or may not be in that report, given some of these are not planned to commence until July this year?

Mr Moyle: Correct, yes.

THE CHAIR: I will not ask you again which of them will be implemented or not.

Ms Orr: Mr Emerson, just picking up on that, the agreement is an agreement on behalf of the Elected Body, and it represents the wishes of the ACT community, the people who are here. Closing the Gap and so forth is for all of Australia. With the two, while they are not exactly the same, there are concerns here in the ACT that will definitely be held nationally, so there will be a lot of alignment within the work.

It is not to say that things are not being responded to or that the work is not happening, because it definitely is. The issue that Mr Moyle is going to is: how do we align the governance and the reporting so that the work we are doing is reflected in that, as opposed to things stopping and starting or not happening? Mr Moyle, do you have anything to add to that?

Mr Moyle: I would add that the simplification is not just for government; it is for the community as well. You can look at the complexity of the ACT agreement and the

aspirations of the community regarding that; also, the ACT community did participate in the development of the national agreement and are co-signatories to that. It will help to streamline and simplify those things. Both agreements have levels of accountability. Through the Auditor-General's and Productivity Commission reports, there have been calls for increased accountability. Rather than doing some accountability on this side but not on that side, we need to synergise it, so that the community has improved transparency and there is improved delivery for all parties.

One of the key findings of the Productivity Commission was about increasing accountability. That is one of the critical elements of it. It also allows the Elected Body to be able to hold government to account in a much clearer and firmer way because of the synergisation.

In terms of performance reporting, we are still obligated to report against phase 2. Some of the actions might have been, "We have this strategy." You can tick a box and say, "We've got it." The serious question that the community are asking is: how are they being applied? Many of the actions are not just to be done at a fixed point in time; they are ongoing. We are still driving the implementation of those. The Elected Body members are still meeting with the directors-general of each directorate to promote and prompt the delivery of those.

In June, we will have the impact statement report, which will demonstrate the productivity or performance against what those agreed positions are. That will allow us also to wrap it up. We can close out phase 2 with the report, and we will be ready to commence phase 3 in a much more strategic way.

Some of the key elements that are required under essential action 1.5, as well as 3.1, involve having a theory of change. I have often said that, with some actions, people might undertake a cultural activity to help to build cultural awareness, but going out and doing basket weaving does not actually make you culturally competent in the way that you are performing and delivering your services to the community.

The requirements, through the Productivity Commission, were to start to have a theory of change, so that you can see that there is an investment in cultural capability, and how that flows through, in terms of the engagement of the Aboriginal community, the engagement of ACCOs and the services that are provided to the clients that need them the most. For every input, there should be an output, rather than just a task list.

One of the things that the Productivity Commission said was: no more laundry lists of things that the government is already doing. We are looking to evolve that. We have been working with the Elected Body to prepare them and support them through that process.

THE CHAIR: With the time lines—I am a systems guy, so I love it when systems align—we have a phase of a key agreement that has been pushed from 1 January 2024, as a start date, all the way through to 1 July 2025. In the interim, in the last month, we have had two more deaths in custody; we have had the over-representation of Aboriginal and Torres Strait Islander people in our criminal justice system increase in the last year. What I am hearing, and I am sure you are hearing the same thing from community, is: let's accelerate time lines rather than push them back, and do it all at

once. That is why I am asking these questions. Ms Barry, do you have a supplementary?

MS BARRY: Pardon me if my understanding is a bit vague. My question is around the AEE Fund. Would you have visibility of that?

THE CHAIR: The ACCO Establishment and Expansion Fund.

Ms Orr: It sits with Mr Simpson.

MS BARRY: I want to understand how much of that fund has been expended, and how much community organisations like Winnunga got in the last 12 or 24 months.

Mr Simpson: Thank you for the question. I have read and acknowledge the privilege statement. In regard to the ACCO Establishment and Expansion Fund, it will be released in its first tranche, and the first quarter will be released in March 2025. There have been no iterations of that previously.

Ms Rule: It is a new fund.

Mr Simpson: Yes.

MS BARRY: That is the first release. Would community organisations now be able to apply for the fund? How does it work?

Ms Orr: Ms Barry, Mr Simpson could run through, very briefly, the history of the Aboriginal Service Development, the role it has played, and how we have reached the point where we now have a fund. That will give you the different iterations and why we have got to where we have got.

Mr Simpson: Thank you for the question, and thank you, Minister. With regard to the community controlled sector, Aboriginal Service Development was instigated following our commitments to the *Our booris, our way* report, particularly recommendation 6 and having an Aboriginal community controlled organisation delivering out-of-home care services. It also responds to our priority reform commitments to closing the gap, particularly Priority Reform Two: building the community controlled sector.

As I said before, there are about 17 community controlled organisations. As acts of self-determination, they deliver various human services activities within the ACT. With regard to Aboriginal Service Development, we have heard from the community about the opportunities to build their capability, their governance and mechanisms to deliver services from there. Part of the Establishment and Expansion Fund is to be able to have good governance, ensuring that they meet regulatory requirements, enrolments and registrations with various regulatory organisations, and having a healthy organisation. In responding to that, we developed the ACCO Establishment and Expansion Fund, which will roll out, starting from this year, to support organisations around capabilities, governance and compliance, as they need it, particularly as they identify work to be delivered. Then they build their capability to respond to those as well.

MS BARRY: How would the fund be rolled out? Would they apply? What is the

process?

Mr Simpson: It will be a non-competitive grant round.

THE CHAIR: It opens in March. That is when it starts?

Mr Simpson: Yes; it does.

Ms Rule: It is not a grants process in the traditional sense where we open it up, 20 people apply, and then we assess them. It is, as Mr Simpson said, a non-competitive process which is reflective of the bespoke needs of individual ACCOs. The whole point of the fund is that we have a lot of flexibility in how we use it to meet the needs of the individual ACCOs. What normally happens is that you can apply for \$100 to change your lightbulbs or whatever it might be. This is actually a much more flexible funding arrangement.

Ms Orr: Mr Simpson could probably add a bit more. As Ms Rule says, it is a fund to support the ACCOs in their development and growth. It is not there to say, “We expect you to provide a particular service.” Another component of what Mr Simpson and his team will do is work across government to raise awareness of the ACCOs that we have and their capabilities, supporting opportunities and applying opportunities, where they can apply to do service administration. The fund is not about procuring a service per se; the fund recognises that we want to support a strong and healthy ACCO sector in the ACT, so what can we do to assist with that? It goes to some of the discussion we were having in the previous hearing. It is very easy to say that we will establish this many ACCOs, but what other jurisdictions found is that ongoing support actually means that you end up with these organisations prospering and sticking around.

MS BARRY: How much is allocated to the fund? Is that public?

Mr Simpson: There is \$3.86 million over four years.

THE CHAIR: Which ACCOs were consulted in co-designing the fund and its structure?

Mr Simpson: We reached out to the ACCOs we were aware of, through Aboriginal Service Development, and wrote to them. We also utilised our partners in other directorates who have relationships with community controlled organisations about developing, designing and their feedback to the AEEF. We have written to all 17 community controlled organisations that we are aware of. We also have a newsletter that we write to various community members to advise them about the consultations.

THE CHAIR: How many of the 17 did you hear back from?

Mr Simpson: I would have to take that on notice.

THE CHAIR: Thank you. Would you be able to provide, on notice, a list of the 17 organisations?

Ms Orr: Which ACCOs we—

THE CHAIR: The 17 ACCOs operating in the ACT.

Mr Simpson: That we are aware of?

THE CHAIR: That you are aware of.

Mr Simpson: They include the Aboriginal Legal Service. Would you like me to list them for you?

THE CHAIR: If you have a list, you can table it or you can take it on notice.

Ms Orr: We would have to read it. I do not think we can—

Ms Rule: We will take it on notice, given the time.

THE CHAIR: Yes—take on notice the 17. Are you aware of how many are receiving government funding?

Ms Rule: We will have to take that on notice as well.

THE CHAIR: Okay—the proportion that are receiving ACT government funding.

Ms Orr: That will cut across a number of portfolios, because they could be tendering for services in different branches.

THE CHAIR: The development of the sector is the responsibility, and that is the purpose of this fund. You would know how many of the 17 are receiving government funding to deliver services for Aboriginal and Torres Strait Islander people.

Ms Orr: Mr Emerson, if the question is, “How many are receiving funding for development of a service?” that is something we will have a much clearer view on. Mr Simpson might be able to work through that with you now. If the question is, “Did they receive funding through—

THE CHAIR: Grant funding?

Ms Orr: It is about service development as opposed to having an organisation that has a service contract in place with the Health Directorate, for example. They will be receiving government funding as per what you said. It does not necessarily mean Chris and his team would have line of sight over that. Their focus is going to be on the development of the ACCOs, which is a slightly different question, so could we clarify what you are actually asking?

THE CHAIR: How many of those 17 ACCOs are delivering services for any part of government?

Ms Orr: We will take that on notice because we would have to ask other directorates.

THE CHAIR: I understand. It is an important question—right? I am not going crazy?

Ms Sabellico: We can provide that.

THE CHAIR: Maybe it is an important question and I am the only person! We have gone over by 10 minutes. I very much appreciate your time in the additional session. On behalf of the committee, I thank you for your attendance today. As you have taken questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. Again, I thank witnesses who have assisted the committee through their experience, knowledge and expertise. Also, we thank broadcasting and Hansard staff and the secretariat for their support. If a member wishes to ask questions on notice, please upload them to the parliamentary portal as soon as possible and no later than five business days from today.

The committee adjourned at 3.26 pm.