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SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS

(Subcommittee)

Reference: Administration of Indigenous Affairs

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CAIRNS

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SENATE

SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS

Friday, 27 August 2004

Members: Senator Crossin *(Chair)*, Senator Johnston *(Deputy Chair)*, Senators Heffernan, McLucas, Nettle, O'Brien, Ridgeway and Scullion

Senators in attendance: Senators Crossin, McLucas, O'Brien and Scullion

Terms of reference for the inquiry:

To inquire into and report on:

(a) the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004;

(b) the proposed administration of Indigenous programs and services by mainstream departments and agencies; and

(c) related matters

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Subcommittee met at 9.06 a.m.

CORRIE, Mr Thomas Aluwa, Chief Executive Officer, Tharpuntoo Cape York Legal Service Aboriginal Corporation

CHAIR—At a private meeting held on 11 August, the Senate Select Committee on the Administration of Indigenous Affairs agreed to the formation of a subcommittee for the purpose of holding public hearings in the Northern Territory and Far North Queensland during August. The subcommittee comprises me, Senator Crossin; Senator McLucas, from Cairns; Senator Kerry O'Brien, from Tasmania; and Senator Nigel Scullion, from the Northern Territory. I call the subcommittee to order and declare open this public meeting.

The committee recognises that this hearing is taking place on Indigenous land and wants to put on record its thanks to the traditional owners for permission to allow this to happen. Today is the seventh hearing in the committee's inquiry, which is to focus on the government's proposals to make major changes to institutional structures in respect of the administration of Indigenous affairs in Australia, with particular reference to the abolition of ATSIC and the mainstreaming of services for Indigenous people to individual government departments.

I welcome our first witness, Mr Corrie, Chief Executive Officer of the Tharpuntoo Cape York Legal Service Aboriginal Corporation. The committee prefers all evidence to be heard in public, but if at any stage you wish to give part of your evidence or any answers to questions in confidence you can let the committee know that is what you prefer and we will make arrangements for that to happen. I invite you to make an opening statement or give us a briefing. When you finish, we will go to questions.

Mr Corrie—The Tharpuntoo Cape York Legal Service covers the area just north of the Daintree right through Cape York Peninsula and across to Kowanyama. Our submission has basically come about due to the issues that we see may arise with the federal Attorney-General's Department overseeing the roles and responsibilities of the ATSILSs. As outlined in the submission, currently access to the services of state and federal governments is very sporadic within rural areas. We have concerns about this flowing through to the ATSILSs and the way that we deliver our services in those communities.

The current system is based on the whole process working similar to the way it operates in Cairns or any other rural or metropolitan centre. Remote area needs are completely separate and completely different and are more demanding of resources, staff and all the other issues that go along with that. Logistically, up in the Cape, we in Tharpuntoo are doing simultaneous court circuits, which involves a very large degree of flexibility in how we deliver our services. Our concern is that the federal Attorney-General's Department will not be able to meet or recognise the need in the current structures we deliver our services under. They are very real concerns not only for the staff and me but also for the people on the ground.

CHAIR—Is there anything else you want to tell us?

Mr Corrie—Our committee had concerns about ATSIC itself, the way it was structured and the deliberations that came about through the grants. Those issues have all been highlighted in the submission. Our biggest concern is that, if the process that ATSIC and ATSIS were working

under is replicated in the federal Attorney-General's Department, our problems will continue in the same vein as previously, in the sense that there was not enough funding, acknowledgment or even assistance to ensure that the services that we provide continue to be quality services and continue to meet the needs of the people.

CHAIR—I notice in your submission that you suggest that Commonwealth agents are unaccountable and ineffective. Is that a conclusion that you have come to through your relationship with the Attorney-General's Department?

Mr Corrie—No, that is just a reflection on how we have seen both state and federal departments operating in the communities and the level of need which was not met. As an organisation that is regularly in those communities, we are contacted not only about legal issues but also about how to get in contact with state or federal government departments in relation to other issues that are confronting the people.

CHAIR—So do you see that this could be one of the flaws in the establishment of the Indigenous coordination centres?

Mr Corrie—Definitely—a big flaw.

CHAIR—It is my understanding that an ICC is due to be based in Cairns. Is that correct?

Mr Corrie—That is correct.

CHAIR—Has your organisation been informed about how that is actually going to be established and how it will operate? We have had a lot of evidence from Indigenous people across the Top End that they are still quite unaware of how it is all going to fit together and work.

Mr Corrie—That is very much the case. We are still unaware of what is happening. On 1 July this year we were informed that the ICC had commenced operations in Cairns in the building that ATSIS or ATSIC were previously in. As far as informing of us about who our project officers were or things like that, that information was very long over due. I think it was the middle of July or late July when we were first told who our administration officer was. It was a new person—although it was an Indigenous person—from Cairns, not the person we had been speaking to. That raised other concerns with the committee and me in that we had to go back and inform all these new people about the issues that we face in delivering our services. So we are back at first base, basically, letting everyone know about the logistics of delivering a service in remote regions.

CHAIR—We heard evidence in Darwin from the Katherine Regional Aboriginal Legal Aid Service. They have had their funding cut from one year to the next. They said that, once they have allocated what they need to within the budget—operational funding and salaries—they have only $2,000 left to perhaps hire a briefing solicitor or a barrister. What is the breakdown of your budget? Are you in a similar situation, where you have limited funds to get money to employ barristers and hire counsel?

Mr Corrie—In Queensland it is not that much of a hassle. The Queensland Legal Aid Commission actually pay for the barristers that we need in higher court matters. We put a grant of aid to the Legal Aid Commission here in Cairns and they provide the funding for the barristers.

CHAIR—So you get backup from the state government?

Mr Corrie—In that sense, yes.

CHAIR—Even if the matter is against the state government?

Mr Corrie—No, in that case we have to try to seek funding from other sources. Within Queensland, we have the Queensland Aboriginal and Islander Legal Services Secretariat, or QAILSS. Most test cases or cases against governments will go through to the QAILSS office and they will seek funding through the national body.

Senator McLUCAS—On the third last page of your submission you say that the previous processes of ATSIC and ATSIS had their flaws. Would you elaborate on that a little more? You then go on in your submission to talk about funding. Could you tell us about that in a structural sense? I am sure you will tell me that you did not get enough money. That is almost taken as read.

Mr Corrie—Tharpuntoo has been fighting for increased base funding for the last eight years, and that is due to the previous funding formula being calculated on a per capita basis without taking in remote area needs. From the committee's point of view, and from my point of view as the administrator of Tharpuntoo, the deliberations of ATSIC at the federal or commission level, the regional level and the state level were very much a closed door process and, on that basis, you were not able to have access there to lobby for increased funding. In our view, everything was rubber-stamped based on last year's funding position. Very little feedback was provided from either the state or the regional bodies about how we could improve or how we could access other services, other resources. It was a one-way street: we would always send in submissions and ask for more support or assistance but nothing ever came back. That was based on the elected process. Within the administration we got a lot of support out of the law and justice section within ATSIC and ATSIS, but it was all locked up at the commission level. It was a case of trying to break through those barriers to increase the services we are providing just to meet the basic needs of the people.

Senator McLUCAS—I suppose you are saying that the separation of policy and funding would be an appropriate model into the future.

Mr Corrie—I thought the best process was when government implemented separating the decision making from the administrative processes. In doing that they provided services like Tharpuntoo and other legal services around Queensland and Australia with an avenue to talk to people who understood budgeting constraints and all the logistical and financial issues—those types of things—and we were talking one on one instead of trying to bring people through the process.

Senator SCULLION—Since you have been in touch with the ICC—and you obviously have been; you say there is a retraining program, and it is important that people of your experience pass it on to anybody new who comes into the area—have you seen a change over that period so that you have started contacting them? Have you helped them understand some of the issues? How do you think they are going in the ICC? Do you think they are starting to perform better than when they started?

Mr Corrie—I that the process is pretty much the same as it was previously. We still waited four weeks for our first release for this financial year. We still wait for feedback to come back from the ICC about any new opportunities or any new issues that are arising within the law and justice section. So it is pretty much still the same as it was previously.

Senator SCULLION—What sorts of things could you suggest to try to fix that? Obviously it is an information issue, and it is an information issue that you tell me is currently on a sort of ad hoc basis—people like yourself taking time to go and inform them. Do you think there is any sort of structural training? What do you think we could do to ensure that the ICC process is improved in the short term?

Mr Corrie—I think it is an educational process, but there also has to be some flexibility to enable them to ascertain the differences between the local legal service here in Cairns called Njiku Jowan and Tharpuntoo. Even though we are both Indigenous legal services and we do pretty much the same type of work, there are issues that impact on us but not on Njiku Jowan. I have taken it as my role to try to get our issues across so that there can be some delineation between the two separate roles.

Senator SCULLION—Because one of the legal services is, obviously, local, and they perhaps have more access to the ICC because they all live here, do you think they get their issues across better because of the remoteness of your issues—they are actually not across them as much because they are more regional issues?

Mr Corrie—I was speaking with the chief executive of Njiku Jowan—no, they do not get it any easier than we do; it is pretty much on the same basis.

Senator SCULLION—Obviously people like you make a great deal of difference to the system as a whole because of having an Indigenous background and a deep understanding of the process. Are there many other Mr Corries coming up through the system? As you look behind you in this leadership role, do you see other people coming up?

Senator McLUCAS—Are you asking Mr Corrie how many children he has?

Senator SCULLION—Well, he can answer that one if he likes!

Mr Corrie—I do not see myself as a leader, but, yes, I definitely see a lot of younger people coming through who can take up the challenge and continue with it. It is good in the sense that the younger people have a better grasp of current society processes, government procedures and all those types of things. They are becoming more aware; more of the younger people are taking more of an active interest in what is going on. So, hopefully, yes, in the next five or 10 years it might be even better for us.

Senator SCULLION—That is great. What about people who are to your knowledge undertaking legal training, to whatever capacity? Are there a lot of Indigenous people in this area undertaking some sort of legal training?

Mr Corrie—I know within the cape there are a couple of communities that have a lot of people attending higher education courses and doing degrees. Legal training is a little bit harder. I know there are a lot of Indigenous lawyers that have qualified from Cairns, but it is hard to retain their services. They have been studying five or six years, they want to go out and make some money, and we just cannot attract them.

Senator O'BRIEN—Given your experience with the previous system, if I can put it that way, and your experience with the current system, what is your suggestion for best practice in terms of the linkage between Aboriginal legal services and Commonwealth funding—how do you think we should approach it?

Mr Corrie—Since commencing work with Tharpuntoo, we have always opened up the idea of having the decision makers—Commonwealth government bodies or even ATSIC at that stage—coming up with us on a circuit just to see the needs of those communities. We know that they cannot do that right throughout Australia and there are a lot of issues of concern there, but all of our reporting procedures, all the data that we have been required to keep and to account with, everything that we actually provide to ATSIC and now the ICC—as in our reporting requirements—can be justified through the justice department's own statistics and data. Reflection upon those will show where there is need and where those resources should go. Compared to us and other legal services within Queensland, there is a definite need up there and it can be justified, and it can be seen, but it is a matter of looking at it and recognising where they can get that available data from.

There is no easy fix. I do not think the ICC can undertake that role properly. They have a lot of different programs to look at—it was the same with ATSIC and ATSIS. They are trying to manage or develop programs for Indigenous communities right across the board, and legal services are only a section of that. That was part of my submission too: the one size fits all process that government is currently looking at is ineffective; it just will not work. I notice that government has also often mentioned rural and remote areas being separate from metropolitan or urban centres. That is a good start; at least there is recognition on that basis now. But it is having the decision makers form policy and distribute that down the line through the administrative workers that is going to be the task for government to try and address.

Senator O'BRIEN—You are not suggesting that the metropolitan and regional cities be the responsibility of legal aid services, are you?

Mr Corrie—No.

Senator O'BRIEN—You need to be clear about this, because there is an extension of the line that you might draw to say that, if you want to focus more on the regional and remote, you therefore by necessity focus Aboriginal legal services less on the metropolitan and provincial towns, whereas I would have thought that a lot of communities travelled between them and perhaps ended up in the most trouble in the cities and towns.

Mr Corrie—That is debatable. We have always debated that on the basis of the data that we have kept, compared with other services. We have always said that our need is greater because we have a higher case load, more people coming through the system, and that is based on people having less knowledge of the legal system and a lot of socioeconomic problems within those communities. Access to services within metropolitan centres is a lot easier and a lot better for Indigenous people than it is in remote regions. That is why we push the remote basis of it.

Senator O'BRIEN—I think I understand where you are coming from there. Perhaps tongue-in-cheek, on the last page of your submission, you talk about extending the concept of tendering out to the local, state and federal governments and public service programs in general. How should we understand that part of the submission?

Mr Corrie—That was meant to be tongue-in-cheek, but it was said on the basis that before the tender process we were formed by government and the law and justice section of ATSIS. That competitive tendering was to find the best practice, most effective service available. With all the reforms that legal services have been undertaking since 1996, since the government first got in, best practice has been the first thing that we have looked at. In Cape York Peninsula, we recognise that a lot of the state and federal government departments still do not have a best practice model for delivery of services up there, and that is what that comment was based on. If we are required to lift our game and to compete with private or other firms, we are looking at most programs doing the same and going through a tender process. Whether it is going to be a selective tender or an open tender is still undecided. None of the legal services know that, due to the probity. We are just waiting to see what comes about.

Senator O'BRIEN—If the legal services as they stand are not successful in the tender process, what does that mean for the skills that exist? How do you think they would be picked up by a successor? Would you see staff moving between the existing legal service and some successful tenderer?

Mr Corrie—From our position, if Tharpuntoo is not successful in its tender, yes, I would definitely hope that that would happen and I would speak with the successful tenderer about taking some of the staff along with the program—not to ensure that we still have any sort of say in the proceedings; just to ensure that the flow of work and the people on the ground still have contact with the regular service providers up there and still see the field officers. Aboriginal legal services is all about our field officers. Any lawyer can practise law inside a courtroom. The biggest issue with Aboriginal legal services is having our field officers there to take the instructions from Indigenous people who have no concept of the legal processes and to put that into a format that can be delivered in court. I would definitely push for the field officers to go with the program.

CHAIR—Thank you for your time today and for making yourself available to appear before the committee.

Mr Corrie—Thank you.

[9.29 a.m.]

AKEE, Mrs Angelina Maria, Secretary, National Secretariat of Torres Strait Islander Organisations Ltd

GEISZLER, Mr Audy John, Acting National Executive Officer, National Secretariat of Torres Strait Islander Organisations Ltd

PILOT, Mr Jacob, Director, National Secretariat of Torres Strait Islander Organisations Ltd

TAPIM, Mr Francis, President, National Secretariat of Torres Strait Islander Organisations Ltd

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Pilot—My portfolio is national mainland Torres Strait Islander youth.

Mrs Akee—I hold the portfolio for women.

Mr Tapim—My portfolio is overseeing the responsibility for and addressing the needs of Torres Strait Islanders living on the mainland.

Mr Geiszler—My role is everything that the folks sitting beside me tell me to do.

CHAIR—The committee prefers all evidence to be given in public but if, at any stage, you want to give part of your evidence or an answer to a question in confidence you can ask the committee to do so, and we will facilitate that request and go in camera. You can start with an opening statement or comments and then we will go to questions.

Mr Tapim—Before I sit down and discuss Torres Strait Islander issues with the committee, I would like to acknowledge the Aboriginal people whose land we are on, especially the traditional owners of this area. The national secretariat consists of all the Torres Strait Islander organisations around Australia. There are about 25 incorporated organisations and we, as the national body, make sure that Torres Strait Islander needs in the other states and territories are addressed. We understand that there are very small numbers of our people living in the other states and territories and that their issues have not been addressed equally with their Aboriginal brothers and sisters. We have a number of organisations in Queensland because of the large number of Torres Strait Islanders living here. There are 13 members on the national secretariat, and members represent each state. We used to work closely with the Office of Torres Strait Islander Affairs in Canberra, the Torres Strait Islander Advisory Board—and I will talk about those two organisations later—and the Torres Strait Regional Authority, TSRA, up in the Torres Strait.

When one talks about Torres Strait, the focus is on the Torres Strait; the focus is not on the mainland. Torres Strait Islanders living on the mainland outnumber our brothers and sisters up in the Torres Strait. When somebody talks about real Aboriginal people, they look at the Northern Territory and not at the other states and territories where Aboriginal people live. When you talk about addressing the needs of Torres Strait Islanders, please do not only look at the Torres Strait. There are about 30,000 or 40,000 of us living on the mainland, and we want our needs addressed. At the moment, my people are asking for our advice about who to vote for in the upcoming election. My people are frustrated.

The government talks about equity and access. We are not getting equity nor are we getting access to any program funding, especially on the mainland for Torres Strait Islanders. We do not want to duplicate any services: we have legal services; we have health services; and we have child care services. Our main function is to ensure that our cultural identity is protected and maintained on the mainland and to recognise that we are Torres Strait Islanders. We are another group of Indigenous people in this country and we want to be respected by being called Torres Strait Islanders, not islanders in some states and territories and by members of the government. In Aboriginal affairs offices around the states and territories, Torres Strait Islanders are not mentioned. That is one of the issues we would like addressed. If we are talking about equity and access, then you need to look at Aboriginal and Torres Strait Islanders affairs right across the country.

By the way, I am a regional councillor for the Townsville region—until 2005 anyway. Because of the abolition of ATSIC and ATSIS, TSIAB, the Torres Strait Islander Advisory Board, was also abolished. The Office of Torres Strait Islander Affairs in Canberra was also abolished, which has left only the non-government body, which is the national secretariat that I represent here. That is the only national representation of Torres Strait Islanders here on the mainland. We would like to see some representation and respect given to us as Torres Strait Islanders living on the mainland, especially for this national body to be resourced enough—with finances and human resources—to address the big need to help people in the other states and territories.

Like I said, I am a regional councillor in Townsville. In Queensland, I think there are about three or four Torres Strait Islanders who are on a regional council. When we sit around the table there are only one or two voices in regional councils representing Torres Strait Islanders. We have Aboriginal brothers and sisters there with more representation, and when we vote our vote is two to 10 or two to 12, whatever the numbers are. We are outvoted all the time. This cry has not just come up. It has been coming up since ATSIC was established in 1990. The then minister was John Herron. I have had representation with John Herron. There are government reports that ATSIC has made that show deficiencies and a lack of understanding about Torres Strait Islanders' access and equity needs.

The two previous ministers, Senator Herron and Mr Ruddock, have got reports. Since ATSIC was established, we have done a national workshop and we have come up with some national strategies for Torres Strait Islanders living on the mainland: on health, on youth, on culture, on economic development and on access and equity. There are reports somewhere in the office of the minister that address and talk about the community needs of Torres Strait Islanders. They need to be looked at by members of the parliament, be it senators or members of the lower house.

It is frustrating for us as Torres Strait Islanders. In the past, we have done this. We have gone to Canberra and met with ministers there. We are just talking to people who are not listening to us. We are sitting down here again this morning and we are trying to talk to you about addressing our needs. Like I said, it is frustrating for my people out there in the country and it is frustrating for me to come here and talk about those needs again and again, when reports have been written up. It seems to me that members of the government are not interested in our issues. I will stop there and let members of the panel raise some other issues.

Mrs Akee—I personally would like to raise some issues with regard to the demise of ATSIC as well as what is happening with Torres Strait Islander Organisations. As a national body, we have been on a limited budget ever since we got funded. With the demise of the Office of Aboriginal and Torres Strait Islander Affairs and TSIAB, I am questioning what the government is doing with the funding that was allocated to those two organisations. In the process that we have to go through we have community organisations and the ICC, with representatives from the various government departments sitting in ICC. We have had two Torres Strait Islander organisations in our region which have been cut back drastically, to the extent that they cannot even afford to enhance their funding so that they could have a CEO. That is the sort of thing that we have been putting up with over the years in terms of both ATSIC and regional councils nationally.

I have a great concern with regard to where Indigenous affairs is going right across the board. I do not just sit here as a Torres Strait Islander; I also sit here as an Aboriginal person who identifies as both. I have great concerns with regard to Indigenous affairs or Aboriginal and Torres Strait Islander affairs right across the country. I do not believe that we have been properly consulted with regard to ATSIC when the funding was cut. I do not believe that we were properly given the opportunity to have input into regional councils with regard to what was happening from a regional council's point of view. I do not believe that people who are now appointed in ICC have no Indigenous delegation to oversee them with regard to making sure that our services are being properly funded. I belong not only to this organisation but also to a number of other organisations. I have that great concern.

If we are talking about our youth and where the future lies, we are not going to have a future as far as Indigenous affairs is going in this country. That is the concern I have. Education has all been changed. The funding of other services that are not funded through ICC are the mainstream services. Of course, the high statistics with regard to law and justice show what is happening to our people in that area. I agree with what our chair is saying: when people talk about Torres Strait Islanders, they just assume that you have to come from the Torres Strait. Mr T is saying that we have been fighting ever since the inception, and we are just not getting the access and equity. We can justify the need because of all the reports that have been put through ATSIC, the national body, as well as the minister's office, and we have not got any responses. The government has funded us to have national forums every year or every two years. Now we have put it back. It does not act on the reports that are coming out. No-one is reading them with regard to what we are saying. That is the concern that we have with regard to Torres Strait Islander Organisations.

The organisations that we represent have great concerns because they have been told that if they want funding they have to go back to the Torres Strait. That was not the case at all when ATSIC was in. Elected people do not read their act and they do not have an understanding of

what the act says. That experience is all written in reports and it has all gone up to the minister, yet the minister actually has not taken any notice of those reports. I do not know what is happening with all the funding, because the minister basically said that they were cutting ATSIC so it would give more funding for people in the regions to be able to work more effectively with our people. Every organisation that I know has not had an enhancement of funding, so you have got to question where all this money is going to. Is it going back to the bureaucrats in the ICCs? We are crying out that we need to provide a service for our people right across the board, even as that brother said here with regard to legal. I chaired the legal service in Townsville and I had the same concern with regard to what is happening. With our Torres Strait Islander organisation, we are doubly disadvantaged in not getting access to funding.

We talk about cultural protocol. The Queensland people cannot talk about what is happening in the Northern Territory or Western Australia. The same thing needs to apply right across the board. People cannot talk on behalf of Torres Strait Islanders if they are not Torres Strait Islanders. That is cultural protocol. I will leave it there. Jacob might want to say a few words with regard to the concerns our young people raised at the last national forum we had.

Mr Pilot—Basically, I just wanted to touch on a few points. First of all, I want to make it very clear that the Torres Strait Regional Authority get direct funding from Treasury for their programs and services delivered in the Torres Strait. But on the mainland it is totally different. What came out of our youth workshop forum last year was that we do not have national representation or representation at any level—and then ATSIC and ATSIS were abolished. It is doubly difficult at a regional level. As the chairperson mentioned, around an ATSIC regional council table we might only have one Torres Strait Islander sitting there trying to get funding for Torres Strait Islander specific services within that region. The chairperson is certainly right in saying that across Queensland we might have only five Torres Strait Islanders sitting on any regional council.

Many of our organisations and people in Queensland—where the majority of Torres Strait Islanders live—struggle. It has become evident that since the abolishment things have become worse. Many of our organisations have been cut by 50 per cent—or even more than that—but they still have to deliver the same services they delivered prior to their funding being cut. Organisations are placed in a catch-22 situation: if they do not get these programs delivered to the community then they do not have an organisation. So they have to accept that they have to continue to deliver the services they were previously delivering. Otherwise, their organisation's capacity is decreased.

But I guess the main thing that I wanted to emphasise was that with the abolishment of OATSIA and TSIAB we do not have national representation. Prior to that, we had those organisations and we had one commissioner who came from the Torres Strait. They do not have any interest in representing us on the mainland. We are at their whim. They speak on our behalf but cultural protocol says that they cannot speak on behalf of Torres Strait Islanders living here on the mainland. We certainly have a vested interest in our land and seas in the Torres Strait, but they do not have an interest in funding, program delivery and service delivery. We fight for dollars down here on the mainland. We fight for dollars within our region and within our local area.

The greatest concern for me—and certainly for Torres Strait Islander young people around Australia—is that we need to have representation at a national level, at a state level and at a local level as well. We certainly try to push that with our young people. We try and get them educated to the highest level and get them involved in local and regional councils, and organisations like this. This is the first time there has been a youth representative on the national secretariat. I was fortunate enough to be elected by Torres Strait Islander youth around Australia to fill that position and represent them. That is where we are at.

We speak with all the members of our organisation across Australia and with Torres Strait Islander people across Australia as well. They are all struggling in terms of providing services to their communities. It all comes back to providing culturally appropriate services to Torres Strait Islanders. Aboriginal people cannot deliver services to Torres Strait Islanders. It is up to Torres Strait Islanders to deliver the services that are specific to Torres Strait Islanders. We certainly have distinct cultures and we want to try and maintain that. The national secretariat at this time certainly does not have the capacity as a non-government organisation to represent Torres Strait Islanders in the sense that OATSIA and TSIAB did. We do not have the capacity to do that. We have had this put in our lap and we are doing the best that we can at this time. Whatever unfolds, we certainly would like a level of equity where Torres Strait Islanders are represented not by people from the Torres Strait but by people living on the mainland of Australia.

Mr Geiszler—I just want to raise some brief points. My colleagues have touched on just about everything we need to. I would like to clarify a few issues that they have mentioned. The president mentioned the number of people living on the mainland in relation to the number of people in the homeland. In the last census, there were 36,000 people of Torres Strait Islander origin in Australia. Of those, 6,000 live on the homeland. That leaves 30,000 on mainland Australia. Of those, approximately 24,000 live within Queensland and the remainder throughout the rest of Australia. Our member organisations are drawn from Broome, Port Hedland, Darwin, Perth, Adelaide, Canberra, Brisbane, Rockhampton, Mackay, Townsville, Cairns and Mount Isa. The majority, as I said, are in the Queensland region.

I want to talk about one of the primary issues that we have operationally, because that is my perspective. Currently there is me and one other permanent staff member as our national office. We currently have two CDEP workers who come in two days a week, and that is how we operate. Our funding has remained the same since inception in 1997. We currently receive $300,000 as operational funding. In our last submission for this financial year, we sought $600,000 and we were granted $280,000. Those are the figures that we are working with. Of that, we have to be able to operate, and we have to hold national conferences. We do access funding from other areas to have our national conferences and workshops et cetera, but we go very much hat in hand when it comes to trying to get those funds. I came aboard about two years ago in the build-up to our youth conference, which we held on the Gold Coast. To be able to establish that money so we could bring in our youth delegates from all over Australia, we had to beg, borrow and steal from all over the place. That is one of the difficulties we have.

There is the issue of having a national voice, as my colleagues have mentioned. With the demise of ATSIC and ATSIS, the loss of our Office of Aboriginal and Torres Strait Islander Affairs within ATSIS and subsequently the loss of TSIAB, the Torres Strait Islander Advisory Board, we are the only mainland Torres Strait Islander organisation left in existence. Realistically, we have a representation of some 30,000 people through an office that is funded

with a bare minimum of money. It has got to the extent where I have been going through our books and looking at how to get rid of certain items we have, such as photocopiers, and how to downgrade office facilities so that we can maintain a service to our client group. I find that untenable because, at the moment, we are very much the poor cousin to a lot of other organisations.

Being the peak body as such, this is the first representation at this level we have achieved. So I find that at odds with the fact that we are that national peak body. We need to be in the forums at the national level much more. We need to be able to voice the opinions of our people throughout Australia. When I say 'our people', I am Aboriginal and I work for a Torres Strait Islander organisation. But since I have been working with the organisation, I have really started to become part of the family, and I have taken on board a lot of the issues that we have seen coming up. Quite often I get anecdotal evidence from organisations in Western Australia and South Australia about how members have gone into Aboriginal and Torres Strait Islander organisations, such as health and legal services, to try and get assistance. They are told, 'No, you can't come here; you've got to go through the Torres Strait Islander Regional Authority.' As Mrs Akee mentioned earlier, people just do not understand. It is just not there. They just do not understand that of all the money within Australia for Aboriginal and Torres Strait islander issues, there is a portion within each state for Torres Strait Islander issues, whichever state they are in. I think that is one of the major issues we are dealing with. Thank you.

Mr Tapim—I would like to make a couple of points. One of them is about representation. The present Prime Minister and the Minister for Immigration and Multicultural and Indigenous Affairs have stated a desire to have distinguished Aboriginal people on a national body. My people are asking me: 'If the Prime Minister is talking about distinguished Aboriginal people, where does it leave Torres Strait Islanders? Are we not included in that representation?' Our name is not mentioned there. Again, it is about representation. 'So where do we go?' That is one of the questions they are asking me, and I am putting this question up for you senators.

The other thing is that if there are only going to be Aboriginal distinguished members in the national set-up, whatever structure it has, they are not going to talk on behalf of Torres Strait Islander people, because they are not Torres Strait Islanders. You need Torres Strait Islanders there to talk about Torres Strait Islander issues—issues that affect us living here. So when the Prime Minister makes statements like that it says to my people that the Prime Minister himself does not know or recognise Torres Strait Islander people at all as the other Indigenous group of this country. Thank you.

CHAIR—I have one question. Regarding the money you talked about, Mr Geiszler, has it come in the past from ATSIC and ATSIS?

Mr Geiszler—Yes, it has. Currently, our funding has gone back to DIMIA. That is where we are receiving funding from at the moment—through the ICC. I meant to mention before that we have only been given a very low percentage release at this stage of the financial year—$22,000. That is all we have been given at this point, until we sit down and talk further with the project officer.

CHAIR—The project officer from where?

Mr Geiszler—From ICC in Townsville.

Mrs Akee—Normally, what happens is that every organisation gets a quarterly release. We are running a national body that only gets $22,000 released, and that is just for wages and a little bit of operation. That means we are talking about accountability. How can we be accountable when we do not have board meetings to be able to deal with our national issues? Those are some of the things we are concerned about in regard to the ICC.

Senator O'BRIEN—Obviously, this committee is looking at the government's proposal. It is not the only proposal that is being considered. Putting all of that aside, in terms of the future, what do you think should be the structure of representation of Torres Strait Islanders in the homeland and on the mainland? How should that be structured in an ideal world?

Mr Tapim—I will start by saying that in the past we have had a structure where we had TSRA up in Arnhem Land, the national body that we sit on now, and then TSIAB, which is an appointed government arm. Then you have the Office of Aboriginal and Torres Strait Islander Affairs. So you have those three peak bodies coming in together and meeting. TSRA discusses the issues that it has within the homelands about infrastructure and education. We discuss the issues that we have when our people from the Torres Strait come on the mainland and are part of us on the mainland. Then, we talk with the Torres Strait Islander Advisory Board—its members are appointed. Between the appointed members and ourselves we try and take those issues up with the minister.

We coordinate all those activities with the Office of Aboriginal and Torres Strait Islander Affairs. With the Office of Aboriginal and Torres Strait Islander Affairs gone, we have nowhere to coordinate the activities and it falls back on the national body that we represent here. To address your question, if you are going to have a national body representing both Aboriginals and Torres Strait Islanders, you need to have a Torres Strait Islander representative on the national body to talk on behalf of Torres Strait Islanders.

Mrs Akee—I will just elaborate. When our chair is saying representative, we do not want only one because it did not work in the days of ATSIC. We had one voice amongst 12 other commissioners. I suppose if you are looking at a realistic structure that needs to take place, I think there is room for the TSRA and the national secretariat to form a national body that could represent the interests of Torres Strait Islanders in the homeland and the mainland.

Mr Geiszler—We have already gone down the path of discussing relationships with the new elected members of the TSRA. In the week that the elections were finalised and the names put out, the then executive officer was in the Torres Straits along with Mr Tapim and Mrs Akee. They met with the new chair and established the relationship. There was a relationship previously but it was very tenuous because of political issues between homeland and mainland people. We see this as a very good opportunity to establish a better relationship. Obviously, when we are talking about the numbers that we are looking at, the representation needs to be there on an equal basis so that we have a voice at that level with the members of the TSRA.

Senator O'BRIEN—It is interesting that you say that because, speaking of the issue of mainland Torres Strait Islanders in the Torres Strait, an attitude—not necessarily commonly held—was put that they are there so it is the organisations there that are responsible for their

welfare. In the regions, the ATSIC regional councils—as you will probably well know, Mr Tapim—took the view that, no, the Torres Strait body should take responsibility for these people. That is why I am looking for your ideal for the future. You want someone specifically on a national representative body who is representing mainland and homeland people. Is that how I should understand you?

CHAIR—No.

Senator O'BRIEN—Sorry, perhaps I misunderstood.

Mr Tapim—If you are looking at establishing a national body like ATSIC, some structure to represent the national voice of Aboriginal and Torres Strait Islander people, you look at representation on that particular level to represent both Aboriginal and Torres Strait Islander people equally. But if you are looking just at the representation of Torres Strait Islanders, you need to look at the national secretariat, which comprises Torres Strait Islanders on the mainland as it stands, with representation from states and territories being on the board of directors of this company. It comes back to the issue of financial resources. Do we earmark financial resources for Torres Strait Islanders living on the mainland not to duplicate services but for specific cultural programs so they can establish a cultural centre or look at economic development so that they can improve and start an economic base for them?

They are saying to us, 'We don't want to go. We're ashamed of putting our hands up to get some resources. We want to stand up on our own feet and do the things that we want to do after years of government resources. We want to establish an economic base for ourselves so we don't have to go back and ask for funds, resources or whatever.'

Senator O'BRIEN—Was there an explanation given when you were told that not only were you not getting your request for $600,000 from the Commonwealth but you were also having a reduction in funding?

Mr Geiszler—No, there was no explanation given, although I spoke with the then manager of OATSIA along with the previous executive officer. We were told that in their bucket of money they only had $480,000 anyway. Of that, they had to maintain what they termed a holding fund. That was the reason they held back some $200,000. It was as a fund for other issues that may arise, such as possibly funding a national forum through the secretariat this year—if we decide to go with one this year. We were actually looking at a planning conference for all our member organisations this year to look at economic development issues throughout Australia for them. But we are still trying to keep our heads above water at this point before we can go ahead and do those things. So, no, there was no explanation given, apart from the fact that we were told, 'No, we haven't got that money, sorry.'

Mr Tapim—The $300,000 that was given was an ATSIC board decision. They said, 'They can have up to $300,000.' So whatever we get—$280,000 or $260,000—it is up to $300,000. It has been like that up until now.

Mrs Akee—The process in the days of ATSIC was that an organisation could go up and negotiate the release of their funding. We do not have that process now. The organisations that I was talking about before were given the letter of offer to sign. They were not very happy with

having to sign a letter of offer but if they did not sign the letter of offer they not would get their release to pay their staff. They are in a catch-22 situation. It is like blackmail: either you sign it or you do not get funding. So organisations were forced to sign the letter of offer so that they could get the money to fund their organisations. Now we do not know the process with regard to who we talk to about our funding. We just do not know what is happening in the area of ICC.

Senator O'BRIEN—The organisations, you have told us, provided a number of reports to ministers past and present—I think that was what you said—and no action has been taken on them. Were they actually acknowledged by the ministers in any way?

Mr Tapim—No, they were not. When we met with previous ministers—such as Senator John Herron—I mentioned the same thing. There are reports such as the new deal report and the evaluation report. ATSIC has just done a report on services. So there are reports that have got issues that address the Torres Strait Islanders and the mainland. A report was commissioned by the minister through ATSIC. So there is the minister's report and it has gone back to the minister. We do not know whether the minister has looked at it or addressed it. One of the things I said to him was that all of those reports need to be looked at in order to have a look at where we are today.

Senator O'BRIEN—Does your organisation have copies of the reports?

Mr Tapim—We do.

Senator O'BRIEN—Are they able to be supplied to this committee?

Mr Geiszler—I will undertake to make sure that the committee gets enough copies of each of those reports.

Senator O'BRIEN—Thanks for that. I am sure we can make copies if you give us one of each. It would be helpful if you could provide us with any details of any feedback that you have had from the minister or the department about the processing or consideration of those reports by government.

Mr Geiszler—No problem.

Senator O'BRIEN—Thanks for that.

CHAIR—Before we go to Senator Scullion I need to say that Senator McLucas wanted to give her apologies for running away. Another Senate committee, which is finalising a report today, has a telephone hook-up at 10 o'clock and she has been called away to that, so there are apologies from her for not being here. I should have flicked to her first for her questions. You said that your organisation consists of 25 affiliated organisations. Is it possible to get from you a list of those 25 organisations?

Mr Geiszler—Yes.

Senator SCULLION—Thank you very much for your evidence today. Obviously yours is a very strong advocacy group that stretches over quite a diaspora and it must be very difficult to

deal with the issues. The reasons that people leave the Torres Strait are many and varied and the circumstances under which they find themselves must be very similar. I think I have a bit of a grasp of the issue of equity. What you are putting to me is that as soon as you leave the Torres Strait you are not treated any longer in a cultural or an individual sense as a Torres Strait Islander. Perhaps you could give me some examples of the sort of program delivery that happens in the Torres Strait that is not available to Torres Strait Islanders on the mainland. Mr Tapim, I noticed that you did mention particular cultural programs. Would there be any programs, outside of those with a cultural bent, that are not available to Torres Strait Islanders on the mainland but are available in the Torres Strait?

Mrs Akee—I can mention one. Native title is a major issue with mainland Torres Strait Islanders. All our people nationally were told to go to the Torres Strait. We were told that the representative bodies that were set up around the country were also there to represent the interests of Torres Strait Islanders. That has been a major issue with regard to getting access because, irrespective of where Torres Strait Islanders live on the mainland, their traditional and heritage rights are in the homeland, which is in the Torres Strait, but they cannot get access to funding to travel back to the Torres Strait to look at the issues that have been raised there regarding their native title access.

Mr Tapim—Most of them are landowners anyway.

Senator SCULLION—So, Mrs Akee, what you are putting to me is that their capacity to assert their right through the native title process is impeded because, as I understand it, the representative body is currently the TSRA. Can you give me examples—perhaps take this question on notice if you cannot give them to me today—of where people have made application to the TSRA, being the representative body, and have not been successful in being able to assert their rights under the native title process? Whilst this question is perhaps somewhat out of the bailiwick of this committee, I can say that I, the chair—Senator Crossin—and Senator McLucas are part of the native title standing committee and I can assure you that this aspect of it will be carried forward and perhaps presented to the committee as part of a concern. Mrs Akee, would you be able to, either on notice or now, give me an indication of any examples of where access to the assertion of rights has been impeded through that process?

Mr Tapim—I can give you one example. I am a Murray Islander, a Meriam. When the Meriam land case was discussed amongst us, I asked the legal service representative body in the Townsville area to address my needs, and they said no. They referred me to the TSRA, which, they said, represented the Torres Strait Islander rep bodies on native title. When I approached the TSRA, the TSRA then said to me, 'No, we only look after the Torres Strait region. We do not look after the region that you're in.' They were saying they are only for the Torres Strait region; they have a limited amount of dollars. They said to me, 'You've got to go to your rep body on the mainland.' I went to them and they told me to go up to the TSRA, and the TSRA told me to come back here. We are the meat in the sandwich; we do not know what to do. So we raised those issues.

CHAIR—When we were on Thursday Island yesterday we had the TSRA before us, and they also acknowledged that that was a problem for Torres Strait Islanders on the mainland. They raised that as an issue as well, not so much on your behalf but because they were conscious of the fact that you get thrown from pillar to post, basically.

Mr Tapim—The other thing is that we advised Minister Herron and Minister Ruddock, with the changes to the native title rep bodies, to have a look at the national secretariat being the rep body for native title holders so there are people living on the mainland representing Torres Strait Islanders—which is understandable and commonsense—instead of having TSRA up there pushing us down here.

Senator SCULLION—I think you find yourself in a unique circumstance, as most of the representative bodies have a spatial responsibility—over a physical area. As an applicant in the proceedings of any native title claim, you would be listed as an applicant within the bailiwick of that representative body, and I would have thought it would have been absolutely clear, certainly under the legislation, that that is where your application should have gone. It would have been inappropriate for Townsville or some other spatial body to deal with those concerns. Quite clearly, that is where it should go. In any event, the chair and I will ensure that those particular concerns are pursued. Whilst I understand that in a cultural sense, is there any other program currently being delivered—for example, to Torres Strait Islanders within the straits—that you do not have access to on the mainland that is outside of a cultural or native title process?

Mr Geiszler—As I mentioned earlier, economic development is one of the main issues for Torres Strait Islander people. We have often had anecdotal evidence from our member organisations, from individual members who have gone to their local ATSIC regional council with a project which they were discussing to receive funding, and they were told, 'Sorry, you have to go to TSRA. We do not do that here, not for Torres Strait Islanders.' It is not a single case; it has happened numerous times in Western Australia and South Australia and again in New South Wales and Victoria. If you wish I can go back to the member organisations. I am sure I could get numerous letters regarding that.

Senator SCULLION—I am not sure of the exact programs, but many of these programs, as I understand it—certainly, within my experience—have been tied to particular lands. For example, let us say this is your land. Are these applications being made by effective landholders—they may not be of traditional lands—who are Torres Strait Islanders on the mainland? Is that the nature of the applications that are going forward?

Mr Geiszler—In a lot of cases what they were putting forward were project submissions simply to look at a business opportunity within the community. Because those applicants were Torres Strait Islanders they had no claim to the land they were on and they were referred to TSRA. They were basically told, 'Sorry, you don't have a leg to stand on.'

Mr Tapim—The other thing is the Indigenous Land Corporation. We as Torres Strait Islanders have got no land on the mainland; so how do we get access to that corporation to get resources to establish something on the mainland? With land occupied by traditional owners, some of us have agreements with those traditional owners. Some of us have intermarried with traditional owners and other Aboriginal people within our community. So there are relationships there that mean we can come together and establish some businesses, but because of the ILC process we have got no land. It is very difficult for us. That is one of the programs. There are programs up in the straits that deliver for the people up in the straits. As I said, they look at infrastructure, at roads and at transport, whereas on the mainland we have got those facilities. It is about access to those particular programs in terms of equity.

Senator SCULLION—I understand, Mr Tapim. Thank you for that. As you suggested, Mr Geiszler, we would appreciate some of those answers on notice. In terms of representation, clearly it is very important that you put your evidence to us. In a letter to all the ATSIC councillors and in a statement from a meeting of the regional chairs in Perth in July, the minister said:

Regional Councils will be actively engaged in contributing to the development of the new arrangements. They will have a number of key roles such as:

- performing an advisory role with government agencies while new arrangements are being put in place.
- assisting the government to make the new arrangements work—

and most importantly—

- contributing, along with others, to the formulation of new representative arrangements at the regional level.

I cannot amplify enough—and the evidence you have given today obviously amplifies—that you would be a very important representative body for the Torres Strait Islands, particularly here on the mainland. It is very important that through your position, Mr Tapim, you are able to ensure that the minister is aware of that. Perhaps you may wish to consider the maintenance of that particular representative process.

Mr Tapim—We met with the member for Herbert, Mr Peter Lindsay, and he tried to get an appointment for us with Minister Vanstone. Her advisers rang back and said: 'No, the minister is too busy to come and meet with you. Sorry.'

Mr Geiszler—I have been requested to again put in a submission through her staff so that she may possibly read it and, at some stage in the future, arrange a meeting with us.

Mr Tapim—Again it shows me that Senator Vanstone is not worried about Torres Strait Islanders.

Senator SCULLION—She has recently come to that portfolio, and I know personally how busy she has been travelling around the country. If through the processes I have identified—your representation—you were to get back to her about that, I am quite sure that that would have a positive impact. Mrs Akee, you wondered about the future funding arrangements. Have you written to or formally approached the ICC and said: 'These are the questions—and they are quite legitimate questions—about our funding. What sorts of answers and assistance can you provide to us?' Have you formally done that yet or is it still early days?

Mrs Akee—They have just recently appointed their manager. From the national secretariat's point of view, for us to do this we have to travel nationally to meet with all the ICCs to make sure the issues of Torres Strait Islander people in those regions are being addressed. We come from Townsville, and that is one of the issues we will be taking up with our Townsville office. We have to basically do the consultation nationally; whereas before we had people like TSIAB and OATSIA, we would write a submission to them and they would take that on board. Now we have to do this because we do not have any other national bodies and we do not have the funds to even go around and do the national consultation. We are quite adamant that we need to go through this process to meet with all the newly appointed managers of the ICCs to bring our issues to the forefront.

Mr Tapim—The other thing, too, is that I am on the regional council, as I said. As a regional councillor, I do not know what is happening in the ICC at the moment, because every time I ask a question they say, 'We don't know. We're still waiting for advice.' If they do not know, and I do not know, and people in the community do not know, we are back to square one. That is the concern.

Senator SCULLION—That is why I was asking if you had formally asked them for advice on those matters. If you have, perhaps you could provide us with a letter of that nature, if you have one.

Mr Geiszler—As Mrs Akee said, we are in the process of doing that at the moment, because of the fact that they have only recently had the appointments made et cetera. Now we are trying to establish a relationship with the national office as well. Previously, we went through OATSIA. We knew the OATSIA staff well—we had a good relationship. We have to reforge those relationships, I guess, at this point, so that is another difficulty that we have to face.

Senator SCULLION—Whilst we were in the Torres Strait, the movement from the TSRA model to a new structure was clearly an issue. There were several suggestions—and complete self-determination, complete ownership of resources and control of the strait have been raised. Have the ICC or the body that is looking at moving forward on that been in touch with your secretariat? Are they working with you on some of those issues that you have brought up here today?

Mr Tapim—When you say the ICC—

Senator SCULLION—There is a body of six people. I am not sure if it is under the TSRA or under the ICC, but there is a body of six people, I understand, who gave evidence, who have been—

Mr Tapim—That is the Greater Autonomy—

Senator SCULLION—The Greater Autonomy Steering Committee group, yes. Have they been in touch with you and consulted with you about the formulation of the new arrangements in the Torres Strait?

Mr Tapim—We have in the past been involved with the discussions. We have gone with the TSRA and the ICC right around the country, talking to our people about the establishment of a separate autonomous body. At the moment, we are still talking about it. We are waiting for them to get in touch with us so we can have more discussions on how the structure can be formulated to make sure that our representation is in that structure.

CHAIR—We do not have any further questions. In thanking you for coming, I want to particularly thank you for making the effort of coming from Townsville and travelling to Cairns to meet with the committee. We certainly appreciate your effort and time. I think your evidence today has been very helpful. We have had raised with us in a number of places the issue of Torres Strait Islanders who live on the mainland. I think your evidence today has brought it all together for us. I appreciate you coming and travelling from Townsville. Thank you very much for your time.

Mr Tapim—Thank you, Chair. We will see whether anything is happening as a result of this!

Proceedings suspended from 10.28 a.m. to 10.45 a.m.

DORE, Mr Martin Edwin Ellis, Principal Legal Officer, North Queensland Land Council

CHAIR—Welcome. The committee prefers all evidence to be given in public, but should you at any time wish to give your evidence, part of your evidence or any answers to specific questions in camera you can request the committee to do this and we will facilitate that request. If you want to begin your submission with an opening statement, I invite you to do so. When you finish, we will go to questions.

Mr Dore—First of all, I would like to tender the apologies of the chairperson of the North Queensland Land Council and also our executive officer, both of whom are otherwise engaged today. As I understand it, this committee is looking into the arrangements regarding ATSIC, as it was, and possible arrangements to form replacement bodies and so on. The North Queensland Land Council has a number of concerns. On the broader issues of, in effect, splitting up ATSIC and sending the different matters that ATSIC used to handle into the mainstream, we feel it is very detrimental to the Indigenous population. Whilst we recognise that not all matters were handled through ATSIC and various separate schemes were going to deal with a number of different issues, certainly for a number of matters ATSIC amounted to a one-stop shop, where the Indigenous people of this country could make various inquiries about different schemes. We see the splitting up and mainstreaming of the various different programs as a huge step backwards. Indigenous people are not always good at dealing with bureaucracies. I guess it could be said that it might be bad enough to have to deal with one organisation, but now that they have to deal with many we see that as a distinct difficulty for them.

We would also suggest that the way the whole matter has been handled—that is to say, in effect, dismantling ATSIC or at least in part dismantling it, without having what is to replace it already well thought out, set up and ready to hit the ground running—is a very strange way of doing business. We are particularly concerned that there is no definite indication of how any replacement body, organisation et cetera will be involved in terms of the Indigenous people having a right to elect representatives and having a direct say in the body. That is a major concern. We seem to have gone from a situation where there was active participation in what amounted to self-determination to a system which, at the moment, is partially crippled, with no real thing on the horizon that is clear as to what is going to replace it. So we feel that the whole process has been approached in a back-to-front manner.

The difficulties that we see more on a local level that certainly impact upon our constituents is that a lot of the previous ATSIC staff either have taken redundancies and are looking for work elsewhere or are being shifted to Canberra. In terms of those bureaucrats, we now seem to be seeing centralisation back to Canberra, which again decreases the accessibility for our local clients to deal with people on a local basis. It seems to us that removing Indigenous bureaucracy and merging it in the mainstream takes away the focus on Indigenous issues and it makes it more difficult for our clientele to deal with that bureaucracy.

We feel that the centralisation towards Canberra acts to the detriment of people particularly in the regional areas. They cannot just go and talk to the bureaucrats they may well have developed a relationship with over a number of years. They cannot raise directly whatever questions and queries they might have with people they feel comfortable with both because they may well have

known them for a long time and also of course because most of those staff are indeed Indigenous. Once you remove the bureaucrats to Canberra they seem very distant and whether they are Indigenous or not probably does not mean a lot to the individual seeking help.

I will turn specifically to its impact on how major title representative bodies do business. Our major concern is the apparent conflict of interest. When funding was given to ATSIC and ATSIC then had the job of assessing the distribution of those funds to the various native title representative bodies, in effect you had an independent agency standing between you and government. Now that our funding is directly controlled through DIMIA we see that as a huge conflict of interest. The point is manifest in a number of ways. First and foremost of course, the Commonwealth government is often a respondent party to native title claims. One has to query how you can have a situation where your funding is dependent on you being able to demonstrate to DIMIA necessary progress and outcomes of claims and yet at the same time DIMIA is in fact the government and the government is often the respondent party to claims. There seems to be a massive and obvious conflict.

If we think back to the situation of Mr Ruddock before he moved on to his new portfolio, he was very much concerned about conflict of interest, so much so that he issued directions under the ATSIC Act that forbid land councils having anyone on their governing committee who was also in a position of power in ATSIC. As a result of that we lost the services of a very competent gentleman by the name of Mr Terry O'Shane. While that is really to the side, the point is that there was a recognition by the government at that stage that you had to appear to be above all possibility of interference. Now we have the DIMIA funding. It is a branch of government, a direct department of government, assessing whether we continue to exist at all whilst the government may well be a party to claims. That has got to raise serious concerns.

We have concerns about the whole way the change has been implemented. In terms of funding arrangements, they used to come as grants with various conditions. Now we are moving to what amounts to contract based funding. The contract that we currently operate under came late and with very little time for it to be studied. There was very little time for various land councils to get together and consider the impact of it and we have only signed the funding agreement under protest because our alternative was, in effect, to cease to exist and cease to provide any service to the Indigenous population of a region, which we saw as the greater of the evils. We have grave concerns about the contracts that have been presented. Our major concern again lies in the field of what could amount to a form of conflict of interest.

The contracts have many deficiencies in them, which we have outlined to DIMIA. Principally, the deficiency that concerns us most is the fact that, subject to certain exceptions, they seek to make all the material that we might generate using DIMIA contract funds the property of the Commonwealth. Again, conflict of interest arises, because the Commonwealth is often a respondent party. Whilst it is to be accepted that the contracts talk about some exceptions and try their best to make matters that may well be subject to legal professional privilege exempt from the rule that in effect the copyright, the intellectual property rights and all the other rights of that information belong to the government, we feel that the purported protection is inadequate and uncertain. It does nothing to allay our fears that, in effect, everything we research and all the information that we might gather—for example, in relation to looking at whether a claim is worth bringing—depending on how you interpret the contract, may not be covered under legal professional privilege and may in fact be something that, upon demand, the government could

see. We find this to be an abhorrent situation. There should be absolutely clear provisions that that sort of material is in no way the property of the government or that in no way should any form of intellectual property right be vested in it. That is a major concern to us.

Also, in relation to mainstreaming the programs, we have concerns that, once you are into a mainstream government department like DIMIA, although they have taken over a number of the staff that used to be in ATSIC, over a period of time that will become diminished. For various reasons people will leave jobs and move on to better jobs, or whatever, and you will quickly lose a pool of expertise and people who understood the difficulties faced by our Indigenous colleagues, and they will slowly but surely be replaced by well-meaning bureaucrats who have no understanding of the unique difficulties facing our clients.

CHAIR—Can you clarify for me the source of your funding? Is it right that it is being held by DIMIA but will eventually transfer to A-G's?

Mr Dore—We are not entirely clear on that. What we have at the moment is a contract effectively between us and DIMIA. Whether it will ultimately be streamed through A-G's is not clear to me.

CHAIR—We took evidence in Broome from the Kimberley Land Council, who gave evidence along very similar lines; they were very concerned. Is it also your situation that, before you appoint a replacement or change the structure of your organisation, you need to get approval?

Mr Dore—My understanding is that, yes, we do. We have strategic plans which indicate the nature and structure of the organisation, and they have to be approved. In particular, of course, we have to put in operational budgets. If any restructuring alters the mix of how we spend the money—if we are employing extra people or if more money has to be dedicated towards one side or another of the matters we do—it is a question of getting approval for variation of the operational plan and the associated budget. Protections have now been written in which provide that specific permission must be obtained before there is a change of executive officer or principal legal officer.

CHAIR—So technically you have a situation where your opponent in a court case, whether they are defendant or—

Mr Dore—Respondent.

CHAIR—respondent, could technically have control over the level of expertise, the type of expertise or the way your organisation operates—that is what you are putting to us—and therefore could basically have some level of control to the point where they benefit from it.

Mr Dore—The system is now such that that is possible. Previously, with ATSIC as an independent body you had a buffer between the funding that came from government in one big bucket to ATSIC and the recipients, with ATSIC's job being to divide that up appropriately. Now the funding is effectively directed from the government.

CHAIR—I would like to ask you about another matter. Have you been approached by any of the arts and crafts centres that have been asked to sign a contract with DCITA regarding the control of the intellectual property and the cultural rights of work that artists produce?

Mr Dore—No, we have not been approached. We have from time to time had—

CHAIR—Are you aware of the new situation in the current contract being offered to arts and craft centres?

Mr Dore—No, I am not but it is not normally a native title matter. We have from time to time had guest presentations to some of our constituents about copyright and intellectual property in artistic works, but not recently.

CHAIR—It seems very similar to what you are putting to us. The clause in their new contract states that any intellectual property is basically the property of the Commonwealth.

Mr Dore—That is essentially it. What we have is pretty much the standard Commonwealth government contract with a few variations. Whilst they seek to say that you are all right because these provisions do not apply to matters subject to legal professional privilege, the difficulty with that is that the bounds of legal professional privilege are matters which are quite fluid within court decisions at the moment and the extent to which they exist or do not exist in any given situation is sometimes very arguable and it makes the situation very unclear. On existing case law there are decisions which talk about investigations and research carried out preliminary to a decision to run a matter in court that may not be covered. That is our concern. Often best practice in native title matters would suggest that you should carry out a certain degree of preliminary research in order to properly consider whether a matter is worth proceeding with, and it is of grave concern to us that it is unclear the extent to which the exemptions in the contract will protect those matters.

Senator SCULLION—Mr Dore, this is a follow-up question from a previous group that gave evidence. Does your legal service provide service to Torres Strait Islanders who reside within the area that comes under your purview?

Mr Dore—Not unless they are some way entitled to native title on the mainland. The native title representative bodies are set up to investigate and prosecute native title claims. We operate within the Cairns region gazetted under the Native Title Act and that covers from Mosman in the north down to Mission Beach in the south and as far across as about half-way between Croydon and Normanton, which takes us almost to the gulf on the other side. That is the region in which we have a statutory obligation to provide native title services. Unless we happen to have a Torres Strait Islander who, for example, by marriage has become an accepted member of a mainland group and under their laws and customs therefore entitled to be a member of that group and be part of the community that holds native title, we would not be servicing them as such.

Senator SCULLION—Could you give me some examples so I can get a better understanding of this issue of the movement of ATSIC or ATSIS staff, including Indigenous staff, who were here and have now been moved to Canberra. If you are unable to now, perhaps take it on notice. And could you give me an indication of what sort of areas they were working in.

Mr Dore—I might need to take that on notice. A number of the admin staff within the ATSIC office have been kept on, at least for the time being, for the Indigenous Coordination Centre. But we certainly have heard of other senior bureaucrats who are either moving to Canberra or, in one case of a person well known to us, considering whether they will say no to the offer to move to Canberra and seek other work in Cairns. I would prefer not to mention that name as I do not know if that person has made a decision yet. In terms of names or details, I do not have those at my fingertips, but I am sure we can make inquiries.

Senator SCULLION—I am quite happy for you to take that on notice. I do follow the issue of the potential conflict of interest in terms of the provisions of funds for native title processes. Perhaps you could just help me with this: are the funds you mentioned for the actual cases that are afoot or are they to fund the representative body, or both?

Mr Dore—The way funding for us works—and in this broad sense it is the same as the previous system with ATSIC—is that one makes an application for the following year's funding. One has to put in a detailed budget and illustrate how the money is likely to be spent. In those budgets there is usually a distinction made between the money needed to simply run the organisation—for wages, equipment, consumables, mortgage or lease on the building and all those sorts of costs—and a component that is the cost of researching and prosecuting native title claims. One puts in a budget which is, hopefully, approved and there are usually terms and conditions attached, whether they be the grant conditions or the conditions under the contract, that require you to essentially spend the money in accordance with your budget. There are quite stringent reporting conditions where regular financial reports have to be given back indicating that you are spending in accordance with the approved budget. So if there is a major need to vary the budget in some sense, then that requires a supplementary application and approval.

Senator SCULLION—It raises the issue, I suppose, that prior to these changes, as I understand it, there were other respondents, particularly in cases of precedent in native title that were funded through A-G's in any event. So it could be equally said that in any issue of precedent prior to this the government actually did have a conflict of interest at that time because the funds that were to go to that case because it was a matter of precedent were from the Commonwealth and the Commonwealth clearly, in some instances, did not have a parallel interest. That is probably academic. Thank you.

CHAIR—We have no further questions, so thank you for your time today and for your evidence.

[11.10 a.m.]

RYAN, Dr Paul David, Acting Chief Executive Officer and Public Health Officer, Apunipima Cape York Health Council

SINGLETON, Mr Bernard, Chairman, Apunipima Cape York Health Council

CHAIR—Welcome.

Dr Ryan—I would like to introduce, because he was not on your list, Mr Bernard Singleton, who is the chairman of our organisation and also a traditional owner of this land on which we are sitting now. In saying that, I would also like to acknowledge the other traditional owners of this land, plus the leaders and traditional owners of Cape York.

CHAIR—At the start of the hearing this morning and on behalf of the committee, I paid our respects to the traditional owners of this land. But now that you are here, it is probably proper and fitting that I do that again in your presence. Thank you for allowing us to meet on your country and to hold this committee meeting here in Cairns. The committee prefers all evidence to be given in public, but if at any stage you want to tell us anything in confidence in answer to a question or as part of your evidence you need to request that of the committee and we will facilitate that. If you would like to start with an opening statement, we will then go to questions.

Dr Ryan—I have provided a copy of our submission. I do not know whether or not you have a copy in front of you. I will not go through the whole thing in detail because you can read it at your leisure. As a community owned health council, we are formed from the 17 remote Aboriginal communities in Cape York. We strongly recommend that the government, in considering the future of ATSIC, ensures that it does not simply replace it with departments that deliver the usual bureaucratic processes without reference to Indigenous sensitivities. I also acknowledge that it may be an impossibility, because I think the agencies in which ATSIS and ATSIC are being dispersed to are not Indigenous in either their nature or their culture by the people who serve there, except incidentally. One of the benefits of ATSIC is that it is Indigenous in its culture and its context. Whatever problems there may have been with its operation, perhaps we need to consider that we may have thrown the baby out with the bathwater. I certainly know from the Cairns based offices, because of the two regions, that the leadership was good; it was accountable and committed to the communities of Cape York, as were the staff who worked under the leadership there.

In light of the reality though of what has actually happened and is happening, I do urge the government in setting up the Indigenous coordination centres to ensure that they are empowered to cut through any of the bureaucratic red tape in all those processes that have to go. We need to start and not restart. We need to get going and we need to get runs on the board. I was at a recent meeting with the ICC people here in Cairns that included some Commonwealth people, as well as Noel Pearson and some other Cape York leadership. We are aiming in the next 100 days to try and get what we call some runs on the board. We think we have a good opportunity with the way the government is focused and concerned about Indigenous affairs, and we really do not need to

be caught up in what is termed 'administrivia', which is often the problem that plagues the enactment of any effective Indigenous initiatives.

If ICCs are meant to replace and coordinate, in a whole-of-government sense, all ATSIC activities, such as the dispensing of funding and having the authority that resided previously in that body and was accumulated from other departments with a concern in Aboriginal and Torres Strait Islander affairs, they need to be empowered with the ability to shortcut and fast track. We have people dying, we have babies being born with a low birth weight who are failing to thrive and we have an increase in diabetes, which is now moving down the age chain from older to younger people. Government does not have the luxury of time in which to set up new bureaucracies to continue to somewhat mishandle the way in which Indigenous health and other concerns have been attended to particularly in the last 30 years and certainly since the sixties.

From my experience and observation, the Cape has many good leaders who are Indigenous and very capable and who also have integrity, honesty and the ability to interact with people in the communities, especially leaders, to bring about change here. Anything the government does in the form of change needs to empower that leadership and the people of Cape York to self-determine, from my perspective, in areas of their health. Having said that, areas of health are not isolated from all the other issues besetting people in remote communities. I think we all know of the difficulties any rural community has with health services, economic development, employment and so on; it is exponentially greater for remote Aboriginal communities.

From my perspective as a health professional, I would like to see whatever influence people like you or others in government have working so that these ICCs, with the replacement of ATSIC if it has to occur, can be empowered to work effectively and fast. I say that not just from my perspective of health but from the perspective of the things that surround health—economic development; the lack of employment that besets our people, therefore the lack of hope they may have, therefore the lack of resilience they may have and, therefore, their susceptibility to things like suicide, self-harm and alcohol abuse.

I also urge that the government and new organisations, with the attitudes they bring with them, do not see things like substance abuse only as issues of alcohol. They are issues far beyond just alcohol consumption or drug use. They must be seen in the context of the whole of health, the whole of a person's life holistically, and that is not being attended to. We are making some steps in the areas of restriction and the areas of supply and demand. But Aboriginal and Torres Strait Islander people need far more than that; they also need to have it within their own power to deal with their lives and not have us continually being perhaps paternalistic, because the bottom line is that all the time that is what it comes down to. We do not respect enough the actual leadership within the Cape York communities. Since March new councils have been elected, and it is really heartening to see how community people have elected those who are interested in and capable of leading their townships and little communities further forward. They need help, not hindrance, through our processes, both from our point of view as an organisation and from your point of view as government.

I do not think we are ever going to get any improvement in the health profile, which is obviously my main concern, unless governments, we as an Indigenous organisation and everybody else start to acknowledge that we need to be innovative in our thinking—to think outside the box—and perhaps even to risk-take while still being accountable with funding. We

can be more risk-taking than we are. We need to be radically different in the way we are prepared to approach the issues of health in Cape York—radically different from what we have been doing, I mean. Some good things have been done elsewhere in Australia. We need to look at them, and we need the support of government and other people of influence to help us do that and to empower our leadership so that health is self-determined by our people.

What we do not need is more policies; we have more policies than we know what to do with. We do not need any more research. I think the people at Cape York feel they are the most researched people in the world, and where is the benefit in that? Yet still enormous amounts of dollars are going to universities for people to do their post doctorates et cetera. We also do not need any more delays, because we cannot afford them. Just like more research and policies, delays are luxuries being bought at the expense of the physical and emotional wellbeing of the people who are our first peoples and who represent, I might add, the heritage of all Australians. They add a richness to our national life which is being impaired and is in danger of being lost.

Mr Singleton—ATSIC is gone. We have the ICC now. So we have different people, and they have to come and learn about us again. I just hope that these people really sit down and talk with our different organisations in Cape York and take notice of us. Our organisations are elected by the people and they are the voice of the people, so I think we need to sit down and start talking with them. It is as simple as that.

CHAIR—Dr Ryan, can you tell me where the rollout of PHCAP is in relation to the Cape York health services?

Dr Ryan—Our basic operational funding is from OATSIA and from Health and Ageing. We have also raised virtually the equivalent amount of money by grant applications, principally through Family and Community Services plus some in the past through the Office of the Status of Women in Prime Minister and Cabinet. We have some funding for family violence programs in our communities from the state department of families. We are not a direct recipient of PHCAP other than through the OATSIA funding.

CHAIR—Is PHCAP, the Primary Health Care Access Program, being rolled out in the Cape York area?

Dr Ryan—I might need to take that on notice as to the degree of it, but we are not in one of the implementation areas, so it is not being rolled out as such. We are not a medical service either at this stage. Our focus is on preventative health care. We have a partnership with Queensland Health to look at their chronic disease strategy, which has three parts: prevention, intervention and management. As we develop our capacity in partnership with them and also in a newly developing partnership with the Cape York institute, we are looking at preventative health care development. That is where our focus is now.

CHAIR—So the programs you deal with—

Dr Ryan—Link to that.

CHAIR—FaCS, for example, will go through the ICCs, then? We have had representations from AMSANT, the Aboriginal Medical Services Alliance in the Northern Territory, and

NACCHO, the National Aboriginal Community Controlled Health Organisation, that they want health basically quarantined out of this whole process and the PHCAP rollout left as it is. You must deal with programs that will be funded through departments that are sitting in the ICCs. Is that right?

Dr Ryan—Possibly. For example, FaCS will be. We have just become a member of QAIHF, which is the peak body in Queensland for the AMSs, because eventually we might be moving in that direction, and that is where the PHCAP channelling and decision making may affect us. I would certainly agree, though, that health needs to be quarantined, for a couple of reasons. It is urgent. OATSIA is actually doing an extremely good job in supporting our organisation and helping us focus on good health service delivery, from the perspective of which we are working. They are also open to what I call innovative thinking—looking at other ways of approaching health issues and encouraging and supporting our partnership with the principal health service deliverer, which is Queensland Health. I would say, because health is such a grave and serious issue, that quarantining health would be more beneficial than it being lost in the amount of work that the ICCs are going to have to do in assuming the responsibilities of ATSIC and ATSIS. I would certainly support quarantining.

Senator O'BRIEN—I suppose the issue that arises from the points of view of many organisations and communities is the perennial one of developing a strategy based on multiple sources of funds. Different programs try to tie together a package of funding to make things work and then it is found that one strand is part of a program which has come to an end and will not be continued. Could you tell us something about your experiences in that regard and what your organisation's views are, if any, on how we should address that problem.

Dr Ryan—I suppose that is one of our greatest frustrations: we have receipt of funds which are time limited. It is very hard to get sustainable benefit within the communities as a result of that. One program that we have at the moment from FaCS runs for nearly three years and it is sufficiently funded, we hope, to allow us to do some sustainable work within the communities. But that is rare. That is probably the experience of a lot of organisations other than ours—that you get funded for 12-month or two-year programs. Sometimes it takes you two years to get things going. Then all of a sudden the money stops and you say to the people, 'See you later.'

There also tend to be grants that are based on something the government has somewhere along the line identified as being perhaps of benefit to Aboriginal people. But that something has not actually come from the ground up by the communities saying, 'We need this in the community.' Sure, some of these things can be very generic and can fit. But there is not enough tailoring to community needs—identified health issues, for example.

Because we have multiple programs running we are also going through an exercise of talking to other relevant government agencies, NGOs and communities about how we could better coordinate. Even if we have to go down this track of time limited individual funding through grants and so on, the least we can do is try and improve the way we coordinate. For example, in one of our communities in Hope Vale a psychologist I employ to do some interventional work there and another body both recently identified something like 22 totally uncoordinated mental health services going into that one community. That story could probably be told all over: in our Cape York communities, the Kimberley, the Territory and so on. That is probably one of the great disadvantages of awarding grants without a coordinated perspective and without a needs

analysis of the communities themselves. Anything that allows greater sustainability and longer periods in which to apply the funding can only be of benefit.

We work on a different timescale than Canberra, Brisbane or even Cairns. We work in a different cultural context, so we have to allow people to build their own capacity, to own things and to understand things within that culture. One-year programs virtually never allow you to do that. A two-year program gets you a little bit further. With a three-year program, you are still not really there.

Senator O'BRIEN—Is there any body, organisation or collective grouping that works on pulling together information on the use of particular programs and grants by Indigenous organisations such as your own and that puts forward models or sources of funds that could be considered, drawing to the attention of the bodies needing funds potential sources and precedents for the use of those funds? Is the funding timescale so short that by the time you get that information it is too late and the program is over?

Dr Ryan—That certainly is the case with the short-term grants. Under the Fitzgerald report, the state government has developed the MCMC activity. I am not sure what benefit it is going to have. At my level here in Cairns I have met with other agencies and departments and said, 'We need to get our act together before our coalface people can get their act together in a coordinated sense.' Over the last two years it has been extremely difficult, because of the sheer workload that all of us have, to be able to give attention to developing an effective, simple system of coordination. We have tried. I have told my team to do it at the coalface next month and then tell us, the bosses, how we should be doing it. Again, there is a funding issue there. These are busy people and I am not sure that coordination can actually occur from outside the communities. I am starting to get doubts about that. I do not have any evidence of that, other than anecdotal evidence.

I would suspect that, if the communities were funded to do their own coordination through, say, something like a health action group, they would control the multiple things that are coming in there and overwhelming them. They would also be able to control and mix and match the things that they want, that they take out and ask the various departments and agencies. So I suspect that good coordination is going to have to occur at a community level. I firmly believe that the regional Indigenous organisations, who have a lot of expertise and professionalism, can lend that to the communities in working with them until those communities get their own level of professionalism and capacity to develop.

Senator O'BRIEN—What do you think of the idea of some national coordination of funding, trying to tie all the strands together and focus them on the regions so that the paper chase—the perpetual grant application system—can be short-circuited and those resources put into something else?

Dr Ryan—My inclination is to say that anything that gives decision-making ability to Canberra or Brisbane bureaucrats should be discouraged. I am afraid a national approach lends itself to that to some degree. It is extremely hard for even Brisbane based people to understand what it is like to walk down the street of Aurukun and see what they need in the way of environmental and hygiene health or things like that, to understand what the lifestyle is like. In the wet season people cannot drive and they are isolated. What does that do to them socially and

emotionally? It is even harder as you go further south. I grew up in the south. I do not know where you guys are from. As a schoolboy I had a totally unrealistic image of what Aboriginal life was like. It was all humpies and people causing their own problems. In living and working in some of the communities in Weipa, I have seen that it is a totally different ballgame, a totally different vision. That is the reality. I think anything that takes decision-making processes out of the hands of Indigenous people and puts it into the hands of any sort of coloured bureaucrat, away from the cake, in our case, is going to handicap effective use of that funding.

I am not sure it is a funding issue here in the sense of how we use our funding. We certainly need to massively develop funding for preventative health care. We need to focus on the zero to five-year-old kids and the mothers who are carrying those kids before birth—the whole perinatal issue. That is the only way we are going to have downstream improvement. I am not suggesting that we should take away money from downstream and put it upstream, because then we would be neglecting those downstream. But somewhere along the line that is where we have to shift to eventually, because we would never be able to afford the downstream health care in the future.

Senator O'BRIEN—I was thinking of somehow tying together all the strands of funding and having someone making it easier for people who actually use the funds—to have the silos, as they are termed, directed towards the regional need.

Dr Ryan—I understand what you mean; it probably has to be done something like that, but I would not like to see an equivalent of a national body that sits in Canberra operating the regional bodies. If you are going to do it, do it direct to the regional bodies.

Senator SCULLION—Dr Ryan, you have made some very useful observations about this interface from the so-called one-stop shop of ATSIC to the one-stop shop of the ICC. You imply that there are pretty much new people that you are going to have to retrain. Are there any existing ATSIC staff, to your knowledge, that will wend over to the ICC in Cairns?

Dr Ryan—I do not know what staff will transfer to where. All I have heard is that some have gone there and some have gone elsewhere into different departments. While they will take some of the benefits of what they learnt and experienced in ATSIC-ATSIS, I would think they are going to be somewhat disempowered because they are going into another bureaucracy, which is probably white dominated or has other agendas. I am sure there were people of talent we may have lost who had at least a focus but within an organisation have had an Indigenous culture and context. So anything that has diluted that cannot be of positive benefit.

Senator SCULLION—And I accept at face value that there probably are people who are new and who are certainly going to have to be brought up to speed somehow. I was interested in your comments about Indigenous sensitivities. In your opening remarks you talked about ensuring the capacity for ATSIC to deal with some of the sensitivities involved in Indigenous issues. It is a very important point if we are going to continue genuine consultation, and the one-stop shop is able to do those sorts of things. You said that we need to ensure that the grants and those sorts of things go over a much longer period of time, and you talked about those sensitivities, but I got the feeling that you were speaking of other sensitivities when you made the first remark about the sort of skills that we may need to develop in the ICC should we have more people involved.

Dr Ryan—I suppose in the back of my mind is the view that the ICC should be run by Indigenous leadership and Indigenous people, basically, and that any high-level public servants that we place there are there for the efficiency of good management and all that. The direction, control and philosophy that colour it should be by Indigenous people and leadership. In my organisation—I am a whitefella—I have had to rely very much on Bernie over the years. I worked with him in a previous job as well, and I rely on him to make sure that anything I do and decide is within the culture of our Indigenous organisation. I also use my Indigenous staff that way, because we work collaboratively. I also have available to me people like Gerhardt Pearson, Noel Pearson and Richie Ahmat from the land council. I can call on a lot of those people and they can very much influence the appropriateness of any decisions I have to make in our directions, work and so on. And I do not think I could do that job unless I had those high-level people to help me. I also have access to the communities. Last week we brought down the chairpersons and the CEOs of all the community councils that we serve, in 17 communities—mainly to give our organisation direction and to renew their ownership of our organisation, so that we are not simply a little bureaucracy that gets $1.4 million from OATSIA to give us good salaries. That is not the point of our organisation.

It is easier for me to do that, because our organisation is owned by Indigenous people. I think that the ICC has to have that sense, or have it imposed on them, that the Indigenous people own that in some way. I know they cannot do it in the proprietary sense as they can with us, but it has to certainly be the equivalent.

Senator SCULLION—I think you spoke about too much bureaucracy in the process, and that was mentioned in the review of ATSIC. Do you have any suggestions in terms of physically dealing with the ICC? Perhaps you can give me some examples of how we can streamline it. You have made quite a clear point that these things need to happen swiftly, with less bureaucracy and so on. Perhaps you can talk about some of the applications or processes whereby Indigenous organisations or individuals may be coming to the ICC and requiring help. What sort of processes do you think we can streamline, and how do you suggest we go about those?

Dr Ryan—Abbreviate the business case procedure which you have to put forward and certainly help people—especially in the communities—to have the capacity to develop any sort of business case they have; be realistic about the performance indicators, taking into account the culture and context which measures and justifies your expenditures and so on. I mentioned that the *Yes Minister* satire is amply demonstrated in the way in which bureaucracy deals with Indigenous communities—and probably the rest of Australia too. I do not think any of you would disagree with that if you are honest, which I hope you are as pollies.

Obviously there are legal things there and there are accountability things in there, but you guys, instead of talking about the problems, need to focus on finding solutions so that these things can be fast-tracked. For example, the pride of place program deals with the issues of the environment being cleaner, more hygienic and more attractive—which has great psych benefits, and I am a psych, so I appreciate that. That is ready to go, and Cape York Partnerships now needs an ICC to fast-track the funding of that so that we can get runs on the board so people can experience change.

Change for the people in Cape York is like walking through jelly or molasses. It has taken so long to get through it. They need to experience some good things that are substantial and

actually positive. The AMPs are of benefit, but they have worked on a negative thing: no grog. We need to also add to that—not remove it but add to it—the positive things like something to do with employment, economic development or whatever, especially in the areas of social enterprise. It is up to the bureaucrats and ICC to work with the various departments and negotiate how they develop a system that is streamlined and fast-tracked. I do not have any specific expertise to say how that could occur.

Senator SCULLION—Certainly we refer to them as fast-tracking mechanisms within government that are clearly used to do just that. You are suggesting principally that we have a fast-tracking mechanism similar to the ones we needed to fast-track mining or fast-track development. We have ways under which we can ensure the bureaucracy works faster. I am taking from your explanation that that is the sort of example we need to perhaps implement inside the ICC's particular projects.

Dr Ryan—I have heard tales, and I cannot think of a specific example, of different people like the Premier or the Prime Minister at different times having had some issue put to them and saying immediately, 'Go and do this,' and the money has been released. That is what we need.

Senator SCULLION—Thank you, Dr Ryan.

CHAIR—Thank you, Dr Ryan and Mr Singleton. We do not have any further questions. Thank you for making the time and effort to appear before the committee today and for giving us your evidence. It was very useful.

Dr Ryan—Thank you for the opportunity.

[11.47 a.m.]

JOHNSON, Mr Tony, Chief Executive Officer, Gurang Land Council

MUNDRABY, Mayor Vincent, Mayor, Yarrabah Community Council

O'SHANE, Mr Terence Joseph, Chair, Aboriginal and Torres Strait Islander Commission Regional Council

QUARTERMAINE, Mr Lionel, Acting Chairperson, Aboriginal and Torres Strait Islander Commission

ROBINSON, Mr Trevor, Coordinator, Queensland Indigenous Working Group

SMALLWOOD, Mr Edward, Member, Queensland Indigenous Working Group

WOODLEY, Mr Edwin Ralph, Chairman, Aboriginal and Torres Strait Islander Commission Peninsula Regional Council

CHAIR—Welcome. The committee prefers all evidence to be given in public but if at stage you have anything in confidence that you want to tell us, either as part of your evidence or any answers to questions, you can make that request and the committee will consider that at the time. After opening comments have been given we will move to questions. Mr O'Shane, I invite you to make your opening comments.

Mr O'Shane—First of all, I would just like to recognise the traditional owners, the Gimuy Idinji. I recognise my sisters and brothers sitting in the audience here today. I thank you for taking the time out to have this hearing and I thank the Senate for putting the government under scrutiny in terms of the way in which Indigenous affairs have been handled under this particular watch. I would like to go to a document that I presented to you. It is quite precise and we can go from there.

The regional council expresses its strong objection to the way the Prime Minister made his government's announcement to abolish ATSIC. We believe his statement to be knowingly misleading, in that the responsibilities for the portfolios of health, education and employment reside with ministers in his government. He is aware of this. If he is not, some consideration by his parliamentary colleagues needs to be immediately given to his suitability to sit as the Prime Minister of this country.

The regional council expresses concerns that the government commissioned a review of the Aboriginal and Torres Strait Islander Commission which contained 67 recommendations and cost the taxpayers over $1 million, but the government in its wisdom set aside the report and took a decision which is nowhere to be found in any of the recent reports that have been done—that is, the Social Justice Commissioner's report, the Productivity Commission's report and the Aboriginal and Torres Strait Islander Commission review report.

Our council believes in, and supports, the ideal of elected representation. The Cairns and District Regional Council believes it is essential to give due consideration to all the above named reports and the recommendations they contain, given they are a result of speaking with and receiving submissions from people across this country. The time, effort and resources that have gone into developing those reports require due recognition. The council believes that any programs constructed to address the disadvantage experienced by Aboriginal and Torres Strait Islander people have to be owned and delivered by Indigenous people through our community based organisations. This council believes in accountability and the transparency of our decision-making processes.

This council disassociates itself from a number of the decisions of the commissioners, such as the decision to withdraw the delegations of the then CEO, Wayne Gibbons, and the decision to take High Court action against the government when there were negotiations going on with the minister over the review report recommendations. It also disassociates itself from a number of commissioners as individuals where it is clear that a conflict of interest and, in some cases, a pecuniary interest resided with the particular commissioners.

As a council we support, and work with, good governance—what is called the separation of powers. Our council has adopted policies that reflect this and requires directors of organisations to attend a registered good governance course, possibly through the TAFE. We also require they develop an employment strategy, which is as much about engaging in the educational process to develop capacity within our people as about the end result. We do not support the protection of anyone who is found to have breached the provisions of accountability, conflict of interest or pecuniary interest or who has made any other breach that has the potential to bring ATSIC into disrepute.

The regional council has sought to have all national programs devolved to the regional level and become subject to the regional council's strategic planning process and policies. We do not support any national program being based in Canberra and being run by commissioners or senior bureaucrats. We do support a role for advocacy and monitoring at the national level.

The Cairns regional council believes the issue of self-determination is paramount in addressing disadvantage suffered by Aboriginal and Torres Strait Islander people. We are more than a little concerned with the decision to mainstream Indigenous specific programs. We have first-hand knowledge of mainstreaming. This has been a sad history—one of neglect and deprivation. Currently, we see the Australian Medical Association report on the $452.5 million a year shortfall in primary health care to Aboriginal and Torres Strait Islander people. Health is a mainstream portfolio, and the minister responsible, Mr Tony Abbott, has done nothing to execute an allocation from the $8 billion surplus in the budget to address this shortfall in primary health care for Aboriginal and Torres Strait Islander people, let alone our needs in specialist care.

In terms of restructuring, the regional council would welcome a discussion on a reconfiguration of regional representation, which might include the representation of elected boards of organisations sitting around the table as part of the regional council or regional authority. There could be some discussion on an accommodation of a two-pronged approach to the composition of regional representation—an elected rep from each community based organisation plus a regional election to elect a number of community reps. There is always some problem with this consideration, in that people coming from the organisations are not elected by

a general election, and their voting base is restricted to the membership of the organisation. This configuration may bring with it a conflict of interest where the organisations sitting around the table are also the recipients of government funding. There is some scope for the consideration of a number of configurations that would work suitably. Our clear preference is to adopt the recommendations from the review report.

We believe there needs to be national representation. The government identifies this by looking to appoint a national Indigenous advisory board. We do not believe that appointments are an option. We believe the situation will see the government seek advice on its policy, rather than Aboriginal and Torres Strait Islander people developing their own policies and constructing their own formula for service delivery which reflects community needs and aspirations.

The need for independent representation is a must. Part of their role would be to ensure that governments address international human rights standards as they put in place legislation in response to the changing geopolitical dynamics that are happening in this world. As this is happening, there needs to be a solid base of respectful legislation that reflects the rights of Aboriginal and Torres Strait Islander people in our domestic situation.

There is much to be achieved in our fight against poverty. The regional council believe that for Aboriginal and Torres Strait Islander People to be free of poverty there has to be a change in the way governments do business with us and the broader population of Australia. We have to be part of the wealth generation rather than recipients of government welfare. Governments would be well advised to embrace native title as an opportunity to develop partnerships between Aboriginal and Torres Strait Islander people on the one hand and, on the other hand, the local, state and federal governments, industry and financial institutions and the other pieces of the jigsaw that go to make up the economic dynamic of Australia.

Our position is one of coexistence. We seek to have the interests of Aboriginal and Torres Strait Islander people's interests recognised and respected by the different layers of government and for these to be considered in the way governments draft their laws, to the extent that our people are not given secondary consideration but are considered in the first instance. This will only be achieved by our involvement through a freely elected representative body.

CHAIR—Mr Johnson, did you want to make an opening statement?

Mr Johnson—I would like to record our extreme disappointment with the hasty and ill-conceived decision the government has made to mainstream programs for Aboriginal people. We do not think it gives any assurances to Aboriginal people that the quality of life and the improved living standards that we all aspire to are actually achievable. We have seen a malaise of maladministration and basically buck-passing by governments across the board for an extended period. The decision to abolish a representative body causes us grave concern.

I want to put on the record our disassociation with the conduct of certain commissioners. It is a concern to us that the behaviour of the lowest person is the judgmental standard for everybody in that organisation. That is a problem. With respect, if we did that in parliament, there would be some drastic changes to your folks' positions.

I also want to record that we support a national elected body which is elected free of government interference and free of government bullying and pushing. We do not support appointments. We have seen through history how appointments work. They are generally known as 'nodders' or do-gooders and they do good for the government's business—and I do not care which government it is; governments of either persuasion. Appointments do not work. We need to have a free and robust electoral process.

I also want to put on the record the aspiration of Aboriginal people to acknowledge the need to be accountable with public money. I work in a publicly funded organisation, and there is no place for people to rip off, as they say. We want to strongly advocate support for good financial management, good governance and prudent and proper use of taxpayers' money.

The main concern seems to be that suddenly Aboriginal Australians are seen as mainstream Australians. Let me tell you a couple of things. Firstly, we are very different. We have had possession and ownership of this land for 40,000 years. In the last 210 years we have had the dispossession and decolonisation process imposed upon us. The thing that underpins my concerns about this government's treatment of Aboriginal people is the basic failure to recognise our inherent human rights. Our rights to self-determination and our rights to cultural integrity and maintenance of our culture are, in my view, being dismissed and treated in a very disrespectful manner. We need to see the Australian community we have today strive for a community that has respect in a two-way transaction. There can only be respect when people are treated as equals and not treated as cattle or numbers.

We need to see the administration of Aboriginal affairs become more responsive to the regional and local needs. Our view is that we should be pushing the creation of regional authorities, so that local people make local decisions and are accountable to local people. I think we have lost that relationship in the ATSIC process. People go to Canberra and they forget where they came from. I think that is the real issue. I also think that the native title process provides an opportunity for internal recognition within Indigenous Australia. We were not responsible for the dispossession, the relocation and the denial of our cultural rights. But we have to deal with the fact that it has happened, and Aboriginal people together need to work in a collaborative and supportive way.

We do not need governments to be the wedge that they continue to be for Aboriginal people; we need governments to be honest, transparent and fair dinkum and not to be interested in the political win of a particular situation. We have seen too often this government in particular politicise human rights to its own advantage, and I am sick and tired of Aboriginal people being kicked around as political footballs. It is time you all had a good look at yourselves and asked: has the quality of life of Aboriginal people improved in this country? The unequivocal answer is no. The second thing is: what are you doing about it? Don't throw us into more of a malaise of confusion and uncertainty. Do something constructive: go forward and be positive. What we have at the moment is a state of confusion. We have agencies all over the place. I have a situation in our land council where we do not even know who we send our quarterly financial statements to so we can be accountable. Is that the sort of administration your government wants to see? I suggest not and hope not, because that does not help anybody.

CHAIR—Are there any other opening statements?

Mr Quartermaine—I have one question: how serious are both major parties about this?

CHAIR—Let me just make some clarifying statements. I, Senator O'Brien and Senator McLucas are with the opposition. Senator Scullion is with the government. We have two other members of the government on this committee who could not be with us today and a member of the Greens, Senator Kerry Nettle, and Senator Aden Ridgeway, who could not be with us either. We are charged by the Senate to inquire into the ATSIC bills, to get around the country and talk to people about what the Senate should do when the bills come up for consideration and voting. That is our task, basically, as a committee of the parliament: we take evidence from people, write a report and hand that report to the Senate. What happens to the report following that? One would hope, of course, that the government would look at the recommendations, take the recommendations on board and consider quite seriously the work that we have done. But our job, predominantly, is to take evidence and write a report about our findings.

Senator O'BRIEN—I am very interested in the concept that you have raised, Mr Johnson, about support for regional authorities, because we have had submissions from a number of parts of this country which support a similar view. The first question that I need to ask is: how big should a region be?

Mr Johnson—For the purposes of administrative convenience that have been set down previously, I guess, there are currently 35 ATSIC regional councils. I actually think we should go to a model that is probably a bit smaller than that. It seems an interesting question, Senator, because when the original 35 council zones were drawn up there was not much consultation with Aboriginal people.

Senator O'BRIEN—I was asking you the question.

Mr Johnson—I suppose, for efficacy, you could use what is in existence as a reasonable basis to go forward.

Senator O'BRIEN—Does that have broad support in the community? Is there a discussion about this, or is this a fairly closely held view?

Mr Johnson—I think we are encouraging that wider discussion and people's input. The constant message that I get—and we meet a lot with native title claimant groups across my region—is that people are tired of feeling removed from their representative. They want to have someone near their door who they can relate to and get answers from—basically to be accountable. I think that is the critical part. Our aspiration is to feel that people who are making decisions about us are accessible. I think that has happened with respect to the previous commissioners. There may even be an observation that it is probably relevant in the federal parliament at times, but that is for others to determine.

Mr O'Shane—Just in terms of the size of a region, in the Cairns region there has only been one area where there has been concern about whether they should stay in Cairns or go to the other region, and that was basically along traditional boundaries. That is the only issue that we have run into. Our regional boundaries run across a whole range of boundaries anyway, but there has only ever been one lot of people who made representation to us about a change of the boundary. It was only a very small change. I think the bigger focus is about service delivery.

Senator O'BRIEN—We took some evidence from the Miwatj people in Nhulunbuy, and we also have a submission before us today which puts a great deal of emphasis on the importance of the elders in the process. In fact, if I can loosely interpret both submissions, they suggest that elders should have primacy in the governance arrangements for Indigenous organisations. Does this group have a view on that matter?

Mr O'Shane—We have considered the issue of elders. We have considered the role not just of elders but of women, men and youth within the framework of our society and within our region. We have moved away from having men's groups, women's groups, elders' groups and youth groups to having family groups. A representation was made to our regional council, by women, that in fact women are the backbone of the family and, as a consequence, if you translate that, they are the backbone of our communities. They felt that they were being isolated by the fact that there were women's groups and men's groups. They felt that family links were being broken through the process that was being put in place and that there needed to be a re-linking of the family and, as a consequence, a re-linking of the community. We have adopted that as a policy, and that is the way that we have gone with funding for that sort of arrangement.

Senator O'BRIEN—I take it that this group is not supportive of a model which would give primacy to the elders in any electoral process. Is that what you are saying?

Mr O'Shane—There are a couple of things happening here. The electoral process is not a process that Aboriginal and Torres Strait Islander people have in our traditional ways. We absolutely do have primacy of and respect for elders, and we reinforce that in our policy. But you do not want to confuse your ideas about the election process with what their role is in our society.

Senator O'BRIEN—I am not putting forward a proposal. I am simply reflecting on submissions that have been put—different models and arrangements. I just want to be clear about what you, as representatives of your community, can tell us about the issue of elders and whether that is a relevant consideration in any future electoral model, for example. You might want to consider that and give us a considered response. In terms of the issue of representation, the Central Land Council has put a proposition to us about regional authorities with nine subregions and each of the subregions having two representatives, one male and one female. How would your group feel about mandating male and female representation?

Mr O'Shane—While we have a 12-person regional council, the format for our meetings is that each organisation comes along and does presentations to us about how things are going, what their priorities are and where the funding should go. Basically, the regional council is driven by community representation at the table. The election process is an open process. We have a situation where we get together with the women in our family, in the broader family, before an election and talk about who is going to be elected. We put up one woman and one man. My sister-in-law and I are on the council. I am the chair; she is the deputy chair. We do not quarantine any positions at all. I do not think that the quarantining of positions is the way to go. A lot of women think that they need to have the independent right to vote for who they want to, if their menfolk can do the right job, not be required to do otherwise. It does not happen in the broader community, so I do not know why people even want to consider imposing it on Aboriginal and Torres Strait Islander people. But people do that.

Senator O'BRIEN—I would not want to impose something that did not have support were I to be in a position of lawmaker on this. I am asking the question because it is a matter which is raised in a submission from another group of Indigenous Australians, who are suggesting that that might be a way that broad representation can be assured. Maybe that is an issue that you might want to discuss amongst your regional councillors to determine whether there is support for a regional authority and whether there is, in your view, a need to ensure it has broad community representation in some special way. Your submission does not deal with that in any detailed way, and that is what I am trying to flesh out. If you wish to, I would encourage you to perhaps supplement what you have put to us today with something in that regard.

The legislation abolishes regional councils from 1 July next year and would have by now abolished the national commission. So that we can be absolutely clear what your submission is telling us about the legislation, can you make it clear what you would suggest this committee recommends to the Senate?

Mr O'Shane—The chairs and the commissioners had a national meeting. They put together a national negotiating team, and that negotiating team were in negotiation with the minister, Senator Amanda Vanstone. We are progressing the discussions around the recommendations contained in the review report. That was the position that we have taken; that is the position that regional council took. It was the position that the national chairs meeting took, and I have not heard a decision to change it from either the regional council, of which I am a councillor, or the national chairs meeting. Our position, as I say at the end of the document, is that we recommend that we negotiate and adopt the recommendations contained in the review report.

Senator O'BRIEN—Are you saying that we should not support the legislation, or are you saying that we should amend the legislation in some way consistent with the review report?

Mr O'Shane—The legislation that is before you in terms of amending the ATSIC Act should be thrown out. I think we should go back to the recommendations contained in the review report and go through the negotiation about how we implement those 67 recommendations. I think the idea of the devolution of the programs down to the regional level so we can drive the programs according to the needs and aspirations of the regional community is a much better option than having things happen at the national level when no-one at the community level and at the regional council level have any control. It is just madness.

Senator O'BRIEN—That implies a position different in some respects from the Hannaford-Collins-Huggins review, does it not? The regional authority model is different.

Mr O'Shane—I think they were talking about regional representation. If there was regional representation in terms of a regional council or if there was regional representation in terms of a regional authority—a two-pronged approach, I suppose—and there were regional elections for a number of people and then a community based organisation putting in their representation, then I think that would be fine. I think that is a discussion we need to have. The problem I have is this. You can have a number of organisations, because you only need 25 people to make up an organisation. They can nominate a person to come along. There might be a majority if some people do not vote. You might have a majority for a vote of fewer than 10 people. They can sit on a regional authority with the mandate of 10 people. I think that is nonsense. But there are smarter people than I am sitting up there in front of me, so I will leave it up to you fellas.

What you have to understand is that all you people up there are mandated by the people. The one lot of people who have to justify their mandate are the Aboriginal and Torres Strait Islander people. We have to come here and justify our mandate by general election. You do not have to do that, yet you people sitting up there are the ultimate authority. We are being considered in a different light altogether. We need to be very careful about that because you are all white and we are all black. Maybe the question should not be raised here, but why does there have to be a different configuration when it comes to black organisations from what happens for the broader community? To me, that is a nonsense.

Senator O'BRIEN—In response to that, can I say that this is a committee of the Senate. We are not making the law; we are reporting our view. One of the reasons I moved for the establishment of this inquiry was to give people such as you a chance to have a say in relation to that matter. I think everyone here is elected by the community as well, so we are representatives just as regional councils have their mandates. We are happy to take your views. I do not want to comment any further on them, other than to say that sometimes people have a view that we make into law. We only report to the Senate and then the Senate will pass or not pass the law. The process might or might not spin off this committee's report.

Senator McLUCAS—I want to pursue this idea of regional authorities as opposed to a regional council. What do you see would be the difference between what we currently have, with the powers and responsibilities of a regional council, and your proposal for a regional authority? What would be more, what would be less, what would be different?

Mr O'Shane—In the regional council's deliberation, we try to broaden out the representation at regional council meetings to ensure that the family corporation, the medical services, the legal services and the land councils all come along and do a presentation. We only have four meetings a year, so every quarter they come along and give us a report on how things are going and where things are up to. We have that representation sitting there. The only way we think it would change is that they would be permanent members of that regional council.

Our issue is that it could be seen as a conflict of interest, where the organisation would be funded through the government and those dollars would come through the regional office anyway. There is a bit of a thing about that in terms of the regional authority. What it would do is give us a stronger base in which to negotiate with local government and industries—for example, the tourism industry, the grazing industry and a whole range of other areas—in terms of employment, native title and other things like that. There are strengths and weaknesses in both arrangements.

Senator McLUCAS—It has been put to us that there is an opportunity with the regional authority to develop those negotiations in a much more robust way. If you were given the strength of a regional authority, you could negotiate with local departments and local providers of other services that you rightly identified, Mr O'Shane, in your opening statement, like health or education, that are currently not the responsibility of an ATSIC regional council. Have you thought more about that sort of opportunity that would come by becoming an authority as opposed to a council?

Mr Robinson—In terms of issues that impact daily on the lives of Aboriginal people in this state, I think it is at the state level rather than at the Commonwealth level—that is, people

interface with state agencies more than the Commonwealth. The state is moving more or less towards a regional coordination model rather than looking at the state wide bigger picture stuff. I think that is why it would be beneficial for consideration of regional councils in the context of their interfacing with government agencies at that local level to ensure that a local voice is heard at that local level in respect of programs that impact upon the lives of Aboriginal people.

Senator McLUCAS—Thank you. I have one final question. We have had different models being presented from a range of people right across Australia. Do you see any problem with having different structural models in different regions? Can you see any problem with having one model—let us call it the Cairns council—that is different to another one? Can you see a problem that I cannot see in doing that?

Mayor Mundraby—I might jump in there. The bottom line is we need a local voice elected from the grassroots. We see that in place now. Effectively, that could be thrown out with this new bill. We are talking about taking away the responsibility determined by grassroots people for which direction they need to go. That responsibility is going to be taken away and shipped south to Canberra. That is why we need a local voice from the grassroots people, which we have already. Within the generic models that you talk about, the underlying factor should be a voice from the grassroots people. Senator O'Brien talked about our kinship system. We are the only ones who can determine what is culturally appropriate for our kinship system and how we make decisions. At the moment, we would agree that the system in place is not good enough; it is not culturally appropriate. But let us work on it instead of just throwing it out and opening a Pandora's box, which we see as being round 2 of the assimilation policy. It is a step back 30 years. What would we build if we are going to build on nothing?

Senator SCULLION—Mr O'Shane, thank you very much for your comprehensive submission. I think it is very clear. It is concise and it tells me exactly what you want, which is very useful. One of the areas I am still unclear about—Mr Johnson amplified it—is the independent voice for Aboriginal and Torres Strait Islanders in Australia that is, as he put it, free from encumbrance, interference, bullying and whatever leverage. I think we all have to admit that—certainly, it is the way I see it, with respect—ATSIC was always a bit encumbered by that: on one side we have to be the independent voice and on the other side we have to go cap in hand. One day Mark Latham says, 'We don't want ATSIC anymore.' A day later, the Prime Minister says, 'What a good idea ,' and suddenly that voice starts to crumble because it can be interfered with, humbugged, bullied or influenced by others. I am keen to hear what you have to say.

You would need funding to be completely independent from the Commonwealth. I know that Indigenous Australia has a great deal of assets in land and, through the Indigenous Land Corporation or IBA, funds can be accessed that are outside of anyone's purview to interfere with or affect. I do not think the government believes—certainly, I do not believe—that the National Indigenous Council that is part of this process is supposed to be an independent voice at all. We are going to appoint those people because that is how you get people in each area for advice on program delivery, so there is an opportunity—this is just the way I see it—to talk about what is going to be an independent voice that is truly independent of those things. I thought Mr Johnson touched on a couple of areas where that voice has to be completely independent and whether there was some possibility of exploring those sorts of options for complete independence like an advocacy voice separate from all those other things.

Mr O'Shane—There is. Before I go on to that, let me read this—it is not from Terry O'Shane, Alec Archer or someone else; it is from a bloke by the name of Ian T. Ring and his mate David Firman. It says:

Mortality rates from all causes in Maori in New Zealand and Native Americans have fallen substantially since the early 1970s.

I will table this for you. It continues:

Comparable mortality rates for Australian Aboriginals and Torres Strait Islanders in 1990-1994 were at or above the rates observed 20 years ago in Maori and Native Americans, being 1.9 times the rate in Maori, 2.4 times the rate in Native Americans, and 3.2 times the rate for all Australians. Circulatory diseases, respiratory diseases, injuries and endocrine diseases (mostly diabetes) are responsible for almost 70% of these excess deaths. Mortality rate trends in indigenous populations in other countries suggest the feasibility of substantial and rapid reductions in mortality rates of Australia's indigenous people.

He goes on to say that we have to own the process. I raised the question in my submission about the $452 million shortage from health care and that Minister Abbott has done nothing about accessing a lousy little amount of money from the $8 billion surplus in the budget to give us primary health care.

We welcome the debate on the independence of an elected representative body. We understand that the wealth of this country is predicated on the fact that it has been stolen from us. It is long overdue that we started talking about how we get Indigenous people into the wealth generation of this country, how we start to negotiate some of the percentage of the gross national product so that we do not go cap in hand on welfare services and do not become outcasts in our own country. It is long overdue for us to say: 'This country belonged to us for 40,000 years. That was recognised in 1992. Recognise that, and share the wealth of this country.' That $8 billion should not be the government's; it should be going back to Aboriginal people, without any strings attached. We will go through a process of accountability in terms of financial management. We will do the business as the community dictates to us and according to the needs and aspirations of Aboriginal and Torres Strait Islander people in this country.

You have opened up a debate that we are willing to have. For a long time we have been pursuing this discussion, because we think the way we have been treated is absolutely terrible. We need to have the independent right to go to international forums on human rights and to put the finger on the Australian government when they are not addressing international standards. A report has found that the amendments to native title breach the Racial Discrimination Act 1975 and the Australian government can turn around and say: 'No-one will be telling us we were right or wrong. We are a sovereign nation.' That is absolute nonsense. The government signed up to it. We as a nation have to have enough fortitude to abide by that and treat us all equally and fairly. It is not happening. So we welcome that debate. As soon as you want to open that discussion and have the road show happening, we will have plenty of people coming along and making submissions to you on an hourly basis—not a problem.

Mr Robinson—Adding to Terry's words, I think it is about the willingness of government, at either state or Commonwealth level and of whichever political persuasion. As Terry suggested, we have been lobbying for some time for an independent Aboriginal Australia. What needs to

happen is for the current program funding they have in place to be taken away. That type of funding puts obstacles in the way of Aboriginal people advancing their life situation. If it were a percentage of the gross national product, instead of an appropriation of dollars from the annual budget, it would not be regarded as taxpayers' funds. Anytime an organisation goes astray, they say it is a misuse of taxpayers' funds. But if we get into a situation where there is that independence it is about the willingness of government to provide those opportunities. In response to Senator McLucas's previous question about the different types of political set-ups, I can recall that, some 14 years ago, a review was undertaken of the deed of grant in trust communities here in Queensland. They all advocated, separately, different types of political constructs that they were prepared to promote, but that fell on deaf ears as well.

Senator McLUCAS—I think the act does allow for alternative structures.

Mr Robinson—What has happened now within Queensland is that there has been a repeal of the community services legislation—

Senator McLUCAS—Yes, I acknowledge that.

Mr Robinson—under which those deed of grant in trust communities have been established. They are now under the mainstream Local Government Act.

Senator McLUCAS—That is correct.

Mr O'Shane—I would like to make one further comment in relation to the question. Health and education—the fundamentals—should be services that are supplied to all Australians equally. Every time we have a look at the social indicators on health, education, employment and incarceration rates for Indigenous people, they are way out of sync with those for the rest of Australia. There is something terribly wrong with the fundamentals of the operation of this country, and that is that people, governments and the instruments of government in Australia have never embraced the rights of Indigenous people. It needs to happen. Otherwise, in 30 years time, people like you will be sitting here going through the same process. It has got to stop. You have to tell your government: 'Don't appoint those people.' They just become outcasts. We see them as Jacky Jackys. They are doing the government's bidding, as opposed to the interests of the Aboriginal and Torres Strait Islander people in this country. It is a bad move.

Mr Robinson—In respect of Senator Scullion's question in relation to independence, a classic example currently within this country is the New South Wales Aboriginal Land Rights Act. The concept itself is very much about independence—irrespective of what those organisations have done, they get a percentage of the land tax.

CHAIR—We need to clarify what Senator Scullion said. It is true that the Prime Minister keeps pinching our policies. In relation to the abolition of ATSIC we did say that we would abolish it rather than get rid of it, and we have put in place a framework around which we would look at an alternative means of administering Indigenous affairs. That is quite different to what has been proposed in the legislation before us. Can I go to the legislation: when it comes before the Senate, are you suggesting that we totally reject it or that we pass it with some very serious amendments?

Mr O'Shane—I think the way in which the legislation was done ought to be rejected completely. We have had a review. If you want to make changes to the legislation, we need to go through that review to see what the recommendations contain and to engage in negotiations. The outcome of those negotiations should then be put into new legislation to bring about those amendments. If people across the different regions want to make provisions for a different model in the different areas, then so be it. That is fine. Allow us to have that opportunity—not in the way in which it was done or with the lies that were told.

Let us be quite frank: we do not have responsibility for education, employment or health. They are not our responsibilities. The Prime Minister said, 'There has been no progress in those areas.' What he should have done then was turn around and sack his departments. Those negotiations need to happen. We all need to be across that stuff and then we can go forward from there. What we are now doing is basically responding to a given situation. As Tony Johnson said, that is just a bullying tactic by government. If the opposition is part of that, then it is a bullying tactic by the opposition. We do not care who is doing it; we oppose it. We are saying that we want to engage in those negotiations. Let us have a look at the recommendations and then we can implement the outcome.

CHAIR—There are quite a number of Indigenous communities. We have been to Broome, Nhulunbuy and Darwin. We have met with the Northern and Central land councils and other organisations in Alice Springs. They have very extensive models. The work that has been done is very impressive, with models for elected representatives and strategic plans on how they would organise their affairs. Has anything like that been done in the Cairns or the Cape York region that you are aware of?

Mr O'Shane—It was the Cairns Regional Council that sent the regional strategic plan to everyone else in Australia. Cairns was the first place to develop its own plan and policies. Yes, we have done that. We have been operating under that for quite a while now. We are happy to bring them along and give them to you. I did not know whether we would have that much time to table those sorts of things.

CHAIR—These are probably new ways of governance. They do not include the existing structure of regional councils under ATSIC. They might include the same region but they have new governance policies. In Nhulunbuy, for example, they are talking about a council of 10 elders that sit underneath a broader authority of 27 elected representatives. In Alice Springs, they are talking about something different, and in Broome they are talking about something different again. I wondered whether people here had given thought to an alternative governance arrangement.

Mr Johnson—There is cultural divergence amongst Aboriginal people. Surprise, surprise that we all have different sets of circumstances in our lives.

CHAIR—I am aware of that.

Mr Johnson—I am not from this region but I know that it has actively engaged with the regional council from ATSIC to look at alternative models. A national working group is looking at those models for regional authorities—the basis of which would then lead to how you would govern and deal with the whole-of-government approach to service provision to Aboriginal

people. There are a lot of good models out there. What people are doing is exactly right: they are trying to finetune a model to their own particular needs.

CHAIR—Do you think one of the serious flaws in the legislation before us is that we have the Indigenous coordination centres and an appointed body but nothing in between that will actually represent the grassroots people and the real needs of Indigenous people?

Mr Johnson—My observation is that it is going to create absolute chaos. The people working in those offices do not know where they are going, to the left or right. Therefore, if the people providing the service have no idea about what is happening, how would the people who are supposedly the beneficiaries of that service be in a position to get any advantage? The level of engagement, or disengagement, by bureaucrats is alarming. They are confused; they do not know what is going on. What the Prime Minister has successfully achieved is putting the administration of Indigenous affairs into a state of perilous disrepair.

CHAIR—One of the people who may take up an Indigenous Coordination Centre position—and I am not prepared to name the person; they have applied and will do the best job they possibly can in all good faith—when asked privately, 'How do you intend to implement the wishes of the community that you are going to head up the ICC of?' put it to me that they had been told: 'You work it out yourself.' What is your response to that?

Mr Johnson—I think it typifies the government's haphazard and irresponsible approach to this whole issue. We have good, well-meaning people who have had long careers in the Public Service shrugging their shoulders and saying, 'What the hell is going on?' I think that says it all, and I think it is a reflection of the gross political interference that has happened in this process. We should not have career public servants shrugging their shoulders. We have seen it in a range of other portfolios. Maybe it is a sign of the government, per se, and the way it does its business. We, as the most disadvantaged people in this country, find it repugnant.

Mayor Mundraby—I would like to bring to your attention the problem we had pre 1 June 2004 and post 1 July. The problem is that we were following our regional ATSIC Cairns and District Regional Council strategic plan to the tee. We submitted for funds. Then, because the funding did come through the ICC, we had political interference from one of our federal members here. I will not name him—

Mr O'Shane—Don't be shy!

Mayor Mundraby—It is Warren Entsch. The problem is that we have these little kingdoms built up, just in the matter of that transitional process, where political interference is rife. We do not feel that this should happen, especially if there is a strategic plan that has been developed by grassroots people within the region.

Mr O'Shane—You should explain what happened. The Yarrabah council put in an application for funding for a particular program. No other applications came in, but it was a requirement that the application had to go in before that program could be funded. They did it; they were the only ones. There was interference at a political level by Entsch. Nine weeks after the closing date for applications to come in, the regional manager, Ross McDougal, took a decision to fund another organisation that did not have a request in. When he was asked about that, he said, 'I exercised

my delegation.' What has been said is that there will now be absolute confusion, because people will want to exercise some sort of power that they do not have and create confusion in the community. It is an absolute nonsense.

CHAIR—Mr Quartermaine, do you want to say something before we finish up?

Mr Quartermaine—I am doing a presentation in Canberra that will cover most of this. The issue you raised earlier is that Aboriginal and Torres Strait Islander people have the capacity to fit in with any model that they want to come up with. If the Northern Territory want to have a quota for females up there, that can be their model. For Broome, it is my understanding that there are about 20 models from the region coming in. You also asked a question about the abolition of ATSIC. My understanding is that there is very little support for ATSIC, for whatever reason, but that there is support for a national elected voice. My recommendation to you is to knock back the amendments to the act to ensure that there is a voice, both at a national level and at a local level.

The other one is about ICC, as it has been created. There are silos within what was previously ATSIC. DEWR, DEST and whatever agencies you have got now have their own programs for which they are responsible. The question I have to ask those other agencies—and which possibly the committee can take up with them—is: who is making those other agencies bring their programs to the table? All our coordinating is of former ATSIC programs: NAHS, CHIP, CDEP. What about those other programs that are supposed to be coordinated? Are they bringing those millions of dollars and those programs to those tables to be coordinated? No. The only things they are coordinating are existing ATSIC programs. If you talk about health and education, the state government needs to be held accountable. Possibly one of the recommendations you can make, given that ATSIC has to put money out to organisations with grant conditions, is that grant conditions be put on state government and local government to ensure that their money is going to Indigenous people—after all, it is Commonwealth money.

Mr O'Shane—Chair, we are out of time but, on behalf of our mob sitting this side, I would like to thank you and your other senators for coming along and giving us an opportunity to say what we need to say. We feel strongly enough about it, as you would understand. There is plenty of passion in this. You sit there, listen and take notes, and we welcome that. Thank you very much to all of you.

CHAIR—On behalf of the committee I would like to thank you very much for the effort you have put into providing a submission and for the time you have given in coming here today. We certainly appreciate it.

Committee suspended from 12.41 p.m. to 1.42 p.m.

MUNDRABY, Mayor Vincent, Mayor, Yarrabah Community Council

SINCLAIR, Ms Carolyn Fay, Community Development Employment Projects Coordinator, Yarrabah Community Council

YEATMAN, MR Leon Scott, Chief Executive Officer, Yarrabah Community Council

CHAIR—Welcome. The committee prefers all evidence to be given in public, but if at any stage there is something you want to tell us confidentially you can tell the committee that that is the case and we will go into an in camera session, which is like a private session. We will deal with that if that is what you want to do. To begin your evidence today, does someone have an opening statement or some opening comments? When you are finished, the three of us will ask you questions.

Mr Yeatman—We were invited to come in and talk about CDEP. About two weeks ago we received a note to give Tim Watling a call and we had been nominated by Senator McLucas in reference to CDEP operations. We run what is known as the largest CDE in the country and so it was deemed appropriate for us to come in and give you guys responses to questions pertaining to that.

CHAIR—How many CDEP participants do you have and what area do you cover? What type of work do they do?

Mr Yeatman—I will delegate that to my coordinator, Carolyn.

Ms Sinclair—As the biggest CDEP in Australia at the moment we are on 794 participants. We have been allocated an extra 15 participants as soon as the paperwork has been done. The jobs range predominantly within the DOGIT area of Yarrabah, although there are people who, under a host agreement, are working outside Yarrabah. The main jobs are anything to do with arts, crafts and culture, administration and IT and horticulture. We are starting in aquaculture very shortly. We are looking at rangers—natural resources and land and sea. There is also housing and construction, tourism and retail. So we cover the whole lot, really.

CHAIR—What is the amount of money you are given for CDEP—what is your budget?

Ms Sinclair—The total at the moment is anything between $11 million and $12 million. That covers wages as well.

CHAIR—Is the operational component additional to that?

Ms Sinclair—No, that is included.

CHAIR—So it is around $12 million in total?

Ms Sinclair—That is right. We are looking at about $9 million for wages and the rest for operational costs.

CHAIR—What is your concern about the abolition of ATSIC? I understand that CDEP will be going to DEWR. DEWR is one of the agencies that will sit on the ICC. Do you have concerns about the future arrangements?

Mr Yeatman—The future arrangements really do not matter to us much, in the sense that we have an understanding and a working relationship that has not been hindered too much. Our concerns pertain to the requirements in terms of some basic administration procedures. For example, there is a requirement under our contract conditions to look at setting up a separate bank account. That is just one example.

CHAIR—Is that so that they can isolate the CDEP from your total operating account money and keep track of it?

Mr Yeatman—I think that is the objective, but we have provided justification as to why that type of arrangement would not be administratively—

Ms Sinclair—It just makes it very difficult and it causes a lot of hardship. Why have so many bank accounts? The council is looking at quite a few different funding areas—probably about 40 all up. It seems a bit ludicrous to have 40 bank accounts.

Mr Yeatman—We actually have a good financial record. We have had unqualified audits now for 10 years plus, so it appears to be a backward step in terms of recognising our abilities.

CHAIR—Who is requiring that of you? Is it DIMIA or DEWR?

Mr Yeatman—It is three of them. We are dealing with DIMIA, DEWR and the Department of Communications, Information Technology and the Arts. It is part of the specific contract for us in terms of administration. We feel that that is more of a hindrance than progressive, especially since we have been able to demonstrate a capacity to effectively report against those particular line items.

CHAIR—Have you been able to get a clear understanding of how CDEP places will be allocated in the future?

Mr Yeatman—A lot of the information that has come in the last six months, in particular, has been rather hazy. First there were the proposed changes to ATSIC; then there were the changes imposed on ATSIC. We had to endure about six months when the people we were reliant upon for information really did not know what the hell was going on. A regular comment was that everything was being more or less addressed in Canberra. We felt that that really was not good enough in relation to our process to try to ensure clarity. We understand that with the changes that were occurring there was a degree of procedure and protocol to be followed, but we are still not sure what the full changes are likely to be. There is ever-present potential for the system to literally be flipped over. If our organisation and our community were to sustain such a drastic change as $12 million out of our operational budget, or if there is any reduction in size, then for the large number of people who are currently reliant upon the arrangement there is effectively a huge risk of reverting to total poverty.

CHAIR—Do you have any other concerns about the new structure?

Mr Yeatman—I could probably invite the other candidates to have a yarn about it, but essentially it is not knowing what the government has in line for us as the new representative body. The Yarrabah Community Council is one of the Indigenous local government communities in Queensland. As you can appreciate, or perhaps you are not aware, we have also undergone some transitional changes. Our peak body at the moment is being written out legislatively; a process is in place to have it changed. For us this has been like a double triple-whammy. We are trying to manage not only the change to ATSIC as our national peak body but also changes to our state local government peak body. So we more or less have our camouflage gear on and are in there battling, as it is. I will invite the mayor to say a few words.

Mayor Mundraby—One of our problems is awards. We now have to have regard for the different awards and pay our CDEP participants accordingly and, depending on which areas they are working in, that could impact on the time allocated. Our biggest problem at the moment is that from the 10 going on 11 or 12 years that CDEP now has been operating in Yarrabah we have elderly workers. These people will be retiring without even a gold watch; they have no super to access and are not part of a union.

CHAIR—That is the inherent problem with CDEP right around the country—that it does not attract normal working conditions.

Mayor Mundraby—That is right. We are now asking for more out of these people for the same amount of money and, when you look at it, it just does not work out. A lot of our people have said that this is round 2 to unfair award wages—'We're working all our life for nothing; we're not getting any recompense.'

CHAIR—That is a common statement.

Mayor Mundraby—That is one of our major concerns. In effect, a large group of our people will still be under the poverty line, even in retirement. We see a whole field of problems existing with the programs that would be administered. We are trying to achieve a consistent reporting mechanism for all departments; each department has slightly different reporting requirements. That is one of the issues we are grappling with at the moment. With the allocation of places we feel that, now we do not have a local authority to go to, it has been taken out of our hands. Basically, we feel that perhaps that is being directed or influenced by bureaucrats, whether in Canberra, Brisbane or wherever, but it is not being done within the region where we can clearly identify outcomes for our people in regard to the number of participants we need. Also it is stopping us from achieving some of the more cultural heritage activities or aspects of our day-to-day programs.

Mr Yeatman—In addition to that, in terms of the scope of CDEP, we are exploring how we can get private business involved in assisting us to increase the scope and level of work activities we provide and also then the prospective job opportunities likely to extend from that for respective participants. As you can appreciate, in the DOGIT community sense, there is very much a discrete community with very little or no level of industry. The main employer in the communities is the council and the basis of employment all around is municipal. We are adamant that, for our mobs in the communities to gain the relevant experience and qualifications, there has to be some form of partnership now. How that is to be undertaken in the respective areas is a challenge for all of us. But essentially we know, in terms of our scope on the ground in our

respective areas, the activity that can be undertaken is of a very confined level. We more or less encourage and are willing to entertain any respective partnerships. I believe that capacities or procedures within the current arrangements allow for that, but whether it is being taken up is an issue.

Senator SCULLION—One of the biggest CDEP programs is in the Northern Territory and I imagine it has many of the same challenges. It appears that when they are in a CDEP program it is very difficult to move. As I understand its history, CDEP was supposed to be a transitional mode and that is why it does not have the rights and entitlements that normally go with a job. We are supposed to be moving people through the CDEP into something else. How successful have you been? You may have particular streams where you have been successful in moving people into 'mainstream' work—but perhaps mainstream is not the word of the day; non-CDEP employment might be better.

Ms Sinclair—With communities being communities, people tend to prefer to stay on country. Because of background, history or whatever, they prefer not to move out of that community. As we are talking about Yarrabah specifically, for people to go outside into full-time work and off the CDEP schedule, we are looking at, give or take, a maximum of 10 a year. That is not to say that after a few months they do not come back again and then come back onto our schedule.

Senator SCULLION—Are the non-CDEP jobs available only outside the community?

Ms Sinclair—That is correct.

Mr Yeatman—We currently incorporate the CDEP program as part of a top-up arrangement—I do not know if you have heard of that.

Senator SCULLION—Yes.

Mr Yeatman—There are currently about 200 jobs within the council that have that sort of arrangement attached to them. Now that we have an increased level of participation and retention in the education system, there is increased interest for the youth in particular to be active. They have actually had greater confidence in terms of integrating with the larger Cairns community. We are noting that there is a propensity for people to go out and look for work, and we are identifying the need to look at how we can engage some private businesses as part of an arrangement so that the first step has a second step to follow up and then, with whatever is available, it is a lot easier than it currently is.

Mayor Mundraby—Just in reply to getting outcomes for our people, the council is focused on a new program in regard to charting a journey or a career path from year 10 to year 12 and then we are looking at entering a community participation agreement, a CPA, in which we are identifying the Youth Allowance and also the New start allowance to do activities. We want to have a shortcut, because we have around 80 youths leaving school within our community. We do not want them lying around dormant. They need career paths. We are investigating, in conjunction with Job Network agencies, outcomes down these different career paths. Our problem is that we need the turnover in the CDEP participants schedule or a greater number so that we can retire some of our elderly workers instead of them working up to 65 years of age and not getting anything.

We are looking at utilising all the different programs there are, but the outcomes are pretty minimal, especially when you are running with a ceiling limit of opportunities for employment and/or the time frame that is needed to skill up some of our participants because they are long-term unemployed. This is where we are doing a juggling act at the moment in trying to chart a career path for our youth while at the same time trying to skill up our long-term unemployed. Finding the right employment opportunities for them within that field is pretty limited when you have a look at the region.

Mr Yeatman—I am conscious that our time is probably running out, but we have some other points we would like to make in terms of the administration. I will ask Carolyn to speak before we run out of time.

Ms Sinclair—One of the hardest things that we are looking at is the award structure. We have separate gangs that do different types of work, as explained before. To be able to administratively handle that is difficult—I do not even want to go there, really. For example, if you have someone who is a labourer in horticulture you have an award for that; if you have someone in IT or administration, you have awards for those; if you have someone in retail you have another award et cetera. How do we handle on one time sheet a gang of 20 to 30 people who have separate awards? Because we do not get award wages we have to account for it by doing hours. So we are going to have some people doing seven hours, some doing 6½, some doing 8½—

CHAIR—Excuse me, can I clarify something? For years and years now I have been asking questions in estimates about the application of CDEP. CDEP is around $420 a fortnight. Is that correct or is it a bit more than that now?

Ms Sinclair—It depends on whether you are rural or remote. Yarrabah is classified as rural.

CHAIR—What would most participants be getting?

Ms Sinclair—Per week, we get $201 per participant.

CHAIR—People in ATSIC, particularly those who have been coordinating CDEP out of Adelaide, have led me to believe that $221 is divided by the hourly rate for the award where an award wage applies. Let us say for example that the award rate is $22 an hour. That means the participant works for only 10 hours that week. We have been led to believe that you are already applying the award wage within the CDEP amount, so technically people should actually be working different hours now—depending on what the award rate is. Once they reach that $220, they either stop or get a top-up. Have you not been applying an award wage where it is available?

Ms Sinclair—As far as the top-up people go, award wages apply across-the-board. If we are looking at the other couple of hundred, the IEC came into being on 1 July in either 2000 or 2001. Back then, apparently the CDEP coordinator at the time did not explain how this was to be done. So in the last two years that I have been at Yarrabah we have tried to look at the restructuring and how we are actually going to do this. After having CDEP for well over 15 years, we are trying to get people who have never ever been under an award structure before to understand how they must work. We are slowly going through the process at the moment. As you realise, we

are a large CDEP, so that is a big ask at this stage. We are having to look at the procedures, from the human resource area right through to the people on the ground who are actually doing the work.

CHAIR—Were there any other concerns you wanted to raise with us?

Ms Sinclair—Rural and remote was another one. Within governments—and that is both state and federal—Yarrabah does not know whether it is remote or rural. There are some departments that classify us as remote and there are some that classify us as rural.

CHAIR—How far away from Cairns are you?

Ms Sinclair—Sixty-five kilometres by road.

Mr Yeatman—Twelve kilometres as the crow flies.

CHAIR—There are more magpie geese here than crows!

Mr Yeatman—No, sea eagles.

CHAIR—So sometimes you are classified as remote and sometimes as rural.

Mr Yeatman—And sometimes on a map.

Ms Sinclair—And sometimes CDEP is classified as work and sometimes it is not classified as work. So we are in a conundrum half the time, not knowing whether we are workers, whether we are employed, whether we are a labour type program—we are very confused. Another part of my work is to try and support our CDEP workers. In amongst all that, because we do not have very many services over at Yarrabah, especially for people with disabilities, I am trying to get some sort of awareness from disability support services to come and assist. There are quite a few of our CDEP participants who have disabilities. I find the hard part is that I am unable, because of the confidentiality clauses, to access any information from government departments such as Centrelink and/or any other areas. I find it very difficult, now that we are looking at workplace health and safety issues, to place those people who are at risk of injury into the appropriate areas, because we are not aware and not able to become aware of the disabilities that a participant may have. Another problem is duplication. Do you want to speak on duplication, Mayor?

Mayor Mundraby—No.

Ms Sinclair—We are a rather large Indigenous, mostly Aboriginal, community—the second-largest in Australia bar Palm Island, which is a little bit larger. We are finding that the ICC as it stands at the moment is not projecting itself as a one-stop shop, to my way of thinking. We are finding, as the mayor and Leon said, that the reporting requirements tend to be different for each one. To me, that is a whole lot of duplication. If the ICC is going to be a one-stop shop, there should be one lot of reporting requirements.

Host employer agreements are very difficult, to say the least. For every participant who is not within the CDEP organisation, which in this case is the Yarrabah Community Council, for those

people who are working outside a work site, we have to have a host agreement. That host agreement is usually looked at as being per participant. Therefore, whenever a participant resigns or does not want to be within that area anymore, we have to redo an agreement for the next participant who comes on. So, if you are looking at 100 people outside the Yarrabah Community Council work sites, that is a lot of paperwork. I feel a more generalised host agreement would be more appropriate.

CHAIR—How many people live at Yarrabah? What is the population?

Ms Sinclair—Give or take?

Mayor Mundraby—Four thousand.

CHAIR—So are you saying that you would hope that the ICC will play a role in assisting to coordinate this better?

Ms Sinclair—Whether it is that department or however it is made up, there needs to be some better way of coordinating a large CDEP. A lot of people within government departments do not understand or appreciate how large Yarrabah CDEP is. They tend to think that we are just an organisation so they are looking at it in a very blinkered and small way instead of looking at it as a rather large CDEP or council. We are looking at around a thousand people.

CHAIR—There are a few places in the Territory that are pretty big. Maningrida has got $8 million in CDEP. Miwatj in Gove, where we were two days ago, has a CDEP budget of $24 million—that is for the Gove Peninsula area—so they are quite a few—

Ms Sinclair—We are all in one spot, not spread out and around as a region. That makes it that little bit different.

Mr Yeatman—The other issue too for us is in terms of our future development. With the transition of our community to becoming a local government shire there are a number of issues that at this moment are unresolved, though they will be at a point in time. Essentially, we are conscious that in order for us to be able to not only get into sustainable development but also provide the relevant opportunities that go with that there are going to be pressures upon us to seek the relevant partnership arrangements to enable that growth to proceed. Otherwise we will end up being a backwater where things do not occur. It is a beautiful spot in Queensland but, apart from that, the potential is there for social and economic issues to be negatively influenced. Unless opportunities for strategies are put in place by the respective leaders or the government then essentially the future could go either way. That is a fact of life but we would like to have a positive handle on how we go forward.

Ms Sinclair—Some of our artists asked me to bring up the situation of intellectual property for arts and crafts people.

CHAIR—These are the new contracts that DCITA have sent out—is that correct?

Ms Sinclair—Yes. Under the Australian government's material on intellectual property it states that we have to grant under our agreement permanent, irrevocable, free, worldwide, non-

exclusive licence including a right to sublicense to use, reproduce, adapt and exploit the intellectual property rights in activity and material for any Commonwealth purpose. We feel that we should have our own rights to our intellectual property and our cultural property.

CHAIR—It is the issue that I raised this morning with Mr Dore from the Cape York legal service. It is a matter that has been raised with Indigenous arts and cultural centres, particularly in the Top End, in relation to new contracts that they have been required to sign with DCITA. In a sense it is related to what we are doing, because in the past that funding would have come from ATSIC. That funding is now going to be channelled through those departments through the ICC. It is a change in the wording of the contract. We will probably get DCITA before us when we get back to Canberra and have hearings there and we will ask them about those changes. Certainly some members of this committee are aware of that but it is good that you have raised that today.

The other thing that I want to say to you is that the Senate Employment, Education and Workplace Relations Committee are currently conducting an inquiry into Indigenous employment. We will also send your transcript today across to that committee. What you have raised with us are operational issues with CDEP—whether ATSIC existed or not, they would still be problems. It goes to the whole nature of CDEP and how effective or ineffective it is these days. So we as a committee will send the evidence that you have given us today across to that committee and they can include it as part of their inquiry into Indigenous employment. If that committee has not contacted you, we will pass your details on to John Carter, who is the secretary of the committee, to contact you. Is there anything else you want to say in summing up for us?

Mayor Mundraby—We touched on all points. If there is a capacity to change the grant conditions of the funding for CDEP so that we can expand into a lot of the cultural heritage activities that we will do, that would give us a bit of room to manoeuvre. Outcomes on the ground are paramount to us, both in enhancing the cultural heritage knowledge and activities with regard to the Yarrabah area and also in making sure that in doing those activities we are advancing a lot of the youth with regard to employment and business opportunities in, for example, land and sea management and cultural site clearing with regard to infrastructure. To a certain extent this has been happening with regard to top-ups of CDEP. We need more discussion on amending the grant conditions so that we can actually fit the hand in the glove rather than put the glove on the hand. This is where we can broaden the employment opportunities that we have.

We are already in discussion with a lot of the land and sea management agencies. We could work in a way that the Indigenous employment strategy complements what we are trying to do from a community perspective, matching us dollar for dollar if there is an employment opportunity to skill up one of our younger people for a career in land and sea management or in building and construction. We just need that capacity to make the existing money that we have got go around. At the moment we cannot do it because we will be in breach of our funding guidelines and things like that. We may need that ground up approach. If we are going to be stuck with a ceiling limit on the amount of dollars we do get because of our participants, it is just another way of making sure that we are part of the economy and we have got a better land and natural resource sustainable management system that couples our traditional knowledge with Western knowledge. That brings opportunities with regard to employment. I would welcome that discussion a bit more. Further to that I would like to thank the senators for their time and ask that

they look at making sure we achieve an outcome that will suit both our community and the direction that mainstream Australia is going in. Thank you.

CHAIR—We do not have any further questions. Thank you very much for your time and for making the effort to come to Cairns to provide us with your evidence.

[2.21 p.m.]

SALEE, Mr Robbie Joseph, Commissioner, Aboriginal and Torres Strait Islander Commission

WOODLEY, Mr Edwin Ralph, Chairman, Aboriginal and Torres Strait Islander Commission

CHAIR—I welcome the representatives from the ATSIC Peninsula Regional Council. Do you have any comments to make on the capacity in which you appear?

Mr Salee—First of all, I would like to thank Senator McLucas for having us on board and letting us have our say. I am the commissioner for the far north and west zone.

Mr Woodley—I would also like to relay our thanks to Senator McLucas, and the other senators here who we can speak to, for this opportunity. I am the chairperson for the ATSIC Peninsula Regional Council for Cape York.

CHAIR—The committee prefer all evidence to be given in public, but if there is any aspect of your evidence that you want kept confidential just let the committee know and we will make arrangements for that to happen. Would you like to start with some opening comments or statements and then, when you have finished, we will go to questions.

Mr Salee—Basically, I am in turmoil as commissioner. I will give an overall statement. I feel that we are going back a hundred years. Programs are being taken away and are still being administered by people who have no idea of how we do things out in the communities. My regions cover the remote parts of Queensland. The peninsula, as covered by the chairman here, goes up Mossman way—I do not know if you are aware of that area—and across to Kowanyama and north. That is the area I cover for Cape York. My other region goes out west to Normanton and down towards the southern Queensland border, taking in Mount Isa and all that area.

The way the communities are situated is probably totally different from what you have heard before. It is very hard for services out there. It is very hard for communities to put in submissions and things like that. If the communities need to see the main base they have to come down to Cairns for everything. With the tendering of these services, I think my people have no choice in getting these things, because they are not even set up as yet. You have heard from Yarrabah how they have changed their communities to a shire. We have 14 or 15 communities up in the cape—three in the Mount Isa ward—so it is really going to be tougher for us. If we do not have a body there that knows the problems then we are simply recreating history.

We have moved away from the ‘superiors’, as they used to call them, who used to manage the communities. They would say what they wanted; they knew the problems out there; they could do this. They have got no idea. Over the last couple of months, since I was supposed to be out in June—we are still there, sitting and waiting for a decision—it has been playing havoc with our lives. We want to move on. We cannot. We are stuck in this bureaucratic mingling or whatever it is. John Howard should just say yes or no—as simple as that. He should say whether the

commissioners go and ATSIC is abolished—'Finished, done, get out'—or they stay and something more accountable is put in ATSIC's place.

We have had Senator Cherry up here for a zone meeting. He came and spoke to my regional councillors. The thing that bugs me all the time is: how do we get elected? We are all done with traditional appointments; we are over ministerial appointments. What other method is there so that someone can tell us: 'This is the right method of electing your true people to represent you?' I am stuck with that question. I do not know how we can represent our people. We are over-researched people—every time we get mentioned in the papers, whether it is about health, education or housing—and this tendering process is just going to put our people way back again. There is no legal service in the communities—there is none. There are not even project officers out there in the communities. Communities only have people there to run CDEP. Just over the last couple of weeks we have heard what the state government are doing in terms of trying to create partnerships—drawing up the lines with their programs. We have heard that for many years now. People's expectation out there is: 'We want to see it before we believe it.'

My question is: how do we get elected? If the Prime Minister is talking about having true representation, what does he mean by that? Does it mean putting DEWR or other programs in place? I see them as just more blockages. We know about the abolishment of the ACC. There is no coordination in place for the communities, where they can share their views and ideas and respect. That is what you get in the Torres Strait. They all respect each other and they can say, 'Yes, you can wait. We can fund this one and that one.' We do not have anything like that in Cape York. With the abolishment of ATSIC, I would like to see a body that is probably made up of this arrangement or whatever, but there needs to be something in place nationally. They talk about programs. My portfolio in ATSIC included native title and CDEP. I have run CDEP for 15 years, since it came into my community, and I have seen how we did away with all the mess, the unemployment and everything. I have been there. My portfolio included CDEP and I tried to come up with how CDEP could best work in the community.

CHAIR—I want to ask you a question, but I am conscious that Mr Woodley has not said something yet.

Mr Salee—He asked me to go first and then he will follow.

CHAIR—I am sorry to interrupt you, but I want to ask you a question while you are on that track. I know that ATSIC commissioners were involved in a review of the policy aspect of CDEP. What happens to all that work now that there is a new structure in place? Is it clear to you where it will go or who will implement the work that you have done, if you all had portfolio areas?

Mr Salee—We have had problems in even finalising the document, because we had staff—

CHAIR—And now you do not have staff?

Mr Salee—No, the CDEP staff, the program managers, had more say than us. It never got anywhere because of the administrative conditions. It never went far. I think all that work is sitting there and gathering dust now that we have the new ICC in place. So I do not know about all the portfolio work that we have done for the last two years.

CHAIR—Mr Woodley, would you like to say something as an opening statement? We are keen to go to questions then.

Mr Woodley—I am the chairperson of the ATSIC Peninsula Regional Council, and we have had great concerns with regard to the amendment to the bill. That was done with no consultation with us elected people. We also have concerns over the amount of money that has been spent on the review. I believe it was one point something million. The government to our knowledge has ignored that. There was a strong direction from the communities and from community people right across the nation for ATSIC not to be abolished, to be built in a different fashion and for that voice to be maintained. To my knowledge, given all the changes that have come about, my people throughout the cape and further out in the western gulf region are starting to realise that they need that voice and they are looking for that voice now. That is one of the parts that we never had much input into.

Madam Chair, I will skip along a bit. My council will forward a submission in a week or so that is more detailed. We believe that there is a need for a national body elected through a democratic process. The government has moved to hand-pick key leaders to speak on Aboriginal issues. We feel it is very insulting for the federal government to have gone down that track. There has been no respect shown for us elected people, and it is an undemocratic process. We strongly believe that anybody talking in regard to Aboriginal issues should be duly elected.

Looking at the other options in regard to ATSIC being phased out, my council has started to put together information into some different models. We have looked at a regional model for Cape York, but it still clearly stands out that there is a huge need for an overall voice, a voice of the people. We need a body like ATSIC to be there to watch, as we have been doing. We have undertaken our representation very keenly. We have been striving for accountability and good governance, and we have even pulled some of our Aboriginal organisation into line. That should prove to government that we are serious about our role as the voice of the people.

I know it is early days, but we have grave concerns with regard to the mainstreaming that is upon us now. We have seen consultation—ministers have come into our region without notifying us, showing no respect. They have come in and sat down with non-elected people. That is an insult. Those are some of the things that we fear mainstreaming will bring. Also, there is a lack of respect for and consultation with the ICC managers. Clearly, the advisory role that has been cast upon us by the ministers is still being bypassed. We hold vital information, vital solutions to the needs of our people in Cape York—the Aboriginal communities. We have a community plan that captures all that and is a good guide for government, yet people choose to ignore that. What I have noticed over the last couple of months is agencies coming to me asking for my advice on how best to break up the money in their areas.

Just a few weeks ago the Commonwealth passed over $3 million—$1 million was for outstations—to the state to address the needs of homeland movements. The state has no idea. It has never, ever funded the homeland movement that ATSIC regional councils have always promoted as a solution to break up the violence and the overcrowding in our communities. When you take a backward step, you see that the government was wrong in the first place to pool my people into communities. We have a culture where we do not infringe on our neighbouring clan's area, yet the government has pooled us into those communities—and that is still a recipe for

disaster. That is why we have lost many of our key elders and why our culture has been torn to bits.

The only solution, to the knowledge of ATSIC regional councillors, is to support the move back to homelands. The government have to focus on providing a good infrastructure for our people, not kit homes but solid homes. I will always go down the line of promoting this and advocating for this to happen. These are the things that I am very fearful will not be picked up with this new system. The government blame alcohol for destroying my people when it is not really about the alcohol; it is about the pooling of our people in communities.

CHAIR—I need to stop you there for a minute, because if you want to keep talking to us we will run out of time for questions. I think you have been talking for about half an hour now. Do you want to stop and we will go to some questions, or are there some other bits and pieces you want to say to us? If so, we will not have so much time for questions.

Mr Woodley—I will stop. My submission picks up on the finer details, so I will take questions.

Senator McLUCAS—There is one question you might be able to help us with. You two gentlemen have an enormous amount of knowledge not only of what is happening on the ground but also of the traditional ways—the ways we used to provide information from the Indigenous elected arm through to what we used to call ATSIS. With the new ICC, what formal arrangements have been put in place so that ICC staff can consult with both the peninsula regional councillors and you, Commissioner Salee?

Mr Woodley—Perhaps I can go first. At this stage no arrangement has been made between the ICC and the ATSIC Peninsula Regional Council. We have been told that seven staff have been allocated to address our needs, but at this stage there has been no formal service level agreement between me, my council and the manager.

Senator McLUCAS—Do you think that might happen in the future? Have you been given an indication that that sort of arrangement might happen?

Mr Woodley—I hope so, yes.

Senator McLUCAS—But up to the present you have been given no indication?

Mr Woodley—No, I have never been given an indication, but it is in my notebook to address that with the manager.

Senator McLUCAS—It is interesting that you have it on your list of jobs to do but that maybe the ICC people do not yet have it on theirs. Commissioner Salee, do you have any comment to make on that?

Commissioner Salee—There has been no discussion yet, so I am still by myself with no staff. As you know, we had two staff but they have been taken away. It is very hard and difficult for me to operate from Cape York with the office being down here. Where I come from is a

thousand kilometres away by dirt road. I drove from here only yesterday; I drove all night to get to this hearing.

Senator McLUCAS—We appreciate you doing that.

Commissioner Salee—I say that just to give you an idea of where our main office is; it is here in Cairns. No arrangements or anything have been discussed yet.

Senator McLUCAS—Thank you both and thank you particularly for travelling so far.

Commissioner Salee—Thank you.

CHAIR—Commissioner, are you proposing that, in the changes the government has made, there should be a further step—that, if ATSIC and ATSIS are to be abolished, there should be at least some mechanism for regional councils or regional representation so that there is someone the ICCs can liaise with—or that it is mainly Indigenous people who have a role to play in using the ICCs? Is that where you see the flaw? Are you also saying that there should be still a nationally elected body like that of ATSIC commissioners, people who are paid, who would continue in a similar way?

Commissioner Salee—Yes, there is that need. Also there is a need for a body somewhere for Cape York.

CHAIR—You would be familiar with the ATSIC review that Bob Collins and Jackie Huggins and Brian Hannaford were involved in. Have you looked at the recommendations coming from that review?

Commissioner Salee—There are some—

CHAIR—Are there any that you think this committee should look at with a view to recommending they be implemented?

Commissioner Salee—Yes, definitely.

CHAIR—Which ones would you point us to?

Commissioner Salee—I think we picked out three, but I cannot remember what they were.

CHAIR—Can you look at that and perhaps put it in your submission to us so that we have an idea of what parts of the review you think were good and ought to be adopted?

Commissioner Salee—Yes. We put in a submission, but I think it got looked at sideways. They have never focused on it.

CHAIR—Commissioner, are you currently operating with no staff or just one staff member?

Commissioner Salee—With no staff.

CHAIR—So at present you have to open your own mail and answer your own phone; is that right?

Commissioner Salee—Yes, and make my own appointments.

CHAIR—I assume the workload has not decreased in any way, because people still see ATSIC as being there until the legislation is passed.

Mr Salee—It is just getting worse, because communities want to know what is happening.

CHAIR—So the request for information workload is worse.

Mr Salee—They want to see you face-to-face. They want to have a yarn with you and find out what is happening, and I have to do that myself.

CHAIR—Nearly everywhere we have been in this inquiry—and we have been on the road for two weeks; I think we have been to seven or eight different places—there has been a very strong complaint about the fact that there is nothing clear coming from the government to Indigenous people to explain what is on the government's mind and to explain the new structure and how it works. Is that the feedback you are getting from your people—that they are a bit frustrated about the lack of information?

Mr Salee—There is definitely a need for someone to go out to explain to these people what is going on.

CHAIR—I noticed in the last edition of *ATSIC News* from the Northern Territory that the government is not even using existing newspapers to let people know what is happening. Is there anything that you are aware of?

Mr Salee—No. There is nothing like that.

Mr Woodley—They have even wound down our media support. We do not have that privilege as things currently stand. At the moment, the commissioner's travels and everything have to come out of the regional council's budget. That is how bad it is.

CHAIR—Thank you very much. Commissioner, did you drive the 1,000 kilometres to be with us today?

Mr Salee—Yes.

CHAIR—I come from the Territory, so I understand and appreciate what driving 1,000 kilometres on dirt track means. I have done that a few times, east and west of the Stuart Highway. Thank you very much for taking that time and effort and for giving us your evidence today. It is valuable, and we certainly appreciate you appearing before the committee.

[2.54 p.m.]

REID, Mr Gregory Wallace, Senior Broadcaster, Bumma Bippera Media

CHAIR—Welcome. The committee prefers all evidence to be given in public, but should you at any time wish to give your evidence, part of your evidence or any answers to questions in confidence you can request that of the committee and we will facilitate that for you. I invite you to make an opening statement. When you are finished, we will ask you some questions.

Mr Reid—I would like to start out by dedicating what I say to an old man from the Kimberley who is dead and gone now, since just on four years ago. Today the native title determination on the top half of the Kimberley was handed down, and they are celebrating today in that part of the world. As I was driving in, it struck me as being so typical of the Western system we use and the way that we do business that when he is dead and gone four years he gets his land back—something he belonged to and fought for all his life. I would hope that whatever government starts to sort this mess out with ATSIC does not wait half of someone's lifetime to get it right. It has not been right yet, by a long way. I think it is time to really open ears, go into communities and listen—like you are doing now, but even further into communities; possibly even Yarrabah, where a lot more community people exist—and hear what it is like at a grassroots level.

I would like in my opening address to reflect on the life of the man and what he gave and on the many before him who have given so much and are not around to see the outcomes of the way this Western system ends up delivering. I would really like people who are in the positions to make these decisions to think long and hard about this. The lives of many people are at stake daily. There is much money being wasted in transit. I think everyone is looking for a system that is going to work two ways, a system that is going to be happy with the white system of government on one side but deliver into another system on the other. It will never be perfect, no doubt.

The proposal that I would like to put before you goes back to how business was done here over 200 years ago, when there were men and women of high degree, when there were lawmen and women in communities and when the power base was kept within those people of knowledge. That is where all the power came and went from. That is when people spoke about respect; they respected their elders. Since white man has come to this country, there has been an erosion of that respect. Elders are no longer respected in the community. They are no longer part of the political process. Different people, chosen by a white government system, get to have the top jobs in these systems and make decisions for the other people. The people with the knowledge and the power today remain outside the making of these decisions.

This is not my system. It is the system that was suggested to me by Pastor Henry Collins from Cherbourg on my radio program called *Talk Black*. People sit around in groups and make those decisions. It may be a group of men and women, or a group of men and a separate group of women, making a decision on the future of that community and on where money may go or what things may happen in that community. The way I see it, if you are talking about elders, today anyone over 45 in an Aboriginal community could be regarded as an elder. They can then retain the power base to vote on what is going to happen in that community, similar to what ATSIC has

been doing, and vote someone into a regional council. That person could be under 45—they could be anybody—but they would always report back to the power base of those elders. In some communities, if 200 elders wanted to be involved in that process, so be it. They are the ones that make the decisions. At the moment, you end up with people in community councils and they remain outside community decisions, as such, because they interface with the white system and they do not interface with their own people. They become ostracised at the end of the day, in a sense, and so it goes.

The way I see it, to keep a basic structure like there is with ATSIC now, there should be one regional representative from the community who is answerable to the community. For instance, if the person is not carrying out the community wishes, the community, the majority vote, can vote them out. They keep the power. They also vote for a person at the national level—not the regional council; that is where the politics and all the numbers games get played out. You have seen what has happened in that area. All the elders from a particular community vote for a national representative out of the people who are in that regional body, and the power keeps going back to the group of elders. You can keep basically the same structure. I would suggest that you even allow people who are not on the electoral roll to vote in those elections, because many people are not on the roll. They have never chosen to be part of the process, and a lot of them are people with that knowledge.

I see it as a form of code switching. In the Kimberley, people will talk a certain way in town, in Broome or Derby, then when they go out into communities they switch to the language of the people in those communities. They deal with whatever is going on and talk a certain way. That is what has not been happening in the code switching between the white governance system and the black communities, where people really understand grassroots stuff. It happens at a different level and a different pace. It does not happen in a nine to five situation.

That is basically it. I see in the current system so many organisations coming under the Department of Immigration and Multicultural and Indigenous Affairs. There are forms now appearing with the word ‘ethnic’ on them. You are going to end up with a situation where the traditional owners of this country are classed as ethnic people in their own land. That is basically my submission.

CHAIR—Mr Reid, in your submission you talk about having spent some time in north-east Arnhem Land. Where was that?

Mr Reid—At Gan Gan.

CHAIR—That is an outstation out of Yirrkala.

Mr Reid—Yes.

CHAIR—Senator Scullion and I are pretty familiar with that part of the world. Senator Scullion lived in Nhulunbuy for over 10 years. I lived out at Yirrkala for five, so I know Gan Gan very well.

Mr Reid—Grandpa comes from there. I have been adopted into that clan group.

CHAIR—It will not come as any surprise to you, then, that when we were in Nhulunbuy we had a presentation from the Miwatj Provincial Governing Council that suggested that any future regional authority, particularly for that region, should consist of a group of elders—Dilak people—supplemented by a group of 27 representatives from the community. We are hearing quite a lot about making use of elders and going back to a more traditional form of governance that Indigenous people are more accustomed to. Is that something that you have picked up from your talks with people in this region as well?

Mr Reid—I have heard it in community and—I do a radio program that goes around Australia—it has come from people like Pastor Henry Collins in Cherbourg. It was a universal form of governance. If you study Aboriginal culture you will see that that was how it was. You had men and women of high degree, and law people, and they were the law—end of story. Whatever decision came from that group of people, it was respected. There was no other way around it. To my mind, for people to get that self-respect back, if they are given that authority again, somebody has to lobby aunty, for instance, if they want a basketball court. But if the elders say, 'This is more important for the community,' the community then decides that that is where the money will go, whatever money is available to go wherever, if that is how the new model ends up being run. People then start to realise that it is aunty or so and so who has the power within the structure and they start to get to know them again.

CHAIR—Has your media organisation had any funding from ATSIC?

Mr Reid—Yes.

CHAIR—So in future you will be dealing with DCITA, through the ICC. Is that as you understand it?

Mr Reid—I can tell you that we will not be paid this week. That is the system with DCITA thus far.

CHAIR—So there is a view that there will be limits on your funding in terms of content?

Mr Reid—Not so much limits, but it was promised that there would be no problem with the rollover. It is quite some weeks since 30 June, and we have not received our funding release.

CHAIR—I see. From DCITA; is that correct?

Mr Reid—That is right.

CHAIR—What would you normally have been looking to receive in funding from ATSIC if there had been no changes?

Mr Reid—If there had been no changes, we would have rolled over into our next quarter of funding and we would have had the funding released—

CHAIR—How much is that?

Mr Reid—For the year, it was roughly $220,000 previously from ATSIC.

CHAIR—Have you been given any reasons as to why there has been a hold-up and it is now nearly the end of August?

Mr Reid—There are new systems in place—new computer systems, new this and that. It just has not happened. We are awfully keen to see it happen next week.

CHAIR—You are supposed to survive on bread and water until the system is in place, are you?

Mr Reid—Close to.

CHAIR—It does not seem very fair, does it? It does not seem very organised.

Senator McLUCAS—Can I just confirm that you said you were not going to be paid this week?

Mr Reid—We will get some pay, but that is the end of it. We will not get our full pay.

CHAIR—So if you get no funding out of this new arrangement via the ICC—

Mr Reid—It has been approved and we got a funding increase. That is fine. It is just that with the rollover and with the new organisation taking over, there have been hitches with what has happened.

CHAIR—But if you do not get it in the next fortnight there will be problems.

Mr Reid—Yes.

CHAIR—Senator McLucas, have you got some questions?

Senator McLUCAS—Yes. Mr Reid, at different places we have had different emphases coming through about what sort of model will be the right model, and they are very varied—from a model not dissimilar to what you are talking about from the Yolngu people up at East Arnhem Land to people who are saying very clearly that they want an elected model which is not dissimilar from the way, for example, House of Representatives members are elected—a straight Westminster type of voting. That is an enormous breadth. Do you see any problem with having a different model in different regions at all?

Mr Reid—Not at all. There are different needs in different regions. Sometimes one size does not fit all. I think you can differentiate quite easily between people living in a community—people living in New Mapoon or Bidyadanga or whatever—as opposed to people living in Darwin or Cairns, who have houses, regularly eat at McDonald's and have different wants and needs to people who live in a community. So it is possible to meld the two together.

Senator McLUCAS—You cannot perceive anything that I cannot see in terms of having those different models. I think you are telling us there needs to be a regional governance structure and there needs to be a national voice.

Mr Reid—Yes.

Senator McLUCAS—I think a little more talking is needed before we understand how that national voice would be established. We have had consistent evidence that Indigenous people want to select those people themselves. Would you concur with that?

Mr Reid—The way I see it, you could have the two—you could have a town situation and cities. I think 75 per cent of the population is living in an urban environment these days; that is roughly what the census tells us. Then there are 25 per cent in community, elected in a different way, to address those needs. I do not see any problems with it, apart from making it come together at the end of it and meshing it together into that elected body. One group, say the community group, would be answerable to the community; your town group might not have the same wants and needs of that elders group. Maybe a bit more research needs to be done into that area.

Senator McLUCAS—Thank you.

Senator SCULLION—Mr Reid, I very much enjoyed your submission; it was very insightful. A place called Ali Curung in the Northern Territory has a law and justice committee that re-empowers the elders in the community. I am happy to report that it is working very well. In fact, there is an agreement that even the police cannot take an action without going through the elders committee. Sometimes a glance to the past is a way to the future. In your submission you say—and I understand why you may not have gone into detail—that there is a possibility of the $1.1 billion ATSIC budget being delivered back to Aboriginal people. We have heard evidence—and it has also been the experience of the committee—that no one community is the same or has the same challenges. They are very different and they see themselves very differently. It is no good throwing money up in the air and having a bunfight over it. Have you thought about what sort of mechanism could be used to equitably disburse those funds to ensure they land where we intend them to land? You may want to think about that; it is a big question.

Mr Reid—That is a tough one. If you take in numbers in communities, remoteness of communities and other factors of that nature, you find that the same wants and needs in Yarrabah are going to be reflected in New Mapoon, for instance. Once the money is allocated, then leave it to the elders to distribute. As I said, some people might want a basketball court; other people might want to take younger people back to country and start up a tourist venture. I see it as being based on the remoteness of a community. That issue has not been addressed anywhere along the line. The cost of living in such a community is absolutely exorbitant. How people get by on the incomes and the price of food, I do not know. It is a modern day miracle if you ask me.

CHAIR—Thank very much for your time in appearing before the committee today.

[3.21 p.m.]

NEAL, Mr Percy Conrad, Chief Executive Officer, Bama Ngappi Ngappi Aboriginal Corporation

YGOSSE, Mr Gerard Antony, Acting Deputy Chief Executive Officer, Bama Ngappi Ngappi Aboriginal Corporation

CHAIR—Welcome. Do you have any comments to make about the capacity in which you appear?

Mr Ygosse—We currently operate a 124-place CDEP. It is based in Yarrabah but offers positions throughout the region. We also operate Job Network contracts, NAC contracts and an Indigenous employment contract in this area. I think the organisation has something to offer the committee.

Mr Neal—I am from Yarrabah; I was born and bred in Yarrabah. I have lived through all the systems—the church system and the government system. Now we are at another system. So I think I am pretty well versed in how our people have been treated during on the reserve for the last 50 years. We want to contribute to this forum. I think we have something to contribute, taking into account what has happened in the past. Our organisation is and certainly I am pretty optimistic. We have to look to the future. That is the way to tackle these problems.

CHAIR—The committee prefers all evidence to be given in public. If there is anything you want to say that you think should be in confidence or in private, you can make that request and we will try to accommodate it. Do you have some evidence you want to give in confidence?

Mr Ygosse—We would like to put some evidence on the table in front of the committee for your information. We can go from there.

CHAIR—We can accommodate that but there are just some things I need to let you know. Any evidence that is given in confidence in camera can subsequently be made public by order of the Senate. It may well be that when you get a copy of the *Hansard*, have a look at it and think it would be okay for it to be released publicly you can change your mind and we can put it on the public record. Giving evidence in camera also means that it is very difficult for us to use any of this evidence when we write our report because it remains confidential. Do you still want to give us evidence in confidence? Is that correct?

Mr Ygosse—At this point, yes.

Mr Neal—We will do the first half in the open.

CHAIR—Let us know when you want to go into an in confidence session because I need to ask the two witnesses who are here to leave the room when that happens. If you are happy to talk to us publicly to begin with, I will ask you to start.

Mr Neal—The organisation I work for is Bama Ngappi Ngappi. Our organisation is into economic development at the end of the day. Like Gerry explained earlier, we have a Job Network business. We also have building and construction. We are certified builders. We had a dairy farm but, because of the deregulation of the dairy industry, that fell off. All the milk development went out through the bucket, I suppose.

Now we are also seriously looking into future developments—future businesses and that. We run a bakery that has been going for about 30 years. We have got an apprentice on and we are looking to get more on. The people up at Hope Vale Mission want to set a bakery up at the mission, so they are asking us to do a feasibility study to look at that. Doing it that way will complement our Job Network office with traineeships and all that sort of thing. We also have an IEC. We have two Job Network offices in Townsville—that is the NAC and Jobfind—and we have offices in Mount Isa, Atherton and Cairns. We had an office in TI, but because of the rent and the business up there we called it back. We now run that office out of Atherton. So you can see that we are into economic development, and that is the way we see that we will solve a lot of our problems and social issues. We can address some of it at least through economic development to get real jobs.

I think the new body should be elected by the people because you get a true representation. But I am scared that we will get the same people back in there—you know the old story about the leopard and his spots. This has been going on for the last 20 or 30 years. You get some key people with good intentions, but their philosophy does not change. That is what I think. Next, I do not mind appointment, but it has to be geared in a way that Aboriginal people are appointed from industries: building, science, fishing, education et cetera. If appointment is the way to go, we cannot really say anything about it, but I would like to see Aboriginal people being appointed from industries to address the poverty and the quality of life of our people. Otherwise with elections you have the same old people. Every year we see the same people at ATSIC. I have been on the ATSIC board for the last four or five terms, and it is the same thing here.

I think the CDEP has served its purpose. Somebody told me the CDEP was the blackfellas' idea for the Work for the Dole program. Now I think it has served its purpose. We now need to change—set a new direction. In doing that, we need to be very careful and balance the social aspects in CDEP, and also utilise the CDEP to get into economic development. I am not here to say how good we do business, but in the organisation I work for—Bama Ngappi Ngappi—we have a system that links CDEP, the IEC and the Job Network office to get our clients into real outcomes and a real job. That is what we have done there. In the last six months, I think—Gerry might be able to verify it—we have got well over 60 people into real employment. I am talking about people in industry working with government departments that would never have had a chance before. That is basically where the organisation is coming from. I would like to thank you for the opportunity to have a say here.

Mr Ygosse—To take the CDEP a step further, the changes that happened occurred rapidly. We are not a big CDEP; we are a community organisation like many CDEP organisations. Regarding our ability to effect change—this is a critical comment in terms of looking to the future because there is more change, I believe, coming down the line in how we manage it—we have to have more information. There was not enough information coming out for us as an organisation to plan. We were not involved as a stakeholder—for the want of a better word—in the CDEP industry in terms of the decision making and we did not have an input into it. That is what has

happened over the last 18 months: as a small organisation we were sidelined like other small organisations in terms of the decision-making process, because it affects not only the organisation's future but the community that we work out of.

We as an organisation would like to play a part in the changes that are coming up and to be consulted in forming that direction. For the community that we work with and for and that we represent, we have got an idea in terms of the expertise of what the needs and aspirations are and we would like to have those needs and aspirations put on the table in forming a direction. As for the future of CDEP, I do not know. At the moment, everybody is guessing. In the 12 months that we just went through, we were in a state of flux. We do not know. We are trying to do some forward planning, trying to plot a course for the future, but we just do not know. Up until quite recently we had a four-year plan, but we have to be prepared to wind down that part of the operation at the end of the next financial year. With the IEC we have had some extremely good results from February onwards in putting CDEP participants into the work force—into good jobs.

As for the problems that we have created, we have identified similar problems in urban environments. We have had individuals trying to get on to CDEP as a mechanism to get on to IEC to get into jobs where we advocate. I am talking about Indigenous people with university degrees who cannot get jobs in this area. For IECs I believe the funding terminates on 30 June 2005. We need to forward plan a little bit as an organisation—how we respond, how we restructure our other activities to either compensate or move ahead.

As for the history of ATSIC/ATSIS, from an organisation's point of view and from my experience over the last few years it would be nice to see the bureaucratic side or the administrative side get into the communities—rather than being like a watchdog—and give hands-on help. I find that our organisation, our community, like other communities, lacks the human resources and skills and the ability to develop those. We have identified that. It is a matter of how we access that long term. It is no good walking in for six weeks, doing a training course and walking out. We have got to look strategically to the long term. We are targeting the younger generation as well as giving on-the-ground assistance. An example of that is if you look at some of the roles of the state; DATSIP have particular expertise within that department. People actually get out into the communities. They do not drive through in a four-wheel drive, knock on the door and go on to the next one. On request they will actually get involved and stay in the communities to assist the communities and organisations. We find that ourselves from having a go, making mistakes, taking a couple of steps backwards at times. Being able to access those skills and resources, we can develop from within the community.

Picking up on Yarrabah council, the jobs are not in the community. The only thing we have in the community is CDEP. We are running a couple of businesses, but it is limited. Everybody is on or below the poverty line in the main. Unless there is economic activity and an injection of funds or a magic wand somewhere, it is going to continue. The only jobs that we have been able to sustain are outside, tapping the labour market in Cairns and other areas. Where the balance is, I do not know. It is a difficult one.

Senator McLUCAS—Mr Neal, you expressed a concern that, through an election type process, we might get the same people back. I think those were the words you used. Would you

be able to recommend a method whereby you could still have an election process? How do we stop that from happening again in the future?

Mr Neal—I think that you go in and have an election. That is what most of the people around the country would be saying. It would be best if it had a democratic way of getting the people in there. That system has been brought into the country and a lot of people are adopting it. That is the old Westminster system. I have not got a problem with that. But like I said, we are still going to get the same people back in there. That is the way it is. That is how Murris work. They have their big mobs and they are going to get back in. What I am suggesting is that if that is the way it is going to go there should also be some appointments of people who are in industry—Murris in real industry. If they are going to be in some appointment, that would get a bit of a balance there. Otherwise you get the same people back. That has been the reason for the demise of ATSIC: because it is the same people in there all the time. They have been in there for yonks.

Senator McLUCAS—Who should make those appointments?

Mr Neal—That is the interesting thing. It could be as it is now. Maybe DEWR—I do not know. Realistically, there have to be appointments of people who are in industry. For example, people who have been in the fishing industry for years and who have made a living at it do not say anything. The only thing they have had to say in the last 10 years is, 'I wouldn't go near ATSIC because I couldn't even get a bloody loan off them. I had to go to the bank.' We need people who have got off their backside and done something. How do they get appointed? When you set this new body up they could do it working with government. I reckon that would solve a lot of problems.

I have observed over the years that in every big Aboriginal reserve—ones with about 2,000 to 3,000 people—in Queensland a lot of the problems stem from the fact that you have one person running the whole thing in the council. I have been on councils. One person dominates everything. If people want to make a difference on the reserve, we have to give people an alternative view there. We have been lucky in our mob in being able to work with the council. We offer an alternative to people there. We have people in jobs out at Mount Isa and all around the country because we offer an alternative. These other poor fellas up in the outstations that are way out have no alternatives for them. They have one lone councillor. Government actually think the same way. They think that when you go to Yarrabah you talk to the council and the council only because they are the only people interested in economic development and all these social issues. Anyhow, I will leave it at that.

CHAIR—Thank you. We will now take evidence in camera.

Evidence was then taken in camera, but later resumed in public—

[3.56 p.m.]

PEARSON, Mr Gerhardt Neville, Executive Director, Balkanu Cape York Development Corporation

CHAIR—Welcome. The committee prefers that all evidence be given in public, but if at any stage you have information you want to tell us in private—any answers to questions which you might want to keep confidential—you can ask the committee to go in camera and we will accede to your request. I invite you to begin your submission with an opening statement, and at the end of that we will go to questions.

Mr Pearson—My history is that I am currently an elected representative of the Peninsula Regional Council. I have been elected to that council since 1990. I had six years as a commissioner—the first six years of ATSIC. I have prepared a submission which is not quite finished. We probably have a few more days of work on it and I am happy to submit it to this inquiry after that.

CHAIR—When you are finished.

Mr Pearson—The decision to reconstruct Indigenous governance structures is to be welcomed. Over the past years the ineffectiveness of representative bodies at the national, regional and local levels has meant that Indigenous people have had to look for leadership and practical results outside the formal governance structures. This submission proposes an alternative regional governance structure specifically for Cape York Peninsula. It is one which has the capacity to create a more effective development strategy for the region.

On existing regional governance structures, unfortunately there is no Indigenous body which sets the overall development agenda for the Cape York region and no Indigenous body to plan and prioritise the key issues for Indigenous development and work with the mainstream government agencies—DEWR, OATSIA, DSE et cetera—to allocate funding to different projects and services. Although it is an important organisation, the elected ATSIC Peninsula Regional Council, of which I am a member, is not regarded as having the expertise or strategic leadership necessary to determine which services should be delivered to the communities.

In practice, despite the original aims behind the establishment of ATSIC, government agencies attempt to determine the regional agenda by consulting with a range of Indigenous regional organisations and their leaders—for example, the Cape York Land Council, the Apunipima Cape York Health Council, and Cape York Partnerships—in addition to the regional council.

The recommendations that have emerged from the 2003 ATSIC review are to be welcomed. Greater responsibility and control of Indigenous policy should indeed be pushed to the regional level, but effective governance will not occur with the existing regional structures and so we must take this opportunity to make adjustments in light of our experience over recent years. We need to create a new Cape York regional council that has the capacity to set a regional development agenda that is respected by Indigenous people but also is utilised in the detailed planning and funding process that follows.

I believe the new regional council needs to meet two criteria. It needs to be a representative of the views of Indigenous Cape York. Any governing body must be a representative of the views and best interests of the Cape York Indigenous people, yet a number of constraints need to be considered. First, there are only a small number of talented and informed Indigenous leaders in Cape York, so a large representative council, as currently exists, inevitably stretches our leadership capacity beyond its limits, diluting the quality of the decisions made. Second, the new organisation needs to be structured to select individuals who are keen to develop a Cape-wide agenda, rather than just representing sectional interests of one community.

The electorate size and nomination process will be critical in attracting individuals who have experience and knowledge across multiple communities. It needs to include the appropriate expertise. A strategic direction setting body will become useless if it does not have the necessary expertise to develop an effective development plan. Currently there is a disconnect between the elected representatives on the regional peninsula council and those organisations which have practical knowledge, experience and strategic leadership in delivering services in Cape York. The new regional governing body needs to include this expertise in the future by formally including representatives from the other Indigenous regional organisations such as the land council, our health council, my organisation, Cape York Partnerships and our recently formed Cape York institute. Each of these organisations in turn is accountable to the Indigenous people of Cape York, according to the rules and covenants set out in their constitutions. These representatives would be appointed, not directly elected, based on their past track record of successfully assisting Indigenous development.

The creation of a new regional council will institutionalise the regional planning process that currently occurs informally across organisations. The council should be given the responsibility to develop a regional development plan that is regularly updated and used as a guide in allocating funding. With this output in mind, the council should be responsible for collecting feedback from across the communities, assessing current services and projects, and then determining the development priorities for the next planing phase. The regional council will then interact with the appropriate government departments to jointly develop a Cape York regional budget for the year. Previously, coordination across government departments was an issue, but the new ICC structure should simplify the engagement process. This governance model would keep the agenda setting face separate from the funding face, thus hopefully depoliticising the funding process.

This proposed structure for the Cape York region presumes that the existing local community councils will be maintained. However, significant change to the previous ATSIC governance structure should occur at the national level. The previous national structure that included zone commissioners, in addition to the regional representatives, should be abolished. With greater responsibility and control being shifted to the regional level, any national organisation should be small in size and have limited responsibilities.

In conclusion, this submission should not be regarded as a full articulation of an alternative regional governance model for Cape York. Rather, it seeks simply to provide a higher level overview of the factors that should be considered, with a potential structure that might address some of the current problems. Other Indigenous regions of Australia are likely to need different governance models for their particular context. Yet we believe that the proposed model offers the best opportunity to improve the governance process in Cape York.

Senator SCULLION—It will take me a fair while to get my head around that, Mr Pearson. I am looking forward to your submission that will outline this particular proposal. I was interested in some of your comments. There seems to be a large gap of support between people who, at a representative level, have knowledge and experience. We have had a variety of evidence to support either side, which is important. There is clearly some sort of mixture. Why do you think it is that you do not necessarily get leaders in the community who are elected leaders in the community? They run things, in effect. But would you agree that they do not seem to consult with other members of the community who have experience and knowledge in particular areas? Why do you think that is the case and why do we have to appoint, find or shoulder tap people?

Mr Pearson—Historically in Cape York we have inherited a governance structure at the community level that gave the actual powers in decision making to the administrators. So we had quasi councils. The real power in decision making was at the government or administrative level. In the 1980s the state government legislated the community services act, which was supposed to separate the two arms: administration and policy making. However, the actual separation had no legal effect. Councils assumed the old role of the administrator and went about their business, in many cases ignoring the expert advice of their officers. Over time, we have seen many problems with the structures of these councils in relation to the officers of the council and the priorities and decisions being taken by the elected arm. There was no separation of powers. Over time there have been some successful councils. The important ingredient in those councils and administrations has been that a number of the elected officials had higher education or experience, maybe in business, but certainly they were a lot more knowledgeable about government processes, the roles of councils and so on.

The regional council elections in Cape York are heavily contested but the reality is that more than half of the current regional councils have been elected with no more than 30 primary votes. Yet there is a view that these 11 people are the supreme decision makers and representatives of Indigenous issues in the cape. One has a problem at the grassroots level believing that. One councillor, for instance, received 14 primary votes and holds a position on the council. In practice, at the grassroots level the notion that he is the sole representative of issues in their ward is utterly rejected by the people. More and more families are reaching out beyond the services of the regional council and engaging directly with government agencies and so on.

Senator SCULLION—You mentioned that you thought the ICC and the one-stop shop could improve the structure. We have had a lot of evidence about and criticism of the ICC. Some of it is legitimate in that it was simply saying, 'We do not know what it means; we do not know what is happening.' I am not speaking about that evidence but there are criticisms that they could not cope because there are new people coming in and they could not cope with the cultural sensitivities. What do you say to that sort of evidence?

Mr Pearson—I have heard those criticisms. Certainly I have concerns. In the case of Cape York, ATSIC has, over the last few years, been considerably attacked and discredited and the regional council as a body itself has not really been at the leading edge of significant issues in the Cape. It has been merely processing paperwork, making decisions and advising the administration on how to spend money.

There has been this chaos and what has emerged is a new bureaucratic structure to get some coordination. We support that and we push for that. We think that the big failure in servicing

Aboriginal people is this lack of coordination across the various agencies. The idea that the ICC centralises this and pulls all this stuff together, we believe has merit. At the moment, though, it is operating without reference to a leadership structure. We are advocating that we should be moving quickly to form a leadership structure specific to regions, as I have just advocated. If we do that, there will be a balancing out of policy and community issues and leadership advice being provided through a better coordinated system of bureaucracy.

CHAIR—Mr Pearson, that is one of the single biggest criticisms we are hearing of the current proposals. From 1 July next year, under this legislation and under the government's plans, there is nothing that will facilitate in any statutory way, nothing that obliges the ICCs or their managers, to actually use a reference group. There are many places that have come up with an alternative governance structure, but one of the greatest flaws that has been presented before this committee is that there is no requirement anywhere for any bureaucrat, or the government even, at a Canberra level, to do anything about implementing, resourcing or taking notice of those new governance structures. Is that also a criticism from you of the new proposal?

Mr Pearson—No, it is not. We have had the COAG trials operating here for more than 12 months now. Under those trials we have encouraged the agency bureaucrats to engage directly with communities, directly with families, to go beyond the structures that are there and, if necessary, to go behind the regional council. We want government to be closer to the community. We think that we have seen that in the experience coming out of the COAG trials. We have actually seen government engaging directly at the community level, not just with community structures but with community structures as well as individuals, families and clan groups. That provides for better access to government services for grassroots people. It actually bypasses this notion that some councils and some leaders in these councils have been Machiavellian in terms of trying to control and gate-keep government services to individuals and families. They have used these structures to stop very good proposals.

CHAIR—When you say you are looking at putting together a new structure for Cape York, are you suggesting that with the government departments and the ICC there would not be regional councils, regional authorities or regional assemblies—or whatever you want to call them—and that the ICC would deal directly with communities? How many communities are in the Cape York area?

Mr Pearson—There are 15 communities.

CHAIR—So they deal directly with each of those 15 communities?

Mr Pearson—I am advocating a regional forum and the make-up is quite flexible. There is a process of elections and it ensures that, for example, we have 15 local government councils, we have many land trusts, and we have women's groups. There is a process where a cross-section of the community interests are represented on this council, as well as, then, organisations that have their own election processes like ours and have particular expertise sitting on these boards. However, ICCs are not just required to consult with this group. They should be allowed to engage directly as well with the communities.

CHAIR—Going back to what I said earlier about one of the flaws, that is what people are saying to us: there is no requirement for regional forums to be established. They do not have to

be established; ICCs do not have to deal with them. In fact, people are very unclear about what ICCs are going to be doing. Do you think regional forums should be developed around the country, as well as ICCs dealing directly with communities?

Mr Pearson—Absolutely.

CHAIR—What would be the benefit of having a regional forum?

Mr Pearson—There is a need to get a regional plan together that is relevant. There is a need to ask what are the core issues in a region. There is a process through which these core issues could be brought together, and a regional forum does that. It comes up with a plan. It comes up with a strategy and negotiates with a range of government agencies, not just the Commonwealth. It acts as a negotiation forum between community leaders and government. Jointly, government agencies and community leaders negotiate programs, negotiate priority settings and negotiate the monitoring of arrangements that come with this sort of administration.

Senator SCULLION—I would like to clarify the circumstances. I have put it on the record before, but today I will put it in the exact context. There seems to be some misunderstanding that the regional chairs and councillors are unaware of the process to look at, discuss and formulate regional processes. I will again read from a statement that was made to all regional chairs in July 2004 by Minister Vanstone. The statement was circulated to all regional chairs. It said:

Regional Councils will be actively engaged in contributing to the development of the new arrangements. They will have a number of key roles such as:

- performing an advisory role with government agencies while new arrangements are being put in place.
- assisting the government to make the new arrangements work.
- contributing, along with others, to the formulation of new representative arrangements at the regional level.

As I understand it, this message seems to have been put out well in some areas and perhaps not so well in others. In travelling with this committee, I have been very encouraged by seeing that a number of regional areas are putting up very concise and comprehensive arrangements that suit particular communities and the people within particular areas. I am also pleased to say that it reflects the diversity of those areas—they are not all the same. It is about what they believe is the future. Not only do I encourage you through this committee but the minister has required on the regional chairs to pass on to her directly their views on what regional arrangements lie in the future. I do not have any further questions. Thank you very much for your submission.

Senator McLUCAS—I also look forward to your submission, which will probably answer the questions I am about to ask, but I will ask them anyway. You said that some members of the regional body would be elected, and that that number would be smaller than the current 11, and that a number of people would be appointed ‘according to the track record of the association’—I think those were your words. Who would make the decision that someone’s track record was positive? Would it be those who were elected, or would it be some other entity?

Mr Pearson—There are some challenges. The core issues in Cape York are native title and land. We do have a rep body, which has a system of elections right across the cape. It has a governing council of nearly 60 people. It has a two-yearly election. That body is the most qualified to elect, from within its own ranks, a suitable representative on land issues in a regional

forum—likewise, the health council. As I said, we have 15 local government councils in the cape. There is no reason why, from a college of 15 council members, these people cannot get together and elect someone to represent their interests in local government.

We need to give regard to women's issues. We need to give regard to young people. We need to do some thinking together as to how we structure the opportunity for advancing a representative from those sectors into the regional forum. That can be achieved. At the end of the day, the decision on who sits on the forum is taken by vote from those particular sectors and they provide for a diversified selection of individuals. I am confident that it will provide for the best possible people to come forward. In the history of Cape York, in the 14-odd years I have been on this council, this is the first time we have had nearly 40 per cent of the council made up of women, which is a great result for Cape York. I think that there need to be quotas set aside for young people, for women and for local government interests and so on. It is not going to take too much planning, discussion and agreement between the various representatives in the cape to come to some sort of structure for the region.

Senator McLUCAS—The next question I was going to ask you was about women. It has been put to us in some places—for example, in Central Australia—that they were going to have a model that included nine divisions that relate to language groups and that a woman and a man from each of those groups would be elected. Do you envisage some similar sort of system? You used the word 'quota'. Is there any benefit from that sort of model that could be used in Cape York?

Mr Pearson—I think that we need to have some system that provides guaranteed positions for women. However that is structured for Cape York, there is a reasonable network of organisations for women. There are indeed some notable female leaders. I think that the interesting situation for Cape York is that amongst the women you do not get the contentious debate that the men have. The debate about who holds what position is heavily emphasised with the men, but the women are interested in the bread-and-butter issues. They are interested in what is happening in the household. They are interested in education for their kids. In fact, in many cases, they are leading the frontline social issues that are driving the Cape—attacking domestic violence and introducing alcohol management plans. These are women who ought to have a place in any future structure. I do not think that this is insurmountable; we can come up with a structure that suits Cape York.

Senator McLUCAS—Thank you for putting that on the record. I have two more very brief questions. The boundary that you are talking about is essentially the current boundary of the regional council as it is now. Have you had an opportunity to put your mind to whether or not that is in fact the right boundary or whether we should be thinking a bit broader?

Mr Pearson—I have not touched on the boundary issue, but the current boundary is not the right boundary. In the south-east here, up at Mossman, there is a group at the Mossman Gorge, the Yalanji people, who are in the Cairns region. They have traditional affiliations and a strong service relationship with our organisations over many years. We believe they should be included in a boundary review in the cape.

Since moving out of the old Bjelke-Petersen type regime of the eighties, when we were all living on the missions, there have been Cape York Aboriginal people, the Kaurareg people, in the

Torres Strait. They occupy islands and seas in the top end of the Torres Strait. For as long as we have been advocating for Cape York issues, our brothers and sisters in the Kaurareg lands and seas have joined us in the struggle—for land and for economic development and services and so on. Certainly, for these people in the Torres Strait, problems are created by administrative regions and by ATSIC's legislative boundaries.

We can see clearly that the Kaurareg people over many years have been disempowered in connection with government services. These people have a natural connection, through birthright really, with those of us in the Cape. In the various boundary reviews held over the years we have advocated for both these areas to be changed.

Senator McLUCAS—I appreciate your putting that on the record. We spoke with the Kaurareg people yesterday in TI, so that was good. My question also went to a broader question: many people who have talked to us have answered: 'We'll just stick with the regions that we've got rather than try and redraw boundaries or start again. For ease of getting on with the job, we'll just stick with our current regional boundaries which reflect the current ATSIC boundaries.' That seems to be a fairly consistent message—that they are not perfect and, yes, we'll fix up these bits around the edges. But it seems that nobody is advocating that we start again with a map of Australia and say, 'Let's look at this and redo regions across Australia.' Would you generally concur with that?

Mr Pearson—Provided there is flexibility for the provision of administrative funding services and other services to groups outside of your region or your boundary, we will ensure that the disempowerment of those people outside of the boundaries will not continue. But this is a fundamental issue for us and we have made our case previously. We would prefer the change, but that is a fight that we recognise as a difficult one. However, there should be administrative processes that provide for maybe subregional agreements or regional agreements for provision of government services to those communities that reside outside of our region.

CHAIR—Should the national body being proposed by the government be elected; or should it be appointed, as is being proposed? Also, what role do you think it should provide to government?

Mr Pearson—The national body needs to be small and have appointed to it the best people possible. That should be done through a process—and I am not sure what that process should be. But, to represent national issues, we need to bring together at a national forum the best possible Indigenous leaders this country has. We do not think that going back to the old structure is the way to go. I am convinced of that. After six years in ATSIC and many years out of it at that level, I am certainly convinced that that is not the way we should go. I think there needs to be some sort of national representation, but that is not an issue we lose sleep over. Our emphasis is on the region and empowering it.

CHAIR—Some people have put to us that a fully appointed national body is out of the question. Nobody is saying they endorse a fully appointed body. Most people are saying that anyone on a national body ought to be elected and a few people are saying they do not mind a mixture of both.

Mr Pearson—From a grassroots level, whether or not they sit on an ATSIC commission or generally outside of that sort of representative structure, at the end of the day, the community and the grassroots will go to the most effective organisations that are doing those things. In Cape York over the last six years, our leadership up here and the organisations that we have put together have been driving some very significant change for Cape York. We have driven that primarily and largely without the assistance and support of the national ATSIC structure. So whether they are there or not there has not been an issue for us. The point I am making is that people will go to the best, and if we can provide for the very best of Indigenous leaders to be appointed at a national process to engage and provide unfettered advice to government and not allow that advice to be watered down in any way, that may be useful.

CHAIR—Are you saying that, if there was no national body, it would not matter?

Mr Pearson—What I am saying is that our regional structure is more important. Getting government to come directly to the region and through that process engage directly with families in the communities is more important than regurgitating a process of national leadership that has failed us in the past. Unless you can have a process whereby communities at the grassroots level can engage with confidence with individuals and organisations that they feel will deliver for them, it is really a waste of time I think.

Senator McLUCAS—Mr Pearson, when you put your document together, could you be persuaded to put your mind to how, in this region, the ICC should consult with our community? We do not need a communications plan—I think it is their job to do that—but the principles that the ICC should think about in order to negotiate with the communities of Cape York.

Mr Pearson—Yes.

CHAIR—We do not have any further questions. Thank you very much for giving up your time and making yourself available to appear before the committee today. We certainly look forward to your written submission. I do want to put on the public record the committee's thanks to Luke and Peter for the last four days for having to uplift this equipment twice a day in some instances. I think that deserves some public recognition in *Hansard*, so thank you both.

Subcommittee adjourned at 4.34 p.m.