

Murdi Paaki Regional Council

RE-CONNECTING GOVERNMENT AND ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

*Submission by the Murdi Paaki Regional Council to the Senate Select Committee on
the Administration of Indigenous Affairs*

August 2004

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1. SUMMARY

Introduction

This submission by the Murdi Paaki Regional Council to the Senate Inquiry into the Administration of Indigenous Affairs is made pursuant to the council's statutory duties under the *Aboriginal and Torres Strait Islander Commission Act 1989* (s. 94 (1) (e)).

As the government begins implementing its new arrangements in the administration of Indigenous Affairs, regional councils constituted under the ATSIC Act have a responsibility to influence the form of the new arrangements while negotiating themselves out of business in the next 12 months.

Until it is abolished, the Murdi Paaki Regional Council will continue to discharge its statutory responsibilities under the ATSIC Act to advocate the interests of Aboriginal and Torres Strait Islander people in the region.

This is both a reasonable and responsible position for the Murdi Paaki Regional Council to take in the absence of any prior consultation by the government with Aboriginal and Torres Strait Islander people as key stakeholders in the new arrangements. In launching the document *Connecting Government* the Secretary of the Department of Prime Minister and Cabinet, Dr. Peter Shergold, said:

"A whole-of-government approach also requires knowledge of how a policy is likely to be perceived by those who are to be affected by it. It is entirely appropriate that a public servant facilitate discussion with those bodies who seek to represent, advocate or lobby for interest groups.

"In a real sense citizens are stakeholders in the making of public policy...all are entitled to believe that an effective public service will ensure that their perspective is represented in the advice that goes to government. An effective APS, of course, will seek to assess those particular perspectives against the national interest."¹

In the way the government has determined the new arrangements there has been a denial of the voice of Aboriginal and Torres Strait Islander people.

¹Dr. Peter Shergold, *Connecting Government*, 20 April 2004."

A policy void

The abolition of the Aboriginal and Torres Strait Islander Commission, the phasing out of Regional Councils over 12 months, and “mainstreaming” all programs and services for Indigenous people have left a void for Aboriginal and Torres Strait Islander people at the regional level. The government seeks to fill this void by trawling for alternatives when effective structures already exist after more than a decade of Aboriginal and Torres Strait Islander people working with the system.

One consequence of the government’s decision is that the progress made in the last decade in strengthening the participation of Aboriginal and Torres Strait Islander people in decision-making and partnerships with government may be lost to an uncertain future.

Under the umbrella of “connecting government” the agencies have been given a mandate to improve the way they deliver services to Indigenous people. The assumption is that past efforts have not worked. If so, there has been a failure by mainstream agencies and the ATSIC system is being targeted for the perceived lack of outcomes.

Ours is not an argument for or against “mainstreaming” of services for Aboriginal and Torres Strait Islander. Indeed, we see opportunities in all agencies now being required to accept their responsibilities, be accountable to government for their performance and re-structuring themselves to overcome a silo mentality. Rather, our submission is about how the decisions are made and who makes them in relation to the way services are planned and provided and what their outcomes should be.

Indigenous concerns over the government’s decision are growing as the implications and consequences of the government’s decision to disperse program management throughout seven different agencies with their own jurisdictional interests come to be fully appreciated.

As a result of extensive community consultations the Murdi Paaki Regional Council has already settled the region’s representative and authority structures. These structures link regional and community decision-making and join community representation with service providers. The arrangements are already embedded in formal agreements between us, the Commonwealth and New South Wales Governments. It has yet to be demonstrated how these arrangements can be improved.

An administrative solution

As an elected representative body of Aboriginal and Torres Strait Islander people, the Murdi Paaki Regional Council has fundamental concerns about the government’s proposed new arrangements at the regional level. They have the potential to be divisive and disempowering, lack legitimacy, and diminish our rightful place and participation in mainstream service delivery.

The creation of Indigenous Coordination Centres as administrative outreaches of government agencies to replace ATSIC Regional Offices embodies a significant disconnection between government and Indigenous decision-making. Rather than consolidating the achievements of the last 10 years, the proposed arrangements dismember them and reduce the capacity for Aboriginal and Torres Strait Islander people to engage in and negotiate effective and meaningful partnerships consistent with the COAG principles and the findings of the Commonwealth Grants Commission.

Whatever deficiencies the government may have perceived in the operations of the ATSIC Act, Regional Councils were effective forums of planning and decision-making, representative of all interests in the region.

The new arrangements are being portrayed as a “bold experiment.” In many ways the policy argument represents a crocodile presented as an alligator. The focus of the arrangements is to connect government agencies to improve the way they deliver services for Aboriginal and Torres Strait Islander people. The Murdi Paaki experience demonstrates that the best way to connect government service delivery is through institutions of Indigenous governance which have both a statutory foundation and legislative force.

While it is timely that government agencies should be made accountable for their responsibilities towards Aboriginal and Torres Strait Islander people, the “bold experiment” is an administrative solution which has the potential to deny a regional representative focus as a benchmark for participation in government decision-making.

This is not to deny that relevant institutions of Indigenous governance might emerge as a result of the government’s negotiations with the States. Indeed, the focus of recent steps towards greater regional autonomy for regional councils emphasised the need for their constitutions to be made more relevant to the individual circumstances of regions and communities.

The concern we have is that any new mechanisms, however they are developed, will be merely advisory and consultative and will lack the authority necessary to ensure mainstream agencies discharge their responsibilities towards Aboriginal and Torres Strait Islander people efficiently and effectively within a planning and priority setting framework. The result for Indigenous people is exclusion from participation in decision-making and the loss of a capacity for self-management and self-sufficiency.

Of particular concern is the absence of a coherent legislative framework that would facilitate the creation of governance arrangements. We believe the Torres Strait Regional Authority has value in the way it has built the bridge between Indigenous governance and service delivery while maintaining a separation of powers between the elected and administrative arms.

We would urge the committee to ensure the door is not closed on regional autonomy as it was originally conceived by government and to recommend a flexible legislative model within which representative Indigenous institutions may be re-

constructed and incorporated in schedules to the umbrella legislation. A precedent for such a model is the Torres Strait Regional Authority.

Disconnecting regions

There is now a perception that the new Commonwealth arrangements will “go around” regional entities so that agencies may deal direct with communities, individuals and organisations without necessarily giving them the capacity to engage effectively with government. Regional Councils were a fundamental aspect of that leadership capacity.

A structure of self-management and self-sufficiency within the Australian federal system, giving a voice to Aboriginal and Torres Strait Islander people at the regional level, is now being subsumed into an administrative process enabling government departments to work together to achieve their own outcomes through a system of Indigenous Coordination Centres responsible to the agencies involved.

As former ATSIC Regional Offices, Indigenous Coordination Centres supported the decision-making of duly elected Regional Councils in the performance of their statutory functions. As purely administrative entities, they now lack a direct connection with Indigenous decision-making and return Aboriginal and Torres Strait Islander people to bureaucratic silos.

If connecting government as a policy approach is to achieve improved outcomes for Aboriginal and Torres Strait Islander people, it needs to be directly linked with institutions of Indigenous governance, underpinned by a coherent and consistent legislative framework. At the moment we see ourselves being disconnected from decision-making.

Ensuring a proper transition

Murdi Paaki Regional Council has already put in place responsible governance arrangements that both empower communities and assist agencies in their service delivery process. These arrangements involve community working parties representative of 16 major and associated communities and a regional assembly within which communities are directly represented.

As a leading Australian Government COAG Trial site, the Assembly commits to working closely with government and non-government agencies to plan and coordinate the delivery of appropriate, culturally diverse, high-quality programs and services to the people of the Murdi Paaki region.

As a collective leadership of the Murdi Paaki region the Assembly’s role is to provide the highest standard of governance, accountability, advocacy and direction. It supports the principles of responsibility, strong leadership, and commitment

The arrangements have the support of both the Commonwealth and NSW Governments and are embodied in a formal tri-partite agreement. Future development of the Indigenous Coordination Trials was structured around these arrangements which have demonstrated their viability.

The Council is committed to ensuring an effective replacement for the Regional Council, with its attendant agreements, to ensure the maintenance of a strong regional voice and provide continuity of Indigenous involvement in decision-making and service delivery within a structure that has legitimacy with Aboriginal and Torres Strait Islander people.

The council will aim to re-negotiate its current agreement with the Commonwealth and State Governments within the *National framework of principles for delivering services to Indigenous Australians* endorsed by the Council of Australian Governments at its meeting on 25 June 2004. Implicit in those agreements must be the resourcing of replacement structures.

Government acceptance and funding of representative and authority structures which have grown out of extensive community consultations in the last decade will determine the credibility of the new arrangements.

2. THE MURDI PAAKI BACKGROUND

Towards greater regional autonomy

The approach of the Murdi Paaki Regional Council in charting a course towards better decision making and outcomes at the regional level for Aboriginal and Torres Strait Islander people followed the government's election commitment at the time to explore ways of achieving what was called "greater regional autonomy within the existing ATSIC structure."

In September 1999, the Chairman of ATSIC and the then Minister for Aboriginal Affairs, Senator John Herron, jointly issued a discussion paper to give effect to the Coalition's election policy statement to accept the recommendations of the ATSIC Board to provide greater regional autonomy.

The policy statement committed the Coalition to working with the Indigenous community and ATSIC to develop regional models, and to devolve, where possible, decision making and management to the local level.

The review of the operation of the *Aboriginal and Torres Strait Islander Commission Act 1989* (Section 26 Review) provided to the Minister in February 1998, following extensive consultations with Aboriginal and Torres Strait Islander communities, found that there was a strong desire to see more authority devolved from the centre to the local and regional levels.

In response to this policy commitment various regional councils were encouraged to develop proposals for regional autonomy. The Murdi Paaki Regional Council spent more than five years developing a scheme of regional governance in consultation with the communities concerned.

The government's commitment to regional autonomy was specific to the ATSIC system and decision-making on the funds appropriated to ATSIC. It recognised the role of other organisations, such as Land Councils, with their specific autonomous responsibilities. Regional autonomy meant bringing all stakeholders together within one Commonwealth legislative framework to achieve specific ends and to consolidate the interface between the Commonwealth and the States.

Regional autonomy within the ATSIC system offered two related streams of empowerment:

- effective representation and advocacy for Aboriginal and Torres Strait Islander people within a Federal system where responsibility for providing services for Aboriginal and Torres Strait Islander people is a shared responsibility – between Commonwealth, State and Local Government and with Indigenous people; and
- the delivery of services in accordance with the needs and priorities identified by Aboriginal and Torres Strait Islander communities.

The Murdi Paaki Approach

Our approach to regional governance linked four key elements of reform – self determination, regional autonomy, good governance, and improved service delivery. We saw these principles as being a pathway to overcoming the profound disadvantage of poverty identified by the Commonwealth Grants Commission by returning to us the controlling influence over our lives and making agencies more responsive to our needs.

The proposals involved the establishment of a Regional Authority (similar to the TSRA) incorporating a new system of community representation and participation more appropriate to the interests of Aboriginal and Torres Strait Islander people in the Murdi Paaki region. The creation of the TSRA was a breakthrough in regional autonomy and demonstrated the capacity of the ATSIC Act to achieve it.

In broad terms our regional governance framework has two dimensions to it:

- effective representation and participation of Indigenous communities to determine need and priorities; and
- partnerships with government agencies at the regional level in meeting their service delivery obligations.

The framework specifically distinguishes between governance and service delivery but links them structurally through elected community representation and engagement with service providers to ensure that communities play a central role in developing and implementing strategies and taking responsibility for their own improvement, and have an effective voice in all matters that affect individual and family well-being.

The Murdi Paaki Regional Council proposed to achieve the changes in two stages, the first stage of which has involved the establishment of Community Working Parties. Using our present powers under the ATSIC Act, our aim was to give communities a direct voice in the council's decision-making through the establishment of a Regional Assembly, comprised of community representatives, to advise the Regional Council. This would run alongside the election of regional councillors under a ward system.

The next stage would involve negotiating with government changes to the ATSIC Act so that, in the future, community working parties (or councils) established within the governance framework, as an evolution of the present community working parties, directly elect a Regional Authority as the regional decision-making body with new powers of negotiation, coordination and funding to support communities.

Community Working Parties pre-dated our approach to regional autonomy as mechanisms to achieve coordination and community input in the delivery of housing and infrastructure.

Community Working Parties are a broader based participative forum which brings together all community organisations, interest groups and individual community people. They operate on a community governance philosophy as opposed to corporate governance ideology. They are unincorporated bodies, they provide the policy, planning and advocacy functions and they derive their legitimacy from their communities. They are owned by the communities themselves because they are of their making.

Murdi Paaki Regional Council's governance arrangements that both empower communities and assist agencies in the service delivery process have the support of both the Commonwealth and NSW Governments and are embodied in a formal agreement. Future development of the Indigenous Coordination Trials was premised on agreement with and involvement of the Murdi Paaki Regional Council.

3. CONNECTING GOVERNMENT

A bold experiment

It has been said that the Government's decision to mainstream all Aboriginal programs represents a "bold experiment". Aboriginal and Torres Strait Islander people naturally feel some anxiety about yet another experiment.

We are told the new arrangements represent a different approach, having already been piloted in eight trial sites around Australia. It is not so much a different approach as the translation of what we have been doing into another form – a crocodile dressed up as an alligator.

The COAG pilots have only just got off the ground after protracted negotiations. Their functionality has yet to be evaluated. Thus the real evidence for what is being proposed derives from the operations of regional councils themselves.

There can be no doubt that the delivery of programs and services to Aboriginal and Torres Strait Islander people represents the greatest of challenges for today's public sector management. A balance needs to be struck between Indigenous involvement in decision-making and public sector performance on the other.

The distinguishing characteristic of whole of government approaches is an emphasis on objectives shared across organisational boundaries, as opposed to working solely within an organisation. It encompasses the design and delivery of a wide variety of policies, programs and services that cross organisational boundaries.²

The multiplicity of needs facing Indigenous Australians requires coordinated approaches to service delivery.

We welcome the Government's commitment at last to ensure that mainstream agencies accept their responsibilities and play their part in delivering equitable services for Aboriginal and Torres Strait Islander people. The securing of our rights brings obligations on their part. Whether agencies can do any better than they have done in the past remains to be seen. Improving accountability to us for the services they are funded to provide has always been part of the Indigenous agenda for reform.

A central feature of regional autonomy in achieving such coordination has been good governance. The ATSIC Act provided a national legislative framework for coordination without detracting from the roles and responsibilities of other organisations and spheres of government. At the national level the Act promoted advocacy of the interests of Aboriginal and Torres Strait Islander people, and participation in decision-making, and at the regional level incorporated a statutory planning and coordinating mechanism.

² Management Advisory Committee, *Connecting Government, Whole of Government Responses to Australia's Priority Challenges*, 2004

The aim of *Connecting Government* is to ensure government agencies work together to strengthen their service delivery to Aboriginal and Torres Strait Islander people. It brings together all programs into mainstream agencies.

At the regional level, coordination is to be provided by Indigenous Coordination Centres located in 22 rural and remote locations with regional boundaries still to be defined. These centres administratively are intended to lead government efforts to negotiate Regional Partnership and Shared Responsibility Agreements with Aboriginal and Torres Strait Islander communities.

Since existing regional councils are to be replaced by new community and regional structures yet to be negotiated between the Commonwealth and the States and Territories there is no indication at this time as to what those structures will be.

From empowerment to disempowerment

Different emphases in explaining the new policy arrangements suggest an administrative uncertainty in achieving the desired outcomes without regional councils.

Connecting Government is not merely a question of determining how each Departmental program might be delivered and coordinated with other Departments with their own responsibilities. It is about determining with Aboriginal and Torres Strait Islander people what the outcomes are to be, what interventions are necessary to achieve them, and how those interventions should be made. It is about giving Aboriginal and Torres Strait Islander people the leadership, authority, and capacity to participate in a partnership with government.

Nothing in the government's new arrangements, apart from invoking agencies to be more responsible in delivering services to Aboriginal and Torres Strait Islander people suggests the desired outcomes will be achieved.

The government's proposed new arrangements for delivering services to Aboriginal and Torres Strait Islander people identify five principles:

- Collaboration
- Regional need
- Flexibility
- Accountability
- Leadership

These administrative principles were already embedded operationally in proposals for regional autonomy and are capable of being further developed within Murdi Paaki's governance framework. In this sense, the coordination arrangements developed for Indigenous communities anticipated the *Connecting Government* proposals and come as no surprise to us. The notion of bringing all government agencies together to improve outcomes for Aboriginal and Torres Strait Islander was at the heart of Indigenous regional autonomy.

The outcome for which the Government funded ATSIC was:

“The economic, social and cultural empowerment of Aboriginal and Torres Strait Islander peoples in order that they may freely exercise their rights equitably with other Australians.”

Recent internal reform of the ATSIC administration was based on elevating the advocacy role of the organisation and enhancing the capacity of regional councils against a background of devolving decision-making.

The preamble to the ATSIC Act incorporated these sentiments as expressing the will of the Australian Parliament.

AND WHEREAS it is the firm objective of the people of Australia that policies be maintained and developed by the Australian Government that will overcome disadvantages of Aboriginal persons and Torres Strait Islanders to facilitate the enjoyment of their culture;

AND WHEREAS it is appropriate to further the aforementioned objective in a manner that is consistent with the aims of self-management and self-sufficiency for Aboriginal persons and Torres Strait Islanders;

AND WHEREAS it is also appropriate to establish structures to represent Aboriginal persons and Torres Strait Islanders to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of programs and to provide them with an effective voice within the Australian Government.

The Murdi Paaki Regional Council is concerned that the repeal of those words by the Australian Parliament will put an official end to self-management and self-sufficiency. In the process, the new arrangements replace empowerment with disempowerment.

4. DISCONNECTING INDIGENOUS PEOPLE

While there are shared objectives in ensuring that mainstream agencies meet their obligations towards Aboriginal and Torres Strait Islander people, what is lacking from the proposed arrangements is any notion of effective Indigenous participation. It is also questionable whether such participation can be achieved without a national legislative framework.

The reality for Aboriginal and Torres Strait Islander people at the regional level is that we have been disconnected from the machinery of government. Indigenous governance, a centrepiece of the Council of Australian Government's own prescription for change, no longer features in the arrangements. For us this represents bad governance, where governance is about the whole system of representation, advocacy, participation in decision-making and service delivery.

Coordination without participation

The new arrangements will continue to require an efficient and effective process of coordination at the regional level. This has been demonstrated by COAG's own coordination trials, which have been a key feature of the government's policy approach working with regional councils and communities in partnership. The government has identified the same need by now seeking to replace regional councils with Indigenous coordination centres.

The Commonwealth Grants Commission in its review of Indigenous Funding reported that the common themes in the preconditions for achieving advances in the circumstances of Indigenous peoples and aligning resources to needs were that Indigenous peoples:

- are enabled to participate fully in identifying needs and in making decisions on the provision of services;
- have increased financial capacity within the current resources;
- have control of service provision at the community level as far as practicable; and
- have the capacity to enter into productive collaborative arrangements with the main service providers — State (and local) Governments.

Without a recognised process of regional participation and accountability, supported by facilitating legislation, the outcomes of the new "robust" arrangements will remain questionable. They may not be as robust as we might think. This is not an assumption. It is based on the evidence of the performance of regional councils over the last decade and the interaction between Commonwealth, State, Local Government and Regional Councils.

Regional and Community Planning

Fundamental to the implementation of the governance and service delivery framework is the role of Regional Councils in developing regional plans and in assisting communities in preparing community plans to facilitate the determination of needs, priorities and funding and the investment in services.

If the notion of “joined up government” is to be meaningful, it needs the architecture of regional planning to bring agencies together. Federalism’s complex web of shared and shifting responsibilities does not make it any easier.

Murdi Paaki’s vision for an effective regional planning and service delivery process sees the regional plan being the indicator of need for the Region so that Commonwealth, State, Territory and Local Governments can “invest” in the plan’s vision of improved service delivery and capacity building initiatives to both enhance community and regional governance structures and to ensure the more efficient and effective delivery of services.

A key element in the regional planning and service delivery process will be business partnership agreements between Aboriginal and Torres Strait Islander people and agencies responsible for service delivery. The agreements will aim to align the outputs of government agencies and service providers with the functional priorities and outcomes determined by Regional Councils/Regional Authorities and communities.

The council sees community planning as an evolving process as part of the essential engagement of agencies with communities. Its statutory underpinning will ensure there is greater consistency and understanding among service providers of the planning requirements and a better connection between national and regional priorities.

We believe that arrangements along these lines are a way to give Aboriginal and Torres Strait Islander people greater control and influence over service delivery involving Commonwealth outlays of \$3 billion and to improve the efficiency and effectiveness of their delivery and the quality of outcomes.

Management without direction

Regardless of structure, which may vary between regions, the issue is really about shifting decision-making powers from centralised Departmental control out to “where the people live.” The starting point is what the people themselves determine is necessary to improve their livelihoods and well-being. It is about re-designing the rules of the game. It impacts on how policies are made, programs designed, and services delivered.

The proper coordination and integration of services to meet our needs on terms decided by and accountable to us does not involve throwing out the old and creating something new. It is about recognising what we already have and building on it.

We now know that the Government will maintain a network of rural and remote Indigenous Coordination Centres to ensure an effective coordination of program design and service delivery at the regional and local level.

The proposed arrangements smack of highly bureaucratised structures. We know it has not worked in the past where staff have had to report to different

Departments for different program management because seamless government does not mean the surrender of program responsibility by individual agencies.

This is management without corporate direction.

Best practice

Overseas experience suggests that there is mounting evidence that sound governance is a necessary condition for Indigenous communities to make rapid progress in improving the well-being of their people.³

A recent report examining service delivery in Britain highlighted what it called “the Humpty Dumpty effect” in the delivery of central government’s priorities. It described the “Humpty Dumpty” effect as follows:

“Efforts to promote economic growth, social justice and environmental sustainability fracture when they hit the ground in departmental silos, just like Humpty when he fell off the wall. Local leaders play the role of the King’s horses and all of the King’s men, as they try to put the pieces back together again.”

On the positive side the same report argued that progress in improving economic, social and environmental well-being is most likely to be achieved where national and local priorities are fully aligned and where local partners achieve coherence in establishing their priorities and targets.

The report concluded that successful areas are the ones where local leaders are able to improve well-being by:

- developing coherent programs of change that are based on local needs and opportunities;
- tapping into different funding streams without being driven by them;
- engaging with communities to ensure that interventions are responsive to local concerns;
- making the most of the skills and resources of all sectors to ensure that the area has the capacity to deliver its ambitions and priorities;
- capturing learning from previous activity and transferring it to new interventions; and
- paying attention to the sustainability of interventions, ensuring mainstreaming in the longer term.

The report saw value in the delivery of both special initiatives and mainstream services within a strategic framework setting out clearly what outcomes communities should expect from additional “special” funding. This approach is similar to the supplementary funding role played by ATSIC and Regional Councils.

³ Institute on Governance (Canada), *Aboriginal Governance in the Decade Ahead*, 2004

The dual concept proposed in the British report would allow communities, local leaders and policymakers to distinguish between what improvements mainstream and special funding is delivering in a local area.

We are uncertain as to what capacity exists within the proposed new arrangements to complement mainstream funding with special development initiatives and to integrate funding from a variety of sources within a whole of region approach. Until such time as we see documentation from the Indigenous Coordination Centres of on how they propose to coordinate funding arrangements, local communities will remain confused and uncertain.⁴

⁴ Audit Commission (UK), *Local Government National Report: People, Places and Prosperity*, 2004

5. RE-NEGOTIATING THE FUTURE

Restoring the partnership

In the absence of a framework for replacement organisations, the Murdi Paaki Regional Council will seek to re-negotiate with the Commonwealth and NSW Governments the arrangements already in place for a Regional Assembly and Community Working Parties.

In doing so the key principles involve shared responsibility between government agencies and with Indigenous people, partnership with Aboriginal and Torres Strait Islander people, the direct connection of Indigenous decision-making with the way services are delivered by all spheres of government, and the integration of program delivery within a single regional outcome bringing together the resources and outputs of all stakeholders into flexible funding arrangements.

As a leading Australian Government COAG Trial site, the Assembly is committed to working closely with government and non-government agencies to plan and coordinate the delivery of appropriate, culturally diverse, high-quality programs and services to the people of the Murdi Paaki region.

As a collective leadership of the Murdi Paaki region the Assembly's role is to provide the highest standard of governance, accountability, advocacy and direction. It supports the principles of responsibility, strong leadership, and commitment

Council of Australian Governments

The Murdi Paaki Regional Council believes its proposals for a regional representative body to engage with government and service providers is consistent with the Council of Australian Governments' (COAG) *National Framework of Principles for Delivering Services to Indigenous Australians* which was endorsed at the COAG meeting on 25 June 2004.

Under the framework all jurisdictions are committed to achieving better outcomes for Indigenous Australians, improving the delivery of services, building greater opportunities and helping indigenous families and individuals to become self-sufficient.⁵

The COAG principles of shared responsibility involve:

- Committing to cooperative approaches on policy and service delivery between agencies, at all levels of government and maintaining and strengthening government effort to address indigenous disadvantage.
- Building partnerships with Indigenous communities and organisations based on shared responsibilities and mutual obligations.

⁵ COAG, Media Release, 25 June 2004 and attachment B.

- Committing to indigenous participation at all levels and a willingness to engage with representatives, adopting flexible approaches and providing adequate resources to support capacity at the local and regional levels.

Government commitment

In his statement announcing the abolition of ATSIC, the Prime Minister said:

“Regional councils will have a role in the interim as we establish different mechanisms at a local level through consultation with communities and with local government and with state governments. That of course does not in any way preclude processes whereby Indigenous people themselves will, in different areas, according to their own priorities elect bodies and people to represent them. And the government will, in the course of consulting different sections of the community, be very keen to consult any bodies that may emerge from that process.”

In the absence of information about what form the different mechanisms might take and their roles and responsibilities, the Government’s approach could well cause confusion within Aboriginal and Torres Strait Islander communities.

Inherent in the government’s approach is the potential for creating and dealing with a plethora of organisations without necessarily having the capacity to engage with government or the government itself being able satisfactorily to adjudicate on priorities. In the case of the Murdi Paaki region, a regional body has been instrumental in breaking down factionalism and bringing a regional perspective to setting priorities for delivering services.

The experience of the Murdi Paaki Regional Council has shown that within a legislative framework, Commonwealth, State and local government can work together through a process of regional planning, service agreements, pooled funding and integration of programs and services.

Whatever the future course, our system of regional governance was a creation of the region and the people living in our communities. They own it. It cannot be taken away from them. The form in which it survives is subject to negotiation and incorporation in a formal agreement, pursuant to the Prime Minister’s commitment.

Resourcing the new arrangements

A fundamental issue is how Indigenous communities connect to the wider society and retain control over their futures, maintain Aboriginal identity and culture, have Indigenous community structures based on custom and traditional law, and have the capacity to make their own decisions. External assistance should contribute to rather than define the process. Regional and community leadership must be able to filter Government interventions while re-building community capacity and leadership. Government assistance must be managed responsively to achieve material results. The process begins where the decisions are made at the local level.

An important aspect of representation and delivery arrangements is full participation in the design of public policy and programs, the way funding is

distributed, and the more efficient and effective delivery of services. Structures will be influenced by the size, composition, location, land base and economic potential of the region concerned.

A Murdi Paaki Regional Assembly will seek to ensure maintenance, recognition and respect for the special and unique customs and beliefs of the Aboriginal and Torres Strait Islander peoples living in the region.

The Assembly, through its deliberations, will seek to align government agency outcomes with the expectations of the Indigenous communities they are funded to serve. This will be done through a proper process of regional and community planning involving the setting of priorities, targets, and key result areas for implementation by the responsible agencies within an overall regional development strategy.

A key consideration for the Senate Committee's inquiry and ultimately for government decision is how replacement representative networks at the regional and community levels will be resourced to ensure they have the capacity to perform the functions expected of them under the new arrangements. As part of a partnership framework, these functions involve providing "fundamental inputs" on what services communities need and how they are best delivered into their regions and communities.⁶

What we know of the new arrangements, the functions will include the negotiation with government, at one level, of Regional Partnership Agreements to guide how the government does business within the region and, at the local level, Community Shared Responsibility Agreements, incorporating more detailed statements of what Indigenous people and the government will be doing collectively around a set of commitments to deliver services and effect changes under the banner of shared responsibility.

Within the government's new framework the role of regional planning which has been a key aspect of coordination and relationships with all spheres of government remains to be resolved.

⁶ Senate Select Committee on the Administration of Indigenous Affairs, Evidence, 29 June 2004

6. CONCLUSION

The abolition of the ATSIC system in its entirety and with it any immediate structure of regional autonomy represents a denial of self-management and self-sufficiency which were expressed as Parliament's will in the preamble to the ATSIC Act. Empowerment is being replaced by disempowerment.

Self-management and self-sufficiency are fundamental to control by Aboriginal and Torres Strait Islander people over their own destiny, underpinned by a special relationship between Indigenous people and government deriving from the shared history of this land.

There were always two parts to the ATSIC system – the Commission of 17 members elected by regional councils coming together in zones and regional councils themselves, directly elected by Aboriginal and Torres Strait Islander people, with specific legislative functions.

Some may argue that there is not a great deal of difference between the ATSIC system at the regional level and what the government is now proposing. All that will now happen is that mainstream agencies will be responsible for the delivery of their services. Some may even say that with organisations like Land Councils, the Indigenous Land Corporation, Indigenous Business Australia, the range of Aboriginal organisations, and community government there are sufficient dispersed points of autonomy.

Our concern is that these arrangements lack the essentials of participation in government decision-making. The focus of what is now seen as a “whole of government” approach is on administrative structures.

Our council believes that both in its content and implementation the new arrangements do not serve the public interest as they relate to an important area of national policy – the rights and interests of Aboriginal and Torres Strait Islander people and their status as significant stakeholders in the policy and national development process.

The Murdi Paaki Regional Council is anxious to ensure there remains a legitimate and sustainable voice for Aboriginal and Torres Strait Islander people in the wider development process and more specifically in the delivery of programs and services by mainstream agencies.

In our view, this can best be done through a national legislative framework which has the flexibility to recognise individual State, regional and community aspirations and structures. We wish to ensure that the principles of self-management and self-sufficiency as an expression of Parliament's will are maintained through appropriate structures.

There can be no partnership without participation.