

MAYOR, Mr Thomas, Maritime Union of Australia

[13:46]

CHAIR: Welcome. I apologise for the co-chair not being here today and some of our members and senators also not being here. Thank you for making yourself available to be here. The committee has been asked by the Commonwealth parliament to look into constitutional recognition relating to Aboriginal and Torres Strait Islander peoples. The resolution of appointment outlines in more detail aspects for the committee's consideration. As co-chairs of the committee, we have made statements expressing our wish to hear more from First Nations peoples as we start our work. We've also explained that we will continue to receive submissions and hear more views around Australia in coming months.

We need to ensure that everyone present is aware of procedural considerations. Today the committee is taking a *Hansard* record of the proceedings, but they are not being broadcast. Microphones aren't broadcasting or amplifying your words in the room, but they are likely to be on and recording at any given time. The committee may wish to make the *Hansard* record public at a later date, but we will seek your views on this before doing so. If you feel very strongly that you don't want your views recorded in any way, we will give consideration to that. As you may be aware, when you provide information to a parliamentary committee, you are covered by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage you on account of the evidence given, and such action may be treated by the parliament as a contempt. It is also a contempt for you to give false or misleading information. If you make an adverse comment about another individual or organisation, that individual or organisation will be made aware of the comment and be given a reasonable opportunity to respond to this committee. Would you like to make an opening statement?

Mr Mayor: I introduced myself as coming from the Maritime Union, but I should probably clarify: I'm involved in this as a Torres Strait Islander that has always lived in Larrakia land in Darwin. I became involved because of my activities in the area around Indigenous rights. I am the branch secretary of the Maritime Union of Australia and the president of the Northern Territory Trades & Labor Council, but I was invited on the basis of the activism about the place. I was invited to be a facilitator at the Darwin dialogue. I had to withdraw from being a facilitator at the Darwin dialogue because the union's national council was to fall on the same dates as the dialogue. Fortunately, the national council dates moved and I attended the Darwin dialogue as a delegate.

I went to Melbourne in November 2016, when I was still to be a facilitator, to be part of a trial dialogue to trial how the dialogues were to be run. It was there that I learnt more about the process that was to be undertaken over the coming months. I learnt that there was a formula to be applied, which was 60 per cent traditional landowners, people from country and still connected to country and the region; 20 per cent Indigenous people from Indigenous organisations; and 20 per cent active Indigenous people in the region, like myself, which is how I ended up attending. Despite having to pull out as a facilitator, I continued to assist the facilitators and the co-chairs in the Darwin region to try to reach the target of 100 invitees and try to ensure that the formula, gender balance and stolen generations were included. I volunteered my time.

At the trial dialogue I learnt about the 12 dialogues and how they were culminating at Uluru. I thought it was a wonderful opportunity for our people nationally. The hope was that we would come up with a consensus position that would be something specific to campaign on and try to achieve for our people. At that time I hadn't been a part of national campaigns, but I knew, from my experience in the Northern Territory, how valuable a national consensus would be, because even locally it's very difficult given the reality of the purposeful divisiveness of our people, whether that's through the history of government policy or private interests having enterprises on land owned by Aboriginal people. I didn't underestimate the value of what we were about to embark on, and I had great hope going to Uluru. I was at Uluru. I assisted the Referendum Council somewhat to develop an agenda. I think it was recognised that I had some organising experience, coming from the union movement. That saw me having further hope that we would have a strong and united outcome.

Uluru was high tension. I think that the long constitutional recognition debate before there was this process of asking our people had somewhat damaged the ability for us to have that discussion, so I think a lot of people didn't expect us to come up with a consensus either. On the second day we were at Uluru, as you would know, seven delegates walked out along with a handful, around 13, of their supporters. That was their right. I have been involved in many large conferences within our union movement. Every four years, we have a big national conference. That is where our policy is set and everything. I think we have about the same numbers—around 300—at our conferences. And you never have 100 per cent support for a position—or very rarely. What was important there was that, when that walkout happened and there was a big media scrum, for the rest of that afternoon around 250 remained and continued the dialogue at Uluru. The dialogue was based on the synthesis of

all the other dialogues. It was: 'This is what has happened and now we're going to endorse this and move forward and have a look at that.'

On the last morning, we came together again. Some of the delegates at the conference, with some of the Referendum Council, had worked on the Uluru Statement from the Heart through the night and into the early hours of the morning. It was read out by Megan Davis on the last morning and it was a moment that was unforgettable; it is etched into my mind and it is one of the reasons why I am so passionate about the subject. It was received with a standing acclamation and without one amendment. There were around 250 people, from all over the country, with different backgrounds. There were around 20 youths there, and there were absolutely different points of view on things. When that moment of consensus happened it was by standing acclamation. There was not one person in the room who didn't endorse it on that morning. I saw people who had been in passionate debate, with different views, embracing each other with tears in their eyes.

I am no constitutional expert, but I did talk at the University of Melbourne Law School last week. They say there is no doubt that this was a constitutional moment—and I think that holds a lot of weight as well for what happened at Uluru. As you know, the statement calls for three things: a constitutional voice to parliament, truth telling and agreement making through a makarrata commission. It has been further confirmed for me in my travels, and in my advocacy, that a constitutional voice is extremely important to this country—to be able to sit down with First Nations people and achieve some settlement. That is basically what makarrata is about: coming together after a struggle.

Since Uluru I went to Garma, where we were hoping for a bipartisan moment of moving forward. It was there that I saw the Uluru statement for the first time. I have the statement here and I am happy to show it to people as part of my presentation. I saw the weight of the process that was behind this document—the powerful words and the amazing artwork which was led by Rene Kulitja and the Anangu women. This document has to be seen by the rest of the country, so I have travelled around with it. From Garma I took the statement to the Gurindji people for the 51st anniversary of the Wave Hill walk-off, where there was a very strong statement of support for what the Uluru statement calls for. Then I went to Lombadina for a joint meeting. There were four AGMs at that time in Lombadina. There was also endorsement there and a welcoming of the statement. I went to Yule River, where the Marlpa people were having a historic meeting. It was quite special to be there. I witnessed that they were discussing organising a regional voice for the Pilbara for the different clan groups and that. I watched as the women and the men had a meeting and discussions, and they decided on representatives to form an advisory group in that region. There was something really special that I'll never forget—on the second day at the Yule River bush meeting, they moved a strong resolution of support for the statement. I also went to K'gari and Fraser Island for native title determination celebrations.

I've been to many places over the last 10 months, and everywhere I've been there's been great support. I explain to people why it's important—and that includes cities and towns in-between, and different conferences that I've been able to attend and have a say at. It is such a sensible proposal, yet powerful in the sense that it can bring people together, which hasn't happened in a long, long time. The value is very much in our First Nations choosing representation, being able to come together on a regular basis and having discussions amongst ourselves and then having a coherent and well-informed position to put to parliament that will positively effect the decisions that are made about our people

The constitutional call is absolutely vital—and, as I said, because of my travels, discussions and the work that I've been doing in advocating for it—and I know that with the right campaign and leadership, this can be a successful referendum. I'm very confident of that, and there are at least two polls that indicate that Australians would already support a voice to parliament.

The constitutional enshrinement is about ensuring the longevity of this representative body. We understand that, while we might have governments with goodwill and everything in place, that can change and we don't want to see this representative body used in a political way or taken away after so much work has been put into it. I don't think—

Ms BURNEY: What do you mean by that, Thomas?

Mr Mayor: I fear that if it's only a legislatively appointed body then, as happened with ATSIC, we may see that removed at some stage. It might be 10 years. It might be 15 years. Who knows? As an advocate and knowing that many of my people have put so much into this, including the huge emotional investment in turning up to Uluru and having those debates when so much has been ignored in the past, I couldn't advocate for or support anything less than the 'voice' being constitutionally enshrined. For the design and the detail of the 'voice'—this body may be legislative—I think that it is important that it is enshrined as a concept that there must be a First Nations representative body.

Ms McGOWAN: Excuse me: do you mind showing us what you've brought—you've gone to all that trouble.

Ms BURNEY: Just while you're opening that and going on from what you've just mentioned, how disastrous would it be—and, once again, I'm just raising it; it's not my view necessarily—if we went to a referendum and it was lost?

Mr Mayor: That would be disastrous. I don't underestimate the great difficulty of referendums in this country—is it eight of 44 that have been successful?—and it would be disastrous if we failed to win a referendum, but I think the more difficult task needs to be taken on. I think the polls indicate that there is already the Australian support for a voice to parliament. I think if the question is right, if we put the right effort into a campaign and there is bipartisan support and we take educating people really seriously, around 60 per cent can easily become 97 per cent or something like that.

Ms BURNEY: You believe it can happen?

Mr Mayor: I believe we can win this. My travels around the country have indicated that to me—and that's not just talking to Indigenous people in communities; it's talking to all sorts of people. I think we can do it if there is the proper commitment and the appropriate amount of time. And I don't say that we can do this next year. I say that we can do this with some real, proper thinking on how long and some real, proper consultation with Indigenous people about what question needs to be asked. I reckon we can do it. I would suggest that it would be great if—

CHAIR: Sorry to interrupt, but Cathy has to go.

Ms McGOWAN: Would you excuse me. I really want to acknowledge what you've brought. Thank you very much for bringing it; it's really lovely.

Mr Mayor: I hope that the committee recognises and respects the consensus that happened at Uluru, in what was a rare constitutional moment in our history, and that it was a genuine national consensus. There is never ever a perfect process. When you have 700,000 people, which I think is what we're talking about, you're never going to be able to invite everybody. As someone who wasn't involved, wasn't part of the Referendum Council, coming into it back in November last year, 2016, I saw a genuine, well-informed and accurately recorded series of dialogues. I went to three of them. After the Darwin one I was invited to attend the Brisbane one and the Torres Strait one—that's where my people are from. I think it was a really well run and well informed process that has found what I think any process will find—that is, we believe there should be an ability to voice our views to parliament before decisions are made.

So I hope that this committee takes that into mind and concentrates on what the barriers are, more than trying to reopen or reprioritise the things that are called for in the statement. There is some debate within the community about what comes first, but I don't think it's a matter of what comes first; I think the voice, this body, is important to all of those things. Truth telling, in the absence of a national representative body, will be the less for it. Agreement making requires thinking around how it relates to the Commonwealth, the states and the territories, which are powerless in a sense—you have the territories power in the Constitution. For our people, on a national basis, it would be very important to those sorts of agreements that this national body exists as soon as possible.

I hope that the barriers are concentrated on, more than trying to reopen them, and are not given weight as part of a national consensus position—barriers such as whether it's a third chamber to parliament or not, or how we can ensure that it's not; secondly, whether the Australian people can support it—as I indicated, there are already holes, but further work on that can be done through this committee; and also, lastly, what powers this body should have, such as monitoring the race powers, or things like that, that are important to our people that may address other positions that have been there before. That's what I hope the committee will concentrate on. I think the constitutional change can be done to enshrine a voice to parliament, and I think we—all those who are advocating for this, all parties in parliament—should work together to break down those barriers and go forward together. Thanks.

CHAIR: Thanks, Thomas. Any questions?

Ms BURNEY: I've just got one final one, Chair. What's your view of a democratically elected national organisation congress? If that's not a fair question then you don't have to answer it.

Mr Mayor: I understand that congress has supported what came out of Uluru, and certainly members of congress were part of the dialogues at Uluru itself and are signatories to the statement. The reason they're signatories is that it's understood that First Nations themselves need representation. Further, there must be certainty for a body like this. I know that congress in the past has had problems with funding and that type of thing, so I think that is probably part of that thinking as well—certainly for me. I think consistency is important.

Ms BURNEY: Sure. Thank you.

CHAIR: Sussan, any questions?

Ms LEY: Thank you, Thomas, for your presentation. Picking up on Linda's point, I'm interested in your thoughts on where the dividing line might be between the people who would vote no, based on, 'What does this mean? What do we have to give up? What are the funding implications? What does this mean for me?—which are very real questions for both sides of, if I can call it, the argument—and the actual real meaningful change that you're talking about, so that, when we get to that point, we actually have a yes and not a no. You also talked about it not being so important to make that constitutional change early. Can you map out a bit of your thinking of how that time line would look.

Mr Mayor: Yes, sure. On the 'no' case, if it's about how much it costs, I think there are certainly great arguments that we can make that are very solid and based on fact. If we are making better decisions, we are going to be more efficient with how we spend money on Indigenous affairs. If we lift these people and change those statistics, we will have more productive people in our society, and that's to all our benefit—less money spent on health and incarcerating people and all the rest. That, along with other arguments like, 'What will we lose? Is it our backyard that they're going to take?'—with the land rights argument and that type of thing—I think in all those cases there is a very good argument that we can make to say that this is a fear that isn't justified. On the positive side, the meaningful change is that this is something that we haven't tried before that has failed. With that decision-making being much more cognisant of the problems in those communities where we have all this expenditure, I think there is a meaningful change that we can sell to the people to vote yes.

Ms LEY: I like your optimistic view and I don't disagree with it. Where do you then see the time line between some presentations to this committee who are looking at a more urgent constitutional change and what you seem to be saying, which is 'Let's get these other things right and then take a bit longer.'

Mr Mayor: I say that the priority is absolutely the constitutional change, and I think that must be first and as soon as possible. What I meant before was that we must be scientific about that to ensure that we give it the right amount of time to campaign for a yes vote and address those misconceptions perhaps. So, I believe as soon as possible. I would hope that after November we enter into a very clear and stepped-out process of consultations with first nations and that there is the development of a question pretty much immediately after the recommendation and then embarking on a campaign that may be 12 months perhaps into 2020 for a vote.

Senator SIEWERT: I think you have partly answered part of my question. I want to ask you a question, and I did ask Karen Mundine this question as well, in terms of particularly truth telling. I know you said the top priority was constitutional change, but do you think that would help achieve better understanding and therefore more support for constitutional change if that process were started?

Mr Mayor: Yes, I do believe that truth telling will help. I think truth telling has already begun. There is already work being done on truth telling, but that is not to underestimate the need of the makarrata commission in a much more formal national commission that does truth telling to bring that work together and then also to ensure that the learnings are adding up to lessons that help improve our country. It is not a matter of one before the other. I think the absolute priority is constitutional change, but if the committee found that this was really important and it was a recommendation then we would be happy to implement it straightaway as we immediately work towards a referendum in trying a 'voice'.

Senator STOKER: I hear all the things you have said about how important it is that this have a constitutional element, so please don't think I am dismissing that by my question, but our terms of reference ask us to also look at non-constitutional ways that we can better include the perspectives of Aboriginal and Torres Strait Islander people in policy making and help them to achieve all of the big things that lie beneath the Statement from the Heart. Are there non-constitutional ways that you can think of that might be effective?

Mr Mayor: By jeez, it would be a long, long list, I suppose, of non-constitutional ways to improve our Indigenous affairs. So, sorry, I don't think I can answer the question. There would be a lot of things, but as far as a big picture, major reform that will basically help any non-constitutional decision that we make as far as assisting our people and assisting the country to come together goes, that is very important to all those other things that we could list there. Sorry, if I haven't answered your question.

Senator STOKER: That's all right. If you want to elaborate upon it later, you are welcome to in writing—no obligation.

Mr Mayor: Thanks.

Mr SNOWDON: Given you went to three of the regional dialogues, could you give us an indication of how they might've been the same or how they might've differed in terms of both the process of discussion and the outcomes.

Mr Mayor: Okay. At the beginning of each of the dialogues, Darwin, Brisbane and the Torres Strait—and I've heard that this was the same in all the others—there was a process of venting: 'We've been here and done this before. People don't want to listen to us. This is what happened to my family.' On a wide range of things there was venting of the frustrations of people that have been affected by our place. One thing that was different was how they elected delegates. Darwin and Brisbane were through a ballot process; the Torres Strait split up into their different groups—like Kulkalgau and Kawrareg—and chose their delegates to go to Uluru, and then the remainder of the positions were by ballot. That was one of the different things.

In all of them, there was an expression that we're not being heard. I think that was a big part of why the voice came out so strongly. Politicians don't listen to us. Their decisions don't take into account what our views are. And truth telling was not part of the workshopping. The workshops were based on the expert panel recommendations and treaty making, but that was strong in all of the dialogues that I attended, and I heard it was the same in the other ones as well.

Mr SNOWDON: What about the discussion around the range of other issues? Were they different? I imagine they would've been—different people, different places. How did they weight the issues? Did the voice seem to be at the sublime end of the discussion or were there other issues which took dominance in some places and not in others?

Mr Mayor: That's in the referendum report, as far as that synthesis goes. But, in the ones that I went to, what I did see was that, at the beginning—and this included the trial dialogue—people would get up and say, 'I'm for treaty only.' All the dialogues I went to had that sort of thing at the beginning, but, when all of the information was presented and discussed and questions were answered, they all ended up in the same place. That was really interesting. Genuinely, I saw people get up and say, 'I don't believe in this; I'm only for treaty,' but, by the end of the three days, they were part of a consensus on 'Voice. Treaty. Truth.'

CHAIR: Was there an appreciation that entrenching the voice also meant that the parliament may not act on the voice? A head of power doesn't really bind the parliament to do anything.

Mr Mayor: Yes, there's another example of that in the Constitution, isn't there.

CHAIR: Yes, 101. Was there an appreciation of that in the discussions?

Mr Mayor: While I'm no constitutional expert or anything like that—

CHAIR: You don't have to be.

Mr Mayor: I think that, if there is a referendum and a majority of people in a majority of states votes yes to this, especially after such a long national dialogue around it, it would be pretty—

CHAIR: In the short term, I can see it. The same happened in '67. Bipartisanship existed for 20 or 30 years and then it crumbled. This might have the same sort of fate and maybe that's all it can do, but in the longer term there may be other consequences for the First Nations peoples. I don't know what they are. Those who are arguing for sovereignty might have some arguments about that—about a treaty et cetera. I do know what they are. I can understand the euphoric state that may exist for a short period, for 20 years or 30 years, but in the longer term it may not necessarily be the better thing. People in '67 thought, 'This is the best thing since sliced bread,' until Hindmarsh Bridge came along and then they decided the law is the law and it has a different view.

Mr Mayor: We learn from our mistakes or what hasn't worked over many years, as long as we're conscious of why there was the euphoria, like you explained. We're also in a different place, as far as the mindset of people goes. If parliament didn't enact what came out of a double majority, a referendum, that would be pretty—

Mr SNOWDON: Let's assume that we have a referendum that passes and a you-beaut organisation is set up with representatives and structure and it gives advice, but, in 25 or 30 years, there's a particular group in the parliament who says, 'We've had enough of this.'

CHAIR: It will become a relic of the past, basically—'It's a nice thing to have done, but we're over that now and we've done something else.' Anyway, it's academic. We thank you for your contribution.