

WORKING WITH GOVERNMENT

**A submission to the House of Representatives
Standing Committee on Aboriginal and Torres
Strait Islander Affairs:
Capacity Building for Indigenous Communities**

By

Murdi Paaki Region Council

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1. EXECUTIVE SUMMARY

This submission summarises the outcome of an extensive process of information sharing, consultation and negotiation with Aboriginal and Torres Strait Islander communities in the Murdi Paaki Region of New South Wales. The proposals incorporated in the submission give effect to the Council's long standing commitment to develop a new framework of regional governance and integrated service delivery arrangements for Indigenous communities with a focus on community decision-making.

The structure of regional governance seeks 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 the region's 7300 Aboriginal and Torres Strait Islander people (at the 1996 census) and to improve outcomes for them. Aboriginal and Torres Strait Islander people are widely dispersed in a region that incorporates eight local government councils.

Key aspects of the proposal include:

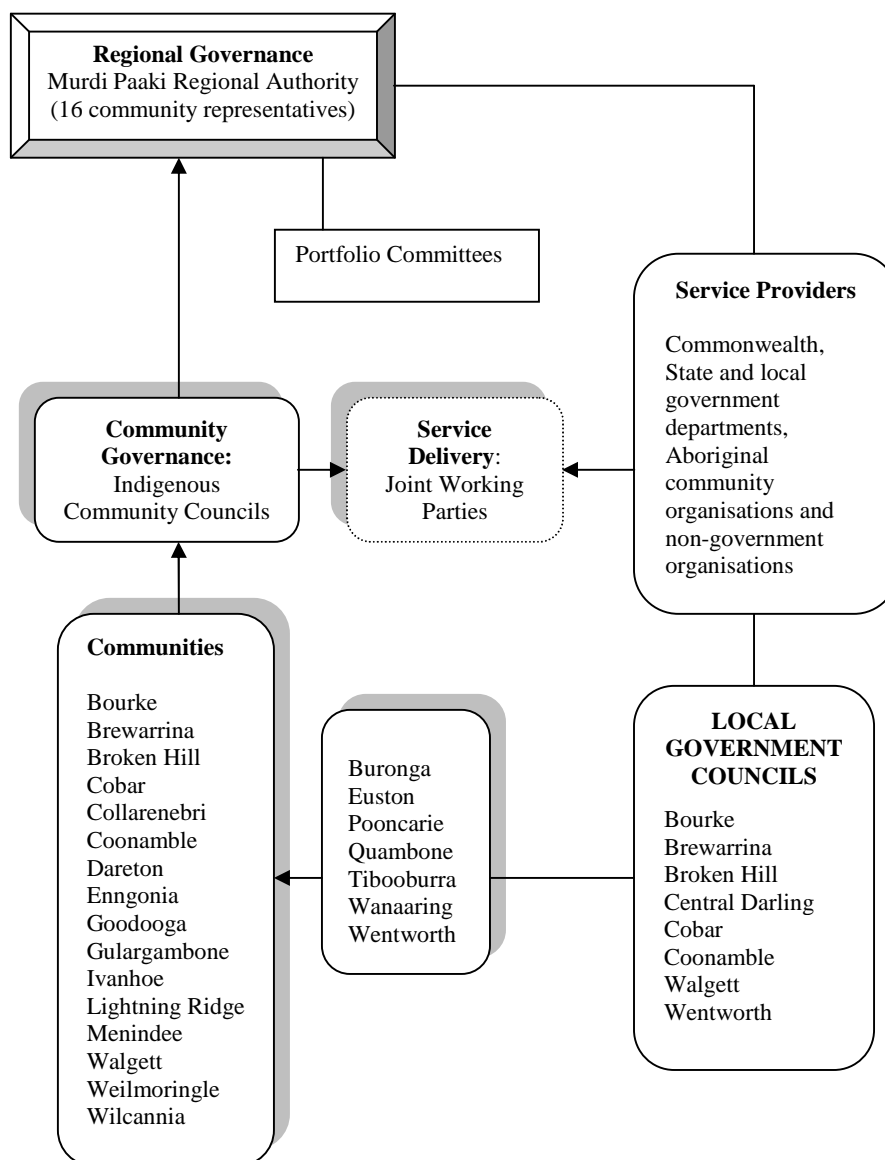
- establishing a framework of governance built around true community control;
- acknowledgment that governance is about respecting the right of Aboriginal and Torres Strait Islander communities to make decisions about their own development, ensuring they have the capacity to take responsibility, and the need for governments to be responsive to community needs;
- recognising that communities will continue to need assistance in partnership with government for those matters beyond the powers of communities to fix resulting from historical circumstances;
- promoting the community interest as the foundation stone for the way regional business is to be done;
- offering government a legitimate representative structure at the regional and community levels to secure effective investment in those communities to support individuals and families;
- ensuring direct community 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 proposed framework is seen as fitting within the Australian Federal framework by linking all spheres of government to the achievement of better outcomes for Aboriginal and Torres Strait Islander people.

The proposed framework is summarised in the following chart.

MURDI PAAKI REGIONAL GOVERNANCE AND SERVICE DELIVERY FRAMEWORK



2. THE MURDI PAAKI REGION

The Murdi Paaki Regional Council is the peak representative Indigenous body in the North Western and Far West sectors of New South Wales. It is incorporated under the *Aboriginal and Torres Strait Islander Commission Act 1989* (the Act).

The Council comprises 11 members who are elected by Aboriginal and Torres Strait Islander persons voting in two wards. Since its inception as the Wangukumara Regional Council and Far West ATSIC Regional Council in 1990, the Council has sought steadily to build up its capacity to plan, advocate, lobby, attract resources for communities and manage or guide developments throughout the region.

At the 1996 Census, the Region had an Indigenous population of 7300, which was 14% of the total population of the area. It is centred on 16 major communities and 7 smaller communities, with the proportion of Aboriginal and Torres Strait Islander people within each local government boundary varying from over 54 per cent in Brewarrina to 3.5 per cent in Broken Hill.

In a vast and sparsely populated region which is experiencing difficult times economically, the Indigenous population has some substantially different characteristics, and is significantly worse off economically, than the non-Indigenous population. Again drawing on 1996 Census material:

- the median age of Indigenous people in the region was 20, compared with 36 for the non-Indigenous population;
- their dependency ratio was 76 per cent (52 per cent for the non-Indigenous population);
- the unemployment rate was 28 per cent (11 per cent); and
- the median male weekly income was only 56 per cent of the non-Indigenous figure.

Further illustrating the picture of Aboriginal disadvantage is the high dependence for employment on the Community Employment Development Projects (CDEP) scheme, a considerable stock of inferior and crowded housing, a range of substantial health problems and difficult social issues, notably in respect of young people.

According to the ATSIC 2001 annual report, ATSIC program expenditure in the region amounted to \$15,000,000, representing a bit over \$2000 per head of population.

The region encompasses eight local government areas (and a large unincorporated area). The operating budgets of these local government councils amount to some \$140 million. There is thus an important relationship between the Murdi Paaki Regional Council and local government in the provision of a wide range of services to the Aboriginal and Torres Strait Islander people of the region.

The New South Wales Local Government Grants Commission recognises, as a disability factor for councils in determining the distribution of Commonwealth grants, the additional costs for councils with a significant Aboriginal and Torres Strait Islander population. Even so local government often does not have the capacity to meet the particular needs of Aboriginal and Torres Strait Islander people.

In addition to the activities funded through ATSIC programs and through local government, significant funding is also available through a range of State and Commonwealth agencies for the provision of services that address the needs of the Aboriginal and Torres Strait Islander people of the region.

The Murdi Paaki Regional Council has sought to improve the availability and effectiveness of service provision through a range of cooperative arrangements with service providers. These have included such things as participation in the Barwon Darling Alliance which comprises five of the local government councils of the region, and regional agreements with service providers. A desired goal is to establish cooperative working arrangements with State and local government.

Inequities, inefficiencies and inadequacies persist, however, in relation to capacity, service delivery and service development. The Council has long recognised that lack of resources, while a significant factor, is only a part of the problem. Aboriginal and Torres Strait Islander communities need a more effective voice in determining, and implementing, their own social, cultural and economic development priorities than the Council, with its limited powers under the Act, has been able to offer. This is particularly relevant in a region like Murdi Paaki, where communities are separated by wide distances and have greatly differing social, cultural and economic needs.

A more appropriate governance system for the region will provide the capacity for communities to exercise a real influence over the way services are delivered, and authority to engage in regional partnerships and funding arrangements with Commonwealth, State and local government in a more participatory way.

To do this requires:

- greater community participation and involvement in decision-making within the region; and
- an enhanced capacity at the regional level to make decisions on funding and program and service delivery.

3. THE FRAMEWORK

The regional governance framework we propose:

- grows out of the experience of community working parties which have been central to the coordination of services in each community;
- builds on existing legislative, institutional and inter-governmental arrangements;
- establishes a governance structure owned, accountable to and deriving its legitimacy from communities with direct links to individuals and families;
- ensures that communities direct the development agenda with the regional decision-making body providing a leadership, coordinating, negotiating, funding and accountability 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 underpinned by the Council of Australian Governments;
- aligns Government outcomes with community needs and expectations through effective partnerships and negotiation.

Governance and Service Delivery

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

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

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. Communities do not see this structure as offering them sufficient opportunity for direct participation in decision-making.

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.

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.

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 flexible national framework for Indigenous governance.

ATSIC provides a national representative and funding framework to promote Indigenous participation in decision-making and coordination of services. It has the power to negotiate 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. Amendments to the Act would enable it to provide a legislative framework for establishing Indigenous governance institutions that reflect Indigenous culture and individual community circumstances and needs.

Consistency with national policy

The Murdi Paaki Regional Council sees its proposal as being consistent with national policies to achieve better outcomes for Indigenous people. The Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock, has stated that:

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

Current policies focus on the key areas of:

- 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.

More broadly based social policies of the Commonwealth Government have as their goal:

“to create a fair and cohesive Australian society by strengthening the capacity of the individual, families and communities to contribute to, and benefit from, greater involvement in all aspects of life.”

Strategic support for these policies seeks to:

- encourage economic and social participation by individuals and families by enabling access to services and promoting opportunities;
- assist families to build their capacity and their resilience, including through supporting and strengthening relationships; and
- encourage the development of community capacity for self-help.

The principles embodied in the Commonwealth Government’s response to the Commonwealth Grants Commission’s *Report on Indigenous Funding 2001* to guide its approach to meeting the needs of Indigenous people are seen as offering a supportive framework for the Murdi Paaki Regional Council’s governance and service delivery arrangements.

Among the principles endorsed by the government are is that the design and delivery of services to meet Indigenous needs should be flexible and undertaken on the basis of partnerships and shared responsibilities with Indigenous people in a culturally and locationally appropriate way.

Overall capacity to achieve outcomes is an important factor when considering whether Indigenous-specific programs and services should be established to meet identified need or whether to enhance mainstream programs. Improving community capacity is a key factor in achieving sustainable outcomes for Indigenous communities.

Effective institutions of governance are seen as essential to promoting a facilitative environment to identify needs, design and implement programs, deliver mainstream and Indigenous specific services in a coordinated way, and promote community well-being.

4. 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) provide an effective and flexible framework of governance to ensure greater responsiveness to the needs of Aboriginal and Torres Strait Islander people, families and communities;
- (b) ensure full participation by communities in the formulation and implementation of policies and programs, and the planning, delivery and evaluation of services;
- (c) promote community leadership, self-management, self-sufficiency, and community decision-making in the interests of the individual and family in accordance with Aboriginal tradition;
- (d) promote sustainable development to achieve community, economic, and environmental outcomes for the Aboriginal and Torres Strait Islander people in the region;
- (e) coordinate the efficient and effective delivery of services by all spheres of government consistent with the needs of individuals, families and the community;
- (f) negotiate funding and pooled arrangements to give effect to the efficient and effective delivery of services on a “whole of governments” basis.

A central role for communities

The framework aims 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.

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, and assess outcomes.

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 would lead to the establishment of Indigenous community councils which would:

- represent the interests of the Indigenous community, individuals and family;
- 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 individual and family needs 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.

Role of Indigenous community councils

A primary role of community councils would be to formulate a Community Plan that serves the interests and needs of the community, informs the Murdi Paaki Regional Plan; and informs the plans of Government agencies for funding and providing services within the community. The provision of services would be in accordance with a three year rolling program.

Community councils would agree on performance indicators and outcomes based on measurements of community well-being determined by the communities themselves and monitor the performance of agencies and non-government organisations to ensure responsiveness to community plans. They would report to the Regional Authority on the impacts of services provided by government agencies and non-government organisations.

Each council would establish a community working parties to link the community, Government agencies and non-government organisations in the planning and service delivery processes.

Essential features

The essential features of the governance framework are:

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

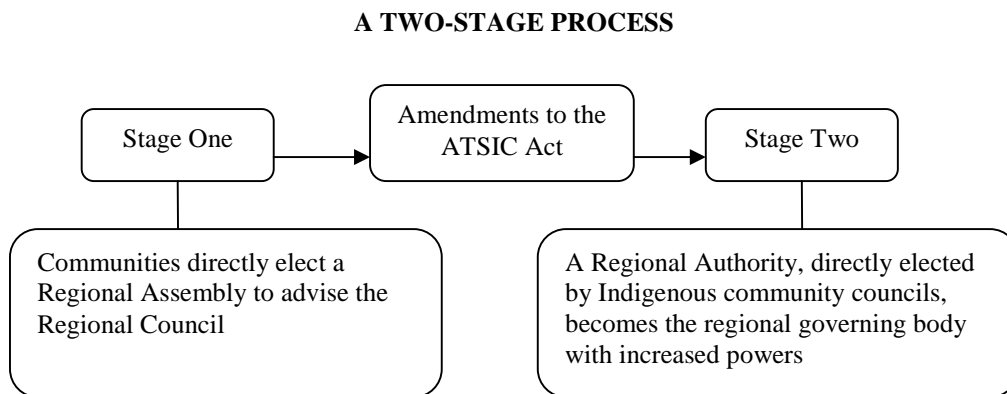
- the regional authority administration will act as a coordinating and support mechanism for community councils;
- in the longer term, the framework provides an opportunity to establish effective working relations with local government, ensuring that local government councils are better informed of Aboriginal community needs and deficiencies in services and are supported in achieving new funding arrangements.

5. 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.



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 who would elect the community representatives on the Assembly. Working parties comprising community representatives and service providers, including Aboriginal organisations, would continue to coordinate the provision of services in each community.

Their community functions would relate to the role 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.

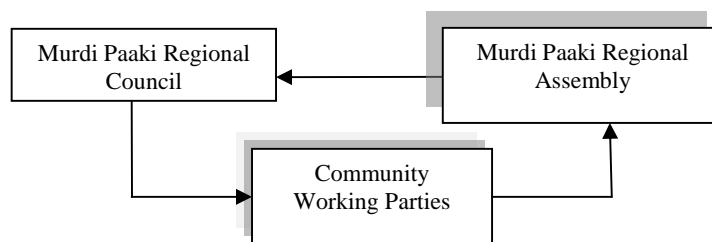
Establishment of the Assembly would recognise the concerns of communities that, under present electoral rules, they do not adequately participate in regional decision-

making. The Regional 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.

The Assembly will provide the opportunity for communities to develop and consolidate a stronger role as the representatives and advocates of the interests of their people. It will provide a testing ground for the development and implementation of more lasting arrangements.

MURDI PAAKI REGIONAL GOVERNANCE: NEW ARRANGEMENTS (STAGE ONE)



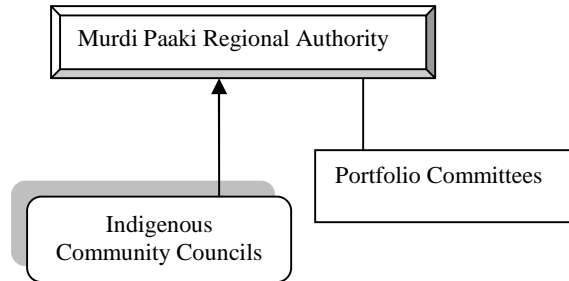
Each community elects a member to the regional assembly

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. Community Working Parties, operating under the authority of the community councils, would be the mechanism for joining community representatives and service providers.

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. 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)**



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 through specific training programs.

Because community councils would facilitate consultations by government agencies, some shared funding arrangement between the Commonwealth and NSW Governments would seem appropriate. 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.

Community Working Parties

Community Working Parties had their origins in the Council's project delivery framework, with a focus on resolving local issues at the local level by the people most affected. The Council's aim has been to establish viable Community Working Parties in each of the 16 larger communities of the region. Since their creation, Community Working Parties have been at the forefront of promoting responsive, co-ordinated and integrated service delivery, "bottom-up" planning, and direction and management of projects.

While their structure varies from community to community, they provide a vehicle for drawing together representation from Aboriginal organisations, grass roots community members and invited agencies. Collaboration between community members and agencies has led to a strong sense of partnership in service planning and delivery. The collaborative, co-ordinated approach to funding through the Working

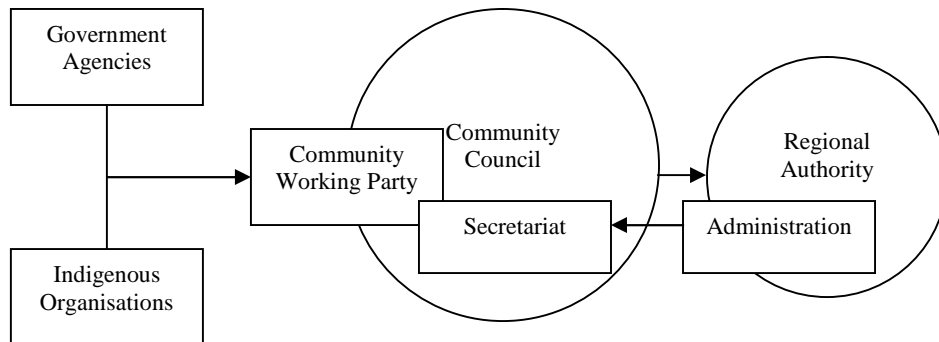
Party structure has contributed to community confidence and to their social and economic sustainability.

The Community Working Party system is focused on service delivery. As such, it has a vital function. It can also be adapted to provide a basis for developing community governance arrangements, including representation on the proposed Regional Assembly. 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. This represents the integration of the governance and service delivery functions.

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.

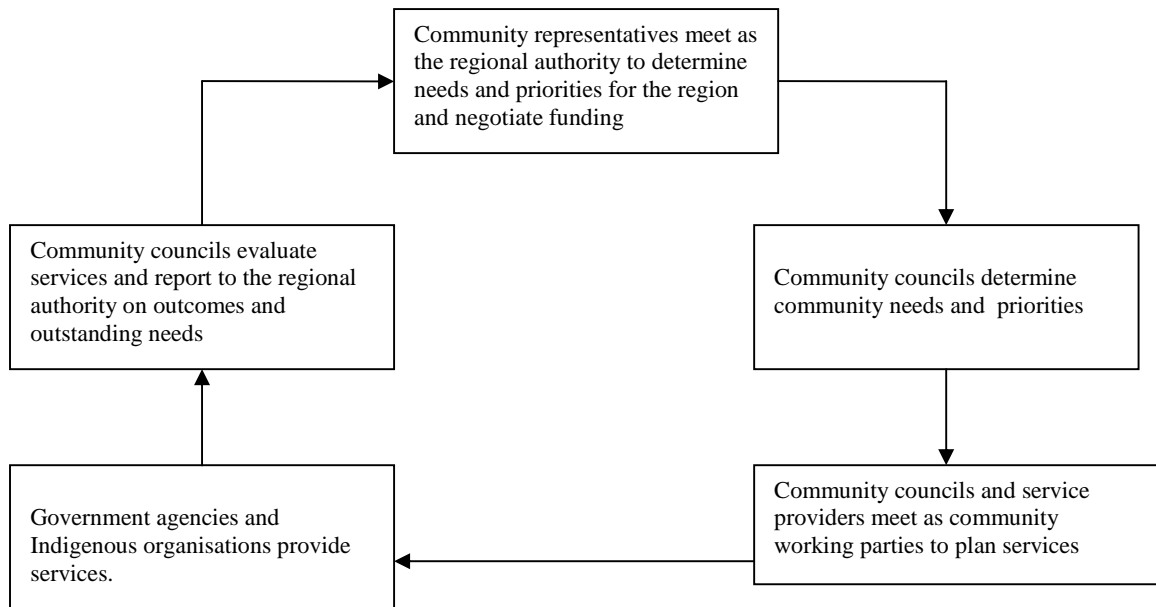
Working parties established under the authority of community councils will ensure proper coordination of the design and provision of services at the community level, give voice to individuals and families, and directly involve service providers participating with and being accountable to the community.

REGIONAL GOVERNANCE WORKING ARRANGEMENTS



The following describes the decision making arrangements within the regional governance framework.

THE DECISION-MAKING AND SERVICE DELIVERY CYCLE



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

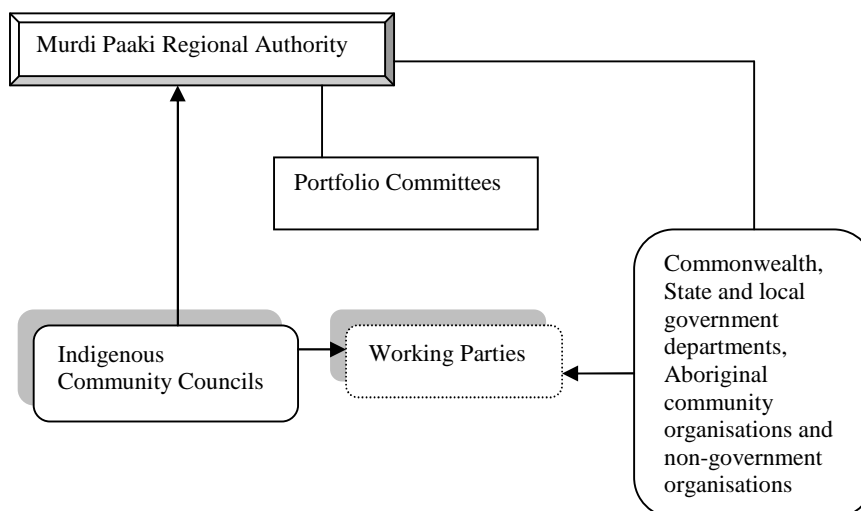
Relationships with governments are an important dimension of the regional governance framework, based on the principle of working together to achieve better outcomes in accordance with Government policies and the aspirations and needs of communities as they identify them.

A regional body will:

- link government outcomes to the improvement of communities with a focus individual capabilities and family security;
- 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:

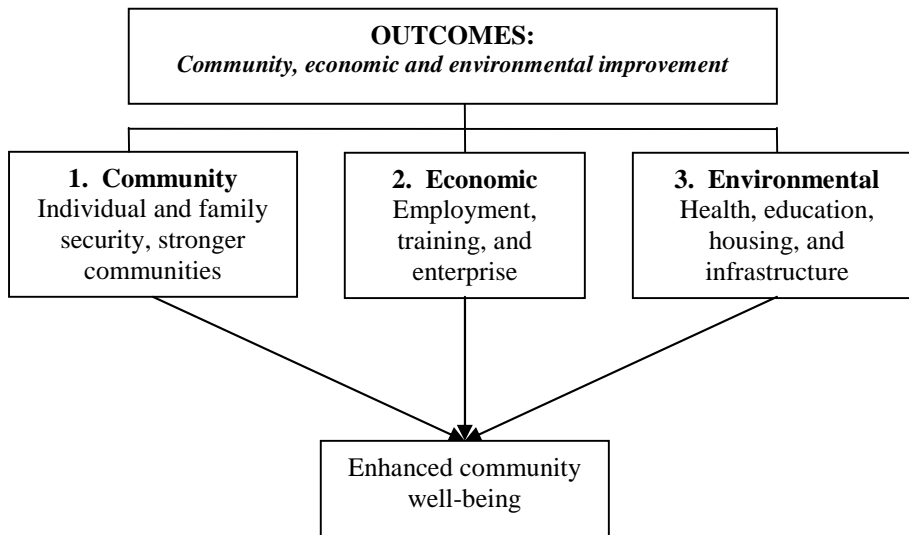
- a process of self assessment by communities to determine needs, shape programs, and report on outcomes; and
- inter-agency cooperation and negotiation with Aboriginal and Torres Strait Islander communities to match government outputs and outcomes with indicators of community well-being as determined 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.

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**



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.

Aligning government outputs and Indigenous aspirations

A significant aspect of the focus on outcomes is to align government programming outputs with the achievement of Aboriginal and Torres Strait Islander aspirations.

Communities are best able to determine individual and family needs. The outcomes of government programs should be measured against indicators of well-being determined in the community environment of the individual, family, and clan group.

The linking of regional decision-making and individual and family security through community councils can provide a sounder basis for the qualitative assessment of the achievement of outcomes and the more effective delivery of services. The empowerment process has been demonstrated in the results of the Coordinated Health Care Trials undertaken in Aboriginal and Torres Strait Islander communities.

The following chart represents the process of community control.

ALIGNING GOVERNMENT OUTCOMES WITH COMMUNITY NEEDS

