

REGIONAL AUTONOMY: LOST CAUSE, BROKEN PROMISE OR NEW CHALLENGE?

Connecting Government and Aboriginal and Torres Strait Islander people

*Sam Jeffries,
Chairman, Murdi Paaki Regional Council.*

1. Summary

This paper presents the experience of the Murdi Paaki Regional Council in charting a course towards regional autonomy for Aboriginal and Torres Strait Islander people in the Region. Our approach followed the government's election commitment at the time to explore ways of achieving greater regional autonomy within the existing ATSIC structure.

Just as we thought we were getting somewhere, the Government announced its decision to abolish the Aboriginal and Torres Strait Islander Commission and, in due course, regional councils constituted under the *Aboriginal and Torres Strait Islander Commission Act 1989*. In one single act, the government choked all that has been achieved in the decade since ATSIC was established. Regional autonomy in the form in which it was meant to function no longer exists.

There has been a surprisingly muted reaction to the government's decision. One reason for this is that we are still in "recovery mode" after the announcement. This may change as the implications of the government's decision to disperse Indigenous decision-making throughout seven different agencies with their own jurisdictional interests come to be fully appreciated.

Because Regional Councils were at the core of regional autonomy under the ATSIC Act, the Murdi Paaki experience makes its own statement about the new arrangements and gives Aboriginal and Torres Strait Islander people an opportunity to make their own assessment of them. It may help in re-focusing our agenda.

It has been said that the Government's decision to mainstream all Aboriginal programs represents a bold step forward. We're told it is a different approach, having already been piloted in eight trial sites around Australia. These pilots have only just got off the ground after protracted negotiations. Their functionality has yet to be seen and evaluated.

A central feature of regional autonomy was good governance. The ATSIC Act provided a national legislative framework for these things without detracting from the roles and responsibilities of other organisations and spheres of government. At the regional level it 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.

The abolition of ATSIC reflects a policy approach that is called *Connecting Government*. Its aim is to ensure government agencies work together to deliver meaningful results for the monies appropriated to them for the services they provide.

To achieve this, the Government will maintain a network of rural and remote offices to ensure effective coordination of program design and service delivery at the regional and local level. These Indigenous Coordination Centres, as they are to be called, will represent all key departments – employment, education, community services, legal aid and health. Those agencies will look to different representative bodies to assist them, having first eliminated regional councils, though the policy statements have been both conflicting and confusing on this issue, possibly because of the uncertainty of achieving the desired outcomes without regional councils.

Known examples of a regional office being responsible to eight different agencies in the management of different programs under some kind of an operational agreement, to be signed by eight Secretaries, have been demonstrated to be untenable and unworkable.

The missing link for Aboriginal and Torres Strait Islander people in this new approach is empowerment, a central pillar of the ATSIC system and the government's contract with it. Empowerment is now incidental to the achievement of government funded outcomes through an administratively driven process of coordination.

In reality, 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 advocacy, representation, participation and service delivery.

Is regional autonomy a lost cause, broken election promise, or a new challenge?

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 the desire for self-determination, on the one hand, and public sector performance on the other.

Because the needs of Aboriginal and Torres Strait Islander people are multi-dimensional, the provision of specific programs and services lends itself to what is being called in today's public management "joined-up government." In response to meeting the needs of Aboriginal and Torres Strait Islander people, Government Departments, in discharging their obligations, are faced with what are called "cross-cutting issues" confronting government in meeting the needs of Aboriginal and Torres Strait Islander people.

"Joined up" government is about asking the right questions. It is not a question of determining how each Departmental program might be delivered in a coordinated way with other Departments with their own responsibilities. It is about determining with Aboriginal and Torres Strait Islander people what the outcomes are to be and what interventions are necessary to achieve them. It is one thing for Departments to appear before Senate Estimates Committee to explain how their appropriations are being spent and for what purpose: it is another to be able to assess the impact of these so-called outputs on the well-being of Aboriginal and Torres Strait Islander communities.

2. The Murdi Paaki Experience

In September 1999, the Chairman of ATSIC, Mr. Gatjil Djerrkura, 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. 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.

What do we mean by autonomy?

Autonomy has many meanings: autonomy for what purpose? How autonomous can Indigenous communities be? Regional autonomy differs from the autonomy of functional Aboriginal organisations which may come together to promote regional autonomy. We need to know what we want to achieve when we use the word autonomy and the framework for achieving it. Regional autonomy may be achieved under both State and Commonwealth legislation. It may have a local government focus or be specific to Indigenous people. It may be a combination of all three.

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.

An important aspect of empowerment 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.

The government's commitment to regional autonomy was specific to the ATSIC system and decision-making on the funds appropriated to ATSIC. It was about improving regional and community governance. It was not about self-government. It did not threaten existing Aboriginal organisations or State relationships. It recognised the role of other organisations, such as Land Councils, with their specific autonomous responsibilities. Regional autonomy meant bringing these stakeholders together within one Commonwealth legislative framework to achieve specific ends.

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.

Our approach to regional autonomy 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.

Devolution of programs and financial transfers offer opportunity for greater control by Aboriginal people. With that devolution must go accountable structures of governance. Aboriginal communities must deal with the immediate and practical issues of economic development, housing, health, social policy, education and many other public policy concerns. Achieving better outcomes involves structures at both the national and regional level which give Aboriginal people the capacity to manage the process.

To give effect to these proposals, our submission to the ATSIC Review outlined a framework of regional governance involving 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.

Our focus was on regional and community governance and its alignment to service delivery at the community level. This was consistent with our understanding of the terms of reference for the ATSIC Review which had two arms to them:

- how Aboriginal and Torres Strait Islander people can be best represented in the development of Commonwealth policies and programs to assist them; and
- the appropriate role for regional councils in ensuring the delivery of Government programs and services to Indigenous Australians.

Our community governance arrangements involved the creation of Community Working Parties as an integral part of the Regional Council's operations. 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 get their legitimacy from their communities. They are owned by the communities themselves because they are of their making.

Regional autonomy associated with the development of Indigenous governance was, therefore, a mechanism to connect empowerment with the way services are delivered by all spheres of government. It aimed to integrate program delivery within a single regional outcome bringing together the resources of all stakeholders.

3. From empowerment to disempowerment

If, on the face of it, the ATSIC system had the potential to transform relationships, extend regional autonomy, and provide “joined up” government, is there a lesson for us in why has it been abolished? While the ATSIC Review had a great deal to say about this, the government has identified two fundamental issues of principle which have led to it being abolished. One relates to a perception of separatism and the other to symbolism.

Separation

According to the Prime Minister and Senator Vanstone self-determination, through a national elected body, was a failure because it represented, in their words, separation.

The Government has failed to recognise that its exclusion of Aboriginal and Torres Strait Islander people from participation and decision-making through a legitimate representative structure brings with it its own separation, resulting in a disconnect between Indigenous people and government.

Symbolic issues v. service delivery

It is the Prime Minister’s view also that ATSIC had become too pre-occupied with what might loosely be called symbolic issues and too little concerned with delivering real outcomes for Indigenous people.

ATSIC’s role as an advocate has been elevated in recent times with government support. Eminent people like the former Governor General, Sir William Deane, have reinforced the view that if practical reconciliation is to be the Government’s benchmark, it cannot be achieved without recognising its symbolic aspect. Effective Aboriginal and Torres Strait Islander participation and leadership are essential for the success of government programs.

It has never been ATSIC’s sole responsibility to deliver outcomes for Indigenous people. Mainstream agencies must answer for their own failures. Aboriginal and Torres Strait Islander people have never lost sight of their determination to achieve real outcomes by those responsible for delivering services. The struggle has been how to achieve it.

ATSIC’s role and performance

The Government’s own outcome statement endorsed as part of the budget process for ATSIC gave primacy to empowerment.

The outcome for which the Government funded ATSIC was:

“The economic, social and cultural empowerment (I underline the word 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.

Any reading of the ATSIC Annual Report and of the 35 regional council reports will demonstrate the high level of professional commitment to providing effective and efficient services through what are known in that strange public service language as “output groups.”

We should not lose sight of the fact that the ATSIC program budget represented less than half total Commonwealth outlays on Indigenous Affairs. Half of that budget again represented a transfer payment of the normal entitlements of Aboriginal and Torres Strait Islander people to unemployment benefits. These payments funded the Community Development Employment Projects (CDEP).

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

Will the repeal of those words by the Australian Parliament put an official end to self-management, self-sufficiency and empowerment? Will the new arrangements replace empowerment with disempowerment? Is that the real political agenda, to deny us a legitimate voice in national affairs?

4. Connecting Government and disconnecting Indigenous people

ATSIC and Regional Councils have now been caught in the matrix of the government's approach to what it calls *Connecting Government*. 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 empowerment. It is also questionable whether it can be achieved without a national legislative framework.

Connecting Government to achieve the government's ends is a bureaucratic design which, in its implementation, denies Aboriginal and Torres Strait Islander people direct participation in government decision-making.

The new framework incorporates:

- an advisory body of distinguished Indigenous people appointed by the government,
- the mainstreaming of all programs, and
- some unspecified arrangements yet to be negotiated with the states at the regional level.

The vision of the new arrangements is stated to be:

“a whole-of-government approach which can inspire innovative national approaches to the delivery of services to Indigenous Australians, but which are responsive to the distinctive needs of particular communities.” (Dr. Shergold)

Role of mainstream agencies

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.

Senator Vanstone has stated that the new approach is based on “all of us accepting responsibility.” “We all need to do better,” she says, “the Australian Commonwealth, State and Territory Governments and Indigenous people themselves.” Aboriginal and Torres Strait Islander people have always acknowledged and never resiled from the obligation to take responsibility for themselves if given the opportunity, commitment and capacity – legislative and financial -- to do so. The issue has always been how to extend it to others.

Recognising that existing mainstream programs need to perform better for Aboriginal people, the Government will now put in place “robust machinery” to ensure that mainstream agencies accept their responsibilities and are accountable for outcomes. We welcome this long awaited initiative if it can be done. We've been trying for years to achieve it, working with government at all levels to bring it about. The library of framework and service agreements attests to that effort.

We have some idea of how the government will proceed.

- To ensure improved outcomes and better coordination a Ministerial Taskforce will be established immediately.
- Improving performance will be written into performance agreements with Departmental heads.
- The Productivity Commission and the Commonwealth Grants Commission will have an important role to play.
- A new Office of Indigenous Policy Coordination will monitor the performance of mainstream agencies.
- The government will raise the whole issue of service delivery and coordination at a grassroots level at the next COAG meeting.

All this may sound good. It didn't take the abolition of ATSIC and Regional Councils to achieve it. Indeed, ATSIC and Regional Councils were participants in the processes which nurtured and pointed in those directions.

The new framework

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

- Collaboration
- Regional need
- Flexibility
- Accountability
- Leadership

These principles were already embedded in proposals for regional autonomy and capable of being further developed within the ATSIC system, if seen as a framework of governance. Their implementation would have been consistent with what is now being offered under the umbrella of *Connecting Government*. 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.

I relate the Murdi Paaki experience to the new principles.

1. Collaboration

All the key agencies of the Australian government will be required to work together in a coordinated manner. That collaboration will be reflected in a new framework of cooperative structures that, according to Dr Shergold, stretch from top to bottom – from a Ministerial Task Force and Secretaries' Group in Canberra to a network of regional offices around the nation. Over time the object is to build a single "shop front" – Australian Government Indigenous coordination centres – in which all the services delivered by key departments – employment, education, community services, legal aid and health – will be represented. The offices will work with Indigenous communities to deliver services in a coordinated way. The foundation will be negotiated Framework Agreements through which government and community work as partners to establish their goals and agree their shared responsibilities for their achievement.

The difference between these arrangements and what was being developed under regional autonomy is that regional councils, instead of being instruments of empowerment, are to become, in effect, administrative centres on terms determined by the service provider.

Throughout the life of ATSIC and Regional Councils collaboration between governments and between governments and Aboriginal and Torres Strait Islander people was embedded in a number of framework agreements and arrangements for coordinated service delivery at the regional and community end.

That collaboration was based on what is known as the *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders* endorsed by the Council of Australian Governments on 7 December 1992. That agreement recognised and endorsed the role of Regional Councils in the process of coordinated Commonwealth and State service delivery. Are we to assume that that agreement has now been aborted by the Commonwealth's unilateral approach? Or have they just conveniently forgotten about it?

2. Regional need

Initially ATSIC regional councils will be consulted but over time the intention is to work with what Dr Shergold describes as regional networks of elected and representative indigenous organisations in planning how government supports community endeavour. As Dr Shergold states, in likelihood there will be different consultative and delivery mechanisms negotiated in different States and Territories.

Some States may prefer to work with their own advisory bodies. The Queensland Government already has coordinating bodies in place. Both Queensland and the Northern Territory have community councils under State legislation. Land Councils have an important part to play. The existence of these bodies has not inhibited the performance of regional councils as a focus of regional planning and decision-making. Indeed, some States have encouraged the relationship.

A big question mark must hang over the capacity of any new arrangements to ensure that Commonwealth and State agencies work together. In the way regional councils required organisations to identify alternative sources of funding for projects, they were already performing the role of a shop front.

This is not to give an absolute pre-eminence to regional councils. Empowerment is not the province of a single organisation or structure. A range of national, regional, local and functional organisations contribute to that empowerment. Within the complex of dispersed arrangements, the ATSIC Act established both a national and regional representative framework which gave the Commission direct involvement in government decision-making at the national level and 35 Regional Councils specific regional planning responsibilities working in collaboration with other organisations, Indigenous and mainstream.

In broad terms our regional governance framework had 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.

3. Flexibility

Program guidelines can no longer be treated as rigid rules that serve to constrain administrative innovation. Departmental allocations will be able to be moved between agencies and between programs, in pursuit of whole of government objectives. Note – not Aboriginal and Torres Strait Islander objectives.

Such flexibility was inherent in our proposals for greater regional autonomy. As we indicated in our submission to the ATSIC Review:

“The regional decision-making and service delivery arrangements aim to align Government program and service objectives with community needs and aspirations to overcome fragmentation, promote inter-sectoral collaboration, provide a mechanism to pool funding to achieve a single stream of delivery and ensure accountability of all program and service providers to the community.”

COAG has recognised the Regional Council and Community Working Parties as the key frameworks of engagement by government in the business of Indigenous affairs.

We believe that a reconstituted Murdi Paaki Regional Council or Regional Authority with a direct community focus and representative of communities will provide an important mechanism for governments to improve services in Indigenous communities.

It is worth noting at this time as the COAG Trial rolls out across the Region we are learning some real lessons, communities are being more exposed to government processes, they are becoming more involved in the business of Regional Council, we are all witnessing a relationship develop between the Commonwealth and State Governments, in our neck of the woods, is a rare occasion indeed, in some instances its worth paying money to see.

But the processes are slow and one small example of that is where you have Ministers holding onto the purse strings, to achieve progress in an efficient and timely manner, delegated authority must be where the action is. What we are learning can be used for future approaches in achieving real outcomes on the ground.

The COAG pilots have yet to be formally evaluated.

4. Accountability

There will be annual reporting on programs against a range of socio-economic indicators designed to test the effectiveness with which practical reconciliation is being delivered. Accountability arrangements of this kind were already being developed within the ATSIC governance framework.

As instruments of both the government and Aboriginal and Torres Strait Islander people, Regional Councils are in a strategic position to provide leadership in a developmental process where needs are identified at the community level and regional and community plans provide the architecture for investment in community and individual welfare.

Achieving these goals requires mainstream agencies to align their outputs with community needs and priorities identified in regional plans.

To be effective, specific legislation may be required to impose obligations on mainstream service providers and ensure their accountability to Indigenous people and the government and connect regional governance and service delivery.

While services in the areas of health, education, employment, training and infrastructure will continue to be delivered by mainstream agencies, Regional Authorities should have the power to fund and coordinate specific development outcomes and to marshal and maximise economic opportunity to achieve them.

Within this framework mainstream agencies, non-government organisations and other institutions should work together within their own functional areas to build on existing assets of land, culture, small business, community employment and local economies.

Land Councils, native title representative bodies, legal and health services, the Indigenous Land Corporation and Indigenous Business Australia are part of what has been described as “dispersed governance” where each participant body has a role to play.

5. Leadership

Dr Shergold has stated that the personal responsibility of departmental secretaries reflects the importance of joint leadership. Note that this relates to Departmental leadership, not Indigenous leadership in a test of what has been called collegiality among Departments and Secretaries. This is the basis of what Dr. Shergold calls a “bold endeavour.”

Where are Aboriginal people in the leadership equation? Are they to be the judges of what is successful and what is not? And what is Dr Shergold's acknowledgment of success?

He says the approach will not overcome the legacy of disadvantage overnight. (As if we did not know that already). Indigenous issues, he says, are far too complex for that. (That has been clearly demonstrated by past performance or lack of it.) But, he says, it does have the potential to bring about generational change. (How many generations? We've had the prospect of generational change for the last have century. How many more generations?)

All of this could have been achieved within the framework of the ATSIC System, appropriately reformed to overcome some fundamental concerns of government, particularly in what it has called the separation of powers.

5. A fundamental flaw.

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 Regional Authorities 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 \$2 billion and to improve the efficiency and effectiveness of their delivery and the quality of outcomes.

Regardless of structure, which may vary between regions, the issue is really about shifting decision-making powers from centralised 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.

6. A Frontier Agency

In my view the case remains for a national policy and advocacy body, supported by a strong regional and community presence. There is a precedent in the document *Connecting Government* itself which identifies the potential for what it calls special purpose or frontier agencies with a whole of government remit outside normal departmental structures.

Some special purpose agencies have been created to deal with issues that are important, contentious across a range of stakeholders, and not yet mature in the way in which they are perceived by the public or managed within government. Their special status is used to symbolise a whole of government approach. They are frontier agencies.

The best practice checklist for frontier agencies includes:

- Gain a clear charter from government, preferably in legislation
- Identify the gamut of stakeholder interests which must be publicly addressed through the creation of the frontier agency
- Consider governance issues carefully, including whether authority will be shared
- Ensure the new agency encompasses all interests on the issue it is created to address
- Define which government priorities will be addressed by the frontier agency and which will not
- Define outcomes for products early
- Provide ample championship from the top

I would suggest that ATSIC and Regional Councils met the test of a frontier agency.

Ours is a case for tailor-made solutions. We are our own champions. The issues facing Aboriginal and Torres Strait Islander people are multi-dimensional and need to be approached differently.

It is clear that government structures based on functional responsibilities have failed Aboriginal and Torres Strait Islander people. In the jargon of the public service, Indigenous development requires a “cross-cutting” approach.

Connecting Government offers more of the same except that, for the first time, program managers may be held accountable, not to Aboriginal and Torres Strait Islander people, but to those who hand out performance awards. The system lacks the interface and joint management arrangements between Aboriginal and Torres Strait Islander people and the delivery of programs and services which are essential to the transfer of authority and capacity to us.

Is there hope?

Senator Vanstone has stated that the Government will work with states and territory governments and Indigenous communities to find the best mechanism for input at the local and regional level. We already know what the best mechanism is. We have spent years developing it. Why do we need to re-invent it?

The Prime Minister in his statement said that:

- 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.

He went on to say:

- 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.

We now know that the Government will maintain a network of rural and remote offices to ensure an effective coordination of programme design and service delivery at the regional and local level. These will be called Indigenous Coordination Centres. All key departments will be represented in them, but their managers will be employed by the new Office of Indigenous Policy Coordination.

All this smacks 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.

ATSIC's role in coordinating Indigenous policy development and service delivery across Australia will be taken over by the new Office of Indigenous Policy Coordination. It will also monitor the performance of Australian Government programs and services for Indigenous people, including arrangements for independent scrutiny. It will also manage a number of small programs.

This is management without direction.

I make this simple appeal to the government on the basis of the Prime Minister's own undertakings: use our governance proposals as a way forward for us in the Murdi Paaki region and preserve the foundations of self-determination, empowerment and Indigenous decision-making.

The Prime Minister's commitment must now be both our opportunity and negotiating position – to give Aboriginal and Torres Strait Islander people at the regional level the opportunity and capacity to determine how best to ensure their voice is heard, to participate in decision-making, and to ensure that services are provided in accordance with their priorities and not as a result of some bureaucratic caravan passing through on a consultation tour and recommending more committees and more task forces.

Experience has shown that within the framework of the ATSIC Act, Commonwealth, State and local government could work together through a process of service agreements, pooled funding and integration of programs and services. Experience has also shown that when Aboriginal people are put in control, the outcomes are improved. The Coordinated Health Care trials have demonstrated this.

7. Conclusion

There is, of course, no “one size fits all.” Aboriginal society is so diverse that legislative flexibility is required to ensure that structures are appropriate to the special circumstances of individual communities and regions.

Amendments to the ATSIC Act, or replacement legislation, could have permitted constitutions of Regional Councils that reflect the traditions of the communities they serve. Precedents have already been established in the Northern Territory and Queensland under their community government and community services legislation.

It is not unreasonable that a regional governance body should have the same flexibility to enhance its legitimacy and credibility among its constituents drawing into it, where they exist, existing community governance institutions

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.

The abolition of ATSIC by a vote in the Australian Parliament demonstrates how fragile that relationship can be without constitutional recognition of our position in Australian society.

Here then is the next challenge for our leadership.

With the abolition of ATSIC as a national representative and funding body from 1 July 2004, that leadership responsibility shifts to regional councils in collaboration with other Indigenous organisations. We must now ensure that all our efforts in the last decade of working within and to improve the ATSIC system are not lost as the new arrangements are put in place.

This is not a blind defence of ATSIC, because in many ways it self-destructed as a national organisation. But there were two parts to the 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 regional autonomy and the arrangements the government is now proposing. The transitional shift was already inherent in the creation of Aboriginal and Torres Strait Islander Services. 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.

My concern is that these arrangements lack the essentials of empowerment. So the reverse question is: why not retain regional councils instead of re-inventing similar government arrangements?

It is now for Aboriginal and Torres Strait Islander people to decide whether they want that regional focus to continue and to ensure that the performance of mainstream agencies is governed by legislation and not secret performance agreements.

Let us not be diverted by the twist in the tail of the new arrangements intended to make them sustainable.

Regional autonomy and ATSIC's role in it was a way of empowering Aboriginal and Torres Strait Islander people and connecting Indigenous priority-setting and decision-making with government in the whole cycle of planning, delivery of services and accountability.

Instead, the focus of what is now seen as a "whole of government" approach is on administrative structures, operating within that privileged club of Departmental Secretaries, task forces, and Inter-Departmental Committees.

The fundamental flaw in the new arrangements can be demonstrated by the words of the Secretary of the Department of Prime Minister and Cabinet, Dr. Peter Shergold, in launching the document *Connecting Government*. He 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 (he said) citizens are stakeholders in the making of public policy. Some may directly benefit from government decision, others may have their actions regulated by it and others again will find themselves the unwilling recipients of it: 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. – (Dr. Peter Shergold, *Connecting Government*, 20 April 2004."

It is legitimate to ask who facilitated discussion with Aboriginal and Torres Strait Islander people on the implications of the policy.

I believe 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.

If we had been asked we might have been able to suggest ways to continue to fulfil the government's objectives while retaining important elements of regional autonomy. ATSIC, for instance, could have had two arms to it – a representative arm and a service delivery arm. Aboriginal and Torres Strait Islander Services could have been retained with ATSIC appointing members to the Board of ATSI, similar to Centrelink. Regional Offices would have been maintained with regional councils continuing to perform the advocacy and advisory functions provided for under the Act.

We must continue to secure a legitimate and sustainable voice for Aboriginal and Torres Strait Islander people in the development process and in the delivery of programs and services by mainstream agencies. 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 must ensure that the principles of self-management and self-sufficiency as an expression of Parliament's will are maintained.

We must have a determination to salvage self-determination and empowerment to achieve, for Indigenous people, in the Prime Minister's own words, "a greater opportunity to share in the wealth and success and the bounty of this our country."

There can be no partnership without participation.