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COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011, Stronger Futures in the Northern Territory Bill 2012

THURSDAY, 23 FEBRUARY 2012

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SENATE
COMMUNITY AFFAIRS LEGISLATION COMMITTEE
Thursday, 23 February 2012

Senators in attendance: Senators Boyce, Crossin, Moore, Scullion and Siewert

Terms of reference for the inquiry:

To inquire into and report on:

Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011, Stronger Futures in the Northern Territory Bill 2012

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AVERY, Mr Michael, Director, Catholic Education**Committee met at 09:33**

CHAIR (Senator Moore): I declare this public meeting open and welcome everyone who is here. Before we commence proceedings our committee always acknowledges the traditional owners of this land, past and present, and acknowledges that we walk and work on Aboriginal land. The Senate Community Affairs Legislation Committee is inquiring into the Stronger Futures in the Northern Territory Bill 2011 and two related bills. Today is the committee's fourth public hearing for this inquiry. These are public proceedings, although the committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. That means we have it in private with the witness and the committee and we ask other people to leave the room. If that is something that anyone would require, would you please let us know. I remind the committee and the witnesses that in giving evidence to the committee all witnesses are protected by parliamentary privilege. The rules around that are with the secretariat, and I require anyone who wants that information to look it up. Also, if you have issues with answering a question please let us know. There are ways that the committee and witnesses can work together on that.

As you can see, we have filming in the room. I know that one is for a local channel—*Sky News*. It is very important that if people do not want to be filmed—and that does not apply to senators!—could they please let us know—we get great cooperation. We also have a photographer from *Koori Mail*.

We also want to introduce Venessa Curnow who is with us from the National Congress of Australia's First People. Congress has been travelling with our committee to all these hearings and will continue to do so.

I welcome representatives from the Catholic Education Office to our hearing. And are we talking about the Gronski report, Mr Avery?

Mr Avery: No, not today! Thank you for the invitation to be here. This is my sixth year in the position of director at Catholic education. I am also the National Catholic Education Commission chairman of our Aboriginal and Torres Strait Islanders committee. We have five remote communities which are affected by the legislation. There is Wadeye, which is also Port Keats—I am sure you are familiar with that. We also have two schools on Bathurst Island and there are Daly River and Santa Teresa down near Alice Springs.

In 2006-2007 all of those schools were subject to a review by both governments as to whether they wanted to continue as Catholic schools, become state schools or otherwise independent. Unanimously, they chose to stay as Catholic schools. Our history with them is pretty significant, and coming into this position I have been able to draw on a lot of history and to get an understanding that I probably would not be exposed to except through the church's history with those communities.

We have 16 schools in the Territory and we also have a significant number of remote boarders at St John's College, which you may or may not be aware of. It is most famous for its football produce rather than academia.

CHAIR: We will not say which kind!

Mr Avery: But we will note that the current Premier of New South Wales is an ex-St John's student.

I would just like to take the opportunity to make a few observations, then open myself up to questions. I know you have been doing a lot of travelling around and a lot of research. I am happy to speak on any aspect that I have some experience to.

When the NTER was introduced—it was my first year here in 2007—it produced a much-needed energy and resourcing. It is not hard to name the shortcomings, and you are probably familiar with those, but it certainly has been—to my mind—a fantastic initiative. Some of the challenges, certainly, have been in our places to engage and empower the Indigenous communities. It has been quite a challenge to support government initiatives when there it is a constant turnover of people and personnel. They march in and out of communities. I think that has not assisted in fulfilling what we would acknowledge are the really good parts of the NTER.

The other thing that has caused me a lot of concern is the concept of consultation. Consultation has often been more expedient than meaningful. We all acknowledge that when you consult with Indigenous communities it is a fair challenge. If I can give an example of what we do: in 2007 we had our first day of what we call 'discourse and discernment', where we bring all Indigenous leaders in—on this occasion, to Darwin. We sit and listen; and we have to listen, and listen. Every year we go out twice a year—the same four people, the same four regular faces—to our communities and we listen. Last time we went out to Wadeye we had 74 people and they ran their meeting in Murrinh-patha—my Murrinh-patha is not very strong but they translate for us. The notion is to actually engage them and identify their objectives, and each time we go back we look at what they have achieved and then we

look at what we have achieved. That regular and meaningful consultation has been a significant inroad for us in building capacity and trust in the communities.

Our ultimate goal that we work towards is empowering Indigenous people. We have made some really significant gains. It is most interesting to use Wadeye as an example because many public servants would say, 'Rename Wadeye as the only school in the Territory because it has been so much in the news.' I went out there with Senator Jacinta Collins last year and she met with the Indigenous leadership team. She can relay comments to you herself but, in my words, she said, 'This is the first time an Indigenous leadership group has met with me first up and talked about what they think is working well and not been tacked on the end.' Those people were able to talk about what their strengths were, where they were falling down and where they needed to go.

In the last four or five years, ownership at Wadeye has significantly changed. There is improvement in attendance and NAPLAN, but that is all minimal stuff. It is the qualitative judgments that you can see changes in. In Stronger Futures there has to be a strong component of empowerment of local people at their own level. Not every community wants to engage either. Some communities do not want to engage, but those that do have certainly started to own it themselves and make progress. At Wadeye yesterday or the day before, unasked, the Indigenous leadership team held a public meeting. There were about 1,500 people there and the meeting was about attendance. That does not come from us, that comes from them, and I think shows the strength of the energy that has come from the NTER originally.

The other point I want to mention is that in education we can always ask for more money, right, but we do actually have enough money to run our programs and the issue is about trying to get a consistent line of funding so that we can draw quality teachers and quality programs. This year, which is my sixth year, there has been the least changeover of staff we have had in our remote schools and the best quality of people are coming through. Instead of having young people out on an adventure we are getting experienced people who want to make a commitment and a change. You cannot measure that in terms of the NTER, but it is certainly a huge turnover and gives huge traction for the kids at school. We tracked a cohort of kids over four years at Wadeye, about 20 young people post 13, and they have kept going to school. So, hopefully, those things get traction in the community.

Those are some initial comments. I am very open to questions or I can comment more deeply on some things.

CHAIR: Thank you, Mr Avery. I just want to assure the witnesses and anyone watching these proceedings that, while not all the committee members can be here throughout these proceedings, all your evidence will be considered fully by the whole committee and it will be in *Hansard*. Just because people are coming in and out of this hearing that does not mean that your evidence is not valued and taken into account.

Mr Avery: I understand the complexities.

Senator SIEWERT: Mr Avery, can I go first to the five communities you mentioned.

Mr Avery: Four communities, five schools.

Senator SIEWERT: I beg your pardon. They are the SEAM.

Mr Avery: Two of those are the SEAM.

Senator SIEWERT: You have actually got 16 schools across the Territory.

Mr Avery: Yes.

Senator SIEWERT: All of them, in a rollout of Stronger Futures, would then be covered by this legislation.

Mr Avery: No, not necessarily.

Senator SIEWERT: Potentially they are.

Mr Avery: I would take your advice on that.

Senator SIEWERT: But, in terms of the number of schools that you have—

Mr Avery: SEAM in Alice Springs would affect Alice Springs, yes.

Senator SIEWERT: In terms of the five schools you mentioned first up, I was a little bit confused about why you mentioned those first up. Is it because they are the ones that were subject to the review?

Mr Avery: They are our five remote, fully Indigenous schools. We call them Indigenous Catholic Community Schools. They are quite distinct in nature. Of those five, two are under the SEAM trial: Wadeye and Bathurst.

Senator SIEWERT: Wadeye and Bathurst?

Mr Avery: Our two schools on Bathurst, yes.

Senator SIEWERT: So that is actually three schools.

Mr Avery: Yes.

Senator SIEWERT: I am trying to get a picture.

Mr Avery: Yes, sorry. When those schools come together, SEAM will be one of the subjects—whether they are a SEAM school or not. It is of interest to the Indigenous communities. Our five schools come together.

Senator SIEWERT: Thank you. In terms of the 16, could you take it on notice to give us a list of those schools. Is that okay?

Mr Avery: Alan would enjoy doing that for you.

Senator SIEWERT: Thank you. One of the issues that have come up during the evaluation of SEAM—specifically the 2010 one—is that they make a lot of comment about not being able to track some of the enrolled students because they cannot match the non-government information and the government information. I have asked about that subsequently, and apparently they are working on it. My question to you is: because the SEAM report does not really cover too much for the non-government schools, what differences have you seen between your SEAM schools and your non-SEAM schools? Have you seen the same sorts of trends that we were seeing in the government schools under SEAM, which were that there was a slight difference between 2009 and 2010 in terms of increase in attendance but it seems to have dropped off after a while? I am wondering if you have looked at that report and if you have seen the same sorts of trends in your schools.

Mr Avery: The SEAM trial was introduced to the community at Wadeye, and as soon as they heard 'trial' a lot of them walked out of the meeting. That was the wrong connotation altogether. It spread some fear. There was certainly an increase in attendance, including the family who sent along their 22-year-old son, who had not been at school for 10 or 15 years because they thought that might affect their income. There are a number of older students like that, and our staff said to me, 'We can't cope with this.' But the trials here led to a rise up and then a drop off. So I do not think it has made a substantial difference to regular attendance.

Senator SIEWERT: I presume you monitor your attendance.

Mr Avery: Yes, and we send all our figures through to the NTG—to DET. We monitor our attendance pretty closely. We have actually been doing it at Wadeye since 2007, because that was under a COAG trial. We also have qualitative data—things like when there is a funeral on or when there is a family fight on, and what other things actually affect attendance.

Senator SIEWERT: I am conscious about (a) not asking for information that puts you to too much work, because I know that everyone is busy, and (b) the fact that obviously we do not want to identify anybody. But is it possible to give us that sort of information about what trends you have seen? We got some really useful information yesterday at Maningrida around attendances and the impact of seasons and things like that.

Mr Avery: We could do that, and we could also provide you with the permission of the authors. There are two young ladies who spent four years out at Wadeye and have now moved to Victoria, and they prepared a report on the longitudinal observations and facts that they had had about attendance. It is a sort of cameo view of young adults going to school, and I think that would give you some incisive information. Statistically it is not that important, but qualitatively I think it is a really interesting study.

CHAIR: Over what period?

Mr Avery: They left in the middle of last year.

CHAIR: And it is four years back from that?

Mr Avery: Yes.

Senator SIEWERT: That would be very useful if you could provide that.

Mr Avery: They would be very happy to speak to you at any stage in any context, because they are very passionate about what they have learnt.

Senator SIEWERT: We do not need you to do it right now, but before you go could you give the contact details to our secretariat, because I know that we would be interested in that.

Mr Avery: Yes.

Senator SIEWERT: You made the comment about the NTER that it was a fantastic initiative.

Mr Avery: It was fantastic because it brought energy.

Senator SIEWERT: What are the significant bits you have seen?

Mr Avery: Significantly positive and significantly less positive?

Senator SIEWERT: Exactly. As you would be aware, we have heard some pretty strong views.

Mr Avery: Our core business is education—teaching—but because of the nature of the communities we have to pick up a lot of things. If the community wants something and it is sound, we will support it but it might not necessarily fit right within our core business. We try to focus on education. There is no doubt that, anecdotally, the nutrition program has been fantastic. We have got smarter at that, as parents have got smarter and brought kids for morning tea and then taken them home again—you have to put some stipulations around that. The women will say quite clearly to me in my setting that controlling income has allowed them to make sure they have better food. I know it is a mixed bag from people but that is the most common comment I hear.

CHAIR: Is that in remote areas?

Mr Avery: Yes, the remote areas. Certainly the other side of it has been the development of housing. That has been a huge change. It has given communities hope. Communities have to be places of hope. But it has not made a big difference to a lot of the infrastructure. It seems to us that there is a lot of time spent with people coming in and out in Land Cruisers. Where do these things land for the people? The cohesion of all the initiatives has been a problem. We get people coming to us wanting to do this, that and the other—the faces change and the names change, and the program will come from DEEWR or wherever. The cohesion and consistency that I would have thought the government business managers would have brought has not been apparent to us, and that is the feedback of the people.

Senator SIEWERT: Do you have a lot of interaction with the business managers?

Mr Avery: It varies from person to person. A lot of the work in remote Indigenous communities is personality driven. Different people bring different passions, or interests.

Senator SIEWERT: Has the degree of cohesion and consistency changed across communities and within communities?

Mr Avery: It is still a challenge with every project that comes up. Let us say it is an early childhood program or the health centre. They come in like a wedge instead of coming into the circle and asking where everyone fits. It is relayed in things like buildings and where they are located. There is a lack of significant oversight, strategically, of what is happening.

Senator SIEWERT: Did the government consult with you in the initial proposition for SEAM and, then, in the proposal to expand it?

Mr Avery: You can certainly kick off consultation. Consultation was done. My personal view is that it is not appropriate consultation—

Senator SIEWERT: I meant specifically with you as education providers.

Mr Avery: Yes, they did consult with us. When they first came in they had no concept of what they were going to deal with. I can remember sitting here in Darwin with senior people from Canberra. They said they would provide xxx and I said, 'Do you realise that in Wadeye there could be 500 kids in that category—how are you going to cope?' They did not understand that. The Centrelink people on the ground are the ones under the most pressure, and the community have really juggled around how they meet the demands without actually changing.

Senator SIEWERT: How does your system deal with this whole issue of when children get reported for non-attendance? How do your principals do it? How do they interact with Centrelink?

Mr Avery: I will just go back before that. We have been trying to improve attendance for years and years. So it is nothing new. Sister Liz, who is here—she has been here for 700 years!—will tell you that she has gone in and dragged kids out of school. The religious got away with that; we wouldn't. She went into houses and dragged—

CHAIR: I think you mean that she dragged them into school!

Mr Avery: Sorry; she dragged them into school. Yes; out of the houses and into the school.

CHAIR: I was worried about Sister Liz's reputation!

Mr Avery: It is nothing new to us. With the trial, we have tried to isolate the principals' jobs to reporting it and to doing everything within their authority and power. But we are only the education provider. The government need to provide—and they do—attendance officers et cetera. We have attendance officers but their job is to get kids in; they are not responsible for reporting. The principals pass the names over and then move back from it, as required by legislation.

Senator SCULLION: On the area of attendance, you have been working and operating in some of these communities that are characterised by having very low levels of attendance, relatively. Perhaps you can give us a bit of a snapshot of the history. I know you have tried a number of initiatives, over time. What advice would you

give to the committee in terms of the sorts of strategies that you think fundamentally work better than others and what your learnings have been over this period of time?

Mr Avery: That is a nice open ended question; thank you. Really, it is having a strategic overview of a community and having somebody responsible with the power and the authority to oversee what comes into that community and make sure it is coordinated.

We have improved, but we need to keep improving the quality of teachers that come in. That is a massive issue. Financially, they are not badly off but they are not hugely better off for giving up their lives and working out there.

We need quality teachers and an engaging curriculum, hope in the community infrastructure and hope in the community that there will be jobs. I do not think in my years here that I have really seen a significant number of jobs made available. Through the intervention we introduced a program called Grow Your Own, which was teacher training in the communities. It was fully accredited through CDU. Last year 10 Indigenous teachers graduated as teachers in the Northern Territory. Four were from Bathurst Island, which is one of the SEAM areas, four were from Wadeye and two were from Katherine. They will have more impact on attendance than anything else.

Some of these people are very competent in the classroom. They find five days a week pretty challenging for their lifestyle so we have a couple of young women who will work for a few years at three days a week. But their influence in the community and interest in school is more influential than the SEAM trial.

Trying to make meaningful jobs that are connected with education is still an issue. You need the other things in place, such as community infrastructure. Senator Scullion would be aware that Wadeye have had a trial this year with a football team called the Magic. They have done very well, and the impact on those people is just amazing. But they have not even got a proper oval out there.

If I had a magic wand I would say something like, 'If you are able to demonstrate dah, dah, dah, we will provide towards your community infrastructure.' They will take responsibility but community infrastructure and real jobs with real meaning negate school education to a fair degree.

Senator SCULLION: Just briefly, when you talk about the Grow Your Own program and the particular individuals at the school, what qualities do you think are the most important ones? Is it the quality simply that they are members of the community—they know the families well; they know the children well—or is it the fact that they are attached to the school with those principles?

Okay, the Grow Your Own program is a significant investment over time—I think that is great—but we also have a short-term challenge: perhaps it is making sure we employ people who have the same sorts of values and are respected in the community and understand a lot of the other background issues. What do you think the most important values are in that regard?

Mr Avery: It is very hard to separate the school and the community. On Bathurst Island they see them as one. When we launched this program, the community—not us; the community—had mass and a public celebration. Everyone came and they said, 'You're our future; you're our hope.' So the community owned that and it gives them enormous responsibility, and then enormous authority when they succeed. The same ladies who danced and sang at mass were on the TV at the Tiwi grand final the next day. So you have this real mesh of community ownership, and that is a critical component. Does that answer your question, Senator?

Senator SCULLION: It does indeed.

CHAIR: Wouldn't it be the case that it is also about employment—when there are no jobs, actually seeing local people with a paid responsible job?

Mr Avery: These people have a choice. They are ATs, assistant teachers, or they can step up into teaching. A lot of them are quite happy to continue as ATs; that is a satisfactory employment for them. It is a changing concept for them that they are going to be the ones with the authority and the power.

CHAIR: The professional qualifications—it is very hopeful.

Mr Avery: Two of the young ladies from BI came to do rounds here in Darwin at one of our schools. The teacher was held up, which should not happen, but these two young lady stepped into a full white classroom that they had never been in before and just took over like that—extremely confident in their skill level and self-belief. Those that have dropped out of the program have stayed on as ATs and are much more confident and competent people professionally.

Senator BOYCE: When it comes to encouraging attendance, do you have a system for visiting children to come to your school if their parents are in the community for some other activity?

Mr Avery: We have really been trying to build up, empower and skill up our Indigenous leadership groups in each school community. To a large degree, that is their responsibility as well. You were out of the room, Senator Boyce, but I mentioned that at Wadeye yesterday they took up the challenge without any requests from us. The local Indigenous leadership group had a community meeting with about 1,500 to say, 'What are we doing about school attendance?'

Senator BOYCE: But you have systems in place that would allow a child from another community to go to your school for a month or something if the family had moved into the area?

Mr Avery: Absolutely.

Senator BOYCE: Does it happen?

Mr Avery: Not very often, but it does happen. In fact, we are finding now that we have a number of white children coming in to the community schools and that is flipping the coin right over, so it is a challenge. We do have kids coming in but not for long. They tend to stay in their communities or come to town. Some kids move between community and town, and they are the hardest ones to track and make sure that they are attending.

Senator BOYCE: At Maningrida yesterday we heard about the structure of a school year not fitting the wet season, the dry season or perhaps cultural activities. The cultural calendar was one of the big issues with nonattendance. Is that an issue for your schools and, if so, what have you done about it?

Mr Avery: We have had an informed discussion about that and we have also gone back to some of the people who actually taught in those days. We are currently out as a group on a decision on that. We are waiting to see, because where it has been introduced it has naturally been successful. Will it sustain over a period of time? Is it really what the community wants? Our challenge is to continue to talk to the community—'Do you want this?'—and so far they have said, 'No, not really, we are pretty happy with bush holiday,' which is the middle of the year break. For us, it will need to come from the community that they think this change will work.

Senator BOYCE: But you are going through that process?

Mr Avery: Absolutely, yes.

Senator BOYCE: Earlier you began to speak about the consultation process overall, not how you were consulted but the process overall, around SEAM and Stronger Futures and you suggested it left a bit to be desired. Am I right in saying that? If so, expand, please.

Mr Avery: One of the things that we found was that people coming up from Canberra or an external consultancy to do the consultation really did not understand what it was like in a remote community. We endeavoured to take them to those places to see. They were certainly fully professional and competent, but they did not understand what they were working with, and that is pretty critical. For instance, if they want to hold meetings after school, which a number of groups who come up want to do to meet the staff, they have to understand that the people only shop day to day and if they are not out of the school in time to shop they do not eat that night. Getting into the community and understanding what they are talking about is really quite a challenge.

Senator BOYCE: And the content and consultation material?

Mr Avery: I think it is very hard for us to have deep and meaningful consultation till we have an ongoing relationship, and that takes time. Those people coming up for SEAM do not have time. I think they make a good attempt, but I do not think it is really landing with the people themselves. One of the things I said before you came in is that you have to have consistency of faces. You have to have consistency. We employed my colleague Alan after a period of 30 years with DEEWR. One of the attractive things for us is that he can walk into any community and they actually know him and trust him. He has been known much longer than me or most people in the office. That is a critical part of change.

Senator BOYCE: If SEAM were to simply stop, what effects would you see that having?

Mr Avery: I do not know that there would be a massive effect. If it was my responsibility to try and ensure that attendance was addressed it would be in a number of ways. One would be that you do need to stick; you do need something. But I think we have put a lot of energy into that and I would have a number of ideas, as would others, about how you could actually get the community to own attendance a bit more. Part of that is our responsibility for trying to continually improve the quality of our teachers and what we offer the kids as meaningful. We have an Indigenous curriculum so currently we have a bit of a challenge, but we have worked with DET on that and they have been great. We have got the Australian curriculum coming in, which we have a legislative responsibility for, but it will not engage some of those kids in those SEAM communities. We have to have quality teachers staying for a period of time and engaging them meaningfully.

Senator BOYCE: Thank you.

CHAIR: Mr Avery, you are in the position where some of your schools are in the trial and some are not. I am interested to know whether, in the discussions that go on amongst your whole group, there are any differences in the expectation of teachers and administrators in the schools that are in the trial and those that are not, and also how they share that knowledge. One of the things we have to work out is what is different in the process. Have the personnel who work in the three schools that are now covered by SEAM expressed that there is a greater workload or expectation? Have they expressed whether there is any difference in the general stressors which educators have?

Mr Avery: No, not really. There is some extra work in it, yes, but it has not been the straw to break the camel's back because, through the 200 extra teachers, we have been able to provide extra support to those communities to spread the workload. But we have also taken a very clear line with our schools and communities: that we will do what we can to get kids to school in any shape or form and we can only pass the names of children not attending to the government, and that is our legislative responsibility—there is no choice for us. That has actually taken a lot of pressure off principals in communities. There were a couple of initial dust-ups but they settled very quickly. When you get all the schools together, there is not much difference—they are all trying to get kids to school. The SEAM trial or the non-SEAM schools—

CHAIR: The challenges are still the same.

Mr Avery: it is still one and the same thing.

CHAIR: Have any of the families in your three schools had their social welfare payments changed?

Mr Avery: Yes. If Alan says they have, they have.

CHAIR: We would like some information on that. It is not breaching privacy; it is just numbers that we want to know, because you have got three schools.

Senator SIEWERT: Are you aware if that has affected the parents' relationship with the school?

Mr Avery: Not in our settings, but we put a lot of work into that because that potential was there.

Senator SIEWERT: It has taken effort from you to make sure that that did not happen?

Mr Avery: Yes, that is what I am saying. Our core business is providing education, but in reality we have to work with the adults and the families in these communities on a myriad things.

Senator SIEWERT: I got the impression that there are two sets of attendance officers: there are the government—

Mr Avery: Sorry, I will clear that up. There are attendance officers within the schools—

Senator SIEWERT: Who are your staff.

Mr Avery: Yes, they are our attendance officers. There is a five-step process, really. When you get to the normal things that school happens and you cannot get the kids there, that is when you move to the legislative responsibilities and we say, 'School cuts off here; this is the government's responsibility.'

Senator SIEWERT: So you go through your processes first, with your attendance officers, and then you hand it over to Centrelink.

Mr Avery: Yes.

CHAIR: Mr Haines, you may give evidence at any time, if you choose to. We are concentrating on the SEAM aspects because they are the education element. The changes in the Stronger Futures legislation, because you now have experience of that, bring more engagement of the school community as a whole. You would understand that we come from different parties, so we do not have a single view—we are seeking community focus. One of the biggest changes in the SEAM as it operated from the trial in the Stronger Futures is that change to the Aboriginal boards being involved. From your teachers' perspective, is that going to create any more issues for anyone picking up the process?

Mr Avery: The continual changes create some concern, but we try to manage those because in actual fact all the work is being done prior to anything legislative. Therefore, if we are doing our best and we cannot improve attendance it is simply passing them on, yet it is going to be somebody's responsibility in the school.

CHAIR: The other thing that worried me was your point at the start, when you talked about the Wadey experience, where people obviously just did not understand when suddenly young men, who may well have needed to go to school—

Mr Avery: A little late, yes.

CHAIR: but were not really catered for in the process. Were you coming across that a lot? Does it matter, really, how many times people say they have visited a community and had meetings? It seems that there does not seem to be any genuine understanding of what happened after they left about the real understanding of the message in the community? That is a genuine worry.

Mr Avery: That is hard work, because there is no simple, easy solution for it.

CHAIR: If there was we would have done it right years ago, which is true.

Mr Avery: Yes.

CHAIR: There was one other question I had on SEAM, and I genuinely cannot remember it. I am so sorry. If I think of it, we will get back to you. We have found the experience of an organisation that has been in the trial and that is looking to the future is very important—I know what the question was. The other issue about SEAM that is bedevilling, me anyway, is the fact that everybody believes that it is all about Centrelink coming in and taking money, that the fact that it is supposed to work with other processes and be the last resort does not seem to be understood by anyone we have spoken to. I do not think I am exaggerating with that.

Senator SIEWERT: That is correct.

CHAIR: It is like the first thing people think is, 'I'm going to lose my money.' Whereas when you read it—the pages and pages and pages that are the guidelines—you see that the whole idea is that this comes in at the very end. Do you believe that, after the trial, and you have had to try going for how long now?

Mr Avery: Three years.

CHAIR: Do you think that, after three years, there is any better understanding in the community about the intent of the program and also about its relationship with Centrelink: that it is not 'bang, you are going to lose your money,' it is actually a process?

Mr Avery: I had a meeting with one of our very senior Indigenous women the other day, who is very experienced in a number of areas and who has worked with government. She clearly gave me the answer to that as people still do not understand it.

CHAIR: Could you give me any idea, and you do not have too to this now, how many meetings have taken place, between when the trial came in and today, where people have gone away thinking that they have fully explained SEAM?

Mr Avery: Probably close to zero.

CHAIR: They have not come out and talked about it?

Mr Avery: They have come out. Sorry, I thought your question was—

CHAIR: My question is: how many times until last week, when a senior woman in the community still felt that her people did not understand it, has it happened that people have come into the community, had a meeting and gone away thinking that they had had a meeting and people were across it and it was all cool?

Mr Avery: I am not sure how many times they have been out, but there has been a lot—

CHAIR: I know it is a difficult question. It is probably rhetorical in many ways.

Mr Avery: I would not have been witness to all the times they have been out.

Senator SIEWERT: You are supplying us with some more data. Earlier in your evidence you mentioned that older people came to school, and there was the 22-year-old. I have heard that said in other communities as well. Are you able to give us a bit of a rundown on how that impacted on the school?

Mr Avery: Staff were most unsettled. They did not know how to cater for these young men. When Senator Collins was out last year and we were meeting with them, there were probably about 4 to 5 men in one group, and no-one knew how to cater for them. They were aged from 17 onwards, probably.

Senator SIEWERT: Are they still—

Mr Avery: No.

Senator SIEWERT: What happened? Did they subsequently leave?

Mr Avery: Yes. That is the strength of the indigenous leaders in the school—they sorted all of that out for us. You must have a research background, Senator!

CHAIR: Thank you very much, Mr Avery and Mr Haines from Catholic Ed. We will get that information, if you could pass it on to the secretariat, about the research paper on the attendance.

Mr Avery: Thank you for the opportunity.

ROBERTS, Ms Frances Marilyn, Family Services Manager, Somerville Community Services

JONES, Mr Peter, General Secretary, Uniting Church Northern Synod

MARREN, Ms Siobhan, Uniting Church Northern Synod

[10:17]

CHAIR: You have information about parliamentary privilege and the protection of witnesses, and, if you need any more information like that, the secretariat can provide it for you. If any or all of you would like to make an opening statement we will go there, and then we will go to questions. Mr Jones, would you like to start?

Mr Jones: Good morning, Senators, and welcome to Darwin. It is great that the committee has come here to hear what the concerns are of people on the ground. This committee has already received a submission from Uniting Justice, the justice unit of the national assembly of the Uniting Church in Australia. My colleague Siobhan is here and is able to provide further comment in relation to that submission as requested.

The reason we are here today is that our organisation believes that it is crucial that the church address the Stronger Futures legislative package in relation to its impact on the rights of Indigenous Australians and that it advocate for improvements that better meet Australia's international human rights commitments. We also wish to make some suggestions as to how the legislative package may be amended to be more supportive of the Aboriginal communities where many of our members live. In our earlier submission, the issue of racial inequality and nondiscrimination is addressed. We note that, in order for the amendments proposed in the Stronger Futures legislation package to be deemed special measures, it must be demonstrated that these proposals meet certain criteria. We continue to have concerns that, while the Australian government may claim it is now complying with the Racial Discrimination Act 1975, it has done so by extending its discrimination to other vulnerable groups in our community. This is an approach of compliance with the letter, not the spirit, of the Racial Discrimination Act. We do not see this as a sound basis on which to build understanding and partnerships, as punitive measures are not likely to gain a positive response from Aboriginal people.

In relation to partnerships, I wish to refer to the Stronger Futures in the Northern Territory policy statement. I am sure senators are aware of this document. The fourth paragraph on page 1 says:

A partnership approach between the Australian Government, the Northern Territory Government and Aboriginal Territorians is driving reform and improving service delivery.

While this may be true of the relationship between the Australian and Northern Territory governments, it is not true in relation to the partnership between Aboriginal Territorians and the Australian government. This is because, as has been clearly stated by our Aboriginal members, there is no partnership approach being enacted between Aboriginal people and the Australian government. What is taking place, and has been since day 1 of the intervention, is a government announcement followed by feedback through so-called consultations, the information from which is then cycled into the next government announcement. There simply is no partnership.

This does not mean that there are no positive outcomes arising from the intervention. Some of our members have commented positively on income management. Many are hopeful of improved housing provision, and the stationing of police in many communities has been welcomed. However, it is not true to say that this has occurred through a partnership approach. This is the consistent message of what our Aboriginal members have been saying at our annual synod gatherings since the intervention commenced in 2007. Our Uniting Church Northern Synod website contains yearly additions which contain the statements made at each of our annual synod meetings since 2007 as to the unsatisfactory and inappropriate way in which the Commonwealth has gone about its intervention.

So today, as we respond to the current legislative package, we wish to flag that the context of our response is not one of partnership but one where, again, Aboriginal people are being told what to do. It is therefore not surprising that so much negative comment and divided opinion surrounds what should have been a point of celebration as the government seeks to implement a major program addressing Indigenous disadvantage. In making this opening statement, we note that the Commonwealth government has partly acted in response to previously expressed from our organisation and others about compulsory income management, suspension of the Racial Discrimination Act, the offensive prescribed area signs which may now be removed, housing provision and alcohol abuse. However, our major concern about a working relationship in partnership with Aboriginal people continues to be ignored and continues to cause pain and shame in Northern Territory Aboriginal communities. It certainly does for many of our Uniting Church members.

We now wish to make some specific comments in response to the Stronger Futures in the Northern Territory policy statement, and we will use the framework of that document to guide our response. On page 2 of the document, under 'Supporting legislation', the claim that the legislation continues the Australian government's

approach, 'building mutual respect' with Aboriginal people, does not stack up when compared with government actions on the ground. For example, as our earlier submission states on page 4, the blanket application of income management means that individuals who are not responsible for the care of children, do not gamble and do not abuse alcohol or other substances may still have their income managed. These are punitive measures that do not speak of respect, mutual or otherwise.

Under 'Jobs', on page 3, while many Aboriginal people do want full-time jobs, many others only want to work on a part-time, more flexible basis, and CDEP affords this flexibility. The Uniting Church welcomes the creation of full-time jobs in Aboriginal communities. However, we can walk and chew gum. Having CDEP operate in an Aboriginal community is not inconsistent with other job creation measures. If the government wishes to see Aboriginal people actively participating in the paid workforce, the legislative approach needs to include provision for both full-time and part-time employment. If the government wants an employment model that has been embraced by many Aboriginal people, then CDEP needs to be a part of the employment mix.

I will move on to school attendance. On page 4 of the policy statement, the first and second paragraphs establish the premise that regular school attendance is needed if educational outcomes are to be achieved. The next and following paragraphs explain how the school enrolment and attendance measure, SEAM, will be enacted.

The second-last dot point on page 4 covers the suspension of income support payments of parents who do not meet their part of the agreed attendance plan. While this may just be one dot point of seven, it is the one that people in the bush are talking about. Our members have said, 'Why is the government punishing Aboriginal people? Why isn't the government encouraging us and helping parents to get our kids to school?' It is our view that the punitive suspension of income support payments of parents who do not meet their part of the attendance plans will not receive a positive response from parents. Punishing the most disadvantaged people in the land for not participating in a system that has not delivered the outcomes they desire is heaping punishment on punishment.

It may be noted that school attendance rates in the Northern Territory have continued to decline overall, and the SEAM trial schools evaluation has also reported failure of the SEAM measure. This negative step will only further alienate parents and decrease the levels of support within communities. We request that this aspect be deleted from the SEAM legislation.

In November 2011, the President of the Uniting Church in Australia and I met with the Minister for School Education to discuss this punitive measure. We had hoped that the minister would listen and that he would understand. However, the minister advised that he wished the package to proceed and to see if it might become an effective measure. On pages 4 to 7 of our earlier submission a detailed analysis is offered of why measures of this type are both unjust and a waste of time and effort. Instead we call for a focus on positive approaches, such as that of the highly successful Clontarf Foundation which is already being used in some Northern Territory schools. Another measure would be the return of ASSPA—the Aboriginal Student Support and Parent Awareness scheme—which the Commonwealth directly funded in the 1980s. ASSPA is raised because it enabled Aboriginal parents to be engaged directly in things happening in their local school, and provided a further basis for conversation and activity between Aboriginal parents and schools.

While I was listening to the previous presentation you also asked questions about the school cultural calendar. I wish to add that in 1977 I was a teacher at Maningrida school, where the school term started on 4 January and ran to the middle of July. The reason for that one long semester was the very issue of the kids being in town. It is a model very similar to that which is being trialled now at Gunbalanya. It certainly worked then, and it would be great to see things like that working in the future. The reason that measure was brought in was that parents said, 'We will stay in town and we won't do ceremonies until the second half of the year—until the dry season kicks in—therefore, let the kids go to school in the first half of the year.'

I wish to turn now to alcohol abuse. Many Northern Synod Aboriginal members of the Uniting Church come from dry communities that were declared restricted under the Northern Territory Liquor Act in the 1980s. These measures were brought in as a response to community concerns, with the community actively engaged with the now Northern Territory Licensing Commission to develop a set of workable measures that were appropriate to each community. It was a simple but real forerunner of the current alcohol management plans.

It should be noted that there were 103 declared dry, or alcohol restricted, areas before the intervention commenced in 2007. This says that Aboriginal people want to be directly engaged in the development of alcohol approaches impacting their communities. As most Aboriginal members of the Uniting Church live in Aboriginal communities, we call for the further development of local community and, as applicable, regional alcohol management plans. Funding for development of these plans should be increased and made more widely available

so that Aboriginal people, on a community-by-community basis, may develop their own solutions in partnership with other relevant stakeholders.

It may be noted that development of an alcohol management plan, by the very nature of the activity, has to be undertaken in partnership. This raises the concern we have that the proposed legislation will contain the requirement that alcohol management plans will need to meet minimum standards and, presumably, the Commonwealth Indigenous affairs minister will not approve plans that do not meet these minimum standards. At this point I wish to share a perspective from my former life as a director of licensing and regulation policy in the Northern Territory Department of Justice. It was in that role that I was a principal development officer and the writer of the Tiwi Islands, Groote Eylandt and Gove Peninsula alcohol management plans. I can clearly state to the committee that, if I had turned up with a set of minimum standards from government as opposed to an open conversation through which a sustainable and practical plan would emerge, we would not have got past first base. The requirement for minimum standards, especially when imposed at the start of the process by government, is unnecessary as they cut across the community development concept of, 'We are all in this together and we are working to find the best way to address alcohol issues on a community needs basis without being told by somebody else what to do.' If there is a sound reason as to why minimum standards need to be included in the legislation package, we would like to know the reason for this inclusion and what the standards will be.

Some members of this committee may have had firsthand experience with alcohol requirements designed in Canberra and implemented in the Northern Territory. The classic example was that, if you wanted to buy more than \$100 worth of takeaway liquor, you had to show your ID and write your name and address and where you intended to consume your liquor in a register on the liquor store counter. That has not surprisingly been discontinued. It would be a tragedy if alcohol management plans also fell over due to inappropriate regulation by the Commonwealth.

Our submission today also wishes to address the Enough is Enough alcohol reforms enacted by the Northern Territory government. While the reforms are important, they are of minimal impact in relation to the intervention because most Aboriginal communities are not close to takeaway liquor outlets, from where the banned drinker and purchaser provisions operate. It will be interesting to know how many persons currently on the Banned Drinker Register are from proscribed areas.

Of far greater significance to the Uniting Church is the lack in the Stronger Futures legislation package of any provision to establish a floor price for alcohol. Our earlier submission—see pages 7 and 8—strongly argues for introduction of a floor price as recommended by the People's Alcohol Action Coalition in Alice Springs. We are sure the committee is familiar with the work of Dr John Boffa and the coalition. This submission fully supports the introduction of a floor price for alcohol as called for by Dr Boffa, who has been recognised by the Northern Territory government as Territorian of the Year.

Finally in regard to alcohol, we note the Commonwealth legislative package will continue to have the power to override the Northern Territory Liquor Act. We strongly request this mechanism be retained as the Northern Territory Liquor Act has some inherent weaknesses that have yet to be addressed by the Northern Territory government. The most obvious example of how this impacts in the community is the operation of the so-called 'animal bars' in Alice Springs. I think there is now sufficient documentation to be able to say these premises are having a very harmful impact on Aboriginal people and the town of Alice Springs.

While the Uniting Church does not wish to give rise to a *Northern Territory News* headline 'Church supports animal bars', it needs to be pointed out that these licensees are operating their premises within the conditions of their liquor licences. While there has been considerable community outcry in relation to the harm caused by these premises, it may be noted that the Northern Territory government, the body with legislative control over liquor licensed premises, continues to allow their operation. It is therefore hoped that the Stronger Futures legislation, through the power it has in relation to the Northern Territory Liquor Act, will enable addressing the operation of these bars, which are clearly not operating in the public interest.

Turning to community safety and child protection—page 8 of the document—the glaring omission in this section of the policy document relates to the inadequate numbers of child protection officers in the Northern Territory. Just as this key recommendation from the *Little children are sacred* report has been underfunded in the past, it continues to be ignored in the policy statement. We are aware that the community affairs committee is inquiring into the legislation, not the funding package of the intervention. However, we wish to make the point that child protection is in our view still, despite an increase in funds from the Northern Territory government, considerably underfunded. The Stronger Futures legislative package does contain changes concerning customary law; however, these changes are minor and only relate to considerations in relation to bail and sentencing decisions for offences against Commonwealth and Northern Territory laws that protect cultural heritage. Pages 8

and 9 of our earlier submission call for reinstatement of the customary law consideration. Turning to food security, although this is a minor point to some, we wish to request reconsideration of the language used in relation to food security. Recently, on a visit to Gapuwiyak community in eastern Arnhem Land, I had the following conversation with an old man. We had been talking about the punitive SEAM measures when he changed and said—Old man: 'So do you think we should be worried?' I said: 'I am not sure. What are you worried about?' He said: 'This food security business.' I said: 'What is it about the food security business that worries you?' He said: 'Food security—is al Qaeda coming to steal our food?'

I advised him that in my view al Qaeda was not coming to Gapuwiyak and perhaps instead we should be talking about healthy food and how government laws can ensure Aboriginal people have this access through their local store.

The issue of language this raises is, if government wants Aboriginal people to engage and be part of the approach to develop and implement the intervention, the use of plain English, which would also assist translation into Aboriginal languages, is needed.

Turning to housing and land reform, the provision of additional housing stock in Aboriginal communities is most welcome. Our area of concern in relation to housing and infrastructure relates to homeland centres. We understand the focus of the Commonwealth and Northern Territory governments in the intervention is on their designated growth towns. While the growth towns concept is supported, especially as a means of catching up on service provision denied for many years, provision for homeland centres also needs to be part of the picture if the Commonwealth is serious about addressing Aboriginal disadvantage. Not all Aboriginal people want to live in homelands but those who do should be assisted to live in these location.

Homeland centre life requires very active participation in day-to-day community life. One cannot survive in a homeland centre living off Centrelink payments alone. Hence in pursuit of their goal of active engagement, funding for homeland infrastructure, in addition to the growth towns, is needed.

In relation to the compulsory five-year leases, these were unnecessary as other consultative processes could and should have been used. This submission welcomes their demise.

I close. Uniting Church northern synod wishes to restate part of the unanimous resolution passed at our 2011 synod which contained: As it has been every year since 2007, stop telling us and doing things to us and start working alongside of us in partnership. This will involve a resetting of the government-Indigenous relationship and for government to start using different processes. We wish the committee well and await your deliberations with interest. Thank you.

CHAIR: Ms Marren, have you got anything to add at this stage?

Ms Marren: No, UnitingJustice is here in support of the northern synod.

Ms Roberts: We fully enforce the Uniting Church position paper. I am here to give an idea of how the people that we see every day feel about what is happening. Somerville has a number of services and they include financial counselling; money management workers; and family support workers—that is, counsellors and welfare workers. We also have a few supportive accommodation programs. We provide emergency relief and have a youth service in Katherine, so we spread a little bit throughout the Territory and go into the regional areas but maybe not so much to the remote areas.

The feeling that we have is of disappointment. There is fantastic opportunity here. Everybody is working towards the same things. We want the wellbeing and the health of our children to be paramount. Our major concern is that we are not seeing results in that. The disappointment is that the focus of most of the initiatives are punitive. The initiatives themselves, the purpose of them, their aim—there is no argument about that: we all want to see what is best for the children and the families in the Territory. However, we are talking about behaviour management not just of children but of parents as well as families, so we are wanting to change the behaviours of families. What we are doing is not reinforcing positively; we are using negative reinforcement. We know that that does not always work. A lot of the disincentives in these suggested strategies are negative.

The punitive effects initially of the intervention of income management or income quarantining were seen as a very negative measure, and it has been expanded to a lot more people throughout the Territory. I am not talking for myself; I am talking for the people we see on a daily basis. The feeling is that in a way they are being punished, and some of them are feeling that they have done a good job with their families. Massive numbers of them are—they are managing well with their money; they are looking after their children; they are getting their children to school. And yet they are still being put on income management. To them, this seems unfair. They say they are doing the right thing so why are they being punished. The quarantining of incomes has not done an awful

lot to advance the skills of people in budgeting or in home management. It is putting a control on them that has not allowed them a lot of decision making in that.

There has been a lot of consultation, and some people are saying they have consultation stress in the communities—there are so many people going in and consulting with them, and so many people are being funded to go in and do work on the communities, and what the people are saying is 'Not another one; we just can't cope with another lot of people coming in and trying to fix things for us. Just give us a little bit of breathing space; give us a little bit of infrastructure there that we can work with'.

People are seeing the legislation around school enrolment and attendance as punitive, and I recognise that when you read it there are a number of strategies that are going to be put in place. However, they rely on Centrelink social workers, on the school truancy officers and on the school working together with these people and with the families. I am not sure why Centrelink is being given the responsibility of getting children to school. I recognise it is going to be linked to income, but is it their responsibility? Isn't it the responsibility of Children and Families rather than Centrelink? Also, the impression I get is that there is going to be this consultation with families, and maybe with the children if they are old enough, to talk about strategies—how are we going to get these children to school. That sounds great but, in reality, how many workers are there to do this? How many social workers are available? My understanding is there is a shortage of social workers, so maybe they will have an initial meeting and then what happens with that family?

Many of us work with Indigenous people and they will agree, yes they will do this, because that is the way they are and it gets somebody off their back. But where is the commitment? Where is the worker who is going to be there day in, day out for that family that needs that help? And where are the incentives? There are very few incentives for people in the legislation but a lot of disincentives—a lot of consequences. But they are not positive consequences. We work with behaviour management with children and with parents to try to develop better social skills in children, and that is what we are wanting here—we are wanting children to be educated so they can go out and find work, so that they can link into society and not be so excluded, not be so stigmatised, as they are now. Where are those positive reinforcements?

There are some good examples, and some of the schools are already using them, with sport, with swimming pools and that kind of thing. But there are lots more incentives to encourage children to attend school. The focus here has been on the parents, but let's motivate the children. The ads on the television are great, with children and education, every day, but let's motivate the children, let's make school an exciting place for them to go to, let's give them something concrete as an incentive. And, also, let's encourage the parents to attend the schools with the children, to be doing something with them, even if it is after school time, but some activities that are happening that the parents are involved in, that the parents are driving. Let's give them some control back because, from what I see in the legislation, we are taking a lot of control away from parents. Yet we are still expecting them to be responsible for their children. These are parents who, in a lot of cases, have not got the skills to do that. Just threatening them is not going to provide them with the skills. They need some assistance with that. I am not talking about taking them out and putting them in a workshop; I am talking about something over a longer term than that. The other issues have been addressed by the Uniting Church, but I just wanted to put a more personal voice forward about the way people are feeling about this legislation.

Senator SIEWERT: I am interested in finding out what the impact of the intervention on your services has been? Have you noticed a change in the way people are accessing them? If so, where has that been? Has there been more or less call on your services? I will start with that and then I want to explore it a bit more.

Ms Roberts: There has been a massive impact on our services from the intervention, maybe not in the way you are asking about. Before the intervention we had one part-time financial counsellor. We now have 11 finance workers. We have eight financial counsellors and three money management workers. There is a need to have those people assist people in the community. The target group are people who are on income management or on low incomes or Centrelink payments. There has obviously been a recognition that there is demand for those services. Where we managed before with one part-time worker—she was inundated—now we have all these other workers that are fully occupied. They are going out to communities. They are talking to people every day. We are getting people from different groups. People from the alcohol rehab services are wanting us to go in and do training with people. So the demand for services has greatly increased I believe. Even though we have got more workers, they are all fully occupied.

Senator SIEWERT: You would think it would be a good thing that there is more demand for these services and it sounds like more people are accessing them. Are you seeing results on the ground?

Ms Roberts: Initially with the intervention we were working with people on trying to explain what it actually meant when their income was quarantined and what parts they could access. There were people coming to us for

no interest loans, because we provide them as well, and when we went and checked what their income was we found that they had a lot of money sitting there that they had not accessed and Centrelink was still holding. That was more than enough to buy a brand new fridge for them and still give them some extra money. Their understanding was not initially there and we were able to work on their understanding.

The things that we find they are having difficulty with, particularly in the remote areas, are getting to shops—they want to buy special things from the shops—and finding what their income actually is and what they have actually got sitting in their account. It is not always just a quick thing like going to a teller machine and getting the amount. They cannot always do that. Some of the coaches that are taking them in from the community to the town are charging quite a lot to transport them in and sometimes limiting them to one shopping bag when they come back out again. If it is going to cost them a lot to go in and get their shopping, they want more than one shopping bag worth of food.

Senator BOYCE: Is that about the amount that can be fitted on one bus?

Ms Roberts: I believe it is partly to do with that, or at least that is what the bus operators are saying. Other people are getting together with a group of people in the town and travelling in. Some places do not have a store that they can go to. If they are out in Adelaide River, they have got to come into town if they want particular items. It is a long way and it takes a lot of time. Even when they get there, people say there is no stigma attached to the BasicsCard but there is. I have seen it. I have stood in the queues while people with their card have tried to purchase things and there has not been sufficient funds there so the items have had to be put back. People behind sigh and roll their eyes. It is an inconvenience to the shopkeepers as well because they have to replace items on the shelves. There is still a lot of stigmatisation linked to the cards.

Senator SIEWERT: I have got two more questions. One is on the funding for the extra workers. Has that come from—

Ms Roberts: From FaHCSIA.

Senator SIEWERT: From FaHCSIA, from the money matters program and all those programs. I always forget the names of the programs.

Ms Roberts: Some of it has been from income management. Some of it has been specifically for money management workers who were primarily meant to do financial literacy budgeting skills, prevention of financial difficulties and training with people. That is a fantastic service. I think that needs to be expanded everywhere, not just to Indigenous people but to other families too.

Senator SIEWERT: Are you able to take on notice where the different funding for the various financial workers have come from—the specific program names? Is that possible?

Ms Roberts: Yes.

Senator SIEWERT: Thank you. I am still trying to drill down into the financial side of things. I understood that part of the idea of income management was to improve people's ability to manage their income and then, you would think, to come off income management. Have you seen the progression for people to come off income management as the result of them going through your processes of assisting with financial management?

Ms Roberts: There has been. With the recent strategies when income management was expanded, there was an option for people to come off income management and they did a training course. They get a certificate for that. We provide them with that. That is great because that is giving them basic financial literacy training: working on budgets, managing their money, food shopping and that kind of thing. It provides them with a lot of skills. The take-up on that has not been massive. A lot of the referrals for that were supposed to come through Centrelink. There were some initial problems with that in that the referrals were not getting through. Centrelink were referring them and they were not going anywhere. It took a little while before that was realised. A few people have done that. People have taken advantage of the matched savings scheme. However, it is very difficult for people when they are on that very low level of income to manage everyday to put money away and leave it there. Especially if a bill came in there would be the temptation to use that money.

Senator SIEWERT: We received evidence at estimates last Friday that fewer than 20 people have actually managed to get the money from that.

Ms Roberts: It is very few.

Senator SCULLION: My question is probably generally to all of you but particularly to Mr Jones. I acknowledge that it is very beneficial for the committee to have someone of your on-the-ground experience over so many years. You assert that the question in terms of school attendance in the SEAM program, certainly from Ms Roberts, is, 'Why aren't they assisting us more to get us to school? Why do they have to be punitive?' It may

be a rhetorical question, but we have had much evidence to basically say, 'Look, this are what we actually do.' We have attendance officers, we have truancy officers and we have people who go around. There has been a whole suite of things that have changed. I think incrementally it has gotten better. But, Mr Jones, you taught in a place in 1977. I do not have the data from then. Sadly, it might even be better than it is today. I suspect it is in terms of enrolments and attendance for a whole suite of different reasons. For the last 10 years, it has flatlined. Not 50 per cent of the children enrolled to attend primary school have attended school. You would know that, whilst many of them have sought very full and wonderful lives, their choices in just getting any sort of education are extremely limited. The question I would ask you is: at what point do we acknowledge that all these other things that we have been doing, supporting and assisting over 10 years perhaps have not been enough? You might want to comment on specifically what additional services we would add to that. I think there is a reasonable frustration right across Australia from people who have a concern. We were in Maningrida yesterday. Half the kids there are not getting an education. That is, I think, a pretty reasonable trigger point in a generation to show that there has to be some other way that we can measure. Yes, these positive support mechanisms are terrific—you could perhaps comment on the volumetric approach or the particular content of that support; that would be useful—but at what level do you think we have to move to some other mechanism that is punitive?

The only reason I went to school was because of the intervention, at fishing holes, by police officers. I would never have gone to school if there had not been some sort of compliance and intervention. At what point do we say, 'Be fair dinkum.'? All the low-hanging fruit is gone. What do we do now? Do we simply say: 'Well, that's okay. That's as far as we can get; only 50 per cent of children of primary age will attend in Maningrida'?

Mr Jones: Where kids do go to school on a regular basis—whether we are talking about Maningrida, Darwin's northern suburbs, Sydney Melbourne or Canberra—it is because there is an understanding within the family that values education. From my time in Maningrida I can certainly recall that there were some Aboriginal kids who were there every day or nearly every day. They tended to come from families where parents—one, if not both—had employment, either part time or full time. Parents usually worked either at the school, the clinic or the shop; those were the main employers of local people. I think that within those families there is an understanding that values education. Until parents get to the point where they will value education then families and their kids will continue to vote with their feet and go to school on a sporadic basis.

Mr Avery, who appeared earlier today, was talking about the spike. All too often there are massive spikes in Aboriginal schools. When the SEAM measures were announced it was, 'Come; otherwise you will lose the money.' There have been spikes at other times but what is needed is something that is long-term, consistent and sustainable and that gradually raises school attendance—not some flash improvement; not some giant leap forward. In fact, we do not want a giant leap forward because the opposite reaction will be a giant leap backwards. We need something that is consistent.

It is unlikely, in our view, that the punitive measures approach will work—certainly with Aboriginal families, who, for the most part, do not understand the cultural context from which these punitive measures are coming. As I said, in the bush at the moment, there are eight different points in this policy statement and only one of them talks about income management but that is all that people are focusing on, because that is where the attention has gone. So we do not believe the use of those sorts of measures is going to be productive. It might give a short-term spike.

We heard Mr Avery talk about the difficulties schools have in dealing with those kids that turn up. A couple of weeks later they are gone. What is needed is long-term, positive, sustainable approaches. That is why I mentioned Clontarf—and ASPA, years ago. These were methods that engaged both students and parents in an active dialogue with their local school community. Until those understandings are there we are going to continue to see the spiking and great leaps backwards.

Ms Marren: I was at the Maningrida hearings yesterday and we heard very articulately from the school principal there that there have been significant improvements in attendance between 2010 and 2011. So although on that day there was—

Senator SCULLION: Only on three weeks did it ever go above 50 per cent.

Ms Marren: Absolutely, but it is going in the right direction. I think that needs to be made note of.

Senator SCULLION: There is no question about that. I was not trying to insinuate that that was the case. But I think most people would see that 50 per cent cannot ever equal an education. It is not that they are attending 50 of the time; that is the numbers of children who attended. So 50 per cent were in complete absence.

Mr Jones, perhaps you can give me your view on this. In your opening remarks you talked about the rights of people. It is a very important issue that this committee deals with in trying to find some sort of balance. I certainly

accept that a child in Australia has a right to access education. Some parents believe in the value of education—that is a parent's point of view about a value—but the right of that child to get an education still exists. And the convention in Australia is that governments will intervene and organisations in the community will intervene when someone's rights are not being upheld. At that point there is some sort of an intervention to say, 'We need to act on your behalf.'

I think it is pretty much the same in a family. There is frustration throughout the Australian community about the growing gap, and that is reflected particularly in the bush. I think it is muted; I think it is a lot worse than the global statistics imply. If those rights are not exerted by someone else—if those parents, for a whole range of pretty good reasons, said, 'Well, I don't think education is a value in my community, because the only people who have jobs here are white'—I would understand all of those things. But how do you find the balance in exerting the rights of that child to have an education against the rights of parents to simply say, 'We don't value an education so we're not going to bother to send them to school'? Without the parent exerting what we conventionally would see as the parent's responsibility for a child, somebody must intervene to exercise the rights on behalf of the child. It is only when that responsibility fails, for whatever good reasons, that somebody must intervene.

Mr Jones: I think the trouble with interventions is that their effect is usually only very short term. Hence the spike I referred to. I certainly resonated with Mr Avery's comments from earlier on. In relation to rights, yes, the rights are there. But we also need to look at what is working and what is not working. If legalism takes over, with the government telling people, 'You should do this or we're going to do this to you', that sets up a mindset within families, especially because of the cross-cultural issues of people understanding things differently and valuing things differently. Many Aboriginal people come from families that in our terms would be described as dysfunctional. Someone coming in and taking a rights based approach is not going to be effective. It is more punitive, whereas what I think we are trying to achieve is to have every child in school every day—as the NT government is working on with—its program Every Child, Every Day. That is a fantastic approach. Although the rights are there, long-term sustainable results will only come through positive approaches, and that is why we are so strongly opposed to these punitive measures.

Senator CROSSIN: Mr Jones, thank you for appearing today. My apologies for being late but I had the delightful pleasure of opening another BER project this morning in a school here in Darwin. I heard you talking this morning about long-term sustainable measures. That is true, and one of the things I tried to emphasise yesterday at Maningrida is that, as you say, there is just not enough emphasis in this document or in the discussion about the kinds of things schools would be doing to engage with parents before any of this income management kicks in. What are some of the additional resources that you think are needed in our schools at this point in time that would assist? Hopefully you would get to a stage where no-one would have to have any income management or any penalty via Centrelink. What is needed? What resources do you think are needed for schools to be able to turn this into a success story?

Mr Jones: Senator I am not sure if you were here in my earlier presentation when I talked about Clontarf and ASPA. Where you in the room at that stage? I am not sure if you were.

Senator CROSSIN: No, but I know a lot about those two. I am particularly very passionate about the old ASPA program.

Mr Jones: I said in my opening statement that instead we call for a focus on positive approaches, such as that of the highly successful Clontarf Foundation which is already being used in some Northern Territory schools. Another measure would be the return of ASSPA, where the Commonwealth directly funded schools in the 1980s. The reason I mentioned ASSPA was that it was a program that actually focuses on parents rather than on students. It meant that there were a whole series of conversations happening in the local schools. Yes, different things happened in different places, and I know you only have a very small amount of money, but it gave funding such that parents could have that money and, as a group, decide what they would do to encourage students to come to school.

Now, going back to Senator Scullion's issue: unless there is understanding and engagement by Aboriginal parents and families, taking punitive measures against children and their families is simply not going to be successful. So it is a range of those positive things, and I have given two examples there that have certainly worked in the past and Clontarf, of course, is working very well now.

Senator CROSSIN: ASSPA used to have its own committees in schools. Do you think that if the Federal government reinstated that payment—I think it was around \$400 per Indigenous child—

Mr Jones: Something like that, yes.

Senator CROSSIN: It was a direct payment to the school, not through the education department. Could school councils play that role, and are school councils dysfunctional in Indigenous communities to the point where they are not engaging parents sufficiently?

Mr Jones: If I may take the second point first? I think that there has been massive disengagement by Aboriginal parents in Aboriginal schools, and that has been for a variety of reasons. I think that some parents are concerned about having their income management changed, and therefore they have taken their kids and gone elsewhere. Earlier on we heard Somerville talking about the very large increase for their services, and a lot of that is Aboriginal people wanting to get out of prescribed areas into nonprescribed areas. I think that is part of the reason why Somerville is finding a massive demand on its services.

I guess I want to encourage the committee to go down the path of the positive approaches that engage parents so that at each local level there can be mechanisms—and it will be different things in different places—that actually do encourage parents to re-engage. Some school communities, for example, highly value the use of Aboriginal languages—places like Maningrida, Milingimbi, Galiwinku and Yirrkala, where the use of Aboriginal languages as part of learning in school is really important. Other communities do not have that focus and, indeed, would not want money for Aboriginal languages. So it is different things in different places; but rather than the Commonwealth doing things through law that tell people what to do, instead go down the positive engagement path and open up so that there can be different local solutions developed in local communities.

Senator BOYCE: Ms Roberts, you mentioned families which were having their income compulsorily managed despite the fact that they were caring for their children and sending them to school et cetera. How many families like this are you aware of?

Ms Roberts: I should imagine that there would probably be thousands. We are not aware of all of those, but these are ones that have never had any problems before. There is a number of families where their children are going to school and they are on Centrelink payments. There are hundreds in every school where that is happening.

Senator BOYCE: But they are on Centrelink payments, and being income managed is a next step?

Ms Roberts: No, it was not. It was blanket across all of those groups of people. It was not put in place because they were not managing, it was spread across everybody because it was considered that it was not as discriminatory to spread it across everybody. Initially it was communities, then it was spread across everybody. That is not to say that all of those people were not taking care of their children properly.

CHAIR: It is fair to say that it is not everybody, it is people in particular payment groups?

Ms Roberts: In particular payment groups—yes, sorry.

Senator BOYCE: That is right.

Ms Roberts: But that would generally be single parents with children. And that is not to say that the majority of them are not looking after their children really well and having them at school and everything else.

Senator BOYCE: But you mentioned this specifically—

Ms Roberts: The resentment—sorry.

Senator BOYCE: Yes.

Ms Roberts: It is the resentment of those families.

Senator BOYCE: Are they people that your service sees, for example—the people who are looking after their children and sending them to school?

Ms Roberts: Yes, sorry. Some of those were people that came in and said, 'Look, I want to get an exemption; I want to do the training that I need to do and prove that my children are going to school, because then I can be exempted from income management.' There have not been massive numbers of those, but there would be hundreds—I would say thousands—of people who would be eligible to do that. Most of them have not bothered and they have just let things go, but that is not to say they are not compliant in getting their children to school or looking after their children.

Senator BOYCE: If it is seriously resented, I would have thought people would have—

Ms Roberts: I think people did, but they thought that they had no voice and that because they are accepting a Centrelink payment they are required to comply with what Centrelink say, and so they did.

Senator BOYCE: But the actual on-the-ground experience of Somerville Community Services is that a few people came in and said, 'What have I got to do to get off being compulsorily managed?'

Ms Roberts: Exactly, and others have said, 'Look, I'm not happy about it, but I'm really not bothered. I'm not going to chase it up and go through all of that. I'm not going to do training with you for budgeting when I'm

managing already.' That was another resentment that they had: 'Why should I have to do that to prove that I'm managing when I know I'm managing?'

Senator BOYCE: Thank you. Mr Jones, you have spoken about using different processes to get genuine partnership happening, but at the same time you have talked about consultation overload. Could you tell me what these different processes should be that would lead to genuine bipartisan decision making in the area—or at least bipartisan, should I say?

Mr Jones: I think it was Mr Avery who talked about the overload.

CHAIR: It was Ms Roberts.

Mr Jones: Ms Roberts—sorry. But I certainly share the thought. I think the comment was made about the number of people who come out, usually fly-in fly-out. If you are using a process like fly-in fly-out, by the time you get there there is a pressure to have the meeting and to get organised. You want to hear from people immediately. There is really no time to engage. If people could stay even for one night and therefore be there during the day but also late in the afternoon—which in Aboriginal communities is usually the far more productive time in terms of people sitting not in the air-conditioned rooms but outside under a tree and using the cool of the afternoon—they could sit down and have a more relaxed conversation about these things.

Often when these sorts of approaches are mentioned people roll their eyes and think, 'Oh, yes, here we go. Consultation—it's going to take 10 years.' No. Aboriginal people can be consulted with and can say what they want extremely quickly. However, if it is done on a fly-in fly-out basis, those views are very unlikely to come forward. In terms of the intervention, given the cost of all this we can work out how much money goes to each community. If the government had come in and said, 'Okay, for Maningrida your part of this ends up being \$100 million. Guys, how are we going to spend this?' over a three-day workshop people would extremely quickly have figured out how that money should have been spent across the whole range of areas. But that could not have been done on a one-day fly-in fly-out. It would have taken a bit of time, but it would have been a different approach and a different process to get the sorts of outcomes that I am talking about.

The reason why we talked about partnerships so much at the start of our submission is that every year at our annual synod meeting our Aboriginal members get up and say the same thing, and they are very, very frustrated about it. What they are saying is, 'It's the government doing things to us and telling us. They're not listening to us. When we do have meetings, it is fly-in fly-out and they write down stuff and go away. When the notes come back, whatever happens is different anyway.' Again, people are just sick and tired of all this and they are voting with their police. In terms of consultation, I would not be at all surprised if fewer and fewer people—unless they are really angry—start turning up to meetings in communities, because it is always the same old story.

CHAIR: Thank you very much to the synod and also to Somerville. We appreciate your evidence as always.

Proceedings suspended from 11:14 to 11:26

HAVNEN, Ms Olga, Northern Territory Coordinator General for Remote Services

HOLT, Mr Peter, Research Officer, Northern Territory Coordinator General for Remote Services

[11:26]

CHAIR: I welcome the Northern Territory Coordinator General for Remote Services, Ms Olga Havnen, and Mr Holt. I know you have attended sessions before, so you know how it works with parliamentary privilege and the protection of witnesses. Do you wish to make an opening statement?

Ms Havnen: I probably will not, in light of the time constraints that I know people have.

CHAIR: We do not have any today, Ms Havnen. Because of the way our agenda operates we have been able to flow it through. I know that when you looked at the agenda you only had about 45 minutes, but you can go longer. You do not have to make an opening statement, but there is a chance to do so if you want to. It is not our time; it could be yours.

Ms Havnen: Thank you. In that case I will make some opening comments, and they are observations that are reflected in much more detail in the written submission. To start with, the first thing has been the issue around community engagement and governance. Clearly, there are wide-ranging and fairly divergent views amongst both Aboriginal people and other members of the broader community regarding consultation processes. Certainly in the submissions made by the previous participants here at this forum the question of overconsultation was raised. I think the problem here is that it is about the purpose of engagement and how much active involvement Aboriginal people actually have in negotiation and decision making. That, to me, is the thing that is fundamentally missing.

Another comment about consultation and engagement is that I do not think there has been any serious investment to date to make sure that there is effective participation and engagement of Aboriginal people in decision making. I would suggest that the 10-year time frame, as set out under Stronger Futures, demands that there be far greater commitment by government to establishing mechanisms that would give true meaning to good faith negotiations and to strengthen those relationships between Indigenous peoples and government.

I think Aboriginal people also need to have appropriate levels of resourcing and access to independent professional and technical assistance to enable communities to make informed decisions when they are participating in those negotiations. I think it would also be helpful for government to pay much more attention to the question of capacity development. I would use the definition as set out by the UNDP, the United Nations Development Program, that states that this is:

... the process through which individuals, organizations and societies obtain, strengthen and maintain the capabilities to set and achieve their own development objectives over time.

I think if we were to use that particular definition about capacity development, engagement and decision making we might make substantial progress on the kinds of targets and initiatives that government and communities both want. I am also concerned about the level of engagement and resourcing for Indigenous organisations. I want to refer to a recent ANAO report, No. 26 titled *Capacity Development for Indigenous Service Delivery*, and particularly to the number of grants that are currently administered by at least three major departments, those being FaHCSIA, DEEWR and the Department of Health and Ageing. Over 7,000 organisations are currently funded through either Indigenous specific programs or substantial Indigenous programs. Out of those 7,000 organisations that currently receive that grant funding, only eight per cent are in fact Indigenous organisations. So there appears to me to be a degree of inconsistency between the kinds of commitments that have been made by COAG under the National Indigenous Reform Agreement, which really is committed to strengthening Indigenous organisation capacity. That does not seem to be being matched by the way in which government funding and grants are being allocated.

The other general observation I would make is about the role of the NGO not-for-profit sector. Here I am specifically talking about the non-Indigenous NGO sector. I think they have seen a trend over recent years whereby that non-Indigenous NGO sector has been actively encouraged to tender or to seek grant funding. That is probably fine, but it is a question of the criteria on which those organisations are assessed in terms of their capability, capacity and cultural appropriateness about the nature and the way in which they deliver their services and programs. I think those non-Indigenous NGOs have also become, in effect, competitors with Indigenous organisations who, to a large part, are probably the preferred providers for Indigenous services by Aboriginal people.

The quality and the performance of some of that non-Indigenous NGO sector is questionable and it needs to be reviewed and assessed. There is an underlying assumption that non-Indigenous NGOs are somehow better and

more capable of delivering more effective services than local Aboriginal organisations. This assumption needs to be rigorously tested and evaluated. If you look to the international experience, it suggests that the most successful approach particularly with developing and vulnerable communities is that working with local groups building local capacity is the only way to go. There is also a growing body of evidence that, to change things and to improve things, we need to take much more of a strength based approach.

It is fair to say too that Aboriginal organisations work in a very difficult and uncertain operating environment, and this is something I think governments have a large degree of influence and control over. To some degree, that needs to be addressed as well. The fact that governments are able to provide three-year, five-year, multimillion dollar contracts for non-Indigenous NGOs and yet consistently drip feed Aboriginal organisations goes to the heart of why the lack of capacity that we all complain about exists.

I feel that it might be helpful for government to consider some form of accreditation processes for non-Indigenous NGOs who want to work in this space, in much the same way as AusAID has an accreditation process for international NGOs. Things that might be taken into consideration there include policies, guidelines, employment and retention of Indigenous staff, and the governance structure of those non-Indigenous NGOs as to whether or not they have Indigenous membership on their boards and establish advisory or reference committees. I cannot see how it is possible for a non-Indigenous not-for-profit organisation to be capable of working effectively in a really complex and challenging environment, particularly in remote communities and in places where people may not have had either an established or pre-existing relationship.

Another comment I want to make very quickly around the Northern Territory and Stronger Futures is that I feel that the approach has to be Territory-wide. It cannot simply be limited to a handful or a number of discrete or dedicated priority communities. It requires a much more inclusive and comprehensive approach, particularly for those regions like the Barkly and Central Australia where to date a lot of those communities have received very little attention or additional funding. It has to be possible in this day and age to provide better regional service delivery models. It is possible to do. I think the Aboriginal community health sector is probably a good example of a regional health service. I think that kind of structure could be applied to our other ranges of services.

On the 10-year sunset clause, I think it is problematic that we need to have legislation in order to improve wellbeing for Indigenous peoples. Nonetheless, the fact that the legislation looks like it is going to be introduced and passed does provide a degree of stability and certainty for Aboriginal people in communities here in the Northern Territory. It also provides an opportunity for some long-term planning—for proper community based planning, not the kind of planning processes we have seen to date. It also provides an opportunity for governments to make good on their commitments and practice about good governance, transparency in decision making and accountability and for undertaking jointly with Indigenous people a more rigorous monitoring and evaluation process over that time.

Turning quickly to education, a lot has been said about education and the introduction of the SEAM trials and so on. There clearly is, I think, an absence of evidence that would convince us that income quarantining and suspension of income support payments to families will go any way to improving school attendance. There does need to be a much greater effort and focus on education generally, but if communities, individuals and families do not see the value in education, then simply providing a more punitive approach is unlikely to change the outcome. The comment I would make, though, around income quarantining and income management—and there has been a lot of discussion over time about people's concerns about the appropriateness and effectiveness or otherwise of it—is that it fails to adequately address the absence of banking and financial services in remote communities. If you want people to manage their money properly, then surely it would make much more sense to make sure those services are there and available.

This is probably a good opportunity, I would think, for better consideration around the role of the Traditional Credit Union. This is an Aboriginal financial institution that was established some years ago. It has a presence now in 11 of the Top End communities and has recently had some funding through the ABA account to expand their programs. The TCU have also developed their own financial literacy education programs and can provide that sort of service for people in their own communities in their own languages. It would seem to me that rather than extending the income quarantining that perhaps transitioning people into a more regular, mainstream, normal arrangement—because the intervention was to go from crisis to normalisation—and looking at the expanded role of the Traditional Credit Union might be a positive move.

I think it would be useful for government to seriously consider reallocating some of the investments that it is committing to suspension of income payments to families and investing at least some of that money in the TCU to expand their services. I think they also need to be further supported in being able to provide people with low-cost

or low-interest loans and no-fee accounts. Surely, for the poorest people in this country to be paying exorbitant or high transaction costs, banking fees and charges could possibly be avoided?

There has also been a complete absence of any discussion by government about the role of mainstream banking and financial services in remote communities, particularly when we are talking about remote service delivery and the equality of access to regular services that you would expect in any other town of a similar size population. There is much more that the federal government could do to encourage the banking sector to take up those kinds of roles.

Alcohol measures: the Territory at the present time has some of the harshest penalties for possession, consumption and supply of alcohol in the country, including fines. Unfortunately I think there is very little evidence at the moment here in the Territory that having those harsh penalties or measures have had any impact at all on problem drinkers. There needs to be far greater attention paid to things like the kinds of suggestions put forward by the coalition in Alice Springs and John Boffa about the need for a floor price. I think also that the access to appropriate detox and rehabilitation services is something that is sadly lacking. Alcohol management plans, as has been stated by other speakers on this topic, are really strongly encouraging the need for comprehensive community owned planning around dealing with the issue of alcohol. The number of communities that are already dry communities should also be noted. It is not as though Aboriginal people have not been trying to address this problem for some years.

On the land reform measures, I think that the repeal of the compulsory five-year leases and the encouraging of voluntary negotiations over leases on Aboriginal land are absolutely welcomed. I would have to say, though, that any proposals about land-tenure reform really have to be premised on the basis that land-owning groups need to be properly resourced and provided with the necessary financial, professional and technical expertise in order to make free, prior and informed decisions about their land.

I would also note Australia's recent accession, if you like, to the UN Declaration on the Rights of Indigenous Peoples. It is important for government to be consistent about the commitments it makes in international law and the way in which it applies things domestically, either in practice or at law. Store licensing and food security—whilst the licensing of community stores has probably been a useful exercise, things could actually go a little further, and I would include a recommendation around the systematic monitoring and assessment of store turnover, particularly of healthy foods. Simply licensing a store as a one-off licence and assuming that store managers and so on will ensure that adequate food supply is available at affordable prices and of a good quality, I think, is an assumption that ought not to be left untested.

There needs to be further consideration given to governments looking at other food supplementation programs,—like those in the United States such as the Women, Infants, and Children program—particularly in remote areas where you have such high levels of failure to thrive and nutrition related illness. By way of noting, that particular program in the US has continued to be funded and supported by the federal government and has been expanded over last 10 to 20 years.

Community safety—there are some concerns around the role of the Australian Crime Commission, and I think that needs to be reviewed. I would have to ask the question: what useful role have those powers played to date under the period of the intervention. I also note that, in terms of community safety, whilst there has been a lot done with legislation and concern about child and community safety, there appears to be still enormous gaps in education. Education and community awareness around healthy relationships and about the unacceptable levels of violence and so on must be addressed. At the moment there does not appear to be any culturally appropriate relevant community education awareness programs either for adults or for kids.

The final comments I will make are around ongoing monitoring and accountability. If we are to have this 10-year legislation and this period of time and commitment jointly between the Territory and the Australian governments, then it seems to me that there needs to be greater improvement around transparency of financial management and expenditure. It is extremely welcoming at one level to hear of the large sums of money that are being committed to investments to improve Indigenous wellbeing but, if it is not possible to track and accurately assess where those investments are being made and to what extent that it is either value for money or achieving the desired outcomes, the only people who will be blamed for the lack of progress, of course, will be Aboriginal people. Yet, it is Aboriginal people who have no level of capacity to engage with governments to hold them to account about how that money is used, where it is spent and what it is being used for.

There could be new and innovative approaches made to monitoring. Something that could be considered is that I would like to think that we could get to the stage where Aboriginal people might jointly participate in similar kinds of exercises, such as the role of various Senate committees, or have Aboriginal people as participants at things like Senate estimates processes. It would make a lot of sense, and at least that way I think you would start

to get some really good feedback on the ground at a community level about what is happening and what is not happening.

Senator SIEWERT: Over the last three days a lot of concern has been expressed about the focus on growth towns and homeland centres and outstations not being supported. Has that issue come up during the relatively short period you have been in your role?

Ms Havnen: It certainly has, both in the context of the need for local implementation plans and the kind of planning currently going on around those target areas of focus by the Australian and Northern Territory governments. The view from many community members that I have spoken with suggest that planning needs to take account of their hub, the surrounding communities and outstations, so that you have a much more regional based approach to planning. It would also give a much more accurate reflection of service population demand if you take into account the people that live on outstations.

Senator SIEWERT: In terms of the planning process taking account of them, which I think makes perfect sense, an issue that has also been raised is that under the new Territory models the resources are being focused on the towns rather than the homelands, and that is for housing and other services as well. There is a great deal of criticism around that. So, yes, they should be included in the implementation plan, but the take on it is that there is a deliberate decision not to focus resources there.

Ms Havnen: I think that decision was probably taken on the basis of the logical approach being that it is best to target the greatest efforts initially on some of the bigger communities so that you get bigger returns on investment and you make a more substantial impact. That is probably okay if you think about that as phase 1. But, over the longer term, unless you better meet the needs of people living where they currently are, on those outstations and in the smaller communities, it will create unintended consequences both socially and economically, not only on the bigger hub communities and towns but also in regional centres like Alice Springs, Tennant Creek and Katherine.

Senator SIEWERT: The point was made yesterday when we were in Maningrida that people in the homelands are healthier, but also when they are forced to come into town that is putting more pressure on the town.

Ms Havnen: That is absolutely right, but I think we also have to be realistic about the sheer numbers of discrete Aboriginal communities in the Northern Territory, about the small sizes of the vast majority of them and about the geographic isolation and remoteness of them. So they present particular challenges for governments in terms of services and meeting the needs of all of those communities. But, as I have suggested in my submission, I think taking a much more regionally based approach in planning and investment could go some way to addressing those needs.

Senator SIEWERT: A number of the local implementation plans are being reviewed at the moment. Has your office being involved in that process of review?

Ms Havnen: We have been kept informed about the process of review, and certainly I and my staff will be attending those planning meetings over the course of the next few weeks and months.

Senator SIEWERT: We had a deal of discussion at estimates last Friday about the last report by Mr Gleeson, the federal coordinator-general, and his call for more transparency in the figures of investment. You are in a different position to that of the general community in terms of getting access to that information. Is that information from government about that level of investment shared with the NT?

CHAIR: I might extend that question to ask you exactly how your office works with the federal office of coordinator-general. The title is very impressive. You both have similar titles. But I have never been absolutely clear on whether there is an expectation that you work together or whether it is just goodwill as to whether individuals work together. Could you clarify for us whether there is a formal link between those bodies?

Ms Havnen: I am happy to clarify that. My appointment is by letter from the Chief Minister. Certainly the roles and responsibilities and the function of this particular office are designed specifically to mirror those of the federal coordinator-general, but my brief is extended beyond just the remote service delivery sites. It includes the Territory growth towns and the whole of the Northern Territory and any matter that impacts on the wellbeing of Aboriginal and Torres Strait Islander people here in the NT. So to that extent it is a broader and a bigger brief. In terms of the working relationship, yes, it is definitely intended there would be that level of cooperation and collaboration, not just with the Commonwealth coordinator-general but also across all the NT agencies.

Given that I am very new to the role, still finding my feet and getting my head across a lot of this, I would have to say my initial impression of those arrangements is that they are a vast improvement on the way in which things used to work previously. Certainly from the Northern Territory government perspective I think there is now a

much greater degree of clarity and focus and, while I hate to use the term, improved coordination across the NT agencies as well. Those are really positive developments, but, as any bureaucracy, it is always difficult to get things lined up in a timely fashion and to have everything moving in the same direction smoothly, but there is a high level of goodwill and, I think, genuine commitment to do so.

CHAIR: But there is no legislative link between the two?

Ms Havnen: No, not at this stage.

Senator SIEWERT: That is a really good clarification; it is very helpful. As I said, we had a lengthy discussion about trying to get access to some of the expenditure information and following up the recommendation that Mr Gleeson had made. From the Territory perspective, do you get access to that information from government agencies?

Ms Havnen: I would be able to access information regarding any of the funding commitments that come through directly either to the Territory government or the Territory government agencies. The way in which a lot of the Commonwealth's own specific-purpose payments and direct payments to the other not-for-profit sectors, or payments that the Commonwealth may make to other third parties, may be a little more difficult to obtain. As you are probably well aware, I think the whole approach with mainstreaming in terms of Indigenous funding has become extremely problematic. It is so fragmented. It is very difficult to find out just what programs exist and how people can access some of that funding. On last count I think there was something like 84 separate Indigenous-specific programs across the Commonwealth alone. That is enormous and quite contrary to the kinds of findings and recommendations that were made by the department of finance and the ANAO. I think there is a lot of work to be done at the Commonwealth level about trying to reorganise the way in which government itself goes about business in Indigenous affairs.

Senator SIEWERT: There are number of things that have been raised during our process. One of them is the fact that police afterhours number goes through to 000.

CHAIR: Over and over again.

Senator SIEWERT: Yes, over and over. Has that been raised with you specifically by communities?

Ms Havnen: Not directly at this point, but I suspect that is likely to be an issue that is raised in some of the community meetings and visits that I will be doing.

Senator SIEWERT: I know you are new to the job so it is a bit unfair to ask how often you are getting out to communities. It sounds like you are intending to make regular community visits.

Ms Havnen: I think what I would like to do is allocate at least one week a month for community meetings and visits. It would not be confined just to the remote service delivery sites; it would be to as many communities as I can do and are physically possible within the time and resources available to us. Some of those visits may need to be undertaken by other staff members as well.

Senator SIEWERT: One of the issues that has been raised by the non-government organisations, both health and justice, with the NTER, one of the things they say was positive about it was the additional resources that came in for health. We got some very strong feedback from congress in Alice Springs and also from CAALAS as well. You raised the issue of resources. Has anybody raised with you as an issue of concern that as of June the resources run out for engagement in health and justice?

Ms Havnen: Absolutely. I think the lack of certainty about where things will move to once this initial funding cycle comes to an end. It would be extremely unfortunate if the level of resources, both staff and financial, that have been made available to remote communities to start to address some of these urgent and unmet needs is to be withdrawn. You would have to say that would not have been a wise investment and it would not have been a wise thing to do at the start.

Senator SIEWERT: You raised the ANAO report, but the other ANAO report was about the partnership housing agreement. There were a number of comments and recommendations. One was about the level of infrastructure and the increased need for investment in infrastructure, which has meant there is less money available for housing. Another was about the internal governance and administration arrangements of federal government departments, particularly FaHCSIA. Have you had a look at that or has that been raised with you?

Ms Havnen: The issue of housing and infrastructure in remote communities has been around as a problem for well over 30 years and has been well and truly documented year in year out. I find it somewhat surprising that there seems to be a level of surprise amongst government about the quantum, or the scale and size, of the need. At the moment, the investments that have gone into housing and infrastructure have made a real positive difference. But if that investment is not maintained at a greater rate and a greater level, I am not sure that those initial

investments will necessarily produce the kinds of outcomes and results that we need. There has also been a separation between looking just at housing costs in isolation from the cost of headworks and other essential services infrastructure. Those two things need to be brought together in a much more coherent way. Under this 10-year commitment for stronger futures there also needs to be a serious look taken at what is the long-term 10-year plan. What are the needs of those communities, because they are going to continue to grow. They are certainly not tapering off in terms of population growth. I think it is feasible to do some decent population projections and start to do some long-term planning about new subdivisions, about where you need new schools and where you need to invest in upgrading power and water supply, waste management systems and the like.

There needs to be also a much greater effort to educate and inform the broader public about the level of need and the backlog of that need. There is a lot of mythology in the minds of the general public that too much money has been spent, that money is wasted and is not used to good effect. There is also the mythology that all Aboriginal people abuse houses and property and that they do not maintain them or look after them. Again, there is a wealth of evidence that says that is patently not the case.

There needs to be a good community education and awareness program around what the returns on investments have been to date for government and the broader community that starts to sell a much more positive story and a story that this is actually about a shared and common future for all of us in the Northern Territory, and that if we did not get it right there will be consequences for all of us.

Senator CROSSIN: A lot of the growth towns, or the remote service delivery towns, actually, have local implementation plans or LIPS as they are commonly known now. Do you have any interaction with any monitoring of how those plans are being put in place and how successful they are?

Ms Havnen: I have had the invitation to attend those planning meetings and those discussions. I will be attending those meetings over the next couple of weeks and months. On the monitoring of what has been taking place under the existing sets of plans: they are reviewed periodically—I would say almost on a monthly or bimonthly basis. In a lot of places it is possible to see the tangible results and impacts, which is quite pleasing to people. But to some degree the weakness in those plans is that they are not being driven genuinely from the community up. Again, finding better processes that generally engage communities about their own priorities and how they would like to see things prioritised would actually make a substantial difference.

Senator CROSSIN: My understanding is that each community has an implementation plans committee and that the committee identifies the priorities itself. But you are saying that the implementation of those priorities is left with state and territory bureaucrats. Is that your impression?

Ms Havnen: To a large degree, the implementation of those actions is left to the Territory government and the Commonwealth government to implement. So there is a set of almost shared responsibilities. In those plans there would be identified a lead agency who has primary responsibility for action. My concern about the plans, I suppose, genuinely, is that a lot of it is almost as though things are already scheduled by government to be done or to be delivered. Whether it be the early childhood centres or improving school infrastructure and so on or even the housing programs, they are big-ticket items, they are really around major infrastructure projects. But there are other community priorities that may not be making it into those plans.

Senator CROSSIN: So on top of that we lay this legislation for stronger futures. It has predominantly only four areas of concentration. Do you think that those areas are perhaps the right ones to have been chosen? I do not know if you have read the submission from Aboriginal Peak Organisations Northern Territory in which it acknowledges that it is good that in this legislation there is some intervention. However, it also says that perhaps there needed to be a greater opportunity not to intervene so much. There is a bit of a mixed message there on what is happening. Do you have a view about whether the four areas that have been identified accurately reflect what you see as areas where more work needs to be done?

Ms Havnen: I think that the arrangements at the moment are probably complicated by the fact that, under COAG or the various national partnership agreements, they almost sit to one side, whether that is around housing or remote service delivery. The Stronger Futures legislation probably needed to be broader in its focus, certainly with some capacity to review it and redefine its priorities over time. Simply limiting it to the current scope of attention is probably too narrow.

Senator CROSSIN: So do you think the 10-year sunset clause is too long? Only the alcohol management areas are due to be reviewed in that time. This will be in place for 10 years, essentially.

Ms Havnen: That is the problem with it. If you have something that is very limited in its scope and is not designed to be flexible and responsive to things as issues emerge or situations change on the ground then that is probably problematic. The attraction for me of a 10-year time frame is that that is a mechanism for getting both

levels of government to commit in a very focused way. But it should allow for proper planning, proper community engagement and proper monitoring and evaluation so that, to that extent, it provides some degree of stability and certainty.

Senator SCULLION: Congratulations on your appointment, Ms Havnen. We do not have a great deal of time, so I will focus on some of the issues I think you could probably best provide advice on. We have talked a lot about school attendance, and it is pretty self-evident that the precursor to school is preschool, kindergarten and early education. That is the norm. In many of the communities your first day at primary school is your first day of engagement. That is an awful long time to get into habits and conventions. Can you just give me a view about what impact investments in the areas of preschool, kindergarten and early learning will have on engagement with education. Give us a bit of scope about the availability of those resources from government across the Territory. You can take some of that on notice, Ms Havnen.

Ms Havnen: I might take some of that notice because this has been a sort of a shifting space. There have been enormous commitments made under the BER program and under the early childhood development commitments. The fact that those things are flagged and are on the table and are in train is really positive and quite welcome. You are absolutely right when you say that if your first interaction with school and learning is on day one in primary school that is probably way too late. For many vulnerable and disadvantaged groups the earlier you can get those kids engaged in childhood programs, playgroups and the like the better the chance those children have of being engaged at school successfully and staying on in school. I think there is a wealth of evidence for that. The fact that it has taken up until very recent times to get some of that service and infrastructure into remote communities is probably a reflection of why school attendance is so poor at the moment.

Senator SCULLION: We also had some evidence about responses to other policies. I can recall in places like Wadeye we had a significant spike in response when there was this threat of interfering in your financial affairs if your kids did not go to school. They were not even sure about exactly how that was going to happen but there was a significant spike, certainly in Wadeye. We have had evidence recently about the SEAM trial that there has been a spike as well. It appears that despite the huge levels of disengagement in the Territory the threat through the SEAM process was not really carried out because only seven parents across the Territory in the SEAM process were breached for an attendance process. I am not sure what resources your office has. We have yet to see the complete analysis of the SEAM process and hopefully we will get some indications from that but, on notice, I would like your view about how if the threat causes an engagement and then the threat is not carried out the engagement disappears. I am not sure whether or not that is a real reflection not of the failure of the system but of the failure of the complete system and the nonattendance with pain and attendance with joy. In general terms, that is supposed to be the way we run things. I would not mind your comments and your observations on those matters.

Ms Havnen: At a personal level, I think suspending somebody's income support payments or benefits should really be a measure of last resort. There is a whole lot of other work and support that needs to be put in place working with those families and with those children and young people before you take that step. The other thing that needs to be noted is that Aboriginal kids, particularly youths, have a high level of personal autonomy. It would be unfortunate for parents or carers to be penalised when you have teenagers who are making their own decisions, whether you like them or not, about whether they are going to go to school. Parents can, I think, be making their best endeavours to get kids to school, and under those sorts of circumstances you would have to ask: why would you penalise a parent?

Senator SCULLION: Without speaking on behalf of government, I think there is a specific provision for a prescribed defence about those particular matters.

CHAIR: There is.

Ms Havnen: That is right. It is something which we need to manage and watch. But I think that, even if you have a look at the national clearinghouse on closing the gap, there is a body of evidence—a series of papers—in there which identify the things that work in terms of parent and family and school engagement and school attendance. At the moment the focus tends to be on parents and children as though somehow they are the only part of the equation, but I think a much bigger emphasis needs to be placed on the school and the broader community. If education is not valued, you would have to ask the question: 'Why that is so? What kind of conversation might we need to be having with plans and communities about why education is important?' But simply taking a punitive approach and not engaging people in those conversations I do not think would be particularly helpful.

Senator SCULLION: Give me a bit of help with your comment about 'last resort'. The Senate and the parliaments across the Territory and Australia more generally have been dealing with this issue of

disengagement—not only in Indigenous schools but also across the board—for the last decade. In the Northern Territory, as you would be well aware, the levels of engagement in primary schools are invariably, across the board, less than 50 per cent. When do we say that this is now a last resort, given the 50 per cent of people for 10 years? When do we say, 'We are now in the last resort place'?

Ms Havnen: You could try taking a whole-of-community approach and saying as a blanket thing, 'If your kids don't turn up, everybody's going to be penalised.' You could try that, but I do not think it would be particularly productive. I think it is more about building those relationships between parents, communities and schools and having a much more consistent approach around education—about what is valuable and what is not.

Issues to do with bilingual education have come up on numerous occasions. I still do not understand why we do not have a much more consistent approach about that. It could and should be done. I think we need to focus on the quality of teachers. If you do not have high quality, effective teachers and people who are skilled in ESL or teaching kids who have hearing disabilities, then you are not going to engage successfully with those kids in that classroom.

The other comment I would make is that it is about the capacity of the schools to cope. Even if you had 100 per cent attendance, how many of our schools out bush would have adequate space, classrooms, desks and chairs and even teachers to be able to cope with that influx of kids? Also, if you are dealing with a bunch of kids who have been disengaged from school for a long time, I would suggest that the staffing ratio—students to teachers—would need to be reviewed as well, because I suspect a lot of those kids would be very difficult to manage in a classroom if you were just using the regular class sizes of 25 or 30 students per teacher.

There are some really serious issues and challenges here, and it is a question of whether or not those teachers and schools could even cope.

Senator SCULLION: The issue of resources is important. What will happen if we suddenly double the number of kids in school, given that the Commonwealth government provisions the Northern Territory government based on enrolment? Say we are giving them 100 per cent. If only 50 are attending, I think that, even if we double it, we are still going to be in strife mode.

Ms Havnen: Yes.

Senator BOYCE: Ms Havnen, you may have to take this question on notice. The issue was raised in Maningrida yesterday that the patient records systems used by the local community health centre cannot talk to the Northern Territory's patient records systems. Is this a Territory-wide issue?

Ms Havnen: I would have to take the question on notice. I am not aware of what patient records systems are being used. Clearly there is a mix of service providers in terms of the clinics. They range from Northern Territory government through to Aboriginal community controlled health services. Whether the community controlled health services sector has standard and common records management systems I do not know.

Senator BOYCE: My concerns here are related to Stronger Futures, but not necessarily to the legislation. The point is that with the development of an e-health system the people who need it most are quite likely not to have the interconnections to provide that sort of consistency in information.

My other question is a far more general one: I think that the question of consultation overload has been raised almost everywhere this committee has met. This is certainly not the first inquiry where it has been raised with the committee, who in some ways are partly responsible for the problem—along with many other organisations. Is this is this an issue you have looked at? Are you looking at any best practice or template for consultation?

Ms Havnen: I think that people are jaded and cynical about government consultation processes generally. What you will often hear from people—and I think it has already been remarked on here this morning—is that somehow, despite being engaged in that consultation conversation, there does not appear to be a degree of responsiveness by government to actually hear, listen and act on what is being said. To that extent I absolutely understand why people feel jaded about consultation and being over consulted when it does not make any difference.

I suspect you would get quite a different answer if you asked people what degree of participation they would like in the negotiation and the decision making around some of this stuff. My personal view would be that people would be very keen, and would welcome that—they would not necessarily see that as a burden. But simply going out there and talking to people about things that may not change really would be a waste of time.

Senator BOYCE: So my question then is: is there a role for your office in developing a statement of principles or best practice template, or some such, in this area?

Ms Havnen: That is certainly an issue that I would be looking to address in this first report because that whole question around consultation has been so problematic, yes.

CHAIR: Thank you very much for coming, we deeply appreciate your evidence.

HILL, Mr Kim, Chief Executive Officer, Northern Land Council

LEVY, Mr Ron, Principal Legal Officer, Northern Land Council

[12:11]

CHAIR: We now welcome the representatives of the Northern Land Council. You are regular participants at this committee; you know how it all works, so I will not tell you about parliamentary privilege and that stuff. We have the combined submission that came through, thank you very much. If either or both of you would like to make an opening statement we will then go to questions. We appreciate the fact that we are running a bit behind time, but I know you expect that. Mr Hill and Mr Levy do you have an opening statement?

Mr Hill: Firstly, the Chairman of the Northern Land Council, Mr Wali Wunungmurra, sends his apologies to the committee. He is over in Gove at the moment attending a Miwat Health board meeting.

CHAIR: That happened with the Central Land Council as well, so we understand the impositions on people in those positions.

Mr Hill: The Northern Land Council welcomes the opportunity to provide a submission regarding the Stronger Futures in the Northern Territory Bill 2011. The bill repeals the 2007 intervention laws, which were wrongly imposed on Aboriginal peoples without any consultation, without good-faith negotiations and without the informed consent of Aboriginal peoples.

This divisive approach to a complex policy and legislation reform appeared discriminatory and resulted in widespread confusion, distrust and objections by the majority of Aboriginal people within the communities of the NLC. The bill is an important step in building consensus, which I welcome as the way forward to improve social and economic outcomes for Aboriginal people and Aboriginal communities, but it needs bipartisan support by governments and, importantly, support by Aboriginal peoples, those being the traditional owners.

However significant matters are not addressed, including the unacceptable removal of the permit system in our communities on Aboriginal lands. I will not make reference with regard to cultural matters regarding bail and sentencing, which the NLC also finds discriminatory. I will leave that up to NAAJA to elaborate on.

CHAIR: You know that they already have.

Mr Hill: The NLC looks forward to working with the Commonwealth government to find solutions to these matters. The NLC also looks forward to working with both the Commonwealth and the Northern Territory government to finalise all leases in Aboriginal communities prior to August 2012 and when the compulsory five-year leases expire. This task is well underway. Since 2010 the NLC has finalised over 200 agreements regarding Aboriginal lands. They have mostly been leases for development in Aboriginal communities. For the first time, rent is now being paid to traditional owners as determined by the Australian and Northern Territory valuers-general. The NLC would like to acknowledge the federal government and the leadership shown by the Chief Minister, Paul Henderson, on that matter. Governments have always paid rent to landlords in Darwin and other cities and normalisation requires that rent also be paid in Aboriginal communities to traditional owners of those lands. This increases the wealth of those whole communities, as well as removing longstanding discrimination. As I pointed out, this outcome with regard to rent is a major achievement for both governments, particularly the Chief Minister and his government. All deserve credit for implementing this reform.

CHAIR: Mr Levy, do you wish to add anything at this stage?

Mr Levy: No.

Senator SIEWERT: I want to go to the issue of the community living areas and the land reform. CLC is putting the proposition that basically it should come under a separate bill because there are issues that need to be resolved. They are supportive of the concept, but it should be taken out of these bills and made into separate legislation because further amendments are required. We then discussed what happens if it is not. Do you support the proposition?

Mr Hill: Yes. We believe that there needs to be further consultation and workings with the governments and land councils on this issue.

Senator SIEWERT: Have you put that proposition to the government?

Mr Hill: Yes, we have.

Senator SIEWERT: What response did you get?

Mr Hill: Again, it is a matter for the Territory government. We are waiting on them. My experience is that there are communities in the Northern Land Council's region that are no longer small excisions or community living areas; they are actually large communities which need to be given the opportunity to expand and provide

services to their members. When I say members I am referring to the corporations which hold those titles. We believe that it is in the hands of the Territory government and, hopefully, we can come to some kind of agreement in the not too distant future.

Senator SIEWERT: You believe the process should involve more time to negotiate with the NT government because there are, I think, four pieces of legislation that need amendment. You would prefer to see the Northern Territory government handle it. My understanding is that these negotiations have been going on for some time, so, if the Northern Territory government chooses not to deal with that in a speedy manner, would you then go for the separate bill option?

Mr Hill: Yes.

Senator SIEWERT: What time frame would you put on the Northern Territory government resolving this matter?

Mr Hill: Again, it is up to the government. They need to go and talk to the pastoral industry about the intent of these CLAs. Fortunately, I was not around at the time that Chief Minister Marshall Perron and the Prime Minister asked for with the withdrawal of claims to stock routes. I was actually working for the NLC at that time. The NLC and CLC had a number of claims over the stock routes and an agreement was reached about the CLAs. The spirit of CLAs is to identify those Aboriginal people who have made a contribution to the pastoral industry. He did not want to return back to traditional lands, so 'red areas', as they were called back then, were established, and the stock routes were drawn.

Again, no-one anticipated that these CLAs at the time were going to become communities. You had one or two families occupying these community living areas, and no-one at that time thought the NLC was going to be successful in ascertaining land claims. For example, the Hodgson Downs community living area is surrounded by ALRA. It is Commonwealth freehold. The surrounding community at Elsey station is Aboriginal land. So there were no intentions back then. People just need to enter into the spirit of why CLAs came about and, importantly, what needs to happen. The NLC is working closely with the pastoral industry and running a number of successful Indigenous pastoral programs. We have a number of other matters we have to take into consideration and, importantly, we have to make sure that there is legislation that addresses the need for the expansion of these communities.

Senator CROSSIN: I have a follow-up question. The current legislation provides that in the absence of the Northern Territory government actually amending five pieces of legislation—although I think I originally said four—the federal minister can actually write regulations, essentially, in relation to CLAs. It is not clear to me whether the federal minister would use the Territory's power to actually change the five pieces of legislation or create regulations that are disallowable instruments. I am not sure how they fit. Mr Levy, given your background, perhaps you could provide us with your understanding of how that would fit.

Nevertheless, the CLC's position, as you would know, was that they would prefer not regulations but legislation. In the event that regulations were developed, they are quite uneasy about who would be consulted about those regulations. I just want your reaction. And perhaps if we take it the next step further. If the provisions in this act were ever instigated, what would be your view about what is proposed in this legislation?

Mr Hill: I will hand it over to Mr Levy with regard to the technical aspect of the bill itself, but I will make commentary regarding some of the day-to-day issues affecting CLAs.

Senator CROSSIN: You are saying to us that it needs to be sorted once and for all and the Territory government is slow to sort it out, and the question is, should the federal government sort it out? I guess my question is, is this the way to do that?

Mr Hill: No. I think, at the end of the day, us Territorians like to deal with our own business and our own backyard before we run to Canberra. Again, Mr Levy will talk about the technical aspect of the bill. Most Aboriginal corporations out there who hold title to the CLAs do not have any income—no income whatsoever. So for the administration of these CLAs they do not receive any moneys. The legislation points out that they cannot; they are not supposed to have enterprises and so forth. Currently we have the Registrar of Indigenous Corporations prosecuting nine corporations in an NLC region for noncompliance, which we find extraordinary. We are actually representing these peoples, because they do not have an office or income for their administration or the compliance side of things.

Senator CROSSIN: Yes, I think we know all that.

Mr Hill: The question for us is more or less the role of the NLC in providing assistance to these peoples. We do not get funding. It also clashes with Commonwealth policies with regard to how we extract cost recovery in representing these peoples. We are doing it merely because some of the people who are occupying this are actual

traditional owners. The CLA was for those who were not residing on traditional lands. But I will get back to the point and ask Mr Levy to make comments with regard to the technical aspect of the legislation itself.

Senator CROSSIN: Yes, and I want to hear Mr Levy's view about that. You raised an issue in relation to cost. Again, with the CLC you have suggested that the words 'at the land council's expense' be removed. I suppose what I am asking you is, even if that was removed, is the provision to actually make regulations—as this legislation proposes—the way to go given the current inaction regarding getting CLAs sorted out?

Mr Levy: I think Mr Hill is right. That is a technical question. I apprehend that the reason the Commonwealth is proposing regulations rather than overriding legislation at this point in time is twofold. I think the first reason is that the Commonwealth does not want to override Northern Territory laws. At the moment all the bill does is give the Commonwealth power to override if it wishes to, via regulations. The second reason for using regulations—and this applies generally any time governments give themselves power to do things by regulations—is flexibility. It means that the Commonwealth minister can act very quickly if she or he wants to.

From a technical point of view, the difficulty is with doing it via legislation but not doing it now. If you do it now in legislation then you are overriding Territory laws before the Territory has decided what it is going to do. Behind the scenes it is reasonable to expect, as Mr Hill has said, that the Territory will legislate. What that legislation will be is not known at this stage, but I think it is reasonable to expect that that will happen. So why override the Territory before it has made its decision?

The second difficulty is that if the Territory does not legislate or if the legislation does not meet Commonwealth requirements then you have to go back and have a completely separate act go through the Commonwealth parliament. Even if the parliament had a whopping three-quarters majority with one party, getting legislation through parliament is a lengthy exercise. Meanwhile, in communities like Yarralin, with 500 people living there, you might find that they want a shop to receive a lease. Do you have to wait for the Commonwealth parliament to pass legislation so that the people of Yarralin or people in Hodgson Downs can receive a lease for their shop? It is a flexibility issue, I think. I think it is really just a technical issue. It gives flexibility and it stops short of overriding. As Mr Hill said, no-one in the Northern Territory would want that.

Senator SIEWERT: You encapsulated what I was going to be asking, so thank you. Why hasn't the NT government dealt with this? I appreciate what you are saying, Mr Levy: it is better if the NT government deals with it. My understanding from the submissions is that there has already been quite some consultation and discussion around the need for these changes. In your opinion, why hasn't the NT government dealt with it?

Mr Hill: Good question, Senator. I think that is a question for the Northern Territory government.

Senator SIEWERT: I do not often give the Commonwealth government a lot of credit, particularly on this particular intervention, but on this one it seems to me that they have been listening to what the community has said, and the community has been saying, 'We want this issue dealt with.' So now they are saying, 'Okay, well if the NT government is not going to do anything then we are going to.' The question that remains is that discussions on this seem to have been ongoing for awhile, and people have had it up to here with it not being resolved, so is it reasonable to put a time frame on the NT government and say, 'If you don't do it by then, then the feds will act'?

Mr Hill: Yes, there have been discussions about this for quite some time. No doubt the intervention and this bill have brought on the discussion. The Australian government's policy and the Territory government's policy is that anyone who is requiring federal or territory funding requires security or tenure. The functions of the corporation that holds these deeds or titles—their governance arrangements, their capabilities—are limited, because they do not have any income. It is brought on by the intervention and this bill. People are wanting secure tenure. That is just my own view on why we are dealing with it now, and the urgency.

Senator SIEWERT: I have a question about permits. The government did make an attempt to change the intervention, as you know, and the bill failed to get through. That was prior to the last election. Did you raise this issue with the Commonwealth in the consultation process about asking them to readdress the permit issue?

Mr Hill: I remind Minister Macklin every time I meet with her, because it is an issue that traditional owners and, importantly, the Northern Land Council, continually ask about. They ask, 'Why are so many people going on our lands?' It is an issue that is upsetting traditional owners. Sadly, early this week there was an unfortunate death. A contractor was told not to climb a rock, and did not receive a permit to do so, and he came down and had a heart attack. Again, the traditional owners of that area are feeling responsible. The permit system is unclear. People think they can drive onto Aboriginal lands. The current legislation does allow people to drive onto Aboriginal lands from point A to point B and go to a common area. However, there are not many common areas at Maningrida. There are not many common areas at Ramingining. So people have this view that they will drive to a common area—because, by law, they can drive there—but there are no common areas out there.

The other thing is that anyone can jump on a plane and go to Maningrida and walk around the community to a common area. You see the increase in activity in our communities. Traditional owners and the communities are really concerned about who is coming onto their country. We have seen an increase in people who are not accessing permits going onto Aboriginal lands. It is not that we do not want businesses. We want things happening on our lands. The issue is that traditional owners have a right to know.

Senator SIEWERT: So there is an ongoing problem?

Mr Hill: It is an ongoing problem.

Senator CROSSIN: If this committee was going to recommend that we go down the path of re-looking at the permit system, what would you suggest? We have been asked to look at what is in the legislation, but that does not preclude us from what else is out there that should be included. Would you suggest that we just pick up the previous amendments to the Land Rights Act in relation to permits?

Mr Hill: Yes.

Mr Levy: Perhaps I could add to that. There is one thing that really should be picked up at first opportunity. I think it was an unforeseen consequence that the legislation that removed the permit system in communities had some other parts to it. If a traditional owner grants a permit, the previous position was that either that traditional owner or another traditional owner—or the responsible land council—could revoke that permit if there was good reason. The way it has been drafted is that if a traditional owner grants a permit, only that traditional owner can vacate that permit, and if they have died no-one can—which is a very strange anomaly. As I understand it, this government wishes to fix it. I would imagine that the opposition agrees. But it is something that ought to be done sometime. I do not think the sky is falling in, but it really needs to be fixed.

Senator CROSSIN: So we would need to go back and look at the previous amendments that were put up in relation to that.

Mr Hill: Yes.

Senator CROSSIN: There is something I have read in all of these submissions, and I have been trying to hunt for it in my papers here but cannot find it. Mr Levy, it might come to your mind. One of the submissions points out that in the Stronger Futures legislation there should be an amendment to the Land Rights Act, and it is missing in what is proposed.

Mr Levy: It does not ring any bells. I did read some of the 350 submissions, but not all of them.

Senator CROSSIN: If others could continue asking their questions, I will keep trying to find it.

Senator SCULLION: For my own benefit, since I was not around in the CLA days, perhaps you could clarify something. I have just realised that there are traditional owners now living in the community living areas. How do you go about trying to resolve that as an issue, given that the intent was to provide non-traditional people? The reason I am asking this is that through parts of your submission there is a thread about making decisions within the community. Have you dealt with the issue to the extent that you can give me a formal answer about who would have primacy, who would have the say about who comes and visits the community areas and those sorts of things? The conventional notion from the Northern Land Council would be that the traditional owners in the process would have the say, but the CLAs had a different genesis. This is not germane to what we are discussing, but I am just interested to hear what you think would be the case.

Mr Hill: The rule of thumb is that, no matter what government title is granted to an area or parcel of land in the NLC region, the Aboriginal people who are the traditional owners will always see it as their lands. What we tend to do is involve the traditional owners along with the other groups who assist the traditional owners in making sure that there is good governance and peace and harmony within that community, inviting other groups such as the grandmother people and the long-term residents who should have a say with regard to development of their communities. However, we will go back to the traditional owners and ask them. More often than not, there is not a lot of conflicts with regard to what happens in a community on the basis of land ownership. The issue is more when somebody outside the community is trying to take advantage of one group for personal or financial gains. But a rule of thumb the NLC does require from a cultural perspective is that we talk to the landowner or the people. And with most of the CLAs we know who they are because we ran land claims around the CLAs in most instances, such as Hodgson Downs, Minyerri and Elsey Station, at Urapunga where a CLA exists and at other places such as Yarralin. We ran land claims around that area so we know, plus evidence supports us. Last year we had consent determinations with regard to native title settlements outside the western part of the VRD.

We know generally who are the traditional owners, and the traditional owners generally know who are traditional owners, if I can put it in that perspective. With the lot of our NLC members they are only the second

generation who have actually had white people come on their lands, so we still have a lot of the cultural link—and it is a strong link, as you know, Senator—to our lands and our waters.

Senator SCULLION: When you talk about the new leases that are required at places like Yarralin and Hodgson Downs, does any of the infrastructure you talk about, such as shops, exist now or are they simply perspective?

Mr Hill: They exist, definitely. The question is the liability aspect. Some shopkeepers have a private arrangement with either the corporation governance members or with traditional owners. You hear the horror stories where moneys have disappeared. We would like to tidy it up not just from a leasing perspective but making sure that the community understands and receives benefits from having a private owner-operator in that community.

Senator SCULLION: I was asking because it was unclear in your submission that they actually exist. You have also put in your submission the incapacity of associations to be able to even run their own affairs; you have said that, quite rightly. Do you think if the associations or communities have the capacity to get some income from the leasing arrangements, that will change that circumstance so the associations would then have the capacity to meet the administrative requirements of running the lease?

Mr Hill: Again it is an issue of compliance with the current structure, and that is not the responsibility of the NLC or the Commonwealth. That is the responsibility of the Northern Territory government. It is their legislation and they need to follow up on compliance those who have got community stores currently operating—that is a matter between the Northern Territory government and that operator.

Senator SCULLION: There was a specific prohibition for the leasing of commercial and government activities in the 1989 legislation. From your background, what do you think motivated that? It was not an accident. Why was there specifically prohibition of leasing arrangements on CLAs for commercial and government works?

Mr Hill: I left the NLC in 1994, so I will pass that on to Mr Levy to answer.

Mr Levy: I think the reason is that whereas on the Aboriginal side the purpose of living areas was to provide ownership of land for people historically or traditionally connected, the pastoralists' position was that it is excised from the pastoral lease, that it is pastoral country, that it would be inappropriate for a service station to suddenly be opened there, or an abattoir competing with our abattoir—those kinds of things. I think pastoralists would probably say—although they are not here to talk about it—that there is a bit of a planning law issue. That is why the prohibition was in there. Mr Hill was talking before about large communities and ones that are still very small and will always be small. I think that is probably where the policy issue is. In relation to the Northern Territory government—which you asked about before, Senator Siewert—they are just still working through those issues.

Senator SCULLION: Are you aware of perhaps a different view of the pastoral industry since 1989? I am not sure whether you had any negotiations or whether they have expressed a different view. It is just that it is a long time ago.

Mr Hill: I think we have a good relationship with the Cattlemen's Association and the leadership of the Cattlemen's Association. In the last five years, and particularly over the last 16 months involving live exports, it has been a changing environment. It is an old industry which Aboriginal people have participated in. I think it is a matter of the population growing and people wanting to get out of the industry. There are a number of reasons why people want to expand CLAs or, if not CLAs, activities on CLAs with regard to the pastoral industry. I think that is a question for them. But we at the NLC want to continue the relationship we have with the pastoral industry and, importantly, get our kids into jobs. And we want to get the industry back up and running because we also have cattle operating on a number of land trust areas.

Senator SCULLION: In your submission you talk about the normal ministerial consent safeguards. You commented that the ministerial safeguard of consent did not apply to things that were important but perhaps minutiae—like the capacity for people to inappropriately expel residents or not allow access to residents. In your submission, you ended there. So I am wondering whether you could take up from that. Should I assume that you are saying the minister should have extended powers beyond that to be able to also give consent to other decisions made by that? I have to say that sounds a bit daft given that those are the sorts of processes that someone like a land council would normally make—and they have the capacity and experience to be able to make those informed decisions. So perhaps you could help me with that because you ended with a full stop. I do not know where the assumption should be. I would like some advice about where you think that should be.

Mr Levy: I refer you to footnote 3 on page 3. It is about the settlement of a land claim near Yarralin, which is a community living area which has been vested in the Commissioner for Consumer Affairs since 2003 because of

non-compliance with documentary requirements. It is a large community. The issue you are talking about does not often arise but, in theory, it could arise—people are wrongly and unreasonably excluded from their residence because they are not a member of the corporation or they have been kicked out of the corporation or whatever. The Territory was alert to that issue in the land claim and basically indicated that they wanted to fix it—and the way to fix it, given that there was Aboriginal land everywhere, was to include Yarralin as Aboriginal land. I would have thought that the large communities where this issue theoretically could arise, including Hodgson Downs, which has been mentioned in the submission, is something that ought to be looked at. These things should be done consultatively and by consent. It provides a better legislative mechanism for dealing with it. I am not sure that the Northern Territory minister would want to have to consent to all those sorts of things. But I think that is the way forward.

Senator SCULLION: Whilst I was not able to pick it from your submission, in a similar way it was absent from your submission that there were in fact people occupying leases unlawfully or whatever. In general terms, even anecdotally, has it been put to the land council that there have been inappropriate expulsions or lack of access? You have been quite prescriptive of that here. I do not wish to know any further details.

Mr Levy: The submission is not intended to suggest that this happens often. It is supposed to say that there are problems which over the medium term would arise from time to time. They do arise in Aboriginal communities and Aboriginal land sometimes. Occasionally—it does not happen often, and usually in conjunction with the police—Mr Hill will write a letter about those sorts of issues. But you cannot do it in a community living area where there are 500 people living. It does not happen often in Aboriginal communities, on Aboriginal lands, but it does sometimes. And it will sometimes arise elsewhere. There is no legal mechanism for dealing with it.

Mr Hill: My only experience with regard to the adverse effect of removing people is an experience we had just recently, in the last three years. A convicted rapist was sent back to a community where he committed the offence. We tend to deal with other people's problems. That is the only experience I have known over the last four years since I have taken up the position of chief executive officer. But, again, that was not related to CLAs. You can put it across the whole perspective of people committing offences. This person was not a Yolngu person, either, but he was protected because the current legislation allowed him to occupy in that community, whereas we were powerless to remove him.

Senator SCULLION: In your submission you say 'at the land council's expense'. I noticed with interest that you said that you thought this constraint appeared inadvertent. I disagree with that. When I get to speak to the government I can ask them about it. They do not ordinarily put things in 'inadvertently'. It did seem a bit overt, to be honest. I just wondered why you thought that might be the case, Mr Levy.

Mr Levy: I am absolutely confident it was inadvertent, because I have had discussions with the department.

Senator SCULLION: Indeed. In any event, we will speak to the government in that regard.

Mr Levy: They can confirm that, but it is the structure of the statute. The structure of the statute is that with land claims, whether done by in-house lawyers and in-house anthropologists or whether the NLC funds someone else at the land council's expense, the negotiations of mining agreements and all that sort of stuff may or may not be at the land council's expense. Usually it is a mixture. It is actually a real issue. We actually have a community living area at the moment, in relation to a development proposal which extends off the living area, where the developer is quite happy to make the usual sort of contribution pursuant to section 33A of the Land Rights Act for meeting costs and other stuff. And he is quite happy for that to extend to the community living area part of the development. It is a road—a very long road. The rest is on other land, but that developer will not be able to do it, in theory. In practice it might not matter. Nonetheless, this is a Senate committee, and you are supposed to bring up the anomalies that have not been thought of by the draftsman.

Senator SCULLION: I appreciate that. It will assist me in my questioning. I have just one last question, perhaps for Mr Hill. Consistently throughout this process—this consultation or education process, or whatever you want to call it, through Stronger Futures—we have arrived at communities and found that they had no idea of what was going on. I have just come back from Maningrida, and I think there were individuals who knew about it. They said some of them met with Ms Macklin. But, again, that process left the community the next day. I have a question in terms of capacity and perhaps more generally. The investment we had made in the Stronger Futures consultancy in the Northern Land Council area no doubt cost a lot of money. We asked the Northern Land Council to do it. I know specifically your charter, in some ways. But you are still effectively a Commonwealth agency. Do you think you would have had the capacity to be able to do that? You put in the submission that you really do not like this stuff, and I appreciate that you have divided yourselves in similar ways. You can have an opinion on behalf of a community, but you can still provide objective advice about what the community thinks in

other ways. Do you think you would have been able to do that sort of a consultancy on behalf of the Commonwealth?

Mr Hill: My recommendation to my council, if that were put to the council, would be no—stick to our core business. You are repealing a comprehensive, complex legislation, and we have a number of tasks ahead of us, particularly in the five years. So my recommendation to my council would have been no, let's stick to our core business and make sure that the leases are given with the consent of traditional owners to the proponent, whether that be the Commonwealth government, the Territory government or any other proponent, such as the shires. We would have stuck to what we have been building over the last three years, and that is trying to generate wealth and, importantly, send a clear message that traditional owners are rich, because of our land and our culture. We are definitely not dirt poor. We are infrastructure poor. We will want to talk up our culture. Tourism does quite well with our peoples. We are the oldest living culture in the world, and I think everybody in Australia has an obligation to protect and enhance the carrying over of our song cycles and so forth for another 40,000 years.

So our focus has been, under the leadership of my chairman, cultural integrity. It is about maintenance and about making sure that we get through this period but, importantly, that we create wealth so we have our own language programs and so forth. We see the trucks go by, we see politicians, we see bureaucrats fly in and out of the communities. There is really no development at all. Most of our organisations out there are falling over. I cannot pinpoint why. But, again, we would no doubt like to advance ourselves.

You asked Olga—I cannot remember her title—about education. We would like to see our kids go to school. We have to get our kids in the classrooms. We have done that in the past. However, both governments were not prepared. I recall that three years ago at Wadeye they had hundreds of kids go to school, but classrooms and chairs were not provided. So we can get our kids to classrooms; it is just a matter of making sure we have quality teachers and that the teachers and the education department have resources to address those issues.

Senator SCULLION: I just want a shorter answer. I would assert that you have been very successful in the Northern Land Council—probably the only organisation that has been as successful as you have been with consulting with your constituents. In the case of Stronger Futures, they are identical constituents. Your core business, if you like, is land and leasing and that sort of thing, but fundamentally it is helping people understand what is being proposed—whether it is a development or something else—which is one element of it, and then there are other elements. I was simply asking a question given that that is what your real expertise is and you are the only ones who over time have genuinely demonstrated any success at saying, 'We've gone in and we've educated someone about something and having some ownership in it,' and given what I consider the abject failure of the consultancy in terms of Stronger Futures. You might want to take it on notice. I am not looking out for a decision about what you would make on your board, but I am asking whether or not you would have the capacity—forget about the consultation—to educate and inform people about what this process means. You might even want to take that on notice.

Mr Hill: Yes, we will take that on notice and get back to you.

Senator BOYCE: Mr Hill, I had a couple of queries related to your specific suggestions around the bill, but I think Senator Scullion has covered those, so I will go back to Senator Crossin's suggestion on reviving the permits legislation. If that were to be done—I am trying to cast my mind back to that legislation—should there be a legislative mechanism to deal with potential conflict between traditional owners and groups within a community that might want to push for development? You mentioned economic development being something that you would want to happen. I am thinking about where you might have an antidevelopment owner or owners but a community that wanted to push for economic development.

Mr Hill: Good question. There are some instances. I will give you a classic example. In Central Arnhem Land there are about 52 clans. Another example is Blue Mud Bay and the High Court decision in regard to that. We have had to do consultations from the beach rather than what the sea, because various groups sing for different currents from a cultural perspective, and there are also spiritual beings which travel in the seas. We have been very successful, particularly in regard to the optic fibre, which goes across central Arnhem land. It can be done.

With regard to permits, the only time traditional owners revoke a permit is for ceremonial purposes, and that is based on nature. It is based on the moon in some parts. We cannot change the moon. Our ceremonial activities are based on nature, the cultural aspect, moon cycles and so forth, as well as for the death of senior elderly people, and that is when we revoke permits. More often than not, if a member of a community or clan dies we close the roads, but it is for less than 24 hours. It is more or less for the transportation of the deceased from one area to another. It is not like Aboriginal people are saying: 'We don't want to have people on our lands. We don't want economic development.' All we want you to do is understand our culture and our belief system. We do not knock

people back because they are this developer or that developer or because the general public just wants to go out there and take photos. The NLC and traditional owners reject permits for cultural reasons.

The NLC and traditional owners welcome economic development opportunities. Again, a lot of the management and planning of that is not in our hands. A classic example is that the executive director of township leasing can issue long-term leases. I call the executive director of township leasing 'the fifth land council'. He can give a lease for 40 years. We are restricted because of the management. Under territory legislation we can issue for only 12 years. He has exemptions; we do not. As I said earlier in my opening statement, we have done over 200 leases. They vary from season to season—from crocodile egg to three years, five years, 40 or 80 years. So it is not a question of the leasing. It is a question of what is holding up the development for Aboriginal people, particularly traditional owners.

Senator BOYCE: So the answer is no, you do not think we need a legislative mechanism.

Mr Hill: No.

Senator CROSSIN: Before we finish, your position in relation to the permit system is such that—

Mr Hill: It needs to be reinstated.

Senator CROSSIN: So when you said we do not need a legislative mechanism—

Senator BOYCE: The legislative mechanism was for dealing with conflict for permits.

Senator CROSSIN: Yes, but I want it clear on the record that your position is that you want the permit system reinstated and those amendments brought back into the Land Rights Act.

Mr Hill: On that issue, yes. With regard to Senator Boyce's question, the answer is no.

Mr Levy: Out of an abundance of caution I want to clarify an earlier answer so that I have not misled. My conversations with the department led me to an apprehension, but the department did not confirm that. They said something like, 'You could well be right, and we'll go and check.'

Senator BOYCE: So we should still make some recommendations in the area?

Mr Levy: If they say it was deliberate it must have been deliberate. I am not expecting that, but I could be wrong. In relation to your last question, Senator Boyce, I think that was really about section 19, not the permit system. Under the permit system legal requirements, if it were the case that the traditional owners would not grant a permit the NLC still can. Under a section 19 lease for development, the NLC can only do it with the consent of the traditional owners. I think it was really a different issue.

Senator BOYCE: So there are two issues, really?

Mr Levy: I think you were raising an entirely different issue to the permit system.

Senator BOYCE: Yes, I see the distinction you are making.

Senator SCULLION: So what you have just said to Senator Crossin means that, even in the areas you no longer need a permit for, like Maningrida, you still need a permit to drive along the road. You would say that the community living areas, access to the barge landing, access to the airport, access to the hospital and access to the post office now require a permit because they were required in the first instance. Is that correct? This is why I am a bit cautious. These are the sorts of things that need more of an inquiry than a single question.

Mr Hill: That is a good question. The NLC believes that we can all sit down and work out ways in which permits can be issued and work out how we go about the consultation. For example, we hardly get prosecutions, so the NLC is proposing with governments and particularly with the private sector that we issue the heads of those organisations a permit to deal with all their staff. For example, under the SIHIP arrangements we have gone into a permanent arrangement with the Territory Alliance, all those people who are responsible for the workforce and their employees. We issue one permit rather than 500 permits for each of their workers. Each operator, whether it be a Commonwealth or a Territory agency, has a code of conduct which its staff has to abide by. It just makes sense that, rather than giving individual payments, we give a permit to, say, a health service or somebody—most people who go down to the barge are organisations picking up their goods. We are looking at ways that we can address your concerns and those of the wider general public about Aboriginal lands and how you can obtain a permit. Hopefully, by the middle of this year we will be able to give you a briefing with regard to how we are going about it and particularly about a methodology to allow us to print stickers for people to put on their cars.

One of the biggest problems we have out there is no doubt government and law enforcement agencies fishing on Aboriginal lands, yet they are not conducting business. Traditional owners are a little bit concerned about that. It is particularly shire workers, who are not necessarily carrying out shire business. The other thing is that we

need to protect—a lot of our TOs have got contracts through the land trust with proponents of buffalo shooting. The last thing I want is to have the general public going out there to shoot buffaloes, because the proponent will take it to the Land Council and say, 'There are no buffaloes, yet we have agreed to a five-year lease.'

Senator SCULLION: I submit that no one is intending to shoot buffaloes in the town area, the group area, on airports or on the road to the barge landing, mate, but I take your point on the brief.

Mr Hill: They do that, Senator. Believe me, they do that.

CHAIR: Thank you, very much, as always to the officers from the Northern Land Council.

Proceedings suspended from 13:02 to 13:43

CLUNIES-ROSS, Mr Alexander James, Solicitor, Civil Law Section, North Australian Aboriginal Justice Agency

COLLINS, Ms Priscilla, Chief Executive Officer, North Australian Aboriginal Justice Agency

FOX, Mrs Dorothy, Chairperson, North Australian Aboriginal Justice Agency

HUNYOR, Mr Jonathon, Principal Legal Officer, North Australian Aboriginal Justice Agency

NORMAN, Mr George, Deputy Chairperson, North Australian Aboriginal Justice Agency

ROSAS, Ms Colleen, Director, North Australian Aboriginal Justice Agency

SHARP, Mr Jared, Advocacy Manager, North Australian Aboriginal Justice Agency

[13:43]

CHAIR: Welcome. I am sure most of you have given evidence to committees before. If any or all of you have opening statements, we will hear them first and then we will go to questions from the committee.

Mrs Fox: Thank you for giving us the opportunity to meet with you today, especially as it is on Larrakia land. NAAJA is a member of an Aboriginal peak organisation of the Northern Territory. We have made a written submission to the committee as part of the group. The issues in the submission that we want to focus on in our opening comments today are: resourcing Aboriginal legal services, dealing with alcohol, reinstating customary law, and income management.

First I would like to talk to the committee about moving beyond the intervention. The formal end of the intervention is an important opportunity to take a new approach to improving the lives of Aboriginal people. That approach must be one of partnership. We urge the committee to recognise the simple truth: intervention, as an approach to Aboriginal disadvantage, cannot succeed. We know it cannot succeed because of the evidence of what works and what does not work. According to the Closing the Gap Clearinghouse, what does not work in overcoming disadvantage includes: the one-size-fits-all approach, a lack of collaboration, external authorities imposing changes and reporting requirements, interventions without local Indigenous community control and culturally appropriate adaptation, and failure to develop Indigenous capacity to provide services. All of these were featured in the intervention. What works includes: community involvement and engagement; respect for language and culture; working together through partnership, networks and shared leadership; development of social capital; commitment to doing projects with, not for, Indigenous people; and creative cooperation. None of these were features of the intervention.

NAAJA has not, however, taken a blanket opposition to the intervention and we do not take blanket opposition to the Stronger Futures package. We strongly support taking action to improve the lives of our people and to protect women and children from abuse and neglect, but we have to get it right. For Stronger Futures to succeed, all levels of government must commit to a partnership with Aboriginal people and their organisations. The partnership must be built on honest consultation, open communication and negotiation. Government needs to respect Aboriginal language and culture, and commit to doing projects with, not for, Aboriginal people. The Stronger Futures package does not recognise the role of Aboriginal people and organisations in addressing disadvantage. It remains focused on mechanisms for the Australian government to make decisions about Aboriginal people's lives. Aboriginal people want to take responsibility for their families and communities and have to be supported to do so. The dismantling of community councils in the Northern Territory removed community leaders of the means of having a meaningful stake in decision-making processes in their communities. It is therefore disappointing that there is a limited focus on improving leadership and governance in remote communities as part of Stronger Futures.

NAAJA is also concerned about the 10-year sunset period for the Stronger Futures bills. While we support taking a long-term approach, there needs to be rigorous independent evaluation of this package. We advocate for a five-year sunset period and a commitment to independent review within that time. Some measures, like alcohol measures and SEAM should be reviewed sooner. I will hand over to Priscilla.

Ms Collins: I would like to raise the urgent need of funding and resourcing Aboriginal legal services in the Northern Territory. NAAJA provides legal advice and representation to Aboriginal people in the Top End of the Northern Territory in civil, family and criminal law. We also provide services and advocacy, welfare rights, community legal education and prisoner through-care. In the last financial year we assisted close to 13,000 Aboriginal people in civil, family and criminal law, and an additional 300 people for income management.

Since the intervention was introduced, we have had an increase of 32 per cent in criminal law matters and 72 per cent in civil law matters. Our lawyers carry caseloads three times that of our colleagues at Northern Territory Legal Aid. What that means for our lawyers is that we have big burnout and we have major challenges in recruitment and retention. We are very proud that we do provide a high-quality culturally appropriate legal service for Aboriginal people in the Top End, but we are grossly underresourced and underfunded. This has been recognised time and time again by government inquiries and reports and it is a fundamental issue for Aboriginal people's access to justice.

We have funding until 30 June 2012 from the Commonwealth to assist Aboriginal people with NT matters. We do not have a commitment past this date. We are very concerned that we do not have a commitment and, even with this funding, we are still underresourced. Without the funding we are not going to be able to maintain the appropriate levels of service. We think it would be a breach of faith with Aboriginal people to continue to regulate their lives in new and complicated ways while not properly funding the services they need to ensure that their rights are protected and respected. We do support the 10-year commitment to resourcing that government has said it will provide, but this must include a commitment to maintain the funding of Aboriginal legal services in the Northern Territory.

Ms Rosas: I would like to talk about alcohol and customary law. NAAJA recognise the need to do more to stop the damage caused by alcohol abuse in our communities, but increasing the penalties for alcohol related offences is not the answer. Aboriginal people already make up 80 per cent of the jail population in the NT. Locking more people up is not going to fix our problems and banning alcohol has not solved the problem. The alcohol bans have pushed drinkers further from their communities into very unsafe situations. We need to treat the disease. There is no professional counselling or treatment available in remote communities and we need rehabilitation centres. We need culturally relevant programs and services and we need more education in the schools to teach the younger generation the dangers of drinking and drug use. Governments need to work with elders to take ownership and responsibility of alcohol management plans and be part of the solution.

I also want to talk about culture and customary law. NAAJA supports the changes in the Stronger Futures bills to allow customary law and cultural practice to be considered in offences involving cultural heritage, but it only fixes part of the problems with these laws. For Aboriginal people before the courts, the law still excludes our customary law and culture from bail and sentencing. This says to our people that our customs and culture do not count or that they are part of the problem. This is insulting and offensive to us as Aboriginal people. The law says to the courts that they cannot apply the ordinary principles for setting their sentences. The courts cannot take into account all relevant factors when sentencing Aboriginal people. This is unfair and unjust. These provisions must be scrapped. Instead, government should be working with elders to take responsibility for offending in their communities.

Mr Clunies-Ross: Our written submissions set out in detail our concerns about the income management regime, but we want to focus our concerns on the broad expansion of the income management powers to state and territory authorities. As they are currently drafted, these amendments confer significant power upon state and territory officers and employees to make decisions as to whether the person is placed on income management. The current Commonwealth system of administrative review of decisions in relation to people's social security entitlements is an important safeguard. However, in conferring decision-making power upon the states and territories to direct that a person be subject to income management, there is a potential that many people will be placed outside of this important framework.

In its current form, Centrelink would be obliged to accept a referral from the state or territory and implement it without making its own assessment of the case. As such, there would be no decision capable of being reviewed through the social security administrative review framework. The NT has a very limited administrative review framework. We have no administrative review tribunal or a legislatively backed judicial review process. We are reliant on local authorities having in place effective internal review processes. Some agencies have these and some do not. The effect of this is to erode the rights of social security recipients in the NT.

The proposed changes also undermine the work that we have been doing in the NT to educate our clients on their rights to access an independent and fair review and appeal mechanism. We urge the committee to recommend that this power of referral for income management be removed or modified to ensure that there is appropriate access to review those decisions to place people on income management.

Senator CROSSIN: I want to pursue the issue about customary law and consideration in bail and sentencing. As you know, there is a proposal in this legislation to take what is in the current legislation and move it across. I need you to convince this committee—I am convinced, but I need you to convince this committee—of why this should be removed from this legislation and the impact it has. I want to preface my comments by putting it in the

context that I think most people believe when we talk about acceptance of customary law that somehow we are talking about it replacing our court system—that it is actually full payback rather than the court system. My understanding is that that is not what is implied in the restrictions in this legislation. So whatever comments you can give us to assist in that regard would be useful.

Mr Hunyor: I am happy to take up the challenge of trying to convince the committee. I think one of the problems is that the legislation is very broadly drawn, so it applies to customary law and cultural practice. Possibly a good example would be a situation involving a non-Aboriginal person who was being prosecuted for having received too much by way of Centrelink and not having declared their true income. Let us say that person had received overpayments in the period leading up to Christmas and they came to court and, by way of mitigation, said to the court, 'Yes, I agree; I knew I was getting paid too much, but Christmas was coming around and I wanted to buy presents for the kids.' You can expect that the court might say, 'Well, you've still done the wrong thing, but I take that into account. That's relevant. It was not a situation of greed; it was something that you did for that reason.' That relates to a cultural practice: the cultural practice of giving presents at Christmas time. This provision either applies to that—in which case I think most Australians would think that that is ludicrous—or it does not or is not intended to apply to that, in which case it is clearly discriminatory, because we are trying to target one set of cultural practices and not another.

The position of the law before these provisions was simply that those sorts of considerations for non-Aboriginal people or for Aboriginal people could be taken into account. Frequently in cases where cultural law was raised—in the difficult and sensitive cases involving, for example, sex with girls under 16—the courts made it very clear that it was a factor they took into account, for example, to distinguish the person from a sexual predator, so it was relevant to try to figure out where in the scale of things this offending came, but that factor was outweighed by the need to protect women and children. The authorities in *Hales v Jamilmira* or in the *Queen v GJ* in the Northern Territory made that very clear. So the courts up here were actually very good, we think, at getting the balance right. Now what the law requires them to do is throw away these established sentencing principles, and this is what His Honour Justice Southwood made pretty clear in the decision in *Wunungmurra*: that these established principles of fairness and sentencing have been thrown out the window. We simply do not think these provisions are necessary. We do not think they achieve anything that we should want to be achieved in a society that recognises and celebrates cultural diversity.

Senator CROSSIN: We have Justice Southwood's comments in your submission. I also understand that Supreme Court Chief Justice Riley has made some comments about this in a speech he might have given at the Supreme Court at some stage—it is on the Supreme Court website, I understand. Are you familiar with those comments?

Mr Hunyor: I am not familiar with the Chief Justice's comments on that, but I am happy to—

Mr Sharp: I think it may have been on the occasion of the centenary this year. I am familiar with those comments as well.

CHAIR: It was referred to in evidence given in Alice Springs.

Senator CROSSIN: I am happy to get the committee to research that speech and we will find it ourselves. I just thought you might have had it.

Mr Hunyor: I do recall the Chief Justice expressing similar sentiments to those of Justice Southwood about disquiet at having to take, effectively, a discriminatory approach. But we will try to dig those comments out and send them through to the committee. We will find that speech.

Senator CROSSIN: Are there any other examples you can give us other than in Justice Southwood's decision in that case? Are there any other overwhelming examples of evidence that can support your position?

Mr Hunyor: I am not aware of any particular cases that have come up. Of course, the difficulty for us is that, while we know we cannot make that submission, we also know it is something which may be relevant in communities. We deal with hundreds of matters every time we go to a bush court, and cultural and customary law practices often come up. For example, someone might have driven a car to go to ceremony when they were unlicensed because they felt that that was a culturally appropriate thing to do; but that is a submission we cannot make by way of mitigation. Those sorts of things come up frequently. I was dealing with a case yesterday of a young person who had been placed on a bond to do men's ceremony at a particular part of the community. That is the sort of thing that comes up often and that, we would say, should be relevant to the court's determination about the offender and their culpability. For example, they might have taken responsibility and gone to do ceremony for people who had misbehaved, if you like.

Senator CROSSIN: The Australian Law Reform Commission just two weeks ago handed down their latest comprehensive work in which they were asked to look at family violence and Commonwealth laws. I have provided Mr Hunyor with this briefing paper and asked him to provide us with a comment on this. In relation to income management they make a suggestion that victims of domestic violence should not be subject to income management or that, if that is not the case, the definition of priority needs should be amended to include travel or other crises of needs for people experiencing family violence.

I have two questions: I am wondering if you have experienced representation for victims of domestic violence who this income management provision would assist; also, I am wondering whether you could provide us some comments about this paper—I have given Mr Hunyor a copy of it—in response to a question on notice. Have you represented people whose cases you think back up this claim that the income management should be a bit more flexible for victims of domestic violence?

Mr Clunies-Ross: I do not have any examples—it was my former colleague who contributed to that particular paper—but I do know that a lot of the events that people in a domestic violence situation would be experiencing would tend to trigger income management consideration processes, and I think that the use of the priority needs, if it were to be expanded to include things such as travel to get away from these sorts of situations, would put those people in a better place.

Mr Hunyor: Overall, the short summary of the recommendation I have read is consistent with the view that we have advocated: that it should be something which is opt-in—something which people can access if it works for them—and that the danger of taking blanket approaches is that you end up treating a whole lot of people similarly who have different needs and different circumstances and that that creates unfairness and can compound people's vulnerability.

We will have a look at those specific recommendations and address that on notice if we can. In general terms that seems like a sensible recommendation, because it is consistent with the approach we have taken—that is, having a blanket approach and taking responsibility away from people for managing their own income is never going to work.

Senator CROSSIN: I want to ask you about the alcohol management provisions. There is a requirement in this legislation that, if you are caught trying to traffic 1.3 litres or more of alcohol—or to move it into communities—or if you have that amount and you should not have it for whatever reason, there be a penalty of up to six months. I wonder whether you believe that that is a very harsh decision and outcome. Also, do you have a comment about what impact it will have, not only on your workload but also on the situation we have in our prisons?

Mr Hunyor: Our first response would be: where is the evidence that it is going to make any difference to increased penalties? I think one of the issues we need to look at every time an increase in penalty and an increase in imprisonment is imposed is: what is the opportunity cost if realistically that is going to mean sending more people to jail? Jail costs more than \$100,000 per person per year, according to the Productivity Commission. Surely there are better ways to be spending that money on the sorts of things that Ms Rosas has touched on today that are lacking in our communities—that is, rehabilitation, culturally appropriate services and culturally relevant treatment. That is where we think we should be putting the energy and resources, not on increasing the potential for people to go to jail. It is unlikely to lead to a greater number of cases for our service, but it will mean we will need to put more work into a number of cases. If someone is facing a period of imprisonment, we will obviously be wanting to spend more time on that case and more time before the court. So it will be another work pressure on us.

Senator CROSSIN: It is essentially a crackdown on grog-running. Do you deal with many of those cases now? If so, are they predominantly Indigenous people or non-Indigenous people?

Mr Sharp: Anecdotally from our criminal section we do have a lot of those cases. We only represent Aboriginal people, so that is our experience. It relates to possession of alcohol in prescribed communities. It also relates to the bringing in of alcohol and the consumption of alcohol. It is across those different spheres that people are charged with offences.

Senator CROSSIN: It is obvious that non-Indigenous people are doing this, but do you get a feeling that it is more non-Indigenous than Indigenous? How would those numbers pan out?

Mr Sharp: It is difficult to gauge. I do not think I could confidently estimate that. All I know is that the criminal section of our service has very serious concerns that these provisions would result in a lot more people going to jail. The tariffs are already very strict for bringing alcohol above the 1.35 litre limit into communities.

Once the penalty increases for lesser amounts than that, people who may repeatedly bring in smaller amounts will be right in the firing line of going to jail for that.

Senator CROSSIN: Isn't 1.35 litres a small amount? It is a large bottle of Jim Beam, isn't it?

Mr Sharp: Yes.

Senator CROSSIN: I would not drink that amount myself, but I would think it was a small amount. It is just a bottle of spirits, 1.35 litres.

Mr Hunyor: It would be a couple of bottles.

Senator CROSSIN: Senator Scullion might know more about that than I do!

Senator SCULLION: Indeed!

Senator SIEWERT: That was a cheap shot!

Senator SCULLION: I have had some difficulty in sorting out some of the evidence that has been given about that 1.35 litres. I understood that it means 1.35 litres of actual alcohol. It could be beer or whatever. It probably does not make any difference in fact because it is everything under that amount. Could you take that on notice. One of you might know. The legislation talks about 1.35 litres of 'alcohol', not beer, Jim Beam or anything else; it is actually talking about units of alcohol in the same way excise legislation would approach it. But that is immaterial because it is under that amount. We will be asking the same questions of the police. It would be very useful to get a look at the prosecutions you were speaking about. I think there are slightly different parts of the legislation that you may be able to differentiate between—trafficking and possession. Can we have the broad number that were convicted and prosecuted. You would normally keep that answer within the Privacy Commission. We are only interested in the broad numbers. That would be useful. We will attempt to get the non-Indigenous ones from the police.

Mr Hunyor: For liquor related offences?

Senator SCULLION: Indeed.

Mr Hunyor: I will see what we can find.

Senator SCULLION: Thank you. Senator Crossin was talking about the issue of being able to use anything associated with cultural or traditional beliefs as some sort of a defence. I can recall the genesis of this sort of stuff. It was generally associated with sex with under-age women. The notion put about by the media and other people was that cultural or traditional beliefs were basically being put forward as a defence. Rather than prescribing a defence you cannot have quite definitively, there seems to be a broad-brush approach that obviously catches many things it was never intended to. So if this committee is going to make some recommendations about that, perhaps in a more detailed sense—and I am not sure how you could approach it—perhaps you could enlighten me about this. You mentioned three precedents in that area. Were those circumstances taken into consideration in mitigating circumstances for sentencing or not? Your answer here will not be so much as instructive as trying to provide me with a direction to the precedents or a more fulsome answer. I would probably prefer that you take it on notice.

Mr Hunyor: I will. The one thing I should emphasise is that it has never been a defence. It has only ever been something that you could raise in mitigation in sentencing.

Senator SCULLION: That is right. I understand that.

Mr Hunyor: I will provide you with the authorities that I have referred to. As for the reason that I raised them, two are before these provisions. The point that I would really seek to draw out of them is that the court has never placed those considerations of customary law and culture above the interests of protecting women and children. So I think it is a misconception—if it exists—that really should be laid to rest. The other is the decision of Justice Southwood after the provisions. What I seek to draw from that is His Honour's comments about the unfairness of having to take this artificial approach when, as I have said, I think the courts were quite able to handle that position beforehand.

Senator SCULLION: I accept that, but it would be very useful to have a look at that. There is only a small number of circumstances under which the courts actually took into account the sentencing provisions as to mitigating circumstances in terms of the sentencing. It would be good to be able to put them together.

Mr Hunyor: The more common garden variety submissions that there are not authority for are the sorts of submissions, as I was saying, that you might get on a bush circuit where someone might have done something like a driving offence or stealing from a shop and they may raise cultural obligations or customary obligations as part of that so 'my aunty asked me to do it' or 'I was doing it for my uncle'. Those are the sorts of things which come

up but they are generally pretty unremarkable. They are not a defence but they are a reason why a court might say, 'Okay, you're not flagrantly breaching the law. Don't do it again. You've done the wrong thing.' They are the sorts of things where we do not have decisions but it is common sense that you would raise that and the court would take it into account to distinguish the person from someone who was a serial kleptomaniac, for example.

Senator SCULLION: Obviously, your organisation has the capacity to follow these processes. I do not have that, but I would have assumed, for example, if an Aboriginal man said in a court, 'Listen, I was going to a funeral and that is why I had to take the car,' and if those were the facts and if I were to say, 'Look, I had to go to the funeral and I had to take the car'—and say neither of us had a licence—on the face of it I would seem to be prohibited from having a customary matter being taken into consideration as mitigation in sentencing but he would not be. Then it comes back to what the courts would interpret as a customary matter. So we were both going to a funeral. Everyone goes to a funeral. The circumstances of going to a funeral and needing to be there, as a very important event, are not necessarily customary. So have the courts interpreted those sorts of matters along those strict lines that if there is an Aboriginal person anything that could be considered customary is then not mitigating or have they said, 'Well, this is not only customary as there are other matters as well'?

Mr Hunyor: I follow your questioning. I do not think it has come up. Take the example I gave before, of someone, a non-Aboriginal person, receiving Centrelink benefits for Christmas. I do not think the court has taken that approach and I do not want to encourage the court to take that approach against non-Indigenous defendants because it would be an unfair approach. My point is that they really should be. If we are deadset about nondiscrimination then they should be. There is an American academic, Patricia Williams. She is a black woman who describes the majoritarian privilege of not noticing one's self. That is the danger with this sort of law, that we, being white fellows, do not recognise our culture and our custom as we think that is the status quo. When it is Aboriginal people it is custom and culture and it is excluded. That is why at the core of this law there is something that really should trouble us.

Senator SCULLION: Thank you. There are just a couple of issues. You have come up with some as part of an excellent submission, I have to say, as part of Aboriginal Peak Organisations Northern Territory. A lot of work has gone into it and it has been very instructive. How do you consult, apart from within your own organisations, to your knowledge, to come up with that view? The reason I ask the question—so that you can see the sense of it—is that, wherever we go, everyone says we know nothing about this. We have had all this consultancy. I just wonder how you have gone about it. Was it a personal sort of thing? I know your organisations interact deeply with the communities in any event. I just wonder if you have any comments to make about, perhaps, how you consulted with the mob and how you came up with the conclusions you did.

Ms Collins: Aboriginal Peak Organisations NT represents the two land councils, the two Aboriginal legal services and AMSANT. Our contribution is where it relates to the justice issues. We work as a team with our management to look at the legislation and what our comments are on that. That is then presented to our board directors, who then have input into it. Our board directors represent a variety of industries in the Top End of the Northern Territory plus the remote communities as well, so the input we get is from community members, who are represented by our board directors.

Mrs Fox: Can I make a comment?

Senator SCULLION: Certainly.

Mrs Fox: Our board is made up of three regions. We have Nhulunbuy, Katherine and Darwin. A number of discussions have come across from the board—it is numerous, actually. Aboriginal people are telling our board members before they come to the meeting that Aboriginal law never changes; therefore, if an older person or an auntie says to you, 'You've got to do this,' you have got to do it, regardless of your education and everything else. Aboriginal law says you must obey that older person because that is the law.

When it comes to customary law, a lot of our board directors have brought back issues where Aboriginals in the communities are saying, 'We would like the customary law to happen first before the police go in there and charge them and take them to court,' because Aboriginal people in the bush are more frightened of customary law than they are of going to court. Going to court and going to jail can be a bit of a luxury if it is just for a minor thing. For example, if you do not have a licence, you go to jail if you are caught, on numerous occasions. If Aboriginal people are serious about being Aboriginals and in the bush, the customary law is not always sparing or doing things that are violent. There are other ways that Aboriginals can make customary law happen so that they punish the person before the police come in and charge them, and then they go to court. That way, we believe—some of our board members believe—that you would have a better effect of justice than you would by just the police going in, charging Priscilla for stealing all the towels and sheets off the line and sending her to court. That is not going to make a difference, because she could do it again.

Senator SCULLION: That is a very important submission, Mrs Fox, because, whether that is the case or not nowadays, I certainly think it is a very important part of the process. Given this particular provision that exists to say that customary law cannot be taken into consideration, the notion of double jeopardy would be an instant barrier to a decision to adopt that, because, if it could be taken into consideration, then obviously you would say, 'Consideration could be taken about the customary law consequences I've already gone through.' You would have some confidence that that would be the case. The court would then obviously say, 'We would have to take that as mitigating circumstances in sentencing,' irrespective of the determination of the court. But, without a change in these provisions, that could not happen. Thank you for that.

Mr Hunyor: Can I just add, on the issue of consultation, that some of the other work that NAAJA does through its community legal education team involves working closely with particular communities—for example, in Lajamanu, the law and justice group. We have very much taken a community development approach to our community legal education, so we are not going to communities to tell them what we think they need to know; we are going to communities to really develop relationships and increase their capacity to engage, through things like law and justice groups, with the justice system.

We get a lot of feedback through those sorts of processes from the communities about the things that are troubling them and, as Priscilla and Dorothy also touched on, it very much comes back strongly to us through our board, who all get, in their communities, things fed back to us. We often receive emails when an issue arises in a community and is a cause for concern. Also, through the work that our welfare rights team are doing on income management issues, they are doing a lot of community legal education. Again, we very much try to link our advocacy to all of the grassroots representation we do in criminal and civil work, welfare rights and community legal education.

Senator SCULLION: You have already made submissions on this particular issue, but I wonder whether on notice you could do two things: first of all, quantify the impact the Northern Territory response legislation had on the demand for your services; and, from that, see if you can extrapolate what the extension of the Stronger Futures legislation would have on further demand for your services and what resource constraints that will put on your service delivery.

Mr Hunyor: Sure

Senator SCULLION: Please do that on notice. I am not asking you do it today.

Mr Hunyor: The one thing I can say about that today is that we can quantify the increased demand in terms of our criminal law. In terms of our civil law, we can tell you that we have put on three lawyers to do welfare rights across the whole top end. What we cannot quantify is the thousands of people we could help if we had five times as many lawyers. We could triple the number of civil lawyers we have to assist with any of the civil law areas that we deal with, and we would happily keep them busy all the time. It is hard for us to quantify that.

Senator BOYCE: Would there be any organisation that might know the quantum of that unmet need?

Mr Hunyor: I do not think so. There are a number of reasons why it is hard to quantify. One of them is that there are a lot of people who do not know they can get that sort of assistance. With general civil things, often the problem is people may not recognise that they have a legal problem—they might have a particular issue that they do not recognise as a civil law remedy. So part of the work we do is to try to make sure that people understand what the civil law is and they can come and see us about it. We service the communities by trying to visit them every six weeks or every two months with a couple of lawyers for a day or two. That is the best we can manage. That is obviously grossly inadequate. Sending a couple of lawyers to Wadeye for a day every month, or every two months, is not even scratching the surface. We do the best we can, but the level of unmet need is massive.

Ms Collins : Currently, with the funding we receive from the Commonwealth for the Northern Territory intervention plus the welfare rights, we employ about 15 full time staff. Our concern is that that funding is going to get reduced, which will mean that our services to the remote communities will be reduced. Even with that funding it is still heavily under resourced, but at least people out in the communities can have access to justice. Our biggest concerns are that we are coming up to 30 June and have all these staff waiting with no idea what is going to happen past then and that we are looking at legislation which is going to be put in for 10 years, yet we have no guaranteed funding. When funding is provided, for example the NTER, it is funded on an annual basis, which means we cannot contract someone past 12 months. So to retain someone, it is a matter of continual retention and recruitment the whole time; we cannot future plan because there is no continuity of funding.

Senator SCULLION: Mr Hunyor, I understand why you would be unable in your response to be able to quantify it, but I think it might be very useful to have something like an abstract of anecdotes and your views on that as part of a submission, because I think that is absent in your formal submission.

Senator BOYCE: And perhaps a table of where you visit and when.

Mr Hunyor: We are happy to provide that.

Mr Clunies-Ross : I think there is an example of how that might work in the income management and in the seam field. As soon as another agency or another government department is involved, the amount of work that we will be required to do will escalate, because we will need to work through two agencies and our clients will have to have contact with two agencies. If it is set up the way it is at the moment where there is not just the single point of contact through Centrelink, it is going to complicate things for the clients and then, naturally, for us as well.

CHAIR: But it is clearly your view that it should be Centrelink?

Mr Clunies-Ross : I think so. Decisions about social security and administration should be done by Centrelink, and I think that is what people expect. That framework is, in our view, quite effective. Once we can get our clients to it and once they are engaged, it is a good framework to use.

CHAIR: And you only get involved at the SSAT level.

Mr Clunies-Ross : No; we will take clients through from the original decision maker to the review officer to everything else.

Senator SIEWERT: Can I follow up on that? I have quite a lot of questions. Do you keep a record of the number people who contact you for help and who you cannot assist? In other words, do you have a register of your own unmet need?

Mr Hunyor: I am not sure we do because we very rarely turn people away. It is one of the things we struggle with. We are the only service that can assist people with a lot of these issues in a lot of these communities. It means that our lawyers are frequently trying to make very difficult decisions about when to say, 'Look, I'm sorry but that is not quite a legal problem' or 'It's not legal enough.' We get people approaching us about superannuation the whole time. There are legal issues involved but a lot of it is about just ringing up and getting on the phone and helping people fill out forms. It is really not work that our lawyers should be doing but in a lot of these communities there is no-one else who can do it and so our lawyers have a lot of trouble with very vulnerable people, particularly elderly people, saying, 'No, sorry,' while knowing that that person would now not get access to that superannuation because they cannot do it. So it is a constant struggle and it puts a lot of stress on the lawyers.

Senator SIEWERT: On income management, you have just mentioned that you get involved from the original decision. Maybe you will take this on notice. How many clients have you worked with on appeals over decisions on income management? How many of those have been successful or unsuccessful?

Mr Clunies-Ross: We can take that on notice. I do not think the figure would be very high. Generally we tend to be able to resolve income management issues at a level before an error review. A lot of the time it is about conveying information. People will come to us pretty confused and if we can get information on what their circumstances are and why they are in these circumstances we can say what they can do to find a way out of them, so access exemptions or access rights of appeal. Once they have that information they are often better equipped to take things forward. We can find that out for you. We try to intervene at a lower level by providing information. Often once Centrelink come into the picture and understand the issues, they are good at sorting things out.

Senator SIEWERT: I want to go back to the issue of customary law. I will preface my question by saying in Hermannsburg on Monday we heard very strong concern about parents not being able to discipline their children anymore and about a lack of discipline. Parents could go to jail. They knew children could threaten them as parents by saying they would tell the police. In my head I connected it with a comment that I heard, one that someone made to a meeting I attended not long ago. It was about the issue of customary law and elders not being able to have authority anymore because they feel undermined or the younger people see them being undermined by the courts not putting value on customary law anymore. Have you come across that issue? Has that been raised at all?

Mr Hunyor: That latter point you make, about elders feeling undermined and not valued, is absolutely the message that we are getting from the communities. That was reflected in the opening comments that Colleen made. What this law says to Aboriginal people is: 'Your laws don't count or, in fact, are part of the problem.' That really is deeply undermining. It really goes to the heart of one of our fundamental concerns with intervention as an approach to solving problems for Indigenous communities, in that interventions come in on top of communities and are doing things to people rather than with them, which really undermines them. The sorts of things that we think there are real value in include working with elders in things like community courts or law and justice groups, to engage them in the process so they can be involved in taking responsibility for offending

behaviour. Also, there is the offender having to face up to the community and having to take responsibility for their offending in terms of its effect on the community. They are the sorts of things that we would like to see properly resourced and properly supported, rather than more punitive approaches, which we do not think work.

Senator SIEWERT: I will go back to the alcohol plans and a point that Senator Scullion has raised on several occasions during the last couple of days. It is a point that I do not quite get because I do not understand some of the minutiae of the NT laws. There has been comment made about the changes that are coming in with Stronger Futures around the 350 millilitres law. Is bringing their current prescribed community laws in line with the broader NT laws? Have I got that right? I do not quite understand that. Is that your understanding? If so, I do not quite understand that in terms of existing NT law outside prescribed areas. Am I making myself clear?

Mr Sharp, : My understanding is that prior to the NTER there was a legislative framework whereby the penalties for bringing into communities even small amounts of alcohol did include imprisonment. So there is a sense in which the proposed amendments simply restore the regime that existed in the past. I do not know if that—

Senator SCULLION: That is what has been put to me. Part of the discussion, I have to say, was that we have an opportunity to change either end. We will have to see how that goes, but it does not necessarily mean, given the evidence that has been given, that we need to accept it. We have to move back to another regime.

Mrs Fox: If I could just make one more comment, please. Last year was 100 years of the justice system in the Northern Territory and the magistrates funded a workshop to bring Aboriginal elders and people in from the various communities to discuss customary law and how that would affect the courts. I understand Ben Grimes went and got a package put together for the magistrates. Would that be of any value to you?

Senator SIEWERT: That would be great.

Senator BOYCE: I am not sure, Mrs Fox, whether I should direct this question to you or not. I am following up on Senator Siewert's question around people, women particularly, in the communities telling us that parents were no longer game to discipline their children, because they feared going to jail. Children were saying, 'I'll tell the police you abused me' and whatever. It seems to me that, if this is actually a genuine concern people have, it is very undermining of any sort of stronger future for anybody. Are you aware of this view and, if so, have you got any sense of where all this fear came from?

Mrs Fox: I have my own view on this. The kids get a lot of television out there. I have had several cases in my experience as an alderman where the children are actually bullying their parents into giving them money, clothes and whatever because if the parents do not then the kids can go to the police and the parents will get reported. They literally have single parents, mainly the women, scared to do anything because they are going to get in trouble. This is rife in the northern suburbs of Darwin and it is also out there at Palmerston as well.

Quite often you come across women thinking, 'What can we do? How are we going to get around this?' There is not research into it; it just happens. And the bullying that is happening at school gets carried home from the kids fighting at school. They have actually gone home to some of the kids' homes and belted up the mother. The police cannot do anything about it because you have got to catch them in the act. This is on the increase. The kids are just becoming so vicious towards one another—and particularly their mothers. I am at a loss. I do not know what to do.

Senator BOYCE: My next question was going to be about what we do, but I guess that is—

Mrs Fox: I suppose we could do some research into it. No-one is doing research. Sorry—the Red Cross are.

Senator BOYCE: The Red Cross are?

Mrs Fox: Yes

Senator BOYCE: Okay, we might try to put some questions on notice to them.

Ms Rosas: Just to reaffirm what Mrs Fox was saying, that is generally across the board. The other thing that sort of supports that is this homeless allowance that children get. The education system talks to children and says, 'These are your rights.' Yes, they are rights, but that is going across. I know of one particular community where the elders try to form a pretty strong group, but because there was absolutely no recognition or respect for the elders and their role they were called the 'tea and biscuit committee' because they were seeing that the law was not respected or acknowledged by the young people. That happened a few years ago up here. But with the young children today—and personally as a grandmother I come into contact with children a lot—the minute the parents say something there is the thing where they say, 'If you slap me I'm going straight to welfare' and 'I can go and get a homeless youth allowance and I can move in down the road.' So there is a lot of stuff around there that is really taking away that responsibility from parents and grandparents.

CHAIR: Are you sure that is not seen as just something that Aboriginal families—

Ms Rosas: No, it is not; it is generally across the community.

CHAIR: That is something that was raised very strongly in Hermannsburg.

Senator BOYCE: But I do not think it is an overall fear in most communities, whereas it appeared to be so in the one that we were in. You are saying you saw Centrelink as the better implementer in terms of decision making around income management et cetera. Your submission says your experience is that there is insufficient understanding amongst Northern Territory authorities of how income management works and how it can assist or disadvantage a recipient. Are you able to give us some examples of what you mean by that comment?

Mr Clunies-Ross: I do not think the public housing department in the NT is fully across how income management works. And they could potentially be a referring authority under this. If the laws are implemented to allow them to make referrals, you might find that someone is getting referred because they are six months in arrears with their rent. At the moment, with a lot of the properties in remote communities having money coming out of their income management to pay their rent, Territory housing does not even know who is paying rent and what houses they are getting rent from. Their systems have not been able to cope with the transition.

Senator BOYCE: So a person could be being income managed to cover their rent but NT housing does not know that the rent is being paid?

Mr Clunies-Ross: Exactly. We have been trying to appeal some situations for people who should be getting a rent refund because the toilet or something has not been working at their house for a couple of months, and the Territory comes back to us and says, 'Can you demonstrate that they've been paying rent to us?' So we have to go back to Centrelink and the income management statement to say, 'Here's six months worth of rent that has been going to you and this is where it's coming from.' And then they might engage with us. So there are those sorts of examples. So I think the authorities are not fully across it; I do not know whether they will become more so over time, but at the moment it is limited.

CHAIR: We have asked you for a few things to get back to us with, and that would be very gratefully received. Thank you for your patience.

BATH, Dr Howard, Northern Territory Children's Commissioner

HARWOOD, Mr Adam, Senior Policy Officer, Office of the Northern Territory Children's Commissioner

[14:38]

CHAIR: Good afternoon, and thank you for your patience. Dr Bath, how long have you been in the job?

Dr Bath: Since June 2008.

CHAIR: That might have sounded like a rude question. It is just that we have had a series of witnesses over the last four days that have been in their jobs for a very short time. I should have thought to research that, but my understanding is that the whole of the internet in the Northern Territory is down at the moment—or at least in Darwin. I now invite you to make an opening statement and then we will go to questions from senators.

Dr Bath: I work under something called the Care and Protection of Children Act in the Northern Territory. Its core object is to ensure the wellbeing of vulnerable children, and I think that has some relevance to the purposes of the current bill. My formal functions are a few. I deal with complaints about NT government funded services for vulnerable children. I monitor the implementation of government decisions arising from the inquiry into the protection of Aboriginal children from sexual abuse, otherwise known as the *Little children are sacred* report. I have a responsibility to monitor how the implementation of those recommendations is going. Many of the decisions and targets were contained in the Northern Territory Closing the Gap initiative. That was prior to the COAG Closing the Gap initiative. Essentially that was the Northern Territory government's response to the *Little children are sacred* report. On the ground now we know that many activities are undertaken under the National Indigenous Reform Agreement, so there is much more, I guess, a shared role, often with the Commonwealth funding and the Northern Territory delivering services around families and children who are vulnerable.

My comments about the bill in question today will primarily focus on the tackling alcohol abuse measure, as that has the most direct bearing on child safety and well being—not the only one, but the most direct. I broadly support the intent of the food security measures. I think it will be a long time before we can see firm results from that. But certainly the intent is a positive one, considering that neglect is by far the largest area of child harm—that is substantiated in the Northern Territory—and part of that of course is associated with nurture. I will not be offering any specific comments on the food security or the land reform measures, and the perspective I take is of course quite different to NAAJA's. It is not on the legal technicalities of the bill but a broader focus on what the intent is and what the research is telling us.

Looking at the tackling alcohol abuse measure, I am supportive of the apparent focus on the more consultative place-based approach dealing with alcohol management and reform. Hopefully, that is a response to the often raised criticism where it is a blanket measure rather than a tailored measure that involves consultation with the local communities. The regulation impact statement on the alcohol proposals discussed the pervasive impact of alcohol consumption on men, women and children, and we know that the impact is particularly detrimental to the wellbeing of the most vulnerable, the infants and children.

We heard a lot about the vulnerability of children sexual abuse a few years ago, but in fact the vulnerability is much more pervasive and widespread than that. The safety and wellbeing of children in remote areas and town camps is severely under threat in the Northern Territory and remains so. Their circumstances are perilous, even when compared to the circumstances of Indigenous children in other Australian jurisdictions. There is a mass of data supporting that contention. They have been documented widely. There have been a few improvements. It is not all a 'misery index', as Bob Beadsman would say; there have been a few improvements. But we still have serious problems with otitis media, with up to 70 per cent of kids in some communities affected. There is anaemia, which has pervasive life-long impacts. In some communities we still hear of up to 40 per cent, with an average of around 22 per cent of remote area kids. Skin conditions, such as scabies, is one of the areas that has not improved in terms of the medical outcomes in the last few years. By the way, anaemia and otitis media have improved just a little bit over the last few years.

Exposure to neglect is dramatically on the rise. That might be because of better detection and better reporting, but the statistics are suggesting that is on the rise. We know the alarming statics about exposure to alcohol during and after pregnancy. Regarding exposure to high rates of tobacco use, more recent research is documenting just how pervasive harmful smoking during pregnancy can be on the development and the prospects of the children.

I could go on. But we now have clear measures of what these hazards are doing to the children in the Northern Territory. You would have heard about the alarming rates of child suicide, because a suicide inquiry concluded just recently. We know the infant mortality rates are still about 3½ times those of the rest of the country.

The Australian Early Development Index has provided us, for the first time, with comparative measures on what is happening with our younger children. I am sure you have heard of it. It is a developmental assessment of children in their first year of schooling right across the country. Children are assessed on five domains of development. Under these five measures, those with multiple developmental vulnerabilities will need special assistance to succeed in school and to obtain assistance for all the lifelong benefits that regular schooling provides. The research on that is unequivocal.

Across Australia, 11.8 per cent of children have multiple developmental disabilities. That is a lot. But when we look at our Indigenous population in the Northern Territory, the relevant number is 46.8 per cent. Nearly half of all the Indigenous kids in the Northern Territory have multiple developmental vulnerabilities that will impair their prospects at school. If we look at what is called the intervention zone, which is mainly the remote communities and the town camps, it has been estimated that the number rises to 60 per cent of those children. They have multiple developmental vulnerabilities as they enter school.

One of these hazards facing children receives less attention than it should, in my view, because it is hard to measure and it is also difficult to talk about publicly. In fact, when I look through the bill, there is very fleeting reference to it, even in the contextual passages. I am referring, of course, to exposure of children to chronic family and community violence. The levels of exposure of vulnerable children to violence in the Northern Territory are extreme even compared to vulnerable children in other jurisdictions in Australia. Here are just a few facts from recent government publications. Sometimes these need to be dug out. They are not always immediately apparent.

The first one is this: the night patrols were one of the measures of the intervention. Some of them did exist as community developed measures prior to the intervention, but the majority of them were funded through the intervention. In 2010, for the night patrols in a target population of 29,000 adults, the goal was to be a first response to individual and family violence to try and prevent that violence from escalating. In that population they responded to over 100,000 incidents of violence. That is there in the Northern Territory report. Recently the Australian Institute of Health and Welfare put out its hospitalisation statistics for Indigenous people in Australia. Across the board, Indigenous people in the Northern Territory are hospitalised after being assaulted—and we know that is right down to the hard end of the violence—at twice the rate of Indigenous people in other parts of Australia.

Of particular concern is the vulnerability of women and children. According to the Australian Institute of Health and Welfare, Indigenous women in the Northern Territory are hospitalised at a rate that is 69 times higher than that for other women. I have just had a look at some of the Department of Health statistics here in the Northern Territory. Those local data are even more extreme. They are saying for the four years to 2008—and I must say we have not got really recent data, so we cannot make any implications here about the intervention's effectiveness or not on these data—the hospitalisation rate for Indigenous women here in the Northern Territory in the five main hospitals was 82 times higher than that for other women. What these data tell us is that each year 2.5 per cent of all Indigenous women are hospitalised for assault in the Northern Territory. It is almost staggering to consider what is happening. New South Wales has two and half times more Indigenous people than the Northern Territory. The AIHW records that in that period of time, the two years to 2008, 635 Indigenous women were hospitalised for assault in New South Wales. The comparative number for the Northern Territory with a much smaller population is 1,727. It is staggering. In my role as Children's Commissioner I am concerned about the impact on children and their prospects. In many of these incidents children are present. They are witnessing what is going on. They are experiencing and absorbing the impact of what is going on.

I have listed these statistics and I am very conscious of the potential for blaming and shaming. I do not feel that. I by no means wish to apportion blame to those that are perpetrating violence. That is up to the courts to do. Many of these people, men in particular, have been historically exposed to chronic violence themselves and extreme forms of disempowerment. So I am not drawing any implications about what is happening, even though I accept that everyone has some level of personal responsibility.

Developmental research—the reason I am going into this is because of the emphasis of the bill—has clearly shown that the experience of being safe or feeling safe is the foundation for all other development. If it is not assured, the emotional, cognitive and social development of the child will be severely impaired. There are now mountains of research that will support that contention. Given that, I cannot do anything other than strongly support the broader initiatives in the bill relating to alcohol management. I do not have much to say about the specific penalties because I do not really know how they work and how they compare, but I support the broader initiative around restricting supply and trying to cut down on consumption. But I also want to emphasise this: the violence does not always occur in the context of alcohol consumption. In fact, from the available data, about 50 per cent of incidents here in the Northern Territory may not be alcohol related. I acknowledge the initiatives taken

to ensure the safety of women to date. For example, as part of the intervention, we talk about the extra police, the extra police stations, the safe houses in the various communities and the night patrols. But clearly the pervasiveness of the problem of violence suggests that needs to be, in my view, our No.1 priority.

There are many positive things happening in the Northern Territory, but they tend to be a little bit piecemeal—a little bit of funding comes from a program for this particular town or this particular sort of problem. There is not a strategic approach across the Territory for dealing with the problem of personal and community violence. We have wonderful programs like RespectED from the Red Cross, the interagency domestic violence response in Alice Springs, the StrongBala program in Katherine, the No More program from Catholic Social Services, Peace at Home, Love Bites, and I could go on and on. There are a lot of these scattered programs almost operating on a heroic basis across the Northern Territory, but there is a lot that we do not do. We all know we need community based safety plans developed around the issue of a place based solution for the problem of violence. We have been talking about community safety plans for a long time now. I would like to see how many are actually up and running and in operation, particularly in our remote communities. We need to talk about the lack of mental health facilities and services in remote areas and of counselling services, particularly—for men and women. We also need employment related initiatives because from the surveys in the NTER it was very clear that the availability of employment and a strong role was an important aspect of people keeping safe.

So I want to thank you this afternoon for your invitation to address the standing committee, and I am open to any questions.

Senator SIEWERT: I found your information extremely valuable but also, of course, distressing. Can I go to the comments you made around the broad support for the initiatives? Both Congress and the People's Alcohol Action Coalition made strong calls for a price mechanism as well. Have you considered that, and do you have an opinion if you have?

Dr Bath: I certainly have considered it, but I do not consider myself an expert in the technicalities of alcohol management. I am certainly aware that there is a strong push for a floor price on alcohol. It seems to make a perfectly valid assumption, but I have not seen the data on it. I have not seen long-term data that conclusively shows that putting a floor price on it is actually going to make a social difference.

I am trying to say that I am supportive of the intent of these measures but I cannot speak really intelligently to the issue of whether I believe it is going to work.

Senator SIEWERT: I take your point: you are saying, 'Yes, do something about alcohol, and the experts should work out the best way to do that.' Is that right?

Dr Bath: It should be a priority in terms of research and implementation.

Senator SIEWERT: You made a comment about 50 per cent of the violence being alcohol related?

Dr Bath: There is a variety of data on that. This is the dilemma, because you can look in the NTER evaluation report and you can see that for domestic violence responses about 40 per cent—in fact it is down in the 30s—have been definitively associated with alcohol abuse. But you see other data suggesting 66 per cent for violent incidents, or 60 per cent, I think, if it is domestic violence is related to alcohol. It depends on how the data is collected. Either way, what I am trying to say is that that still leaves a big chunk of incidents that are not alcohol-related.

Senator SIEWERT: I take the point: you still have a percentage of violence that is not related to alcohol.

Dr Bath: Yes.

Senator SIEWERT: Do you have some thoughts on what it could be related to, how you deal with that and what measures we could look at to deal with that other percentage, whatever it is?

Dr Bath: I do not know what the percentages are. I just know that there is quite a lot of data about violence being associated with, for example, exposure to violence in childhood yourself; that it is a development problem around the management of impulses and the regulation of emotions—that sort of thing. They have very clearly been linked with early developmental trauma. There are a variety of reasons for that.

CHAIR: We heard yesterday at Maningrida that one of their key concerns was marijuana—ganja. They felt that the focus in this legislation specifically on alcohol did not meet the needs that were underlying disruption in that community. Is there any data that you have that supports that?

Dr Bath: That is a very good point. I do not have data, but I have quite a lot of anecdotal evidence to support that. In many of the communities I visit I have people say to me, 'What's all this fuss about alcohol, when every one of the young people—in fact, many of the adults—are smoking ganja on a daily basis?' That is related, in some circumstances, to the neglect of children.

I know that anecdotally and—if I can remember rightly—if you look in the NTER evaluation report, in many instances the Indigenous people in most of the communities rated the problem with ganja higher than the problems with alcohol.

Senator SIEWERT: That is certainly consistent with some of the evidence we have received. You said at the beginning that you are also responsible for monitoring the implementation of the *Little children are sacred* report. Can you give us an update on that implementation?

Dr Bath: We do give an update each year in our annual report. I have to say that it is not quite the implementation, it is the implementation—it is very technical here—of government decisions arising from the *Little children are sacred* report.

Senator SIEWERT: That is a good distinction.

Dr Bath: And it is NT government decisions. Most of those decisions have indeed been implemented successfully. There are some that have been implemented and then fallen back a little bit, and there are a few that have not yet been implemented. But if you read the *Little children are sacred* report and its recommendations about alcohol policy, you will notice that the policy cycle has moved on several times since then. In fact, all the stuff we are talking about today is an example of that. So some of those original recommendations probably need to be considered in the light of recent policy developments.

Senator SIEWERT: Fair enough. Thank you. I want to go to the issue you brought up around multiple developmental vulnerabilities. Even if we looked at the 46.8 per cent rather than the 60 per cent, that means that almost 50 per cent of children need special assistance at school. What form of special assistance are we talking about?

Dr Bath: There I was quoting from an article by a Professor Silburn from the Menzies School of Health Research.

Senator BOYCE: I had been trying to remember where I had read that recently!

Dr Bath: He basically made the statement that they are going to be requiring special assistance to succeed in school. I can only assume that this depends on where the developmental vulnerability is—whether it is around speech, around social skills or around physical development for instance. What he is talking about is enriched programs to deal with those areas of vulnerability. But of course we are all very concerned about the fact that we are talking about children of the age of five or six years coming into the school system. A lot of the damage has been done prior to that. We are talking about appropriate nutrition, parenting skills, preschool, playgroups—a range of enriched support services, including the availability of therapeutic services and treatment services for mums and dads who are affected by some of these substances, so that people do not have to travel into Darwin to get those services.

Senator SIEWERT: Thank you. You are referring to things that potentially are not dealt with through the Stronger Futures package. I want to look at that, but also at what is being delivered through Stronger Futures, and whether it is adequate. For example, looking at the school attendance measures, getting kids into school is one thing, but what are we delivering? Is just getting them into the classroom going to achieve the objective?

Dr Bath: It is hard. I do not think any of these measures are going to be effective by themselves, and I think the data on AEDI would support that contention. What is the point of forcing all those kids into school if they are not able to sit in a chair and attend to the teacher? And what is the point of sending a kid who is coming from a circumstance of violence to school when they are just going to sit there and be concerned about issues of personal safety and then have to return to that situation? That is why I think the issue of felt safety is so fundamental to all the other areas of development.

Senator BOYCE: The *Little children are sacred* report talked about school as being almost a respite from violence.

Dr Bath: Absolutely, and I think that is generally the case. But the point I was making is that school is not going to be a panacea for some of these kids.

Senator SIEWERT: And they are not going to learn.

Dr Bath: Certainly Bruce Perry and other researchers say that often school is the only place of refuge for some of these kids. But I also have to say that, talking to Indigenous folk around the Territory, I got the message that sometimes they are keeping their kids back from school because they are frightened of playground bullying and issues like that in the school environment. I guess what I am saying is that I do not think any one measure, like ensuring that all the kids are suddenly in school, is in and of itself going to make a huge difference. Part of it is also the education of the parents, helping them see how important education is for the future of those kids—

how it is related to issues like employment and other issues of wellbeing. We know, for instance, that if kids stay in school they are less likely to be smoking chronically and drinking to excess when they leave school. The data are quite clear on that.

Senator CROSSIN: I suppose what I really want to ask you about is whether or not, given the work that you have done, you believe that income management has had any positive or, conversely, any negative impacts out in the communities and in the treatment of children.

Dr Bath: I would have to say this: there is the official data and then there is the anecdotal data. I am aware of quite a lot of anecdotal situations where I have heard that it has done a positive thing in particular cases. I am also aware that the NTER results suggest that around 60 per cent of people that have been on it in a compulsory sense voluntarily take up income management or remain on it when they do not have to. That does tell us something. We also know in many extreme cases that without it children are at great risk where there might be a problem with chronic gambling, for instance, or chronic alcohol misuse. My difficulty is that I am like everyone else. I see the official results out of the NTER—in the NTER evaluation report, this big fat document that only came out late last year—and my reading is that it was somewhat positive, probably not overwhelmingly positive but somewhat positive. That seems to be what we are getting from the official data. Anecdotally, I hear from quite a lot of people who say that it is useful in communities. It often depends on who you talk to.

Senator CROSSIN: Our government has a position whereby people who are income managed have to opt out or try to seek to get exemptions. Do you think that those exemptions are broad enough or not broad enough in some instances?

Dr Bath: I am afraid I do not know the detail enough of what you are asking, about whether they are broad enough, to be able to speak on that.

Senator CROSSIN: I raised an issue earlier with NAAJA about a report that has recently been released by the Australian Law Reform Commission. They have done a quite comprehensive review of family violence laws. We actually commissioned them to do that two-year review, as I think it is. Hidden somewhere inside their recommendations, and, as you said, you have always got to find the data and the recommendations, is a suggestion that victims of domestic violence should, in fact, have greater leniency when it comes to income management so that the classification of priority needs is taken into account so that they can have a ready amount of cash in order to move, relocate or travel. Have you noticed any difficulties as to families trying to escape from domestic violence and restraints that income management might have on them?

Dr Bath: I can say this, that I have come across many examples where women and children, in particular, are extremely stuck in terms of knowing what to do when they are exposed to domestic violence. I am sure most of us have personal experience of having to assist people in that situation who are living in Darwin and Alice Springs. So, in a broad sense, I think it is certainly true that many of the victims of domestic violence have very few resources, very few options and very few places to turn. That goes absolutely without saying. My ears did prick up when I heard that mentioned because I think the issue is that if someone truly needs to have their income managed it is probably because kids are at risk in that situation. I am talking about if they truly do need to have their income managed. I do not know whether making some sort of blanket statement that the money should be returned is necessarily a good thing. Maybe if it were assessed by a professional I would be more comfortable about it rather than making a blanket statement. But if the issue is that it is being managed because kids have been neglected in the past, I do not think that is a valid contention.

Senator SCULLION: Thanks very much for your evidence, Dr Bath. For myself, as Rachel Siewert said, I think, from my view, it is a bit of a shock sometimes to see those numbers, particularly in the territory, and it has to be acknowledged I certainly do not have a clear understanding about why that is the case. I think it all gives us a bit of a reminder about the motive for the last two pieces of legislation and the legislation that we are considering at the moment. In terms of community safety plans, I put it to the committee that we actually write to the Northern Territory government to find out what the implementation plan has been and what has actually been completed. If you are unaware, perhaps we can find out and provide that to you.

Dr Bath: I am aware that there have been initiatives in some areas around this, but I am also aware that some of them have started and have not kicked on. I am also aware that in some places, as has been mentioned, as the community councils often do not exist anymore because of the new shire system that has made negotiating these plans extremely difficult.

Senator BOYCE: Because there is no logical community group to do it.

Dr Bath: That is right, to consult with.

Senator SCULLION: But many of them will write to the government and they will be able to do it.

CHAIR: The government are appearing tomorrow, so we can ask them.

Senator SCULLION: One of the issues about the statistics on domestic violence is that these are the sorts of statistics you get at different places around the world with effectively the same demographic. It is normally a pretty disconnected, very poor demographic, so it is not really about ethnicity; it is just about very poor people.

Dr Bath: That is right, about social conditions.

Senator SCULLION: I am not sure that I have ever struck anything, apart from at the punitive end, where we can change the cultural approach. In fact, I heard in a community that we looked at this week a differential made almost casually that, 'No, we are talking about real violence out there in the open where people can see it, not the business with a man and a woman at home.' It was almost like one is okay and one is not. It is the sort of thing that we would see in a pub in eastern Belfast where someone tells me, 'Ah, look the missus does well with a bit of contact counselling.' Bullshit! The things we remember from the past still happen in those areas.

What do you know about other mechanisms where there have been attempts to normalise the culture? I am not talking about Indigenous culture but the culture in the community about a different level of acceptance of domestic violence in some circumstances where it is all right and where it is certainly different from the mainstream Australian norm.

Dr Bath: There is a lot of discussion of that issue, as you know, in the anthropological literature. I am not an anthropologist, so I am a little reluctant to go there. I think I know what you are talking about.

Senator SCULLION: I will rephrase the question. I am talking about the culture of people who are poor, not an Aboriginal culture.

Dr Bath: I accept that proposition that we are not fundamentally talking about an issue of aboriginality. We are talking about very poor social conditions, pervasive disadvantage and lack of employment. When you get those sorts of conditions, whatever ethnicity or cultural group, you are going to get a lot of these similar sorts of problems. The discussions about lateral violence come into that frame, don't they? Often where there is that level of disadvantage you are going to get that sort of violence.

Senator SCULLION: In fact, it is the type of violence they are very happy to talk about. We are not happy to talk about violence in our own generation.

Dr Bath: True.

Senator SCULLION: I know you have done a lot of international research about looking at mechanisms under education programs that might try to change some of those mechanisms. I certainly have not struck them, but I would be very keen to know if they exist.

Dr Bath: Across the Territory there are a number of programs that I have mentioned. For instance, there is a program called Respect(ED)—I think it is called the StrongBala program in Katherine—where people are specifically working with vulnerable men, for example, on a counselling support basis to empower them to behave in more appropriate social ways. I could name any number of those sorts of program operating across the Northern Territory. Some of them are exemplary programs. But, as I said before, it is a piecemeal approach, it is not a strategic approach, to dealing with what is a pervasive problem across this Territory. The federal government has shown a lot of interest in what is happening here. We are talking literally in the billions of dollars, but it tends not to be a strategic focus when we realise the pervasiveness of the problem, say, around domestic and community violence.

Senator SCULLION: What do you think are the particular issues? You can travel from Broome in Western Australia in a straight line to Queensland. We travel fundamentally over a whole range of communities that are not dictated by a line that says the Territory or Western Australia. Yet you say that the circumstances that we find through the very interesting statistics you provide today are not replicated in other jurisdictions. Could you just contextualise that? Is it because those other jurisdictions have lots of other heavy metropolitan places?

Dr Bath: Yes, the Northern Territory is a historical artefact. We could define the boundaries in another way. That is absolutely true. I think you get similar issues in the northern part of South Australia and western and northern parts of Queensland. One of the things you are talking about is what can be done. When FaHCSIA did that survey of community safety it was undertaken by Indigenous people. I think it is one of the most impressive pieces of research that have been done in the Northern Territory. When people are talking about solutions in terms of safety, one of the solutions that comes up all the time, often at the top of the list, is employment opportunities, particularly for the men. When you have got a role and a purpose, a lot of these other issues are going to fall away. We hear stories about the Argyle mines and thing like that in the western part of Australia. Where there are strong initiatives and partnerships on doing something around employment we are starting to see some social

change around issues like community violence. That has to be one of the areas. The national initiatives about increasing the employment options for Indigenous people have to be fully supported. There are not so many strong initiatives in the Northern Territory but there is some potential for them.

Senator SCULLION: From one of your reports I can recall there were 15 child deaths between 2006 and 2008 and they were all of the same type—there was self-harm and hanging. I think you made a remark that it was unusual that these figures came together, the type and the mechanism of self-harm, and that it only really happened at such levels in the Northern Territory. Have you got any insight about why that might be the case?

Dr Bath: That is a difficult question again. There is no doubt that the rate of self-harm is higher here than in any other jurisdiction. In fact, there is some evidence that it could be amongst the highest in the Western world. It is obviously linked with those social conditions and hopelessness. They are all obviously linked together. We have been talking about the rate of youth suicide just recently in terms of what is happening in the Northern Territory. It is a particularly high rate and it affects people in the very remote areas, in the town camps and also in the urban areas. It is unfortunately no respecter of persons. It is a hazard wherever you are living, particularly here in the Northern Territory. I do not know. We have been talking about possible solutions to that, but those are related to things like unemployment, to family relationships and to all the factors that contribute to the social fabric. Where there are multiple adverse events with children we know that we are going to get a higher rate of suicide, higher rate of self-harm, cognitive problems, relationship problems and social problems.

Senator SCULLION: Thank you very much, Dr Bath. I have taken more than my share of time.

Senator BOYCE: Am I right in thinking that suicide is just another form of violence, Dr Bath?

Dr Bath: No, I would not say that it is just—

Senator BOYCE: Sorry, I did not mean 'just'.

Dr Bath: I know what you mean. It is certainly linked with violence. There is no doubt about that. But it is also linked with other things. For instance, it is linked with lack of self-regulation—not all the time; sometimes it is linked with underlying depression or early psychosis. One of the patterns we see in the Northern Territory is a young person getting under stress and then wanting to end their life very quickly. In other words it seems to suggest they do not have a lot of social supports and they do not have personal coping mechanisms under the stress.

Senator BOYCE: Talking about the multiple developmental vulnerabilities, another area that does not get mentioned a lot because of the naming and shaming issues you mentioned about chronic violence is foetal alcohol spectrum disorder. I appreciate that there is a lot of work going on in terms of prevention and alcohol management, but there are a percentage of children right now who would come within your multiple developmental vulnerabilities and one of those would foetal alcohol spectrum disorder. What is being done for those children now and what is your view on what is being done?

Dr Bath: Very little in the Northern Territory actually. There is quite a lot of interest, but you can count the research papers done on foetal alcohol disorders on one hand—proper research. There is a little bit more now being done with Menzies and some of the interest that is coming from there. Of course, one of the difficulties with it is that it is very hard to research. If we are talking about foetal alcohol syndrome, where there are the facial features, it is much easier to diagnose, but, when we are talking about the pervasive effect of alcohol developmentally on the foetus, it is a much harder prospect. If you cannot name it and you cannot diagnose it clearly, you do not get resources for treating it. But we know that part of that vulnerability of those young kids coming in year 5 is that many of them would have been affected by alcohol in utero.

Senator BOYCE: You mentioned in passing that you did not have really recent data in relation to a couple of the comments you were making, I think based on the—

Dr Bath: On the hospitalisation of women, it is usually to 2008. There is some 2010 data in the NTER report, but it does not break it down by gender.

Senator BOYCE: My main question was in relation to the current national health survey that is being conducted right across all aspects of Australia, except for biomedical testing being done on Aboriginal children. We were told in estimates that this would not occur but it may be included in the 2017-18 census. My concern was around this huge data source that we simply will not have. Were you consulted at all about this?

Dr Bath: No.

Senator BOYCE: The reason we got in the end was that there simply had not been time to develop the protocols to have Aboriginal children included in the voluntary blood and urine tests. Getting permission there is more difficult perhaps than in other communities, but it seemed to me to be a large gap that this had not been

taken into account when it was first undertaken. Sorry; I have probably made a statement rather than asking a question, Chair.

CHAIR: Just say, 'Do you agree'!

Senator BOYCE: That's right! Do you have input into data collection that you would find useful? If so, what?

Dr Bath: I cannot really add to that particular issue because I do not know that much about it, but I would be very interested in the data collection. What is available to us in the Northern Territory seems appalling. We have kids in such need and parents in such need, but we do not have that data.

CHAIR: Thank you very much, Dr Bath and Mr Harwood. Was there anything we asked Dr Bath to provide?

Senator BOYCE: You will be tabling your opening statement, Dr Bath?

Dr Bath: I am hoping so.

CHAIR: I honestly cannot remember whether we asked you for anything else. No? Thank you very much.

Dr Bath: Thank you.

BRAHIM, Ms Pat, Chair, Indigenous Affairs Advisory Council**COLLINS, Ms Priscilla, Community Member, Indigenous Affairs Advisory Council**

[15:23]

CHAIR: Welcome and thank you for your patience. Senator Crossin has to go off and represent a minister in about 10 minutes time, so she wanted to assure you that she is not being rude by leaving. Do either of you have an opening statement?

Ms Brahim: I will do the opening and then we will share some of the principles out of that.

CHAIR: That is fine. If you have got a full statement set out, it might help to table it.

Ms Brahim: Have you got a copy?

CHAIR: No, we have not got your statement there, but if you can give it to us then we will have it for our records. Thank you.

Ms Brahim: Thanks very much to the committee for allowing us to come in.

CHAIR: We didn't 'allow'; we want you.

Ms Brahim: Before we start I would like to pay respects to the traditional owners of this country, the Larrakia people.

I would like to go back a step and give an overview of what the Indigenous Affairs Advisory Council's position is here. As members, we are representatives of our area of expertise. We are not Indigenous leaders as such across the Northern Territory. There are 12 members. We are representatives of different areas of the Territory but we are there as individuals in our own right because of the expertise that we have. In coming to this committee today we have the endorsement of Malarndirri McCarthy, so she supports that. We also look at the diversities that are within us as Aboriginal people that sit at this advisory committee. We have people from the remote areas and people who work within the towns in the urban areas of the Northern Territory. I want to make it clear that we are not elected spokespersons from the Aboriginal people across the Territory.

CHAIR: Can I just clarify: you are appointed by the minister because of the individual skills and groups from areas in which you work?

Ms Brahim: Yes, in the industry where we work. I also want to make clear that the advisory council is no different to the mainstream council or advisory committees that the other ministers across Australia have. We have the same technical role: it is our expertise that we bring to the table. We work as a team and we have terms of reference that we work to.

The advisory council has developed a charter of principles that we want to put forward as part of the Stronger Futures paper, and we presented that to Minister Macklin back in October last year. There are also some key solutions we would like to see implemented. The Stronger Futures paper is looking at it for the next 10 years and we think that is a positive move. There were concerns that on 30 June funding runs out with the termination of the year NTER. Looking at it for the next 10 years is something the advisory council supports. What we want to do is give some solutions to both the NT and the federal government for looking at ways of making that work.

We are not here to give the same sort of information as NAAJA and Dr Bath did. We have specialists across those areas that have provided papers, but as a council we are looking at ways for how governments can actually work better together and develop a partnership. What be good would be to have some mechanisms in place for having a review process, looking at monitoring services and being inclusive of the Aboriginal people by bringing in the Aboriginal peak organisations to assist in the process, and also possibly including the NT coordinator-general, so that there is some Aboriginal input into the process.

One of the key things, looking at learnings from the NTER, is that both the NT and the federal government have been focusing on output—the more police, the more this, the more that. It has never been about the outcome. So what we are suggesting about working in that manner is to look at the outcomes that will actually benefit Aboriginal people. Everyone talks about the disadvantage of Aboriginal people, but the processes are wrong and we need to get those processes right to make a difference on the ground. Some of the data that Dr Bath talks about is all theory. How you make a difference on the ground is what is really important, and we want to be able to work with both governments to do that. With the first principle—and we will give copies of this—one of the key things is the partnership stuff, which I have touched on. That is what is really important. What the NTER has actually taught us is that you really cannot go off and do things on your own if you want to make a difference. We have seen some positive outcomes from the investments to date, but there is room for improvement. All the data to date shows that things are still falling over. We have some really positive outcomes—and this is from the

members who come to the committee meetings—like education in small clustered areas. We have improvements in the school system because of the investments from the principals or from the education department in changing the way that they do business. It is in the bigger areas that they do not see any difference.

Probably the main things that comes out are the expectations and the whole transitioning. You probably would have heard over the last few days that 'this is just another NTER' and that sort of thing. The fear, I suppose, is the mainstreaming of services, and we need to look at how we actually start to look at place space and start to meet the difference in the different areas. Across the Territory we started off with 73 prescribed areas and now that has actually gone back to 26. What happened to the other 30-odd communities? So the investment is only in that 26, but not in the other areas. That is a really big issue when you start to look at it from where we sit.

I will pass to Ms Collins.

Ms Collins: It is really important that we focus on what the purpose of this legislation is. We all want to improve the lives of Aboriginal people for the future, but at the moment the main focus looks at this legislation that is in place. It is legislation, but we do not see the outcomes on the ground. We are saying that government should abolish the one-size-fits-all and that the policy should be developed specifically for the needs of each individual community.

Government should also consider, as a matter of urgency, ways to develop Aboriginal communities' understanding of the machinery of government, because that is where we fail. Many people in Aboriginal communities do not understand how government works, and that is where the partnership is not gelling. We also need to look at the fact that governments cannot work in isolation. Government should recognise that Aboriginal people and their organisations value-add to government. To do this, local community and family decision-making structures should be identified, acknowledged, supported and factored into the work of government. Acknowledgement and support for Aboriginal family and community decision-making structures is essential in ensuring that policies and programs are properly understood, supported and endorsed.

A reflective review process based on informed Aboriginal input by individuals and organisations should be built into legislation on a three-year cycle. As part of this legislative review, governments should recognise the role of Aboriginal people and organisations that also support ongoing service delivery to Aboriginal people.

One thing that is not really looked at in the legislation is that there needs to be a strong and total commitment to measurable achievements in advancing stronger and more independent families, better social outcomes and improved community life—not just a focus on program administration. If we are really focused on closing the gap, government must identify and invest in future programs with proven, measurable outcomes at a local level. We are saying that government needs to be transparent in their reporting of administration expenditure in Aboriginal programs. They need to take full responsibility for meeting key performance indicators and take the lead role in ensuring investments meet the needs of local communities, families and individuals.

We know about and see the reports of how many billions are going into the Northern Territory, but I can guarantee that when you go to a lot of these communities you will not see much change on the ground. That is because this amount is put into government administration and this other amount is actually hitting the ground. We keep hearing about millions and millions going in, but there is not that transparent report that says, 'This is actually how much is going to government administration and this is how much is hitting the ground,' and if we are going to make real changes on the ground that needs to happen.

Ms Brahim: Just to reinforce that, a lot more of the other mainstream NGOs are picking up a lot of the work that the Aboriginal organisations and communities have been doing for a long time. Because of their national bodies, it does not cost them as much to do things on the ground. But the actual bucket is going outside the Northern Territory and it is not benefiting the people that they provide services to. Dr Bath talked about the Red Cross doing the RespectEd program in Katherine. We have had a RespectEd program in Tennant Creek for the last three years, but it has not hit the ground—and that is funding that goes to Red Cross. From an Aboriginal perspective and where we sit, we see those sorts of things on a regular basis. You have got a mainstream program that does not get questioned but an Aboriginal organisation will, and it is because we have got to be able to respond more around those sorts of things.

The other key point that is not in the legislation is around the community homelands. The focus—you probably would have picked it up from Ntaria—is how important it is for people to work on country, to live on country, to keep the culture strong, to keep the spirit strong and in some cases to look after sacred sites. With the changes, when I talked about the 26 hub towns, growth towns, what we have got is an influx of people that are moving into those hub towns, which is leaving the homelands vacant. Somewhere along the line, when you are looking at

health and the increase in police with antisocial issues and more people going into hostels, if we start to look at the cost in that case as compared to giving funding for people to live on country, then that may change.

But at the moment we are expecting everyone to move into the main centres, and what people are doing is actually moving onto somebody else's country. We talked a little bit about collateral violence and those sorts of things. Mainstreaming is breaking down a lot of the culture because when you go into places like this, this is on Aboriginal land and everyone can do anything that they like. This is where a lot of Aboriginal people are moving into town and the cultural breakdown is that they are not respecting whose country they are going to.

They are the main things we have got to be mindful of as we talk within that. As members of that committee, the diversity of where we come from and our connections to country are just so far apart. But we have got to work through that so that we actually work towards making a difference at the end of the day and giving Malarndirri advice to have an impact and change within the government. If we can influence anything along this line, that is what we are hoping to do here today. That is the broad brush.

Senator SIEWERT: You said that you presented the principles you have outlined in the paper to the minister last year.

Ms Brahim: In October.

Senator SIEWERT: Have you had feedback from the minister or the department against those principles?

Ms Brahim: Not on a personal level.

Senator SIEWERT: What is your view of the legislation as we see it now against those principles? Have you done a comparison and fed that back to the government?

Ms Brahim: That is what is in the paper and that is what we will give to you. Except we identify that there are key points that are missing. The principle starts to look at what the government should be looking at in a way forward.

Senator SIEWERT: Are there specific measures that you see are missing? Against the principles, what are the key points that you believe are missing?

Ms Brahim: The one that talked about the machinery of government. While the legislation says this, there is no-one there who is actually making a difference back on the ground. From an Aboriginal perspective, we spend a lot of time teaching our culture to all the white fellas around the place, but no-one is really teaching our mob how the government works. Yet we are expecting a lot of our mob to be the same. The whole thing is about mainstreaming. That is compromising the identity, the spirit, of individuals. We need to get the balance back and we need to get the balance right so that people can move forward.

Senator SIEWERT: On the comments that you have made about mainstream NGOs picking up a whole lot of the project funding, that has been said to us many times. Every day of this hearing we have heard at least one organisation raise it. In Alice Springs, a comment was made that there should in fact be selection criteria that specifically addresses delivery by Aboriginal organisations. Do you think that there should be that sort of criteria in the tenders for projects—criteria that specifically addresses the need for the delivery to be by Aboriginal organisations?

Ms Brahim: I cannot answer that from the perspective of the advisory council because we have never discussed that. But from a personal perspective I do not think that the Aboriginal organisations can be precious. Our competitiveness needs to be in play. The thing that puts us at a disadvantage is that other organisations have specialist people writing these submissions. If the people who go through the process at the end get a whole whack of submissions piled high then when they screen those they say: 'This is a good submission. We'll put that through. That's the one that will get funded.' Aboriginal organisations have inexperienced people writing the submissions. They might have the right information but they do not know how to sell it. The person making the decision at the end does not have any understanding of where the submission is coming from. That is the key issue in all of this. There is a government panel that goes through the wads of submissions. If the people on that panel do not have any experience of or cannot relate to where those applications are coming from, it is easy to read something and say: 'This is a good application. Therefore, we'll follow through and we'll fund it.'

Senator SIEWERT: You made the point earlier that it is easier for the bigger national NGOs because of their size to be able to put in cheaper tenders.

Ms Collins: The outline and the tender is developed by someone who does not live in that region, so they do not understand what is required on the ground. That means that when the successful person goes out there they are not implementing things that are specific to that community. That is one of the issues: you have people making decisions and drafting stuff who have not even been to the places that are going to be involved.

CHAIR: The Northern Territory Coordinator General for Remote Services addressed from her point of view some specific issues around that tender process and Indigenous organisations. It might be useful for the Indigenous committee to have a look at that, because there was some really solid stuff in her evidence about exactly that point.

Ms Brahim: We have invited her to come to talk to her committee.

Senator SIEWERT: The other issues that has repeatedly come up is the number of different projects that are running and the number of different service providers. Is that another issue that you have looked at?

Ms Brahim: I come from Tennant Creek, a small town. We have a lot of providers that everyone owns bits off. We have about eight youth programs in town. You have your mainstream NGOs and then you have our organisation doing that. But we work in isolation, and yet it is the same group of kids. Tennant Creek has a population of 3,500. You have eight programs in town and the people running them did not talk to one another. It is about bringing them together. But at the same time we have to be tough enough to say, 'We don't need your program in this town.' But we cannot do that because we have no say over where the funding goes. That is done at a government level. If we have one of the mainstream NGOs in town, we cannot say, 'Go and deliver somewhere else,' because that bucket of money is dedicated to doing something in town. Tennant Creek is on the main highway. It has technology. But more remote communities have even more people going out there. When you are looking at service delivery, every man and his dog will turn up in Maningrida or Wadeye, for example. They do not talk. Their program becomes more important than the overall purpose, which is about making a difference for the people on the ground.

Senator SIEWERT: A lot of projects are run by the NT government. There are a whole lot of projects run by the federal government through DEEWR, FaHCSIA and DoHA. Does somebody map them all out for you? You have the coordinator general—Mr Gleeson—report. To enable you to provide advice, does somebody give you a map of all the different projects?

Ms Brahim: To the Indigenous Affairs Advisory Council?

Senator SIEWERT: Yes.

Ms Brahim: We can only get that from the NT government, because we are advising Malarndirri McCarthy.

Senator BOYCE: Would the NT government be able to provide if you asked for it tomorrow?

Ms Brahim: Probably not tomorrow, at least not for the whole of the Territory. Tennant Creek was not recognised as a hub town or a growth town. We were able to get support from the both the NT and the Commonwealth government to start to look at mapping every project around there and working out government funding is coming in. That has been driven by the Aboriginal organisations, because too many other people are coming in and owning projects. All we see at the local end is an agency turning up. We do not know what their purpose is. We do not know what they have been funded for. We have no way of managing it, because it is all done outside of Tennant Creek. About three times over the last couple of years a group has turned up and said, 'We're here to do this.' In the meantime, as an Aboriginal organisation we are already doing the things that they say they have been funded to do. It is a 'saviour approach'.

Senator SCULLION: Listening over the last decade to information about Aboriginal NGOs and non-Aboriginal NGOs, Mission Australia, Anglicare and the Red Cross have been delivering nationally and more so in the Territory for probably longer than the Indigenous NGOs have been round. That is for the obvious reason of capacity. Organisations like Julalikari now have exactly the same capacity, but Indigenous organisations do not often have the same level of capacity as they do. When we talk to FaHCSIA during this inquiry we will certainly ask them why these organisations have wider benefits and employment and all those sorts of things. I am pretty sure that they will tell us that they have an obligation to get value for money for the taxpayer and an obligation to get outcomes. If on the KPIs that they are judged on—and let us say that this is for a one-year contract—at the end of the year an Aboriginal organisation delivers better on the ground than these other organisations then they will be able to get future business. But the catch in all of that is getting in first. You cannot live the last 20 years again, so you cannot get the experience. Are you aware of any Northern Territory Aboriginal NGOs that are registered Indigenous organisations under the new arrangements with the Commonwealth?

Ms Brahim: We are.

Senator SCULLION: Is that your organisation or Julalikari? Do you know how much the differential would be as a consequence? There is now a list that the government provides regarding procurement. It was a great initiative by Senator Mark Arbib. I have been completely supportive of it. I was unable to do it in government, so congratulations to him for achieving this. What it effectively does is give registered organisations a considerable premium. There is a range of criteria that you have to meet, but it means that you get a percentage off the price.

There are a whole range of benefits that you get in a procurement tender system as part of the mainstream system. We are not very good as a parliament at extending those. I am more than happy to make information on that available to you through the committee. That may be of assistance. I was not sure if you were aware of it. It probably came in about eight months ago. I will make sure that the committee provides information on that to you. I am not sure how we normally disseminate things like that, but given that you are in the centre of some of this you may be able to disseminate that information.

Senator BOYCE: Through COAG, there is an opportunity for state and federal ministers to talk about Aboriginal issues. Is there any similar way for Indigenous advisory groups from different states talk to one another?

Ms Brahim: For what purpose?

Senator BOYCE: For the sharing information about what works and did not works. One group might have put a lot of time into developing a plan around a particular issue. The communication would be so that different groups did not keep reinventing the wheel. And I hope that that sort of communication goes on at COAG. Does such a body exist at the present time?

Ms Brahim: No. There are times when the service providers come together so that they can showcase what they do. It is very expensive to go to any of those. As an NGO, you do not—

Senator BOYCE: So the advisory group do not attend as the advisory group at the NT government expense or anything?

Ms Brahim: No.

Senator BOYCE: It would be you going off your own bat with your organisation.

Ms Brahim: The advisory chair has gone to a couple of those and the previous chair went to a couple in the past. But when you are looking at the benefit across the board, it always comes back to cost and whether that type of investment is worth it. When I asked what the purpose was, the question is really about whether it is going to make a difference to working on the ground or is it just going to be about—

Senator BOYCE: I suppose I was asking you whether such a thing existed and whether you could see any purpose to such an organisation. As you said earlier, we have had lots of evidence about the issues in the homelands and the central communities of those homelands in all sorts of places. Is there a blueprint that suggests the best ways in which to deal with health, education, cultural and other issues that are currently driving or influencing that movement between the homelands and hub communities?

Ms Brahim: There is a policy paper that has been developed by the Indigenous Affairs Advisory Council. There has really been nothing in the past, except for the 2009 review of the homelands and a lot of consultations that have gone on with that. The outcome was that we would develop a policy on what it should look like. But there is absolutely nothing in place around that. The different agencies, such as Health, will each have something, but there is nothing in place for the homelands as such.

Senator BOYCE: So no-one has pulled it all together.

Ms Brahim: No.

CHAIR: Thank you for your time. We deeply appreciate it.

Proceedings suspended from 15:55 to 16:11

HOFFMAN, Mr Rodney Colin, Private capacity

JAN, Mr David, Policy Development Manager, Local Government Association of the Northern Territory

TIMBER, Mr David, Private capacity

[16:11]

CHAIR: Welcome. We have three people who have said they wish to talk with us. We need to finish here by five o'clock, so people know that is the time. You have that process. I will not be pulling anyone up. Mr Hoffman, you have been here all day. I have seen that you have been very patient.

Mr Hoffman: I am the CDEP coordinator of Kalano, which is an Indigenous organisation in Katherine. I have come to speak on my own behalf. In relation to the proposed Stronger Futures legislation, as you may or may not be aware, over the last three years, the 2009-12 current CDEP under the remote services contract has had a lot of changes. The changes have caused a lot of confusion, particularly for me trying to run this program such as the recent announcement by Minister Macklin that the transitioning of everyone from wages onto Centrelink benefits is being put on hold until an announcement may be made in June.

We have spent the past year or two telling everyone that these things are going to happen, and it is not the only example. There have been plenty of examples over the last 2½ to three years where the government has made changes, backflipped or introduced new policies. All I want to say today is that hopefully, in relation to the legislation and the future of remote services and Stronger Futures, what the government says is what it will do.

As everyone here would probably be aware, the majority of our people have very low literacy and numeracy rates. Many of them, if not most, have English as a second language. We are telling people one thing then all of a sudden six months later or two months out from when it is supposed to be commencing we are telling them something different. It is hard enough for educated people to understand, let alone our community people who have English as a second language to understand the changes that are occurring. That is the point I wanted to make today.

I worked for family and community services, which I think is now the department of families and communities for four years, so I have a background in the welfare side of things. I have also worked in education, so I also have some things that I would like to say about that. As I have said, if government could be as close as possible when they make these policies and follow them through it would probably be a lot less confusing. They are very confusing times at the moment, with the transition to Centrelink not happening for a few more months. But in relation to things such as the SEAM program, government came out and spoke to our community people there at Kalano.

We look after the town communities around Katherine. We basically said, 'If you don't send your kids to school you'll be penalised,' blah, blah, blah. I would dare say that in the months after that announcement the people there were very scared, very worried. I bet my bottom dollar that the attendance rates at that time were probably close to 100 per cent. But then after a month—and I think Senator Scullion mentioned it earlier—there was not a lot of action after a year, because we are one of the trial towns. I think three actions were taken over a year, so three families out of thousands, or hundreds, where measures were taken to ensure that those children got to school.

After a month, when people noticed that these measures were not being implemented, things went back to normal, kids stopped going to school, parents stopped worrying about the government coming. I do not necessarily agree with punitive measures but, at the same time, government came out and said these things to our people there. It was pretty straightforward, people were jumping up and down, but then government did not follow through.

I just wanted to say that today. It has been a good day. I have learnt a lot. The doctor came up here before. A lot of those things are very evident in Katherine. A lot of it is just common sense. You can see it for yourself, just walking down the main street. With respect to the alcohol management plans, even one of the communities we service have had an alcohol management plan where, for the last three years—they are outside a prescribed area—they are only allowed light beers. But because that community and those people are travelling to Katherine and other places they have since had a rethink about their alcohol management plan and they want their people to be allowed to access further alcohol and whatever. It is not a one-fits-all solution and all communities basically need to have sets of rules for their own needs.

In terms of CDEP and employment and the changes over the last three years there has been great investment by government, particularly for Kalano. We have our farm back up and running. But if the changes still go ahead, people being income managed and everyone going onto Centrelink, it will make economic development a lot harder for us. We have got a few business proposals on the go. Being uncertain about the future of CDEP and

whatnot has made it a bit harder for us to follow through on those sorts of things, because we do not know where our labour force is going to sit. A lot of our people are not interested in being on CDEP just for their Centrelink benefits. However, we have definitively told our people that there have been a lot of changes in the welfare system and there are probably still going to be a lot of changes. All those loopholes in the system that still exist at this point in time will close up and basically there will come a day where no-one will be able to run and hide.

CHAIR: Thank you, Mr Hoffman, and you can be assured that the issues around CDEP have been raised with us everywhere we have gone. Thank you very much for sharing with us and for being with us all day. Mr Jan?

Mr Jan: I represent the Local Government Association of the Northern Territory. I would like to thank the committee for allowing me to speak to them this afternoon. The association has produced a submission. I just want to go through and quickly highlight a few aspects of it. The association is a peak body representing interests and providing a voice for the 11 shires and five municipals of the Northern Territory. It coordinates activities on behalf of the local government sector as well as performing functions for other spheres of government that are designed to enhance the capacity of local government in the Northern Territory.

Stronger Futures has the potential to impact upon all councils in the Northern Territory in a variety of ways. Local governments are generally cost sensitive and, while other spheres of government are able to absorb major changes in their operating environments, NT councils often do not have that luxury. They cannot, for example, budget for a deficit, something that both the state and territory governments as well as the Commonwealth government often do. Councils are sensitive to changes in their operations, particularly if they impose increased costs in the short term and do not give councils the time to plan for that change. The handover of responsibility for infrastructure is often a case in point, especially if it is not completed to Australian standards and leaves councils with legacy issues which are beyond future cyclical maintenance and upgrading costs—costs that often can be planned for and managed. Grants that are only for one year that involve employment and do not cover council salary oncosts and administrative overheads are also a problem area for councils. They are often faced with the dilemma of deciding if they wish to continue running the programs associated with the grants—grants that are for one year only are not a great incentive for attracting and retaining staff in employment—or subsidising the programs themselves, usually from their often limited own-source revenues.

Municipal and shire councils differ greatly in terms of the make-up of their revenues and also in their functions. Municipal councils raise the majority of their revenue from rates and charges; whereas for shires, particularly the remote shires, such components are generally less than five per cent of their overall revenue. Municipal councils tend to expend most of their funds on core local government services, whereas most expenditures for the remote shires are on other services, and often with a grant or under contract provided by the Territory or Commonwealth governments. Power, water and sewage services, for example, are generally provided in remote towns by shires on behalf of the Territory government.

Local government is one of the largest employers of Indigenous people in remote areas of the Northern Territory, with the remote shires being the key players in that. Typically, for all eight large remote shires the Indigenous employment levels are higher than 60 per cent of the total council employment, and in some cases it is as high as 80 per cent. Some of the key factors that would sustain this and higher levels of such employment are long-term funding agreements that have built-in growth factors between local government and the Territory and Australian governments; adhering to the principle of 'subsidiarity' and accepting those functions that are best delivered by local government; financial assistance to improve the capacity of Indigenous employees, including the adoption and implementation of workforce development plans; red tape reduction in the areas of grant administration and consolidation; funding for adjustment in circumstances where the Commonwealth or Territory introduce policies that involve structural changes that result in functions no longer being performed by government, that incur greater costs for local government or that result in a loss of jobs for Indigenous employees. Given that it is the desire of both governments to maximise Indigenous employment, it is imperative that efforts continue to be made to address some of the challenges I have just mentioned. With the establishment of long-term leases in Aboriginal communities likely to take many years to complete across all of the 60 or more remote towns in the Territory, there is every chance that current arrangements to do with council rates will be affected. With the five-year township leases due to expire in August 2012 it seems inevitable that properties from which shires are currently collecting rates will be exempt. In other words, shires will lose rate revenues because properties will no longer be the subject of leases and will therefore become exempt from rates under the NT Local Government Act. Shires will be seeking compensation for this loss of revenue in the form of grants, which are equal to the rates set by each council for those properties affected.

Turning to alcohol abuse, although there are many examples of preventative and treatment services available to combat alcohol abuse, there does not seem to be much work done in the area of education. The Living with

Alcohol program run by the Territory government some years ago was an excellent education program but unfortunately was not ongoing. The association would like to see more resources employed in the area of alcohol education.

The association supports the retention of the current restrictions on the availability of alcohol imposed under the Northern Territory emergency response measures and considers that restrictions are an important element of overall alcohol management and for reducing harm in communities. The association also considers that more needs to be done to restrict the sale of takeaway alcohol given that it can lead to uncontrolled consumption and often contributes the greatest harm in communities. This would require focus on restricting current and future liquor licences.

Regarding housing, the association supports the efforts of both the Territory and the Commonwealth government in both upgrading and providing new housing stock in remote communities and large urban towns in the Northern Territory. A major issue for local government in recent times has been the threat of inheriting inferior infrastructure through subdivisional development. It is clear, for example, that while provision was made for the construction and upgrade of houses in remote areas, insufficient funds were allocated for the construction of housing subdivisions. This matter has also been an issue for municipal councils. The association believes that both the Commonwealth and the Territory government need to correct this anomaly, as it is most unlikely that local governments will accept works that have not been done to Australian standards. If they were to accept these works they would inevitably inherit the legacy costs that they cannot afford. The Territory government has funded the association to develop subdivisional guidelines for remote townships. This will be useful in ensuring that standards are adhered to.

Moving on to governance, the association would like to see long-term commitments from both the Commonwealth and the Territory government in the area of elected member and staff training in local government, particularly for remote Indigenous shires. History has shown in the Territory that the take-up of such training is low unless it receives support from these two governments. Also, the cost of delivering training in the Northern Territory is high given the distances involved in getting trainers and attendees to venues. While commitments of late are most welcome, they will need to be sustained into the future as ongoing programs to cater for the turnover of elected members through elections as well as the turnover of staff.

The Commonwealth government has a strong preference for shires to be operating in individual towns and facilitating active community engagement in each of them. There are often many factors that contribute to the degree of people's participation in governance of their communities. For the shires the cost of doing business is always a significant consideration, particularly as it applies to the administration of local boards, and even more so for those shires that have high travel costs associated with air transport—for example, East Arnhem Shire.

They are just the key points. There is more to it, but you have the submission. If you have any questions I would be happy to answer them.

CHAIR: I have been desperately seeking some more time in tomorrow's program so that we could spend some more time with you, but there is just not a second to spare to do that. You know that the issue with the shires has come up consistently. The fact that the change for the shire was very similar in timing to the NTER has caused great confusion in terms of who is doing what. I just want to say that it does not mean that we did not value your evidence. The issues were very real. It is just that this issue of the shires has come up consistently.

Senator BOYCE: You would have heard earlier today comments around the fact that 'all this money'—I think that was the way it was put—or 'this great pile of money' was put into the NTER but only this tiny little bit got onto the ground. Could you give me the Local Government Association's perspective on that comment.

Mr Jan: The message that I get from the members is that there is frustration with a perceived imbalance between moneys that go to the administration and that which actually gets on the ground. One instance that was raised at a meeting that the mayors and presidents had with Mick Gooda last week was the amount of money that was being spent financing the GBMs compared to what the shires are looking for, for instance. They are saying that there is an \$11 million shortfall in roads funding just to bring the current roads infrastructure up to speed.

Senator BOYCE: That is new roads or maintenance?

Mr Jan: Current roads, bringing them up to standard.

Senator BOYCE: Refurb sort of stuff.

Mr Jan: Yes. There is a concern amongst members with regard to that. That is just one example.

Senator BOYCE: If you want to think about that some more and give us some more information about that on notice, that would be good.

Mr Jan: Given the time, I am quite happy, if you want to document your questions, to take them back to the CEO and the members and get a full response for you.

Senator BOYCE: We have had comment—and it certainly is borne out by what we have seen when we have gone to communities during this inquiry—that there is a far greater need for what the government or governments are doing to be explained in communities. As the government body that is closest to communities, do you see any role for local government in explaining what measures are being proposed and what this will mean?

Mr Jan: Definitely. I will give you an example of that. The department that is handling the digital TV rollout is looking for community information people. In each of the towns, the shires employ shire service managers who basically do everything from the water, sewerage and everything to, in some instances, assisting with providing vehicles, buses and things like that. They are in contact with the community all the time, so in that instance they would be a perfect opportunity for a partnership to help government get its message out for that policy decision, because there is a lot of uncertainty in that—not that that is anything to do with the Stronger Futures legislation, but that is one instance.

Like I said before, the concept of subsidiarity is getting the organisation that is closest to the coalface and is most appropriate to deliver the service to deliver it. In many instances, in remote communities, local government are already doing that. They deliver Centrelink services in some towns. They deliver childcare services. They deliver—

CHAIR: Aged care.

Mr Jan: aged care and a host of other things. So they are already doing it. The key thing with that is that the short-term funding that comes with that makes it really difficult (a) to attract staff and (b) if we want to employ apprentices. For instance, some of the councils have civil construction units. They find it difficult to employ apprentices because they are only getting year-by-year funding. They cannot offer a four-year apprenticeship when they only have guaranteed funding for one year. As I said before, for some of the councils—for instance, Central Desert Shire Council and MacDonnell Shire Council—their Indigenous employment is up near the 80 per cent mark. It could be even more, I feel, if more support were given to those guys with regard to mentoring, because most of those positions are in the lower level. There are not a huge number in the upper management levels. Having said that, the mayors of all the shires are all Indigenous people. We have two or three CEOs who are Indigenous as well. So local government are working on doing that.

CHAIR: You are having elections soon, aren't you?

Mr Jan: Elections are on 24 March, yes. They will be interesting this year with the changes to the legislation with regard to proportional representation and employees being unable to nominate for local government. It will be interesting to see what happens then.

CHAIR: Thank you very much.

Mr Jan: No worries; thanks for your time.

TIMBER, Mr David, Private capacity

[16:35]

CHAIR: Welcome, Mr Timber.**Mr Timber:** Thank you. I live in one of the town camps very close to Darwin, in the CBD area. I have six or seven questions and most of them do not have anything to do with the Stronger Futures. I just want to get them on the record.**CHAIR:** That is fine, Mr Timber.**Mr Timber:** My first question is: in what capacity are you here today? Are you here as ministers or corporate agents? If you are here as ministers, I accept your office's oath. Do you concede the legal term 'terra nullius' is a fraud? Do you acknowledge that the Australian landmass was occupied by nation tribes before the white man, Crown or agents of the Crown settled here? Do you acknowledge that the original occupants of nations and tribes had law and that the law still exists today? Why is the intervention being facilitated by private corporate agents with vested interests in desired outcomes? Do you concede that all Crown and government agents are now private corporations and no longer acting as servants of the people? Are you here today in an attempt to privately contract with us, the original occupants of this land, for the purpose of usurping our authority and law?**CHAIR:** I am not going to try and answer all your questions. I know you wanted to get them on record so that we can take them up in our report. What I can tell you is that we are a Senate committee. We are made up of members of the Senate and are from different political parties. Committees are formed by the Senate to go out and look at things that the parliament is considering. We are not ministers. We are elected members of Senate who are part of a Senate committee.**Mr Timber:** Thank you. That is all I have to say.**CHAIR:** Thank you, Mr Timber. We appreciate your questions. They will go back to parliament.**Committee adjourned at 16:38**