WORKING TOGETHER

**A framework of regional governance for the
Murdi Paaki Region of New South Wales:**

A report to the Murdi Paaki Regional Council

3 June 2002

J G Menham
G Jones

A new way of doing business

A stronger voice for communities
Better outcomes for Aboriginal and Torres Strait Islander people

"Well-functioning communities and organisations that respond to individual and family needs are essential for development."

Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock, MP

PART ONE

Overview

CONTENTS

EXECUTIVE SUMMARY

This report represents the third stage of the Murdi Paaki Regional Council's commitment to develop a new framework of regional governance and service delivery arrangements for Aboriginal and Torres Strait Islander people in the Murdi Paaki Region of New South Wales. The Murdi Paaki Regional Council sees this as a practical response to current policies in Indigenous affairs and the needs of Aboriginal and Torres Strait Islander people in the Murdi Paaki region to achieve what has been described as the "triple bottom line" – community, economic, and environmental outcomes.

The focus of this commitment is to strengthen the role and participation of the 16 major and seven smaller communities in regional decision-making and service delivery in ways more directly relevant to the circumstances of Aboriginal and Torres Strait Islander people in the region. In this way, the Murdi Paaki Regional Council seeks to improve outcomes for 7300 Aboriginal and Torres Strait Islander people (at the l996 census) living in a remote region that incorporates eight local government councils.

The framework is consistent with current policy directions of the Commonwealth and NSW Governments and the Council of Australian Governments. It takes into account the Commonwealth Grants Commission's *Report on Indigenous Funding 2001*, and it supports the principles of a framework agreement being developed between the New South Wales Government and the Aboriginal and Torres Strait Islander Commission.

Inherent in these policies is a commitment to improving the well-being of Aboriginal and Torres Strait Islander people, families and communities, support for good governance and capacity building within Aboriginal and Torres Strait Islander communities, redesigning programs and services, working together, increasing Aboriginal and Torres Strait Islander participation in decision-making, sharing responsibilities, and reviewing funding arrangements.

The NSW Government and ATSIC have indicated that a coordinated regional service delivery approach will be trialled initially in the Murdi Paaki Region, based on its experience to date with community working parties. This report provides a foundation for that trial.

The Report

The report draws on the outcomes of all three stages of an extensive consultation and negotiation process to provide a composite view of how the Murdi Paaki Regional Council has arrived at its present position. Its aim is to advance the implementation of a new framework of regional governance.

The first stage of the process informed and tested community opinion on broad concepts of governance drawing on the experience of community working parties which have been a central feature of service delivery arrangements in the region. Working parties have been instrumental in bringing together community representatives, Commonwealth and State agencies and Aboriginal organisations to determine needs, priorities and implementation plans.

The second stage examined the experience of Indigenous governance in Australia and overseas and described models from which specific proposals could be developed.

The third stage has involved the development of a preferred framework of regional governance and a further process of consultations and negotiations with communities on its content, and with other key interests, including government agencies and local government.   It incorporates the outcomes of these discussions.

The process has demonstrated consistency in core aspects of the proposal. These include:

- the Murdi Paaki Regional Council's vision to establish a framework of governance built around a Regional Authority and true community control to deliver greater autonomy in decision-making;

- acknowledgment that governance is about respecting the right of Aboriginal and Torres Strait Islander communities to make decisions about their own development, ensuring they have the capacity to take responsibility, and the need for governments to be responsive to community expectations;

- recognising that communities will continue to need assistance in partnership with government for those matters beyond the powers of communities to fix;

- promoting the community interest as the foundation stone for the way regional business is to be done;

- offering government a legitimate representative structure at community level to secure effective investment in those communities;

- support from communities for direct participation in regional decision-making to make it more relevant to them and give them greater ownership of it;

- recognition of the important role community working parties have played as a cornerstone in improving service delivery and laying the foundations for the next phase;

- acknowledgment that the functioning of community working parties opens the way for a form of community council status, structurally linking good governance and service delivery;

- a focus on community well-being as the indicator of outcomes, determined in the environment of the individual, family, clan group and community; and

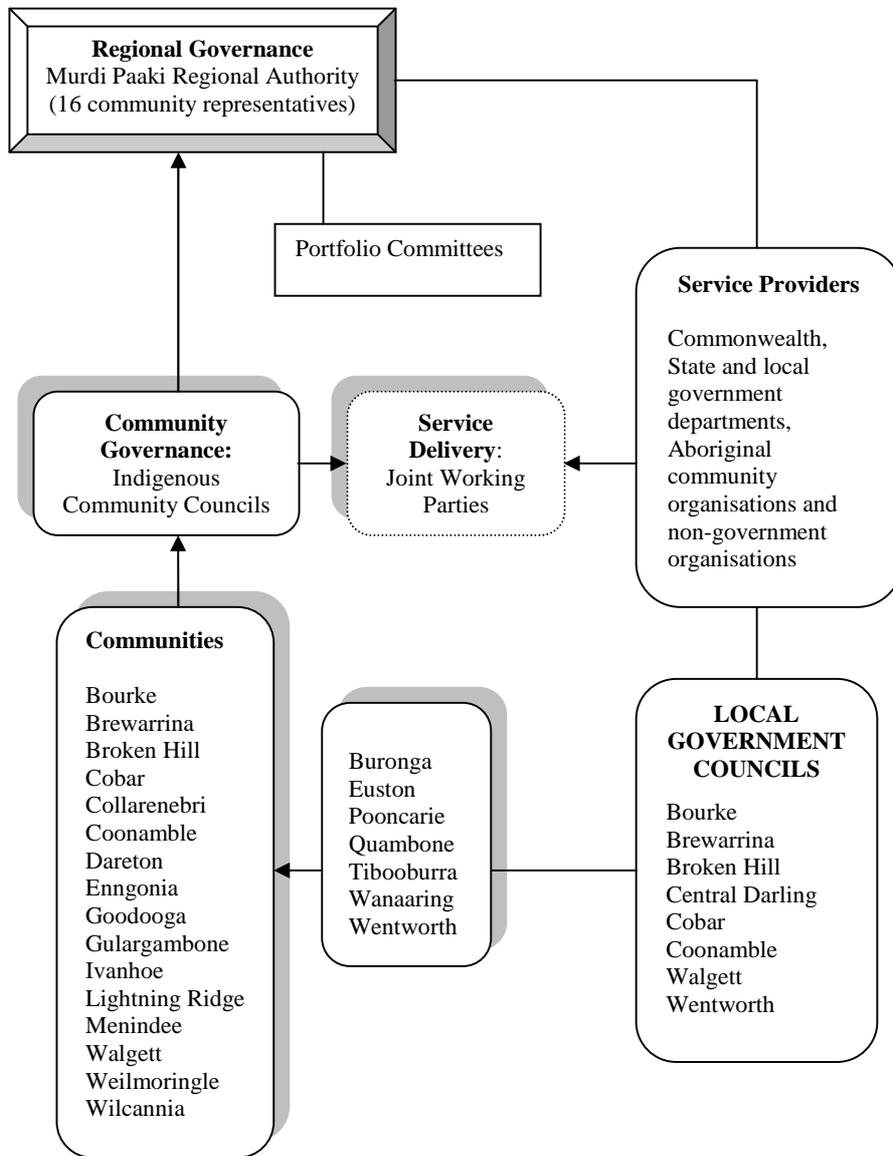- the evolutionary nature of the path that has been followed.

Moving Forward

The next stages in achieving the goal of the Murdi Paaki Regional Council will involve:

(a)   transitional arrangements within the framework of the existing ATSIC Act involving the creation of a Regional Assembly comprising representatives of communities as an advisory body to the Murdi Paaki Regional Council under s. 96 of the Act; and

(b)   the negotiation of amendments to the ATSIC Act to facilitate the establishment of a Murdi Paaki Regional Authority with direct participation by 16 Indigenous community councils as a new regional governance framework.

The prospective framework is outlined in the following chart.

MURDI PAAKI REGIONAL GOVERNANCE AND SERVICE DELIVERY FRAMEWORK

Regional Governance
Murdi Paaki Regional Authority
(16 community representatives)

Portfolio Committees

Service Providers

Commonwealth, State and local government departments, Aboriginal community organisations and non-government organisations

Community Governance:
Indigenous Community Councils

Service Delivery:
Joint Working Parties

Communities

Bourke
Brewarrina
Broken Hill
Cobar
Collarenebri
Coonamble
Dareton
Enngonia
Goodooga
Gulargambone
Ivanhoe
Lightning Ridge
Menindee
Walgett
Weilmoringle
Wilcannia

Buronga
Euston
Pooncarie
Quambone
Tibooburra
Wanaaring
Wentworth

LOCAL GOVERNMENT COUNCILS

Bourke
Brewarrina
Broken Hill
Central Darling
Cobar
Coonamble
Walgett
Wentworth

THE FRAMEWORK

A new way of doing business

The regional governance framework:

- represents the vision of the Murdi Paaki leadership incorporated in its strategic planning process;

- grows out of the experience of community working parties;

- builds on existing legislative and institutional arrangements;

- establishes a governance structure owned, accountable to and deriving its legitimacy from communities;

- ensures that communities direct the development agenda with the regional decision-making body providing a leadership, coordinating, negotiating, and funding role in support of communities;

- is both a tool and a process to improve services and the effectiveness of public investment;

- connects all partners in the development process;

- conforms with a "whole of governments" approach being adopted by all spheres of government;

- aligns Government outcomes with community needs and expectations through effective partnerships.

Governance and Service Delivery

The framework departs from existing structures under the ATSIC Act by establishing a new relationship between communities and a regional body that directly represents their interests.

The framework specifically distinguishes between governance and service delivery but seeks to link them structurally through elected community representation and engagement with service providers.

Good Governance

The governance focus is on direct community participation in and ownership of regional decision-making.

Good governance is about the way decisions are made, who makes them and with what result. It requires that:

- communities have real decision-making power;

- organisations are effective, well-managed and accountable;

- the institutions of governance have legitimacy by incorporating Indigenous cultural values, beliefs and practices; and

- Indigenous people have the resources to engage strategically with government.

The supporting structural arrangements provide a framework of

- community representation

- strategic planning and direction

- coordination and management of the delivery of services by Government agencies and Indigenous organisations

in accordance with the goals, priorities and desired outcomes of Aboriginal and Torres Strait Islander communities.

At present regional councils under the ATSIC Act are elected on a ward basis. They are limited to a maximum of five wards. The Murdi Paaki Regional Council currently has two wards with 11 elected representatives.

Within the legislative framework provided by an amended ATSIC Act, a regional authority and 16 Indigenous community councils would be established, with each council electing a member of the Authority. Smaller communities would be associated with larger councils.

Service Delivery

The service delivery arrangements aim to align government program and service objectives with community needs and aspirations through a consultative and negotiation process at the community level. The overall aim is to overcome fragmentation, promote inter-sectoral collaboration, and provide a mechanism to pool funding to achieve a single stream delivery.

It is the strong view of the Murdi Paaki Regional Council, underpinned by its Strategic Plan, that good governance is central to achieving better outcomes for Aboriginal and Torres Strait Islander peoples. This has been a consistent theme in its strategic planning.

The outcome sought is to improve community well-being measured through:

- economic improvement;
- responsiveness of government;
- reduced social problems;
- higher individual self-esteem,
- better services; and
- improved race relations

A fundamental aspect of community empowerment is that the regional body will both represent and act as a resource for communities, performing regional planning and coordinating functions, and providing administrative support for community decision-making.

The ATSIC Act and Indigenous Governance

The governance framework has been developed within the existing provisions of the ATSIC Act. It is the view of the Murdi Paaki Regional Council that, based on its experience, and the achievement of specific service delivery outcomes, the Act can provide a national framework for Indigenous governance, similar in purpose and process to the way the Northern Territory Local Government Act creates community government councils with specific functions.

In summary:

- ATSIC provides a national representative and funding framework. It derives its authority from its legislative functions and its accountability through its structure of Commission and regional councils.

- It promotes Indigenous participation in decision-making, facilitates coordination of services, and negotiates framework agreements and funding arrangements. It links Commonwealth, State, Local Government and Indigenous sectors and provides a continuing Commonwealth interface in Indigenous affairs at the regional level.

- The ATSIC Act can provide a legislative framework for establishing Indigenous governance institutions that reflect Indigenous culture and individual community circumstances.

- Amendments to the Act would enable it to achieve its full potential as a framework of Indigenous governance, including provisions enabling the creation of Indigenous Community Councils such as the Murdi Paaki Region proposes.

While there is a prospect of the Aboriginal and Torres Strait Islander Commission being reviewed, the ATSIC Act itself offers the potential to provide a legislative framework for the establishment of new institutions of governance. In particular, it has the clear potential to give practical effect to the statement of the Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock, that "Well-functioning communities and organisations that respond to individual and family needs are essential for development."

Consistency with national policy

The principles of regional governance are consistent with national policies to achieve better outcomes for Indigenous people. These policies focus on the key areas of:

- outcomes;
- access to services;

- leadership;
- more effective coordination and collaboration;
- partnerships;
- participation in decision-making;
- capacity building; and
- new funding arrangements.

The Council of Australian Governments has identified the need to:

- build community governance, capacity and leadership;
- re-engineer programs to respond to local needs; and
- change the way government departments do business with Indigenous communities.

STRUCTURAL ARRANGEMENTS

Legislative Objects

Established under the *Aboriginal and Torres Strait Islander Commission Act* 1989, the Murdi Paaki regional governance framework would have the following objectives:

(a)   ensure full participation by communities in the formulation and implementation of policies and programs that affect them and the planning, delivery and evaluation of services;

(b)   promote community leadership, self-management, self-sufficiency, and community decision-making in accordance with Aboriginal tradition;

(c)   promote sustainable development to achieve community, economic, and environmental outcomes for the Aboriginal and Torres Strait Islander people in the region;

(d)   coordinate the efficient and effective delivery of services by all spheres of government consistent with community needs.

A central role for communities

The framework aims to ensure that communities play a central role in developing and implementing strategies for their own improvement, have an effective voice in all matters that affect their people, and can take responsibility for their own improvement.

Communities are best able to tell Government and non-government organisations what their needs are, whether the services they receive are adequate, and whether programs are meeting those needs.

Ensuring that communities have a central role and responsibility for their own improvement involves changing the way governments and Aboriginal and Torres Strait Islander people do business together.

The framework provides an opportunity for communities individually and together to define future policy directions and outcomes for the region, building on their own traditions, values and assets.

Such empowerment involves communities having the opportunity and capacity to make their own choices, a structure that provides greater participation and involvement in decision-making, a framework established under a regional constitution, direct representation on a regional body so that it derives its legitimacy from communities, and recognition by all spheres of government.

The framework seeks to establish Indigenous community councils which would:

- represent the interests of the Indigenous community;

- elect a member to a regional body;

- formulate a community plan;

- monitor the performance of agencies and non-government organisations to ensure responsiveness to community plans and report to the regional authority;

- advise on funding priorities based on community needs;

- establish and participate in community working parties to link the community, Government agencies and non-government organisations in the planning and service delivery process.

Role of the Regional Authority

The functions and powers of a Murdi Paaki Regional Authority will be exercised in the interests of communities, acting and negotiating on their behalf where regional coordination will assist community decision-making.

The arrangements will not interfere with relationships community councils establish directly with Commonwealth and State agencies to improve service delivery.

A regional authority will be a conduit for channelling and coordinating funding for communities and ensuring accountability in public funding.

Its value lies in its negotiating and coordinating role and its capacity to enter into agreements and funding contracts on behalf of communities, giving a regional voice, and strengthening the capacity of communities.

A regional authority would:

- represent and advocate the interests of Aboriginal and Torres Strait Islander communities and people in the region;

- provide regional coordination to ensure the equitable distribution of funding to communities;

- negotiate funding arrangements and agreements with government agencies to meet the needs of communities;

- enter into service contracts with Aboriginal organisations

- formulate a regional development plan.

Essential features

The essential features of the governance framework are:

- the new arrangements will strengthen leadership, responsiveness, accountability and responsibility;

- the framework will strengthen community decision-making and provide direct participation of communities in regional decision-making;

- communities will have a stronger voice to decide what is important to them;

- government agencies will have a better understanding of the needs of Aboriginal and Torres Strait Islander people in the region;

- communities will have a greater say over the way programs and services are designed, managed and delivered;

- organisations which deliver programs and services will be more accountable to communities;

- the continuing operation of community working parties linking community councils and service providers in "whole of government" approaches will guide and influence the way services and programs are managed;

- the regional authority administration will act as a coordinating and support mechanism for community councils;

- in the longer term, the framework provides an opportunity to establish effective working relations with local government, ensuring that local government councils are better informed of Aboriginal community needs and deficiencies in services and are supported in achieving new funding arrangements.

IMPLEMENTING THE PROPOSALS

The Murdi Paaki Regional Council proposes to achieve change in two stages:

(1) using its present powers under the ATSIC Act 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; and

(2)   negotiating with ATSIC and the government to change the Act so that, in the future, Indigenous community 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.

The following chart outlines the two-stage process.

A TWO-STAGE PROCESS

Stage One	→	Amendments to the ATSIC Act	→	Stage Two

Indigenous Community councils directly elect a Regional Assembly to advise the Regional Council		A Regional Authority, directly elected by Indigenous community councils, becomes the regional governing body with increased powers
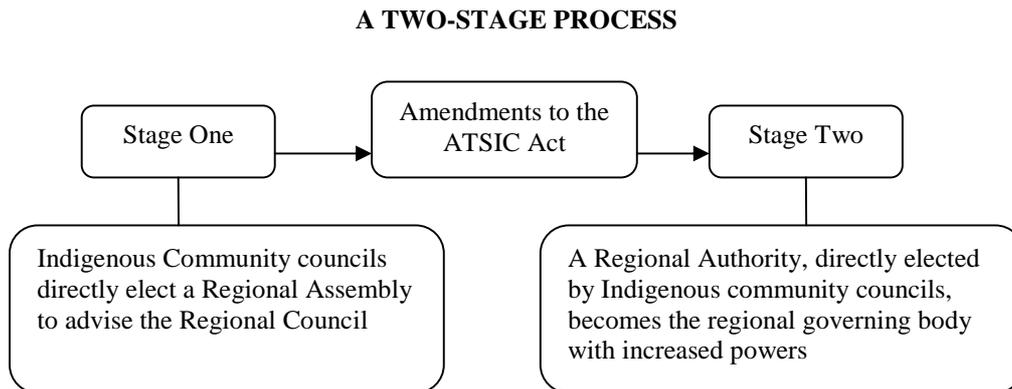
The Stages

Stage One involves the creation of a Murdi Paaki Regional Assembly with each community represented on it. The Assembly would be an advisory body to the Murdi Paaki Regional Council established under s. 96 of the ATSIC Act. The arrangement would be a further development of Community Working Parties.

Since there would be a need at this stage to separate governance and service delivery, a form of community council could form the basis of the process of election to the Assembly. Working parties, under the sponsorship of community councils, would continue to coordinate the provision of services in each community with representation by both elected community representatives (the council) and service providers, including Aboriginal organisations.

Until such time as community councils were given legislative recognition, they would remain informal and unincorporated. Their functions would relate to the functions of the regional assembly. This would include assisting in advising the regional council on the priorities and directions in their communities, funding needs, and the impact of services, as well as electing a member to the regional assembly, and participating in the working party arrangements.

Establishment of the Assembly would recognise the concerns of communities that, under present electoral rules, they do not adequately participate in regional decision-making. The Council would receive advice from the Assembly and report back to the Assembly on the outcome of this advice, its activities, and expenditures.

Stage one would represent a transitional phase to bed down the proposed new arrangements before moving to Stage Two.

**MURDI PAAKI REGIONAL GOVERNANCE: NEW
ARRANGEMENTS (STAGE ONE)**

```
┌─────────────────────┐              ┌─────────────────────┐
│  Murdi Paaki Regional│ ◄─────────  │ Murdi Paaki Regional│
│      Council         │              │     Assembly        │
└─────────────────────┘              └─────────────────────┘
          │                               ▲
          │        ┌─────────────────┐    │
          └──────► │   Indigenous    │────┘
                   │   Community     │
                   │   Councils      │
                   └─────────────────┘
```
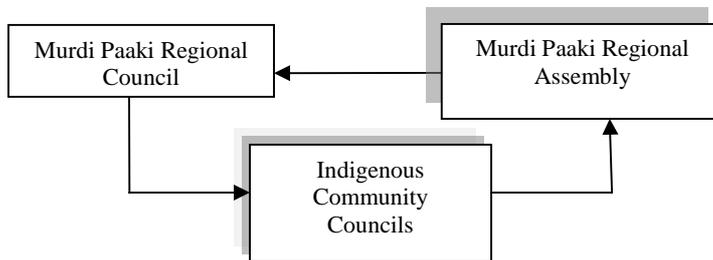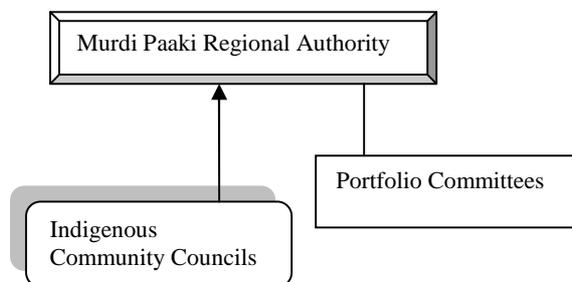
Communities elect community councils
Community councils each elect a member to the regional assembly

Stage Two would involve creation of a Murdi Paaki Regional Authority as the regional coordinating, decision-making and funding body, directly elected by communities. It would involve the translation of the transitional arrangements into a new order of regional governance.

The authority would have powers similar to ATSIC. Indigenous Community Councils would be established within the framework and given legislative recognition with prescribed functions. They would each elect a representative to the Regional Authority.

The scheme would replace the existing system of two wards that currently operates under the ATSIC Act. Membership of the Authority would increase from the present 11 to 16. Smaller communities would be associated with larger adjacent communities. Communities with a population of more than 100 would qualify to have a community council. The constitutions of community councils may vary with each community. Separate consultations are being undertaken with community working parties to determine how community councils might be structured. The aim would be to have memberships which reflect the size of communities.

**MURDI PAAKI REGIONAL GOVERNANCE:
NEW ARRANGEMENTS (STAGE TWO)**

```
        ┌──────────────────────────────────┐
        │  Murdi Paaki Regional Authority   │
        └──────────────────────────────────┘
              ▲                    │
              │                    │
   ┌──────────────────┐    ┌──────────────────┐
   │   Indigenous     │    │    Portfolio     │
   │ Community Councils│    │   Committees     │
   └──────────────────┘    └──────────────────┘
```

Each community elects a community council
Each community council elects a member of
the Regional Authority

Support for community councils

The Regional Authority Administration would support the operations of community councils to facilitate planning, funding and coordination of services consistent with community needs. Secretariat services for community councils would be provided at the community level through existing organisations who might receive supplementary funding for this purpose or specific training programs.

Some additional financial capacity would be necessary to support the operations of community councils. Because community councils would facilitate consultations by government agencies, some shared funding arrangement between the Commonwealth and NSW Governments would seem appropriate. Additionally there would be a natural expectation that members of community councils would be paid sitting fees, in accordance with established practice. Both governments may regard such funding as a direct contribution to community capacity building and the enhancement of government capacity to improve the delivery of programs and services.

Working Parties

Community councils will promote coordination of inputs through the continued operation of community working parties, bringing community representatives, government agencies and non-government organisations together. Some communities indicated during the consultations that there may no longer be a need for working parties as such. These arrangements are matters for the communities. The desired goal is to ensure that the elected representatives of communities engage beneficially with service providers.

The Murdi Paaki proposal aims to ensure that the service delivery of all players in the development process is accountable to the community as a whole through joint working parties.

Working parties established under the authority of community councils will ensure proper coordination of the design and provision of services at the community level with the direct involvement of service providers participating with and being accountable to the community.

REGIONAL GOVERNANCE WORKING ARRANGEMENTS
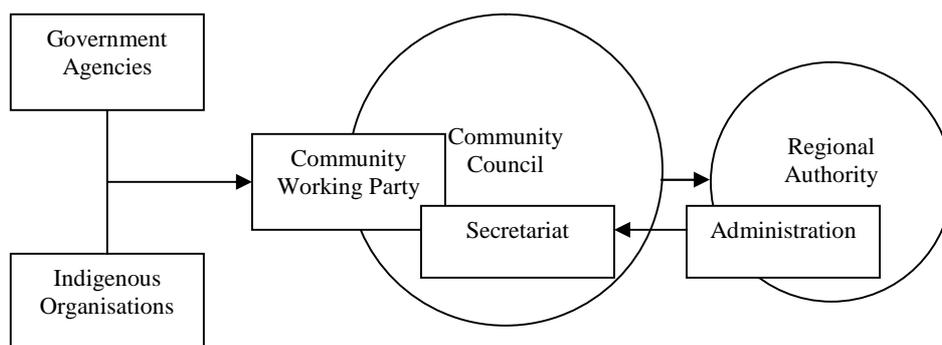
The following describes the decision making arrangements within the regional governance framework.

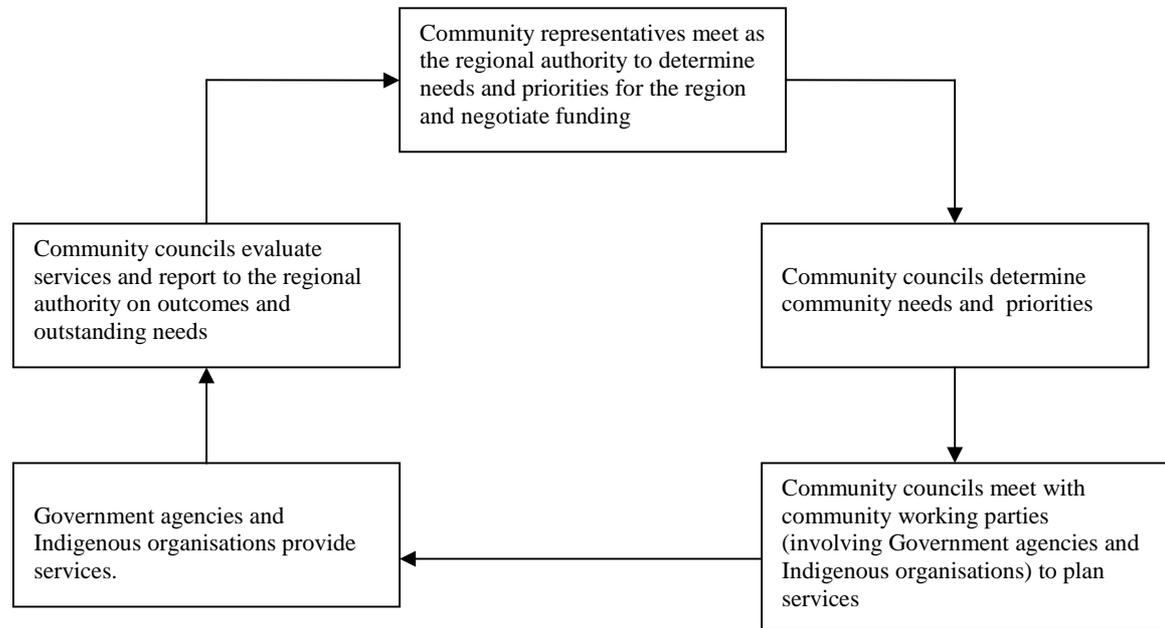**THE DECISION-MAKING AND SERVICE DELIVERY CYCLE**

```
          ┌──────────────────────────────┐
          │ Community representatives     │
          │ meet as the regional          │
          │ authority to determine        │
          │ needs and priorities for      │
          │ the region and negotiate      │
          │ funding                       │
          └──────────────────────────────┘

┌───────────────────────┐         ┌───────────────────────┐
│ Community councils     │         │ Community councils     │
│ evaluate services and  │         │ determine community    │
│ report to the regional │         │ needs and priorities   │
│ authority on outcomes  │         │                        │
│ and outstanding needs  │         │                        │
└───────────────────────┘         └───────────────────────┘

┌───────────────────────┐         ┌───────────────────────┐
│ Government agencies    │         │ Community councils     │
│ and Indigenous         │         │ meet with community    │
│ organisations provide  │         │ working parties        │
│ services.              │         │ (involving Government  │
│                        │         │ agencies and           │
│                        │         │ Indigenous             │
│                        │         │ organisations) to plan │
│                        │         │ services               │
└───────────────────────┘         └───────────────────────┘
```

Relationship to Indigenous organisations

Aboriginal organisations have a long history of empowering and providing services to Aboriginal and Torres Strait Islander communities, ranging from organising sporting functions to legal services.

Each organisation has its own membership and governance arrangements and performs specific functions. They have a three-way accountability – to the agencies who fund them, to their members, and to the Aboriginal and Torres Strait Islander communities they serve.

Aboriginal organisations join with other service providers – Commonwealth, State and local government – in meeting the needs of Aboriginal and Torres Strait Islander communities.

Community councils will determine which Aboriginal organisations deliver services funded by the Regional Authority.

All agencies must work together in association with communities to ensure better outcomes.

Relations with governments

The relationships with governments are an important dimension of the regional governance framework, based on the principle of working together to achieve better

outcomes in accordance with Government policies and the aspirations and needs of communities as they identify them.

A regional body will:

- link government outcomes to the improvement of communities;

- increase the Government's own capacity to respond to the interests of Aboriginal and Torres Strait Islander people;

- secure government funding through partnerships and networks;

- ensure that "whole of government" responses are managed through existing Indigenous institutions; and

- promote the efficient and effective delivery of services by all levels of government working together.

These arrangements are set out in the following diagram.

MURDI PAAKI REGIONAL GOVERNANCE: SERVICE DELIVERY ARRANGEMENTS
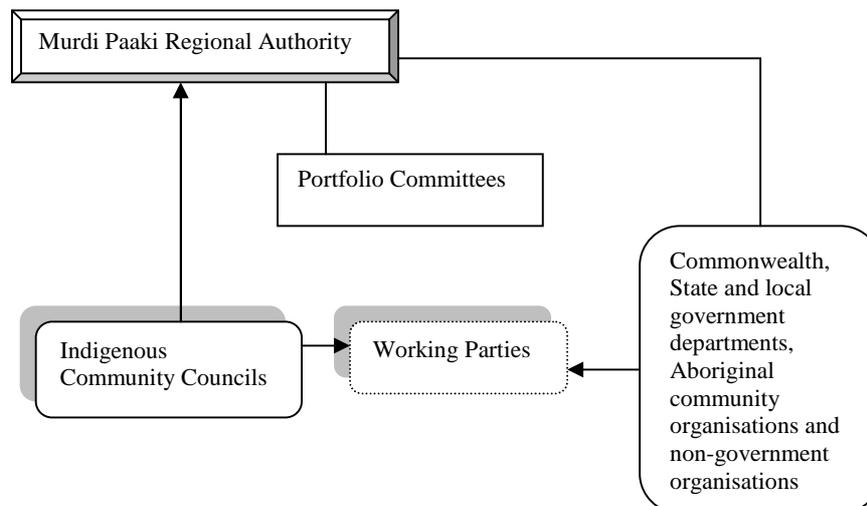
Achievement of outcomes

Achievement of specific outcomes is fundamental to the creation of a Regional Authority and constituent Indigenous Community Councils. An essential requirement in achieving better outcomes is a more effective alignment between government policies and program objectives and community needs and aspirations. This involves:

- a process of self assessment by communities to determine needs, shape programs, and report on outcomes; and

- inter-agency cooperation and negotiation with Aboriginal and Torres Strait Islander communities to match government outputs and outcomes with

indicators of community well-being as determined by the communities themselves.

The need for such interaction and coordination is reinforced in the "whole of governments" approach to providing services for Aboriginal and Torres Strait Islander communities. This requires collaboration both between governments and cooperation between respective government agencies. A regional governance framework can facilitate the process.

The scope of these arrangements is reflected in the *Indigenous Affairs Budget Statement* of 14 May 2002 presented by the Minister for Immigration and Multicultural and Indigenous Affairs. The Minister identified the government's national commitment as follows:
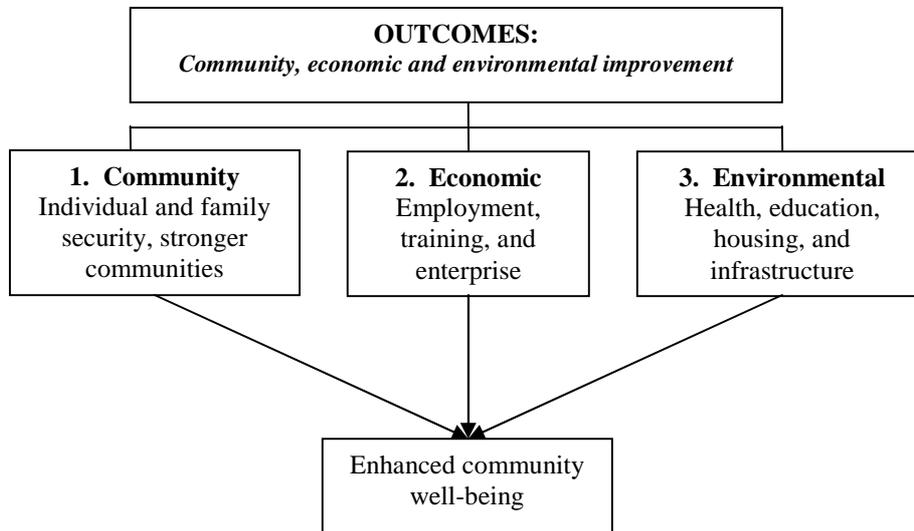
> *"The Government's national commitment to reducing Indigenous disadvantage is founded on a partnership with Indigenous people and follows a number of key themes:*
>
> - *taking a whole-of-government approach by involving all relevant portfolio Ministers and the states and territories, working within the reconciliation framework set down by the Council of Australian Governments (COAG);*
>
> - *increasing the focus on individuals and their families as the foundation of functional communities;*
>
> - *encouraging and supporting self-reliance and independence from welfare;*
>
> - *strengthening leadership, capacity, and governance;*
>
> - *addressing the debilitating effects of substance abuse and domestic violence;*
>
> - *increasing opportunities for local and regional decision making by Indigenous people, and improving programme coordination and flexibility to respond to local needs; and*
>
> - *improving access to mainstream programmes and services, so that Indigenous-specific resources can be better targeted to areas of greatest need, particularly to areas where mainstream services do not reach."*

Achieving these outcomes requires the Murdi Paaki Regional Council and Aboriginal and Torres Strait Islander communities to deal with a large number of government Departments and agencies. To them the array of programs seems fragmented and disjointed, leading to continuing difficulties for Indigenous communities in accessing them.

The following chart identifies the broad outcomes as perceived by Aboriginal and Torres Strait Islander people. They reflect the "triple bottom-line" business approach of Itha-Mari Ltd. – economic, community and environmental outcomes.[1]

MURDI PAAKI REGIONAL GOVERNANCE:
OUTCOMES

```
┌─────────────────────────────────────────────────┐
│              OUTCOMES:                           │
│  Community, economic and environmental improvement│
└─────────────────────────────────────────────────┘

┌──────────────────┐ ┌──────────────────┐ ┌──────────────────┐
│  1.  Community   │ │  2.  Economic    │ │ 3.  Environmental│
│ Individual and   │ │  Employment,     │ │ Health, education,│
│  family          │ │  training, and   │ │  housing, and    │
│ security, stronger│ │  enterprise      │ │  infrastructure  │
│  communities     │ │                  │ │                  │
└──────────────────┘ └──────────────────┘ └──────────────────┘

          ┌──────────────────────┐
          │ Enhanced community   │
          │    well-being        │
          └──────────────────────┘
```

---

[1] Itha-Mari is a company that provides secretariat services to f the Dareton Community Working Party, the first to be formed in the Murdi Paaki region.