Social Justice Report

2005

Aboriginal & Torres Strait Islander Social Justice Commissioner

Report No. 3/2005
Australia Post Approval PP255003/04753

Aboriginal & Torres Strait Islander Social Justice Commissioner

The position of Aboriginal and Torres Strait Islander Social Justice Commissioner was established within the Human Rights and Equal Opportunity Commission in 1993 to carry out the following functions:

(1) Report annually on the enjoyment and exercise of human rights by Aboriginal peoples and Torres Strait Islanders, and recommend where necessary on the action that should be taken to ensure these rights are observed.

(2) Promote awareness and discussion of human rights in relation to Aboriginal peoples and Torres Strait Islanders.

(3) Undertake research and educational programs for the purposes of promoting respect for, and enjoyment and exercise of, human rights by Aboriginal peoples and Torres Strait Islanders.

(4) Examine and report on enactments and proposed enactments to ascertain whether or not they recognise and protect the human rights of Aboriginal peoples and Torres Strait Islanders.

The Commissioner is also required, under Section 209 of the *Native Title Act 1993,* to report annually on the operation of the *Native Title Act* and its effect on the exercise and enjoyment of human rights by Aboriginal peoples and Torres Strait Islanders.

For information on the work of the Social Justice Commissioner please visit the HREOC website at: http://www.humanrights.gov.au/social_justice/index.html

The Social Justice Commissioner can be contacted at the following address:

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Human Rights and
Equal Opportunity Commission

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Report of the Aboriginal & Torres Strait Islander Social Justice Commissioner

to the Attorney-General as required by section 46C (1)(a) Human Rights & Equal Opportunity Commission Act 1986.

ISSN 1321-11

Cover Design and Desktop Publishing by Jo Clark

Printed by JS McMillan Printing Group

The Aboriginal and Torres Strait Islander Social Justice Commissioner acknowledges the work of Human Rights and Equal Opportunity Commission staff (Janis Constable, Darren Dick, Janet Drummond, Greg Holden, Christopher Holland and Natalie Walker) in producing this report. He also thanks Professor Ian Anderson, Dr Ngiare Brown, Mr Steven Larkin and Dr Sophie Couzos of the National Aboriginal Community Controlled Health Organisation for their comments in relation to chapter 2.

Artist Acknowledgement

Cover photograph by Heide Smith, Angelina and Baby, Bathurst Island, 2004. Copyright © Heide Smith.

About the Social Justice Commission logo

The right section of the design is a contemporary view of traditional Dari or head-dress, a symbol of the Torres Strait Island people and culture. The head-dress suggests the visionary aspect of the Aboriginal and Torres Strait Islander Social Justice Commission. The dots placed in the Dari represent a brighter outlook for the future provided by the Commission's visions, black representing people, green representing islands and blue representing the seas surrounding the islands. The Goanna is a general symbol of the Aboriginal people.

The combination of these two symbols represents the coming together of two distinct cultures through the Aboriginal and Torres Strait Islander Commission and the support, strength and unity which it can provide through the pursuit of Social Justice and Human Rights. It also represents an outlook for the future of Aboriginal and Torres Strait Islander Social Justice expressing the hope and expectation that one day we will be treated with full respect and understanding.

22 November 2005

The Hon Philip Ruddock MP
Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney

I am pleased to present to you the *Social Justice Report 2005*.

The report is provided in accordance with section 46C(1)(a) of the *Human Rights and Equal Opportunity Commission Act 1986*. This provides that the Aboriginal and Torres Strait Islander Social Justice Commissioner is to submit a report regarding the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders, and including recommendations as to the action that should be taken to ensure the exercise and enjoyment of human rights by those persons.

The report analyses the current approach to Aboriginal and Torres Strait Islander health and proposes a campaign to achieve equality in health status (Chapter 2 and Appendix 4) and considers the initial impact of the new arrangements for the administration of Indigenous affairs (Chapter 3 and Appendices 1, 2 and 3).

The report includes five recommendations and also identifies five actions that I will continue to monitor over the coming year.

I look forward to discussing the report with you.

Yours sincerely

Tom Calma
Aboriginal and Torres Strait Islander
Social Justice Commissioner

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Recommendations and follow up actions

In accordance with the functions set out in section 46C(1) (a) of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth), this report includes 5 recommendations – 3 in relation to Achieving health equality for Aboriginal and Torres Strait Islander people s and 2 in relation to the new arrangement in Indigenous affairs. The report also contains 5 follow up actions that my office will undertaken over the next twelve months in relation to the new arrangements. These and the recommendations are reproduced here and appear at the relevant part of the report.

Achieving Aboriginal and Torres Strait Islander health equality within a generation – A human rights based approach

Recommendation 1

That the governments of Australia commit to achieving equality of health status and life expectation between Aboriginal and Torres Strait Islander and non-Indigenous people within 25 years.

Recommendation 2

a) That the governments of Australia commit to achieving equality of access to primary health care and health infrastructure within 10 years for Aboriginal and Torres Strait Islander peoples.

b) That benchmarks and targets for achieving equality of health status and life expectation be negotiated, with the full participation of Aboriginal and Torres Strait Islander peoples, and committed to by all Australian governments. Such benchmarks and targets should be based on the indicators set out in the *Overcoming Indigenous Disadvantage Framework* and the *Aboriginal and Torres Strait Islander Health Performance Framework*. They should be made at the national, state/ territory and regional levels and account for regional variations in health status. Data collection processes should also be improved to enable adequate reporting on a disaggregated basis, in accordance with the *Aboriginal and Torres Strait Islander Health Performance Framework*.

c) That resources available for Aboriginal and Torres Strait Islander health, through mainstream and Indigenous specific services, be increased to levels that match need in communities and to the level necessary to achieve the benchmarks, targets and goals set out above. Arrangements to pool funding should be made with states and territories matching additional funding contributions from the federal government.

d) The goal and aims of the *National Strategic Framework for Aboriginal and Torres Strait Islander Health* be incorporated into the operation of Indigenous Coordination Centres and the new arrangements for Indigenous affairs. This includes through reliance on the outcomes of regional planning processes under the Aboriginal Health Forums.

Recommendation 3

That the Australian Health Minister's Conference agree a *National Commitment to achieve Aboriginal and Torres Strait Islander Health Equality* and that bi-partisan support for this commitment be sought in federal Parliament and in all state and territory parliaments.

This commitment should:

- acknowledge the existing inequality of health status enjoyed by Aboriginal and Torres Strait Islander peoples;
- acknowledge that this constitutes a threat to the survival of Aboriginal and Torres Strait Islander peoples, their languages and cultures, and does not provide Aboriginal and Torres Strait Islander peoples with the ability to live safe, healthy lives in full human dignity;
- confirm the commitment of all governments to the *National Strategic Framework* and the *National Aboriginal Health Strategy* as providing over-arching guidance for addressing Aboriginal and Torres Strait Islander health inequality;
- commit all governments to a program of action to redress this inequality, which aims to ensure equality of opportunity in the provision of primary health care services and health infrastructure within ten years;
- note that such a commitment requires partnerships and shared responsibility between all levels of government, Aboriginal and Torres Strait Islander peoples and communities, non-government organisations and the private sector;
- acknowledge that additional, special measures will be necessary into the medium term to achieve this commitment;
- acknowledge that significant advances have been made, particularly in levels of resourcing, since 1995 to address this situation;
- commit to celebrate and support the success of Aboriginal and Torres Strait Islander peoples in addressing health inequality;
- accept the holistic definition of Aboriginal and Torres Strait Islander health and the importance of Aboriginal community controlled health in achieving lasting improvements in Aboriginal and Torres Strait Islander health status;
- commit to continue to work to achieve improved access to mainstream services, alongside continued support for community controlled health services in urban as well as rural and remote areas; and
- acknowledge that achieving such equality will contribute to the reconciliation process.

Progress in implementing the new arrangements for the administration of Indigenous affairs – Ensuring the effective participation of Aboriginal and Torres Strait Islander peoples in decision-making processes

Recommendation 4

That the federal government, in partnership with state and territory governments, prioritise the negotiation with Indigenous peoples of regional representative arrangements. Representative bodies should be finalised and operational by 30 June 2006 in all Indigenous Coordination Centre regions.

Recommendation 5

That the Office of Indigenous Policy Coordination, in consultation with the Aboriginal and Torres Strait Islander Social Justice Commissioner, agree to *Guidelines to ensure that Shared Responsibility Agreements comply with human rights standards* relating to the process of negotiating SRAs and the content of such agreements.

Follow Up Actions by Social Justice Commissioner

1. The Social Justice Commissioner will consider the adequacy of processes undertaken by all governments to consult and negotiate with Indigenous peoples and communities on policy development, program delivery and monitoring and evaluation processes. This will include:

- identifying best practice examples for engaging with Indigenous peoples on a national, state-wide and regional basis;
- identifying existing protocols or principles for engaging with Indigenous peoples;
- identify existing processes for engaging with Torres Strait Islander communities on the mainland; and
- developing a best practice guide to negotiating with Indigenous communities from a human rights perspective.

2. The Social Justice Commissioner will work in partnership with non-government organisations and Indigenous community organisations to promote understanding of the rights of Indigenous peoples in the making of Shared Responsibility Agreements. This will include:

- disseminating information about relevant human rights standards for engaging with Indigenous communities and to guide the content of SRAs; and

- consulting with Indigenous people, organisations and communities about their experiences in negotiating SRAs.

3. The Social Justice Commissioner will monitor the Shared Responsibility Agreements process. This will include:

- considering the process for negotiation and implementation of SRAs;
- considering whether the obligations contained in agreements are consistent with human rights standards or place restrictions on the accessibility of basic entitlements or essential services; and
- establishing whether the government has fulfilled its commitments in SRAs, including through providing appropriate support to communities to ensure that the proposed benefit in an SRA is realised in the community.

4. The Social Justice Commissioner will examine approaches adopted by the government to improve the accessibility of mainstream services to Indigenous communities and individuals. This will include:

- conducting consultations and case studies with the participation of select urban, regional and remote Indigenous communities, to identify best practice as well as barriers to the accessibility of mainstream services;
- examining the role of solution brokers in Indigenous Coordination Centres and in the negotiation of Shared Responsibility Agreements (for example, by considering the percentage of funding allocated through SRAs from mainstream programs as opposed to Indigenous specific funding or the SRA flexible funding pool); and
- considering the impact of reforms to the CDEP Scheme, including changes to align the program more closely with mainstream employment programs.

5. The Social Justice Commissioner will continue to consider the adequacy of monitoring and evaluation processes for the new arrangements. This will include considering efforts by all governments to integrate the Overcoming Indigenous Disadvantage Framework into policy and review processes, including through the establishment of benchmarks and targets; as well as monitoring progress in the COAG whole of government trials and the outcomes of the formative evaluations of these currently underway.

Chapter 1

Introduction

This report covers the period from 1 July 2004 to 30 June 2005. It considers two issues that are of major concern to Aboriginal and Torres Strait Islander peoples.

The first is progress in achieving lasting improvements in the health status of Aboriginal and Torres Strait Islander peoples. Chapter 2 of the report examines existing commitments and processes for addressing the health inequality experienced by Aboriginal and Torres Strait Islander peoples, and sets out a human rights framework for achieving such equality within a generation.

The second is progress in the introduction and implementation of new arrangements for the administration of Indigenous affairs at the federal level. Chapter 3 of the report considers these new arrangements from the perspective of whether they ensure the effective participation of Indigenous peoples in decision making that affects their daily lives.

Both issues go to the core of the commitments made by all governments to address the situation faced by Aboriginal and Torres Strait Islander peoples. They seek to establish whether the rhetoric heavy commitments of governments are being matched with solid action as well as transparent and accountable processes, and on a basis of true partnership with Indigenous communities.

A new approach to Indigenous affairs

The past year has seen the beginning of a new approach to how governments interact with Indigenous communities. The federal government has embarked on its new arrangements for service delivery to Indigenous peoples, and the states and territories have also begun to reform their processes so they are aligned with the whole of government approach adopted at the federal level. All governments have made commitments, through the Council of Australian Governments, to work collaboratively in accordance with the principles of the federal government's new arrangements.

It has been questioned by some whether these processes are in fact 'new'. My overriding impression is that the federal government's approach is based on repudiating the model of the past and focusing on addressing what it perceives to be the failures of previous arrangements, such as through the operation of the Aboriginal and Torres Strait Islander Commission (ATSIC). Consequently, a significant focus of the past year has been on dismantling the old structures and replacing them with new government machinery.

The benefit of this new approach is that it places responsibility for government performance squarely on mainstream government departments. They have no one else to blame for ongoing failures.

It also focuses on building a direct relationship between government and Indigenous peoples. The so called 'old' approach had seen governments walk away from a direct relationship with Indigenous people themselves. In the place of government, Indigenous peoples have had to deal with organisations and people of varying capacity. Governments had avoided any responsibility or accountability for outcomes for Indigenous peoples by simply passing the buck. The determination of the government to redress this situation is highly significant.

The problem with this approach is that it is based on an interpretation of what happened in the past that does not necessarily match the reality. On this basis, the problems of the past have been repudiated – but so have the advances. The reasons for failures in the past to improve the life circumstances of Aboriginal and Torres Strait Islander peoples are more complex than those that can be fairly attributed to ATSIC. Aboriginal and Torres Strait Islander health is a perfect illustration of this – an area of government activity over which ATSIC had no responsibility since the mid-1990s and in relation to which there has been no consistent forward trend over the past decade.

For Indigenous peoples, the challenge of the new arrangements is to ensure that they have an appropriate voice in determining the priorities that face their communities. This requires processes to match the stated commitments of governments to ensure Indigenous participation and representation. A related challenge is ensuring that rigorous accountability mechanisms are put in place so that success can be readily identified and failures addressed.

But Indigenous communities are not only facing significant challenges through the federal government's new arrangements. As outlined in Chapter 3, there are also a number of processes underway to reform how governments deliver particular types of services or interact with Indigenous peoples. These changes, which are additional to the new arrangements, are broad in scope and touch nearly every area of interaction between Indigenous communities and governments and the lives of Indigenous peoples.

For example, a community in Queensland or the Northern Territory may not only be coming to terms with the abolition of their regional representative voice through ATSIC; it may also be faced with changes to the operation of their local council as new models of governance are introduced. Local service delivery organisations and councils may also be facing similar challenges over the coming year, with proposed reforms to the federal act governing Aboriginal associations and councils. This is coupled with reforms to how the Community Development Employment Projects scheme operates, efforts to align this scheme more closely with employment programs and business development, and proposed reforms relating to heritage protection, land rights, native title and funding for local participation in schooling.

This list does not touch on reforms to laws of general application which will also impact on Indigenous peoples – such as reforms to workplace relations legislation governing conditions of work and bargaining power, and changes to telecommunications in rural and remote communities to name but two.

The cumulative impact of all reform processes which impact on Indigenous peoples is overwhelming. It places Indigenous communities in a precarious situation. The absence of culturally sound representative arrangements exacerbates this and limits the ability of Indigenous peoples' voices to be heard on the national stage and to influence decision-making processes.

One of the main findings of Chapter 3 in relation to the roll out of the new arrangements is that this particular vulnerability of Indigenous peoples has not been adequately acknowledged and addressed through the new processes to date.

Governments have notionally committed to ensuring appropriate representation of Indigenous peoples and processes for their participation, and so this absence may prove to be temporary. But it also has the potential to be lasting in its impact. The implications of this situation need to be considered fully and addressed as a priority concern by governments. The recommendations in this report reflect this.

There are also challenges in meeting the government's intention that the new arrangements be based on direct engagement with communities. For such engagement to be equitable, communities must have sufficient information and support to ensure that they can participate and make decisions with their free, prior and informed consent. This is a core human rights obligation.

One issue that I have been particularly troubled by over the past year is the absence of processes to support communities to be in a position where they can participate in such an informed way. Critical to the success of these new arrangements is community education.

The annual rate of growth of the Indigenous population has been estimated at 2.3% compared with approximately 1.2% for the non-Indigenous population. It is estimated that the number of Indigenous peoples will grow to more than 550,000 by the year 2011 from 458,500 people at the 2001 Census. The average median age of an Indigenous person in Australia is 21 years compared with 36 years for the non-Indigenous population. In 2001, 39% of Indigenous people were under 15 years of age, compared with 20% of the non-Indigenous population; and 57% of the Indigenous population were under the age of 25 years.[1]

Providing *rights and responsibilities education* for this body of Indigenous young people, particularly as they near working age, will be an important part of the shift away from a 'welfare mentality' that must occur in many communities if the new arrangements are to be sustainable. Young people must learn that welfare is not an absolute entitlement, and that the human rights framework envisages that individuals are responsible to themselves and their communities.

The new arrangements provide significant opportunities for Indigenous communities. There is a need, however, for building the capacity of communities so that they can engage meaningfully in the new processes and understand their rights and responsibilities in any negotiation processes that they engage in.

This is a feature missing from current policy frameworks and I will continue to work with governments to address this over the coming year.

1 Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples,* Commonwealth of Australia, Canberra, 2005, p3.

Developments over the past year – work of the Social Justice Commissioner

The past twelve months have also been the first of my term as Commissioner. I have prepared two *Social Justice Report*s and *Native Title Reports* in this period, which set out a comprehensive agenda for how I will perform my functions and provide a substantial overview of the new arrangements.

I have been able to engage productively with governments about the reports. I anticipate that funding will shortly be provided to convene a national roundtable on Indigenous women in corrections, in accordance with a recommendation in the *Social Justice Report 2004*. I have also established a regular process for dialogue with key stakeholders and the government on the new arrangements and native title issues.

I have been pleased with a number of developments which, if not developed in response to these reports, reflect on the concerns raised in them. I hope to continue to have a robust and frank relationship with the government to achieve improvements in their processes and the principled basis on which they operate.

During the period I have also travelled regularly to Indigenous communities across Australia and consulted and listened to the views of Indigenous Australians on the impacts of the implementation of the new arrangements.

In addition to completing these reports, I have also completed a range of other activities in my capacity as Social Justice Commissioner or Race Discrimination Commissioner. Some of these are listed in Text Box 1 below.

Text Box 1: HREOC projects on Indigenous issues, 2004-05

In addition to the production of the *Social Justice Report* and *Native Title Report,* HREOC has undertaken a range of activities during the past year which relate to the rights of Indigenous peoples.

Report on the impact of cognitive disabilities on Indigenous juveniles and the criminal justice system

The Federal Attorney General's Department provided funding to undertake a short research project examining the issues affecting Indigenous young people with a cognitive disability and/or mental health issue in the juvenile justice system. The funding provided for a series of meetings and consultations with relevant state and territory government agencies and a National Roundtable held on 15 June 2005 with a range of representatives from the community and university sector as well as state government agencies.

The final report of the project has now been submitted to the Attorney-General's Department and is available online at www.humanrights.gov.au/social_justice/. It highlights some of the current policy and program approaches to addressing issues relating to cognitive disabilities, as well as including the outcomes of the National Roundtable. The report provided a series of strategies and areas for future research including possible research on the impact of diversionary programs on Indigenous young people with a cognitive disability and/or mental health issue; the links between early disengagement with the education system and early contact with the juvenile justice system; the impact of Otitis Media on cognitive ability and early disengagement with the education system and early offending behaviour.

Engaging communities workshop

In late 2004, I entered into a partnership with the United Nations Permanent Forum on Indigenous Issues to co-host a workshop on engaging with Indigenous communities as part of the International Conference on Engaging Communities, convened in Brisbane in August 2005.

After a full day workshop, attended by over 150 delegates, a workshop report was prepared which identified principles for engaging with Indigenous communities. This report will be distributed internationally through the Permanent Forum on Indigenous Issues at the United Nations, and is available from the Social Justice Commissioner's website.

Aboriginal and Torres Strait Islander mental health issues

In May 2005 the Human Rights and Equal Opportunity Commission lodged a submission to the Senate Select Committee on Mental Health. The Social Justice Unit contributed to this submission with an outline of the mental health concerns of Aboriginal and Torres Strait Islander people. The submission urged the Senate Committee to undertake specific consultations with Indigenous groups and communities in order to reach a deeper understanding of the issues.

The submission provided an overview of the lengthy history of Indigenous mental health policy in Australia as well as urging the government to release and implement the *National Strategic Framework for Aboriginal and Torres Strait Islander Mental Health and Social and Emotional Well Being 2004-2009*. The submission also called for the government to ensure broad access to services delivered and that services developed for Indigenous people and communities are done so in consultation with Indigenous people and primary health care providers.

I was also involved in consultations with the Acting Disability Discrimination Commissioner, the Mental Health Council of Australia and the Brain and Mind Institute's review of the mental health system in Australia. The report of this review, Not For Service was published in October 2005.

In October 2005 I also participated in a conference hosted by Djirruwang Aboriginal Health Program at Charles Sturt University, Wagga Wagga. Forums such as these are integral to my work as Social Justice Commissioner as it presents me with opportunities to work with Indigenous Mental Health workers to gain a deeper appreciation of the issues concerning Indigenous peoples and social and emotional well being.

International Indigenous rights issues

My Office has continued to maintain an active interest in international developments on the rights of Indigenous peoples. In the past year I have participated in the working group meetings on the Draft Declaration on the Rights of Indigenous Peoples at the United Nations; as well as contributed to submissions by HREOC to the Committee on the Elimination of Racial Discrimination and Committee on the Rights of the Child, for their examination of Australia in March and September 2005 respectively.

I have also convened a number of workshops with Indigenous peoples to discuss progress on the Draft Declaration; as well as co-hosted a seminar with the International Law Association (Australian Division) on the application of the right to self-determination to Indigenous peoples. Information about these activities is available from the Social Justice Commissioner's website.

In December 2004 I lead an Australian delegation to the Yunnan Province of China to conduct a workshop on minority peoples and the Right to Development.

30th anniversary of the Racial Discrimination Act 1975

In my capacity as acting Race Discrimination Commissioner, I have also undertaken a number of projects to celebrate the 30th anniversary of the *Racial Discrimination Act 1975*. The main project has been *Voices of Australia*. This project has involved engaging with the community to hear people's experiences of race relations, diversity and living together in contemporary Australia. It has also involved the preparation of other information about the Racial Discrimination Act, in a range of print, audio and website resources. Associated with this project, I have also worked with the National Rugby League to promote tolerance and anti-racism in sport.

A second project to celebrate the anniversary was the production of the fourth edition of *Face the Facts,* a publication which aims to provide clear, factual information that addresses prevailing myths about refugees, migrants and Indigenous peoples.

For further information on activities of the Social Justice Commissioner and Race Discrimination Commissioner, visit: www.humanrights.gov.au/

I have also accepted an invitation to be Ambassador for White Ribbon Day on 25 November 2005. This day marks the United Nations International Day for the Elimination of Violence Against Women. All Australians are encouraged to wear a white ribbon to express their condemnation of violence against women. As I shall be stating during events to commemorate White Ribbon Day, there is a need for greater involvement of Aboriginal and Torres Strait Islander communities in activities related to this day. This is in light of the high rates of violence in Indigenous communities and the significant efforts that are being undertaken by many Aboriginal and Torres Strait Islander women and men to address this.

Contents of the *Social Justice Report 2005*

This year's report has three chapters and four appendices of supporting information.

Chapter 1 introduces the report and provides an overview of major issues that impacted on Indigenous peoples during the reporting period.

Chapter 2 sets out a human rights based approach to addressing Aboriginal and Torres Strait Islander health inequality. It proposes a campaign for health inequality with two main sets of targets – equal enjoyment of health infrastructure and universal access to primary health care within 10 years; and equalisation in life expectancy within 25 years.

Addressing health inequality is not insurmountable, although it will require long term action and commitment. Committing to a 25 year time frame to achieve this is feasible. It is also a long time in which to accept that inequality would continue to exist. But history shows us that an absence of targeted action and a contentedness that we are 'slowly getting there' is not going to result in the significant improvements in health status that Aboriginal and Torres Strait Islander peoples deserve – simply by virtue of the fact that we are members of the human race and of the Australian community.

We have an unprecedented opportunity to address health inequality due to the solid work in the health sector over the past decade and the new coordinated service delivery processes. But we do need to augment current efforts and match programs and resourcing to the level of need. Chapter 2 sets out what needs to

be done. My Office will continue to work with Indigenous health professionals and governments to see how this campaign can be achieved.

Appendix 4 supports this chapter, and provides a detailed overview of the content of the right to health.

Chapter 3 of the report then considers progress over the past twelve months in implementing the new arrangements for the administration of Indigenous affairs. In considering these developments, this chapter focuses on whether the new arrangements enable the effective participation of Aboriginal and Torres Strait Islander peoples at all levels of decision-making and service delivery that affect their lives. From a human rights perspective, Aboriginal and Torres Strait Islander peoples must be assured the opportunity to participate effectively in all aspects of policy development and service delivery by governments that impact upon their communities. This chapter responds to the 10 follow up actions identified in the *Social Justice Report 2004*.

This chapter is also supported by three appendices. **Appendix 1** provides a chronology of events relating to the introduction of the new arrangements over the past twelve months. It provides details of the various events and announcements made during this period, with links to assist in obtaining further information.

Appendix 2 provides an overview of the 35 ATSIC Regional Council Plans. These Plans are the legacy of the ATSIC regional structure and identify the priorities of Indigenous peoples in each region of the country. They are an invaluable resource and one that should be more heavily relied upon in the roll out of the new arrangements and in guiding service delivery. I have included these summaries due to the difficulties in obtaining the plans (which are not generally available online) and as a tool to assist communities as they enter processes to establish their priorities. Indigenous peoples have consistently expressed to me that they do not want to again have to tell governments what they want and need in priority order when they have recently been through a similar process with their Regional Council.

Appendix 3 then provides a summary of all Shared Responsibility Agreements struck in the past financial year. This provides a snapshot of the content of agreements, as well as the type of obligations being agreed by both government and communities.

There are also 5 recommendations and 5 follow up actions identified throughout the report.

Looking forward – a focus on engagement practices

Over the coming year, my Office will continue to focus on issues that have been identified in the *Social Justice Report 2004,* this latest report as well as my Native Title Report.

The *Social Justice Report 2004* set out priorities for my term as Social Justice Commissioner. I have already commenced to focus attention on some of the issues raised, such as health inequality and mental health.

That report provided a preliminary review of the new arrangements for administering Indigenous affairs at the federal level over the first six months of their operation. In particular, it identified a number of preliminary issues that would need to be addressed if the new processes are to work.

The *Social Justice Report 2005* provides an overview of how these new arrangements are now operating after 12 months. This year's report builds on the preliminary analysis of the *Social Justice Report 2004* by highlighting the details of how the new processes have been put into operation and providing guidance on the application of human rights standards to these processes.

Next year's report will explore further the issues identified over these two reports. In particular, it will focus on the practical efforts that have been made to support Aboriginal and Torres Strait Islander communities to engage effectively with government. This includes processes for consultation and negotiation adopted by government departments and different levels of government; and processes to support Indigenous decision making.

There are a number of useful programs that have been underway that highlight key issues relating to the capacity of Indigenous communities to be able to participate on an informed and equal basis in the new arrangements. These include the work of Reconciliation Australia on Indigenous governance, which is currently being further developed with the preparation of an Indigenous governance toolkit;[2] research projects being undertaken on agreement making processes, most notably through the development of an agreements database through the University of Melbourne;[3] and the Indigenous mediation and facilitation project which will shortly conclude and that has been run by the Native Title Research Unit of the Australian Institute of Aboriginal and Torres Strait Islander Studies.[4]

This latter project supports best practice in Indigenous decision-making, conflict management and agreement-brokering with Indigenous communities. The lessons learned through the research and consultations for this project provide useful guidance for the new whole-of-government policy approaches including Shared Responsibility and Regional Partnership Agreements. I am particularly interested in the findings of the research which identify the importance of 'arms length' process experts to support Indigenous communities to achieve sustainable outcomes.

My Office will focus particularly on how the lessons from such projects, and the COAG trials, are informing policy to ensure appropriate engagement with Indigenous peoples. At present, there remains a distance to travel to ensure that the new arrangements – which ultimately affect all aspects of policy making relating to Indigenous peoples – are fair in process and outcome for Indigenous peoples.

2 See further: www.reconciliation.org.au/reconaction/projects.html#icgp.

3 For details of the Treaties, agreements and negotiated Settlements project see: www.atns.net.au/.

4 For details of this project see: www.aiatsis.gov.au/rsrch/ntru/ifamp/index.html.

Chapter 2

Achieving Aboriginal and Torres Strait Islander health equality within a generation – A human rights based approach

Improving the health status of Aboriginal and Torres Strait Islander peoples is a longstanding challenge for governments in Australia. While there have been improvements made in some areas since the 1970s (notably in reducing high rates of infant mortality[1]) overall progress has been slow and inconsistent. The inequality gap between Aboriginal and Torres Strait Islander peoples and other Australians remains wide and has not been progressively reduced. With a significant proportion of Aboriginal and Torres Strait Islander peoples in younger age groups, there is an additional challenge to programs and services being able to keep up with the future demands of a burgeoning population.

Unless substantial steps are taken now, there is a very real prospect that the health status of Aboriginal and Torres Strait Islander peoples could worsen. A steady, incremental approach will not reduce the significant health disparities between Aboriginal and Torres Strait Islander peoples and other Australians. There is a need for commitments to a course of action, matched with significant funding increases over the next 20-25 years, if there is to be real and sustainable change.

This chapter outlines a human rights based campaign for achieving Aboriginal and Torres Strait Islander health equality within a generation. Such a goal is achievable through building on existing approaches to Aboriginal and Torres Strait Islander health, by seizing opportunities that currently exist through the new arrangements on Indigenous affairs at the federal level and by capitalising on the overall healthy economic situation of the country. Ultimately, the purpose of such an approach is to ensure that Aboriginal and Torres Strait Islander peoples, along with all other Australian citizens, are able to enjoy 'the highest attainable standard of health conducive to living a life in dignity.'[2]

1 Significant reductions to the infant mortality rate occurred in the 1970s and 1980s but since that time progress has slowed. This is attributed to the often poor health of Aboriginal and Torres Strait Islander mothers; their exposure to risk factors; and the generally poor state of health infrastructure in which infants are being raised. Thomson, N., 'Responding to our spectacular failure', in Editor, Thomson, N., *The Health of Indigenous Australians,* Oxford University Press, Melbourne, 2003, p490.

2 United Nations Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights),* UN Doc E/C.12/2000/4, 11 August 2000, para 1. See further Appendix 4.

1. The challenge – addressing Aboriginal and Torres Strait Islander health inequality

The poor health status of Aboriginal and Torres Strait Islander peoples is a well known fact. Substantial inequalities exist between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians, particularly in relation to chronic and communicable diseases, infant health, mental health and life expectation.

Governments of all persuasions have made commitments to address this situation over a prolonged period of time, accompanied with incremental funding increases. Governments have detailed strategies and national frameworks in place, developed through engagement with Aboriginal and Torres Strait Islander peoples, which clearly articulate the need for a holistic address to Aboriginal and Torres Strait Islander health and acknowledge the complex interaction of issues.

Yet despite all of this, what data exists suggests that we have seen only slow improvements in some areas of health status and no progress on others over the past decade. The gains have been hard-fought. But they are too few. And the gains made are generally not of the same magnitude of the gains experienced by the non-Indigenous population, with the result that they have had a minimal impact on reducing the inequality gap between Aboriginal and Torres Strait Islander peoples and other Australians.

There are a number of disturbing trends among Aboriginal and Torres Strait Islander peoples that reveal an entrenched health crisis. In particular, there remain:

- high rates of chronic diseases such as renal failure, cardio-vascular diseases and diabetes;
- continued higher rates of poor health among Aboriginal and Torres Strait Islander infants, as well as far too common occurrence of otitis media (middle ear infection) and eye conditions such as trachoma, which can impact on educational attainment and employment;[3]
- a continuing tendency towards poor access to primary health care, as evidenced by high rates of sexually transmitted infections and relatively high rates of HIV/AIDS prevalence; and
- high rates of unhealthy and risky behaviour, including an increased prevalence of substance abuse and alcohol and tobacco use.

On top of this, I fear that Aboriginal and Torres Strait Islander peoples face substantial health problems which are often left undiagnosed, and hence untreated. This is particularly in relation to mental health, as well as oral / dental health problems. These issues do not receive adequate attention in health frameworks and needs to be redressed.

There are three main failings in the approach of Australian governments to date in addressing Aboriginal and Torres Strait Islander health inequality.

3 Couzos, S., Lea, T., Mueller, R., *(et al)* 'Chronic suppurative otitis media in Aboriginal children and the effectiveness of ototopical antibiotics: A community-based, multi-centre, double-blind randomized controlled trial' (2003) 4 *Medical Journal of Australia* 179, pp185-90, available online at: www.mja.com.au/public/issues/179_04_180803/cou10214_fm.html.

First, governments of all persuasions have not activated their commitments by setting them within an achievable time frame. Governments have instead left the achievement of equality to an unspecified future time. By doing so, all Australian governments have been unaccountable for progress in achieving health equality.

Second, they have not matched their commitments with the necessary funds and program support to realise them. And third, while they have accepted in health frameworks the need to address Aboriginal and Torres Strait Islander health in a holistic manner, they have not engineered their health programs consistent with this understanding nor considered the impact of their broader policy and program approach on Aboriginal and Torres Strait Islander health.

It is ten years since the Social Justice Commissioner has given detailed consideration to Aboriginal and Torres Strait Islander health issues. The comments of my predecessor at that time, apply equally today. He stated that:

> We have all heard them – the figures of death, and of disability… Every few years, (the) figures are repeated and excite attention. But I suspect that most Australians accept them as being almost inevitable. A certain kind of industrial deafness has developed. The human element in this is not recognised. The meaning of these figures is not heard – or felt.
>
> The statistics of infant and perinatal mortality are our babies and children who die in our arms… The statistics of shortened life expectancy are our mothers and fathers, uncles, aunties and elders who live diminished lives and die before their gifts of knowledge and experience are passed on. We die silently under these statistics.[4]

As he noted in the *Social Justice Report 1994:*

> The gap between the numbers of our people who live and the number who should be alive is one measure of the inequality we have endured. The gap between the numbers living a healthy, socially-functional life and those living a life of pain, humiliation and dysfunction is another measure. They are both measures of our loss of elementary human rights.
>
> There should be no mistake that the state of Indigenous health in this country is an abuse of human rights. A decent standard of health and life expectancy equivalent to other Australians is not a favour asked by our peoples. It is our right – simply because we too are human.[5]

There is no reason for this to be happening. Evidence shows that dramatic improvements in health status can be achieved and that gains on many issues can occur within even short time frames. Other comparable countries have made greater progress in improving the health status of indigenous peoples than what we have achieved in Australia.[6]

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4 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report – 2nd report, 1994,* Australian Government Publishing Services (AGPS), Canberra, 1995, pp99-100.

5 *ibid.,* p100.

6 As the *National Strategic Framework for Aboriginal and Torres Strait Islander Health* notes, 'in countries comparable to Australia, the health outcomes for Indigenous population has improved so that… (those Indigenous populations) enjoy significantly better health than Australian Aboriginal and Torres Strait Islander peoples': National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health: Context,* NATSIHC, Canberra, 2003, p12.

And we must remember that we are a wealthy nation. It is not credible to suggest that one of the wealthiest nations in the world cannot solve a health crisis affecting less than 3% of its citizens. Research suggests that addressing Aboriginal and Torres Strait Islander health inequality will involve no more than a 1% per annum increase in total health expenditure in Australia over the next ten years. If this funding is committed, then the expenditure required is then likely to decline thereafter.

Aside from addressing obvious and vitally important issues of equality and fairness, a campaign to overcome Aboriginal and Torres Strait Islander health inequality will also result in significant future health savings. This is pertinent given that managing the health of an ageing general population is expected to place a significant extra financial burden on the health system over the coming decades.[7]

I noted in the introduction to the *Social Justice Report 2004* my intention to focus on Aboriginal and Torres Strait Islander health issues during 2005 and 2006. I stated that:

> perhaps more so than any other area of life, programmes for addressing Indigenous health reveal the problem of a lack of implementation of human rights. It doesn't matter whether we look at the National Aboriginal Health Strategy of 1989 or the current *National Strategic Framework* for Aboriginal and Torres Strait Islander Health. The issue is the same with both.
>
> Each of these frameworks has been agreed by the Commonwealth with the states and territories. They provide a detailed series of commitments and identify a range of areas that require attention. Both documents identify, from a human rights perspective, the key issues that must be addressed to improve Indigenous health. They are good, solid policy documents.
>
> And yet they have made very little difference to Indigenous health. It appears that the lack of progress can not be explained as a result of there not being any answers to the problems faced by Indigenous people – instead it appears to be a matter of taking the necessary steps to implement what are… universally agreed solutions.[8]

In that report I suggested that we require *a campaign for Aboriginal and Torres Strait Islander health equality within our lifetime*. This chapter details a framework for achieving this. It seeks to build on existing policy frameworks and to learn from current successes and failings.

I consider it feasible for governments to commit to ensuring an equitable distribution of primary health care and equitable standards of health infrastructure (such as water, sanitation, food and housing) within a reasonable time period of no more than 10 years.

It is equally feasible for governments to commit to the goal of achieving equality of health status and life expectation within the next generation (approximately 25 years). This will also require a focus on specific diseases and conditions, an address to social determinants of health such as income, education and functional communities, and an address to the position of Aboriginal and Torres Strait Islander peoples in Australian society.

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7 Department of Health and Aged Care, *The Ageing Australian Population and Future Health Costs: 1996 -2051,* DOHC Occasional Paper: New Series No.7, Commonwealth of Australia, Canberra, 1999, p41.

8 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004,* HREOC, Sydney, 2005, p6.

I have developed this framework with five key factors in mind. First, it proposes a **human rights based approach** to addressing Aboriginal and Torres Strait Islander health inequality. There have been significant developments in the international human rights system over the past decade that has demonstrated the clear link between human rights and health. As this chapter shows, a human rights based approach to Aboriginal and Torres Strait Islander health *creates an empowering environment for Aboriginal and Torres Strait Islander peoples* and one which focuses on the accountability of governments to achieve improved outcomes within a reasonable time period. It is a framework with the potential to address the flaws of the current system.

Second, it recognises that the inequality in health status endured by Aboriginal and Torres Strait Islander peoples is linked to systemic discrimination. Historically, Aboriginal and Torres Strait Islander peoples have not had the same opportunity to be as healthy as non-Indigenous people. This occurs through the inaccessibility of mainstream services and lower access to health services, including primary health care, and inadequate provision of health infrastructure in some Aboriginal and Torres Strait Islander communities. The Royal Australasian College of Physicians describes these health inequities as 'both *avoidable and systematic*'.[9] This legacy remains to be fully addressed and is a significant barrier to the full enjoyment of the right to health for Aboriginal and Torres Strait Islander peoples.

Third, it addresses the issue of how to make meaningful the stated commitments of governments. At the federal level, for example, the Ministerial Taskforce on Indigenous Affairs has identified Aboriginal and Torres Strait Islander health as a major priority. It has also set out its desire for there to be a 20-30 year vision for Aboriginal and Torres Strait Islander Australia. That is exactly what this framework provides.

Fourth, it addresses Aboriginal and Torres Strait Islander health in a holistic manner reflecting both the social determinants of health inequality as well as the broader issues identified by Aboriginal and Torres Strait Islander people as impacting on their health.

Finally, it seeks to build on both the opportunities and the challenges that have emerged with the recently introduced changes to the administration of Indigenous affairs at the federal level. There can be no issue that is more appropriate for applying a whole of government and holistic approach than Aboriginal and Torres Strait Islander health. I also consider that there is significant potential to utilise the new agreement making processes under these new arrangements (namely, Shared Responsibility Agreements, Regional Participation Agreements and Bilateral Agreements between the Commonwealth and states and territories) to achieve significant improvements in Aboriginal and Torres Strait Islander health status, and to support Indigenous primary health care in particular.

9 Royal Australasian College of Physicians, *Inequity and Health – A Call to Action – Addressing Health and Socioeconomic Inequality in Australia – Policy Statement 2005,* RACP, Canberra, 2005, p3.

Text Box 1: Definitions of equality and related terms

The term 'Health and life expectation equality' refers to statistical equality between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians in relation to life expectation and across a range of health indicators. Health status equality has been the goal of Aboriginal and Torres Strait Islander health policy in Australia since 1973[10] and remains so today.[11]

Equality of opportunity in relation to health means that different population groups have the same opportunity to be healthy. This is supported by the right to health, which:

> is not to be understood as a right to be *healthy*… [It is] the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.[12]

The focus of the right to health is on health services and health infrastructure because these are the main ways a government can provide opportunities to be healthy.[13] The focus on the campaign I am proposing is on ensuring that primary health care is as accessible to Aboriginal and Torres Strait Islander people as it is to non-Indigenous people (that is, that it is equitably distributed between the population groups) and that housing, water and sanitation and food supplies conform to the same health standards as those enjoyed by non-Indigenous Australians – that is, that they are of an equitable standard.

An equitable distribution of primary health care and an equal standard of health infrastructure should not be measured in terms of formal equality – that is that the same per capita resources are being devoted to Aboriginal and Torres Strait Islander and non-Indigenous health. It should be expected that greater per capita resources would need to be devoted to Aboriginal and Torres Strait Islander health for at least the duration of the campaign I am proposing.

Significant investment in Aboriginal and Torres Strait Islander health is required to re-balance decades of under-investment. Also, until health and life expectation equality is achieved, Aboriginal and Torres Strait Islander peoples will have greater health care needs than the non-Indigenous population. The remoteness of many communities will add to per capita expenditure. Approximately 26% of Aboriginal and Torres Strait Islander peoples live in remote or very remote areas, compared to two per cent of the non-Indigenous population.[14]

In the longer term, it can be expected that the per capita resources needed to be devoted to Aboriginal and Torres Strait Islander health would decrease. This should result as Aboriginal and Torres Strait Islander health status improves – reducing the demand on health services – and as the high costs of health infrastructure capital works give way to the lesser costs of maintenance.

10 The *Ten Year Plan for Aboriginal Health* released in 1973 by the Aboriginal Health Branch of the Commonwealth Department of Health aimed to achieve Aboriginal and Torres Strait Islander health and life expectation equality within ten years. House of Representatives Standing Committee on Aboriginal Affairs, *Aboriginal Health: report from the Standing Committee on Aboriginal Affairs,* AGPS, Canberra, 1979, piii.

11 See Text Box 7 below.

12 Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights),* UN Doc E/C.12/2000/4, 11 August 2000, para 8. See also Text Box 10 below.

13 *ibid.,* paras 9, 11.

14 Australian Bureau of Statistics, *Population characteristics: Aboriginal and Torres Strait Islander Australians* 2001, *op.cit.,* p22, Table 2.5.

My call to address Aboriginal and Torres Strait Islander health inequality joins that of many others over recent years. This includes the National Aboriginal Community Controlled Health Organisation (NACCHO),[15] the Australian Indigenous Doctor's Association,[16] the Fred Hollows Foundation,[17] the Heart Foundation Australia,[18] Australians for Native Title and Reconciliation,[19] Oxfam Community Aid Abroad,[20] the Australian Medical Association;[21] the House of Representatives Standing Committee on Family and Community Affairs;[22] and health commentators including Professor John Deeble,[23] Professor Ian Anderson,[24] Dr Ngiare Brown and Professor Ian Ring.[25]

15 The National Aboriginal Community Controlled Health Organisation (NACCHO) is the national peak Aboriginal health body representing Aboriginal Community Controlled Health Services throughout Australia. See, for example: National Aboriginal Community Controlled Health Organisation, *Proposal to increase access of Aboriginal people to appropriate primary health care,* December 1998, available online at: http://www.naccho.org.au/Ruralhealth_policy.html; and National Aboriginal Community Controlled Health Organisation, *What's needed to improve child health in the Aboriginal and Torres Strait Islander Population,* June 2003, pp17-20, available online at: http://www.naccho.org.au/ChildHealth.html.

16 The Australian Indigenous Doctors' Association (AIDA) is a professional organisation for Aboriginal and Torres Strait Islander medical students and graduates from across the country. See, for example, Australian Indigenous Doctors Association, *Healthy Futures, defining best practice in the recruitment and retention of Indigenous medical students,* AIDA, Canberra, September 2005, p1, available online at: http://aidauser.brinkster.net/default.aspx.

17 For more information on the Fred Hollows Foundation's (FHF) Indigenous Health Program and briefing papers setting out their call for an address to health inequality see the FHF website: www.hollows.org/content/TextOnly.aspx?s=146.

18 For more information on the Heart Foundation, Australia's (HFA) Aboriginal and Torres Strait Islander Program and a link to their proposals for action to reduce the rate of cardiovascular disease among Aboriginal and Torres Strait Islander peoples see the HFA website: www.heartfoundation.com.au/index.cfm?page=43.

19 For more information on Australians for Native Title and Reconciliation's (ANTaR) Healing Hands Indigenous Health Rights Campaign see the ANTaR website: www.antar.org.au/health.

20 For more information on Oxfam Australia's Indigenous Australia Program, of which one of the themes is improving Aboriginal and Torres Strait Islander emotional and social well-being, see the Oxfam Australia website: www.oxfam.org/world/pacific/australia/index.html. Oxfam's *Indigenous Australians Rights* campaign includes promoting and recognising Aboriginal and Torres Strait Islander health rights. See the Oxfam website: http://www.oxfam.org.au/campaigns/indigenous/index.html.

21 For more information see Australian Medical Association (AMA), *Position Statement on Aboriginal and Torres Strait Islander Health,* AMA, Canberra, 2005, available online at: www.ama.com.au/web.nsf/topic/policy-public-health?opendocument&cat=Aboriginal%20Health. The AMA is an advocate for improving Aboriginal and Torres Strait Islander health and since 2003 has produced an annual report card on government performance in relation to this.

22 In the *Health Is Life* report on their inquiry into Indigenous health, the House of Representatives Standing Committee on Family and Community Affairs called for an address to the backlog of health infrastructure needs then identified in communities within five years and for the provision of adequate water supplies to communities within 3-years, House of Representatives Standing Committee on Family and Community Affairs, Health is Life, Parliament of Australia, Canberra, 2000, ppxix-xx, Recommendations 14 and 17.

23 Deeble, J., *Expenditures on Aboriginal and Torres Strait Islander Health,* AMA, 2003, p5, available online at: http://www.ama.com.au/web.nsf/doc/WEEN-5N6285/$file/AMA_03Deble.pdf.

24 Professor Ian Anderson is the Director of the Centre for Health and Society, and of the VicHealth Koori Health Research and Community Development Unit. See, for example: Anderson, I., *Overview of Indigenous Health Status in Australia,* Speech to the World Health Organisation's Regional Committee for the Western Pacific, 24 September 2004, available online at: http://www.health.gov.au/internet/wcms/Publishing.nsf/Content/health-about-cmo-indhea.htm.

25 See: Brown, N. and Ring, I., 'Indigenous Health; chronically inadequate responses to damning statistics', (2002) 177 (11) *Medical Journal of Australia* 629, available online at http://www.mja.com.au/public/issues/177_11_021202/rin10435_fm.html; Brown, N., and Ring, I., *Achieving Sustainable Improvements in Aboriginal and Torres Strait Islander Health,* In Search of Sustainability Conference Paper, November 2003, available online at www.isosconference.org.au/papers/Ring2.pdf; Ring, I., Firman, D., 'Reducing Indigenous mortality in Australia; lessons from other countries', (1998), 169 *Medical Journal of Australia,* 528-533.

As a nation, we have perhaps never been as well placed as we currently are to turn the current situation faced by Aboriginal and Torres Strait Islander peoples around. We have the necessary commitments and mechanisms for whole of government coordination to achieve this. We have a historically large budget surplus, just a small fraction of which could lead to dramatic improvements in Aboriginal and Torres Strait Islander peoples' health status. And we have an unprecedented opportunity, with new agreement making processes, to engage and empower Aboriginal and Torres Strait Islander peoples to overcome existing health inequalities.

The central argument of this chapter is that a human rights based approach to Aboriginal and Torres Strait Islander health demonstrates that the situation faced by Aboriginal and Torres Strait Islander peoples in this country over the next twenty five years is not inevitably one of failure and inequality. A dynamic, targeted approach to Aboriginal and Torres Strait Islander health can yield significant improvements.

In my view, the time for concerted action is now. Accordingly, I have chosen to commence this chapter by outlining the challenge for governments through the following headline recommendation.[26]

Recommendation 1

That the governments of Australia commit to achieving equality of health status and life expectation between Aboriginal and Torres Strait Islander peoples and non-Indigenous people within 25 years.

My Office will be vigorous over the next twelve months in promoting debate on this objective and to seek more concrete commitments and action from governments to achieve it.

26 See further section 6 of this chapter, which outlines the full details of the proposed campaign for health equality.

2. An overview of the health status of Aboriginal and Torres Strait Islander peoples

This section provides an overview of the current health status of Aboriginal and Torres Strait Islander peoples. It makes comparisons to non-Indigenous Australians, and identifies where there have been improvements in health status over the past decade. It also provides current information about the provision of infrastructure and primary health care to Aboriginal and Torres Strait Islander communities, and identifies issues relating to social determinants of health.

a) The health status of Aboriginal and Torres Strait Islander peoples

Text Box 2 provides an overview of the current status of Aboriginal and Torres Strait Islander health. It clearly establishes the challenge ahead if we are to address Aboriginal and Torres Strait Islander health inequality. The following key issues are apparent from the statistics:

- First, 'the health status of Australia's Aboriginal and Torres Strait Islander peoples is poor in comparison to the rest of the Australian population.'[27] There remains a large inequality gap in Australia.
- Second, Indigenous peoples do not have an equal opportunity to be as healthy as non-Indigenous Australians. As the Australian Institute of Health and Welfare have noted, 'the relative socioeconomic disadvantage experienced by Aboriginal and Torres Strait Islander people compared to non-Indigenous people places them at greater risk of exposure to behavioural and environmental health risk factors'[28] as does the higher proportion of Indigenous households that 'live in conditions that do not support good health'.[29] Indigenous peoples also do not enjoy equal access to primary health care and health infrastructure (including safe drinking water, effective sewerage systems, rubbish collection services and healthy housing).[30]
- Third, there has been very little progress in reducing this inequality gap between Aboriginal and Torres Strait Islander and non-Indigenous Australians over the past decade, for example in relation to long term measures such as life expectation.
- Fourth, while there have been improvements on some measures of Aboriginal and Torres Strait Islander health status, they have not matched the rapid health gains made in the general population in Australia. For example, death rates from cardiovascular disease in the general population have fallen 30% since 1991, and 70% in the last 35-years.[31] In contrast, while the picture is ultimately unclear, Aboriginal and Torres Strait Islander people do not appear to have made

27 Australian Institute of Health and Welfare (AIHW) and Australian Bureau of Statistics (ABS), *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples 2005,* ABS cat. no. 4704.0, Commonwealth of Australia, Canberra, 2005, pxvii, available online at: www.aihw.gov.au/publications/ihw/hwaatsip05/hwaatsip05.pdf.

28 *ibid.,* pxxiii.

29 *ibid.,* pxxii.

30 Communicable and water-borne diseases and parasites are indicators of poor health infrastructure. Infants and children are particularly vulnerable to these diseases.

31 National Health and Medical Research Centre, *Promoting the health of Australians, Case studies of achievements in improving the health of the population,* AGPS, Canberra, 1997, p35.

any reduction in death rates from cardiovascular disease over this period.[32]

- Fifth, the young age structure of the Aboriginal and Torres Strait Islander population means that the scope of the issues currently being faced is expected to increase in the coming decades. The increase in absolute terms of the size of the Aboriginal and Torres Strait Islander youth population will require significant increases in services and programs simply to keep pace with demand and maintain the status quo, yet alone to achieve a reduction in existing health inequality.

Text Box 2: The health status of Aboriginal and Torres Strait Islander peoples[33]

Life expectation	Over 1996–2001, there was an estimated difference of approximately 17 years between Aboriginal and Torres Strait Islander and non-Indigenous life expectation.[34] Life expectancy at birth for Aboriginal and Torres Strait Islander Australians was estimated to be 59.4 years for males and 64.8 years for females, compared with 76.6 years for all males and 82.0 years for all females for the period 1998-2000.[35]
Death age and rate	Over 1999-2003, in Queensland, South Australia, Western Australia and the Northern Territory, 75% of Aboriginal and Torres Strait Islander males and 65% of females died before the age of 65 years compared to 26% of males and 16% of females in the non-Indigenous population.[36] For all age groups below 65 years, the age-specific death rates for Aboriginal and Torres Strait Islander Australians were at least twice those experienced by the non-Indigenous population.[37]
Infant and child health	In 2000-02, babies with an Aboriginal and Torres Strait Islander mother were twice as likely to be low birthweight babies (those weighing less than 2,500 grams at birth) as babies with a non-Indigenous mother.[38] In 1999-2003, the infant mortality rate for Aboriginal and Torres Strait Islander infants was three times that of non-Indigenous infants.[39]

32 Thomson, N. and Brooks, J., 'Cardiovascular Disease', in Editor, Thomson, N., *The Health of Indigenous Australians,* Oxford University Press, Melbourne, 2003, p186.

33 This textbox is a *summary* of the key trends in Indigenous health status. For more detail about particular indicators see: Aboriginal and Torres Strait Islander Social Justice Commissioner, *A statistical overview of Aboriginal and Torres Strait Islander peoples in Australia,* available online at: www.humanrights.gov.au/social_justice/statistics/index.html. See also Australian Institute of Health and Welfare and Australian Bureau of Statistics, *op.cit.*

34 Australian Institute of Health and Welfare and Australian Bureau of Statistics, *op.cit.,* p148.

35 *ibid.*

36 *ibid.*

37 *ibid.,* p151.

38 *ibid.,* p79.

39 *ibid.,* p150.

Chronic diseases	In 1999–2003, 2 of the 3 leading causes of death for Aboriginal and Torres Strait Islander people in Queensland, South Australia, Western Australia and the Northern Territory were chronic diseases of the circulatory system and cancer.[40] Hospitalisation for ischaemic heart disease for Aboriginal and Torres Strait Islander males was double the rate, and for Aboriginal and Torres Strait Islander females four times the rate, than for the general population. Hospitalisations for hypertensive disease were also substantially higher.[41]
Communicable diseases	In 2003, notification rates among Aboriginal and Torres Strait Islander Australians for the majority of communicable diseases were higher than among other Australians. Rates of chlamydia, gonococcal infection and syphilis infection among Aboriginal and Torres Strait Islander people were up to 93 times the rates among other Australians. This may facilitate HIV transmission in the Aboriginal and Torres Strait Islander population.[42] Rates of bacteriological intestinal disease and tuberculosis are also significantly higher.[43] The Western Australian Aboriginal Child Health Survey reported that 18% of Aboriginal children had a recurring ear infection, 12% had a recurring chest infection, 9% had a recurring skin infection and 6% had a recurring gastro-intestinal infection.[44]
Oral health	In 2003-04 there were approximately 2,000 hospitalisations of Aboriginal and Torres Strait Islander people for diseases of the oral cavity, salivary glands and jaw. The majority of these hospitalisations were for dental caries (54%), followed by diseases of the pulp and periapical tissues (16%) and embedded and impacted teeth (9%). The Child Dental Health Survey in 2001, in New South Wales, South Australia and the Northern Territory reported that Aboriginal and Torres Strait Islander children aged 4-10 years had higher rates of decayed, missing or filled baby (deciduous) and adult (permanent) teeth than for non-Indigenous children; the difference being particularly high among those aged less than seven years.[45]

40 *ibid.,* p152.

41 *ibid.,* p101.

42 The *National Aboriginal and Torres Strait Islander Sexual Health and Blood Borne Virus Strategy 2005-2008* notes that these figures reflect on small numbers and may reflect localised occurrences rather than national patterns: Department of Health and Ageing, *National Aboriginal and Torres Strait Islander Sexual Health and Blood Borne Virus Strategy 2005-2008,* Commonwealth of Australia, 2005, p9, available online at: http://www.health.gov.au/internet/wcms/publishing.nsf/Content/health-oatsih-pubs-sexhealth.htm.

43 Australian Institute of Health and Welfare and Australian Bureau of Statistics, *op.cit.,* p120-121, Table 7.34.

44 Zubrick, S., Lawrence, D., Siburn, S., *(et al), The Western Australian Aboriginal Child Health Survey; The Health of Aboriginal Children and Young People,* (Vol. 1), Telethon Institute for Child Health Research, Perth, 2004, p142.

45 Australian Institute of Health and Welfare and Australian Bureau of Statistics, *op.cit.,* p127.

Mental health	In 2003-04, Aboriginal and Torres Strait Islanders were up to twice as likely to be hospitalised for mental and behavioural disorders as other Australians. Hospitalisation rates for assault or intentional self-harm may also be indicative of mental illness and distress. In 2003–04 Aboriginal and Torres Strait Islander males were 7 times more likely, and females 31 times as likely as for males and females in the general population; hospitalisation rates for intentional self-harm was twice as high.[46]
Disability	In 2002, just over one third of Aboriginal and Torres Strait Islander people aged 15 years or older reported a disability or long term health problem in the National Aboriginal and Torres Strait Islander Social Survey,[47] spread relatively evenly over remote and non-remote areas.[48] Overall, 7 % of respondents reported an intellectual disability; 23.6% a physical disability and 13.7% a disability in relation to hearing, speech or sight (with many respondents reported more than one type of disability).[49]

Aboriginal and Torres Strait Islander peoples also disproportionately suffer from a range of communicable and chronic diseases. For example:

- *Trachoma*

  Trachoma is a parasite that attacks the eyes. It was traditionally a disease of the urban slums and was rampant in Australia in the 19th century. It was reported in 2001 that in areas with severe trachoma in Australia, one in five of Aboriginal and Torres Strait Islander people have in-turned lashes, and about half of these are either blind already or will eventually go blind. While many of these people require surgery, a long term solution rests in an address to health infrastructure in these communities.[50]

- *Rheumatic heart disease*

  Australia Aboriginal people living in the Top End of the Northern Territory and the Kimberly regions experience among the highest incidence rates of rheumatic heart disease in the world. Hospitalisation for Aboriginal and Torres Strait Islander males was six times as high, and among females was eight times as high, as the rates among the non-Indigenous population. Males die at 16 times, and females at 22 times, the rates in the non-Indigenous population.[51]

46 *ibid.,* p131.

47 Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey,* ABS cat. no. 4714.0, Commonwealth of Australia, Canberra, 2004, pp7-8.

48 *ibid.,* p41, Table 13.

49 *ibid.*

50 Taylor, H., 'Trachoma in Australia', (2001), 175 *Medical Journal of Australia* 371, pp371-372, available online at: http://www.mja.com.au/public/issues/175_07_011001/taylor/taylor.html.

51 Australian Institute of Health and Welfare, 'Rheumatic heart disease: all but forgotten in Australia except among Aboriginal and Torres Strait Islander peoples', *AIHW Bulletin no. 16,* (August 2004), p9, Table 5.

- *Scabies and skin infections*

  Poor health infrastructure helps the spread of communicable skin diseases that contribute to chronic diseases. Scabies, caused by mites, causes inflammation and itching that can result in infection by pathogens such as Group A streptococcal skin infection. Like scabies itself, the transmission of the infection is closely related to overcrowding and poor sanitation. Post streptococcal infections can play a significant role in kidney disease, which occurs at a disproportionately high rate in the Aboriginal and Torres Strait Islander population[52] and also rheumatic fever which can result in rheumatic heart disease.

- *Otitis media*

  High rates of hearing loss among Aboriginal and Torres Strait Islander peoples were confirmed in the 2001 *National Health Survey*. In some remote communities up to 40% of children will have developed a chronic suppurative ear infection causing hearing loss by the age of ten.[53] Total or partial hearing loss was more likely to be reported than by the non-Indigenous population in all age groups from infancy to 55 years of age. In children aged 0-14 years, 7% reported hearing loss compared with 2% of the non-Indigenous population.[54]

b) Equality of opportunity in relation to health

As set out in Text Box 3, Aboriginal and Torres Strait Islander peoples do not have an equal opportunity to be as healthy as non-Indigenous Australians. Aboriginal and Torres Strait Islander peoples do not enjoy equal access to primary health care and health infrastructure (including safe drinking water, effective sewerage systems, rubbish collection services and healthy housing).[55]

Text Box 3: Equality of opportunity and health

Access to primary health care	It is estimated that in 2004, Aboriginal and Torres Strait Islander peoples enjoyed 40% of the per capita access of the non-Indigenous population to primary health care provided by general practitioners.[56]
Housing	5.5% of Aboriginal and Torres Strait Islander households lived in overcrowded conditions. The proportion of overcrowded households was highest for those renting from Aboriginal

52 Couzos, S. and Currie, B., 'Skin Infections', in Editors, Couzos, S., and Murray, R., *Aboriginal Primary Health Care,* (2nd ed.), Oxford University Press, Melbourne, 2004, p252.

53 Couzos, S., 'Practical measures that improve human rights – towards health equity for Aboriginal children', (2004), 15 (3) *Health Promotion Journal of Australia* 186, p186.

54 Department of Health and Ageing, *Report on Commonwealth Funded Hearing Services to Aboriginal and Torres Strait Islander Peoples – Strategies for future action,* Commonwealth of Australia, Canberra, October 2002, p31.

55 Communicable and water-borne diseases and parasites are indicators of poor health infrastructure. Infants and children are particularly vulnerable to these diseases.

56 This figure is subject to a number of caveats. Access Economics, *Indigenous Health Workforce Needs,* Australian Medical Association, Canberra, 2004, p37. See also: Britt, H., Miller, G., Knox, S., *(et al), General practice activity in Australia: 2001-02,* AIHW, Canberra, 2002, p114, available online at: www.aihw.gov.au/publications/index.cfm/title/8149.

	and Torres Strait Islander or community organisations (25.7%). Among the jurisdictions, the proportion of overcrowded households was highest in the Northern Territory (23.7%).[57]
Water	Of the 1,216 discrete communities surveyed in the *Community Housing and Infrastructure Needs Survey* 2001 (CHINS), 784 communities drew their drinking water supply from bores; 51 from wells and springs; and 99 from rivers or reservoirs.[58] Water from these sources should be tested regularly: both the presence of bacteriological and mineral factors can make water fail standards for drinking.[59] Of the 213 communities reliant on bores, reservoirs and rivers with a population of 50 or more, the CHINS found that 43 had not had their water tested in the prior 12 months.[60]
Sanitation	Forty nine percent of communities reported on in the CHINS were reliant on septic tanks with a leach drain. These systems rely on the absorption of the end-product into the ground. Waste can be a health hazard if it leaches into groundwater or flows into rivers and reservoirs.[61] Forty-eight percent of communities with populations of over 50 reported sewerage overflows or leaks.[62] Fifty-six community's water had failed testing at least once in the year prior to the survey.[63]
Diet	The Western Australian Child Health Survey reported that the diet of only one in five Aboriginal children met all four of its indicators of dietary quality.[64] What studies exist have found the consumption of sugar, white flour and sweetened carbonated beverages at much higher levels than in the non-Indigenous population in remote communities.[65] Despite the poverty reported in communities, food has been reported as up to 150% -180% more expensive than that in major centres.[66]

57 Australian Institute of Health and Welfare, *Indigenous housing indicators 2003-2004,* AIHW, Canberra, 2005, p29.

58 Australian Bureau of Statistics, *Housing and Infrastructure in Aboriginal and Torres Strait Islander communities 2001,* ABS series cat. no. 4710.0, Commonwealth of Australia, Canberra, 2002, pp17, Table 3.7.

59 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators, 2003,* Productivity Commission, Canberra, 2003, pp10.12 -10.13.

60 Australian Bureau of Statistics, *Housing and Infrastructure in Aboriginal and Torres Strait Islander communities, op.cit.,* p19, Table 3.10.

61 *ibid.,* pp22-23.

62 *ibid.,* p22.

63 *ibid.,* p19, Table 3.10.

64 Telethon Institute for Child Health Research, *The Health of Aboriginal Children and Young People, Summary booklet,* Telethon Institute for Child Health Research, Perth, 2005, pp18-19.

65 National Health and Medical Research Council, *Nutrition in Aboriginal and Torres Strait Islander peoples,* Commonwealth of Australia, Canberra, 2000, pp42-43.

66 Thomson, N., *Nutrition of Australian Aboriginal peoples – past and present,* Food for Healthy People and a Healthy Planet, Nature and Society Conference Proceedings, Sept 2001, cited in Fred Hollows Foundation, *Nutrition and health – Fred Hollows Foundation Indigenous program,* Fred Hollows Foundation fact sheet, 2004, available online at http://www.hollows.org/upload/3388.pdf.

c) Social determinants of health status

Since the 1980s it has been recognised that social inequalities are associated with health inequality.[67] The evidence base for these 'social determinants' of health inequality has been accepted by the World Health Organization[68] and, in Australia, by the Royal Australian College of Physicians.[69] The Royal Australian College of Physicians reports that Aboriginal and Torres Strait Islander communities are *the* prime example of negative social determinants of health in Australia.[70]

Research has demonstrated associations between an individual's social and economic status and their health. Poverty is clearly associated with poor health.[71] For example:

- Poor education and literacy are linked to poor health status, and affect the capacity of people to use health information;[72]
- Poorer income reduces the accessibility of health care services and medicines;
- Overcrowded and run-down housing is associated with poverty and contributes to the spread of communicable disease;
- Poor infant diet is associated with poverty and chronic diseases later in life;[73]
- Smoking and high-risk behaviour is associated with lower socio-economic status.[74]

Research has also demonstrated that poorer people also have less financial and other forms of control over their lives.[75] This can contribute to a greater burden of unhealthy stress[76] where 'prolonged exposure to psychological demands where

67 Editors, Marmot, M. and Wilkinson, R., Social Determinants of Health, Oxford University Press, New York, 1999, p2.

68 In 2004, the Director-General of the World Health Organisation (WHO) established a Commission on Social Determinants 'to act upon the social and environmental causes of health inequity by advocating for political change'. For further information see the WHO website: http://www.who.int/social_determinants/en/ and Marmot, M. and Wilkinson, R., *Social Determinants of Health: The Solid Facts,* (2nd ed.), WHO, Copenhagen, 2003.

69 Royal Australian College of Physicians, *For Richer, for Poorer, in Sickness and in Health: The Socio-Economic Determinants of Health,* Health & Social Policy Position Paper, (3rd ed.), Sydney, 1999, available online at: http://www.racp.edu.au/hpu/policy/richer/intro.htm

70 *ibid.,* p.12.

71 See generally Editors Marmot, M. and Wilkinson, R., *Social Determinants of Health, op.cit.*

72 Fred Hollows Foundation, *Literacy for Life,* Australian National University, Canberra, 2004, pp10-12, available online at http://www.hollows.org/content/TextOnly.aspx?s=244 . See also the issues raised in: Malin, M., *Is schooling good for Indigenous children's health?* Cooperative Research Centre for Aboriginal and Tropical Health & Northern Territory University, 2003, available online at: http://www.acer.edu.au/research/special_topics/ind_edu/report_papers.html.

73 Wadsworth, M., *Early Life,* in (eds.), Marmot, M. and Wilkinson, R., *Social Determinants of Health,* Oxford University Press, New York, 1999, p44. Chronic diseases that have poor diet as a determinant include cardiovascular disease, Type 2 diabetes and renal disease. Connections have been made between poor foetal nutrition and the presence of chronic diseases later in life: National Health and Medical Research Council, *Nutrition in Aboriginal and Torres Strait Islander peoples – An information paper,* Commonwealth of Australia, 2000, p15.

74 Jarvis, M. and Wardie, J., 'Social pattering of individual health behaviours; the case of cigarette smoking', in Editors, Marmot, M. and Wilkinson, R., *Social Determinants of Health, op.cit.,* pp241-244.

75 In 2002, 54% of indigenous people aged 15 or over were living in households where the household spokesperson reported that household members would be unable to raise $2000 within a week in a time of crisis. Australian Bureau of Statistics and Australian Institute of Health and Welfare, *op.cit.,* pp12-13.

76 Shaw, M., Dorling, D. and Davey-Smith, G., 'Poverty, social exclusion, and minorities', in Editors, Marmot, M. and Wilkinson, R., *Social Determinants of Health, op.cit.,* pp32-37.

possibilities to control the situation are perceived to be limited and the chances of reward are small.'[77] Chronic stress can impact on the body's immune system, circulatory system, and metabolic functions through a variety of hormonal pathways and is associated with a range of health problems from diseases of the circulatory system (notably heart disease)[78] and mental health problems[79] through to men's violence against women and other forms of community dysfunction.[80]

Text Box 4 provides an overview of a range of socio-economic factors that impact on the health status of Aboriginal and Torres Strait Islander peoples.

Text Box 4: Socio-economic status of Aboriginal and Torres Strait Islander peoples

Education	In 2002, Aboriginal and Torres Strait Islander people were less than half as likely as a non-Indigenous people to have completed a post-secondary qualification of certificate level 3 or above (that is post-graduate degree, graduate diploma or certificate, bachelor degree, advanced diploma, diploma and certificate levels 3 and 4).[81]
	Nationally in 2004, Aboriginal and Torres Strait Islander students were around half as likely to continue to year 12 as non-Indigenous students.[82]
Income	In the Census 2001, the average equivalised gross household income for Aboriginal and Torres Strait Islander peoples was $364 per week, or 62% of the rate for non-Indigenous peoples ($585 per week).[83]
	Income levels generally decline with increased geographic remoteness: from 70% of the corresponding income for non-Indigenous persons in major cities to 60% in remote areas, and just 40% in very remote areas.[84]
Employment	At the 2001 Census, 52% of Aboriginal and Torres Strait Islander peoples aged 15 years and over reported that they were participating in the labour force. Labour force participation rates for Aboriginal and Torres Strait Islander people declines with remoteness, with a 57% participation rate in major cities compared with 46% in very remote areas.[85]

77 Brunner, E., Marmot, M., 'Social Organization, stress and health', in Editors, Marmot, M. and Wilkinson, R., *Social Determinants of Health, op.cit.,* p 17.

78 *ibid.,* pp32-37.

79 Marmot, M., 'Health and the psychosocial environment at work', in Editors, Marmot, M. and Wilkinson, R., *Social Determinants of Health, op.cit.,* p124.

80 Wilkinson, R., 'Prosperity, redistribution, health and welfare', in Editors, Marmot, M. and Wilkinson, R., *Social Determinants of Health*, *op.cit.,* pp260-265.

81 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage, Key Indicators 2005,* Productivity Commission, Melbourne, 2005, p3.26.

82 *ibid.,* p3.19.

83 Australian Bureau of Statistics, *Population characteristics: Aboriginal and Torres Strait Islander Australians 2001,* ABS cat. no. 4713.0, Commonwealth of Australia, Canberra, 2003, p81.

84 *ibid.,* p82.

85 *ibid.,* p65.

	At the 2001 Census, the unemployment rate for Aboriginal and Torres Strait Islander people was 20%; three times higher than the rate for non-Indigenous Australians.[86] About one in six of all Aboriginal and Torres Strait Islander people who were classified as employed were engaged in Community Development Employment Projects (CDEP).[87]
Health risk factors	In 2002, just under one-half of the Aboriginal and Torres Strait Islander population aged15 years or over smoked on a daily basis.[88] One in six reported consuming alcohol at risky or high risk levels and just over one-half had not participated in sport or physical recreation activities.[89]
Personal stressors	In 2002, 82.3% Aboriginal and Torres Strait Islander people reported experiencing at least one stressor[90] in the last 12 months. Higher rates of fair or poor health and health risk behaviour were reported among Aboriginal and/or Torres Strait Islander people who had been exposed to these stressors.[91] One of the possible stressors survey participants could identify was racism.[92]

There are a range of *collective* health determinants that may also be impacting on Aboriginal and Torres Strait Islander peoples:

- Racism is a collective stressor that has been reported to affect both mental and physical health. A 2003 review of 53 studies in the United States found a decline in mental health status as racism increased.[93] Eight out of 11 studies found links between the elevated prevalence of high blood pressure in Afro-Americans and racism.[94]
- In relation to Aboriginal and Torres Strait Islander peoples, it may be that the lack of *collective* control acts as a determinant of poor health. This might manifest on a community level, providing another reason for effective community governance and the community control of services. However, there may be wider ramifications still. Aboriginal and Torres Strait Islander peoples have long asserted that their health is linked to their collective ability to control their lives and cultures

86 *ibid.,* p66.

87 *ibid.,* p67.

88 Australian Bureau of Statistics and Australian Institute of Health and Welfare, *op.cit.,* p135.

89 *ibid.,* pp135-137.

90 Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey, op.cit.,* p39, Table 12.

91 Australian Bureau of Statistics and Australian Institute of Health and Welfare, *op.cit.,* p141.

92 A life stressor is defined as a serious illness; accident or disability; the death of a family member or close friend; mental illness; divorce or separation; inability to obtain work; involuntary loss of a job; alcohol or drug-related problems; witnessing violence; being the victim of abuse or violent crime; trouble with the police; gambling problems; incarceration of self or a family member; overcrowding; pressure to fulfil cultural responsibilities; and discrimination or racism, *ibid.,* Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey, op.cit.,* p79.

93 Williams, R., Neighbours, H. and Jackson, J., 'Racial/Ethnic Discrimination and Health: Findings from Community Studies', (Feb 2003), 93(2) *American Journal of Public Health* 200, p200.

94 *ibid.,* p201.

and the recognition of their rights[95] as have indigenous peoples around the world.[96]

- In the *National Aboriginal Health Strategy,* Aboriginal and Torres Strait Islander peoples linked their health to 'control over their physical environment, of dignity, of community self-esteem, and of justice. It is not merely a matter of the provision of doctors, hospitals, medicines or the absence of disease and incapacity.'[97]
- There is also evidence of discrimination in health services, as reported in relation to secondary and tertiary cardiovascular disease interventions. A study based around on data from the National Morbidity Database for hospital separations over 1997 and 1998 reported that Aboriginal and Torres Strait Islander patients with cardiovascular disease were significantly less likely to undergo major procedures, such as angiography: at a rate of about half of that of non-Indigenous patients.[98] There were also significant differences in the rates of bypass surgery or angioplasty between the two groups.[99]

Access to traditional lands can also act as a determinant of health status, particularly where that land is culturally significant and provides sources of food, water and shelter. To illustrate this, my Office invited Ms Leanne Liddle, Aboriginal Parks and Wildlife Coordinator with the Department for Environment and Heritage in South Australia to describe her experiences managing the Kuka Kanyini project. This is currently underway in Wattaru, South Australia in the Anangu Pitjantjatjara Lands.

Text Box 5: Case study: The Kuka Kanyini project, Anangu Pitjantjatjara Lands

The goals of managing country, conserving biodiversity, maintaining culture, providing employment and training and improving the diet of remote communities coincide in the Kuka Kanyini project, initiated in 2003 as a pilot around the remote community of Watarru in the far north west Anangu Pitjantjatjara Yankunytjatjara (APY) Lands. The project is a local community- government partnership funded by the South Australian Department of Environment and Heritage and the APY land management. The Kuka Kanyini model, it is hoped, will be extended throughout the APY Lands in time.

Watarru has a seasonal population of between 60 and 100 people and is located in an extremely remote part of the APY Lands. It is a lawfully strong, proud and socially cohesive community, generally free of problems like petrol sniffing and domestic violence that occur elsewhere on the APY Lands. However, despite these positive points, a visit to Watarru by staff members of HREOC in 2003 noted high rates of

95 National Aboriginal Health Strategy Working Group, *National Aboriginal Health Strategy,* AGPS, Canberra, 1989, ppix and xiii.

96 *Geneva Declaration on the Health and Survival of Indigenous People* (1999), WHO consultation on indigenous health, Geneva, 23-26 November 1999, Part II, available online at http://www.healthsite.co.nz/hauora_maori/resources/feature/0001/002.htm.

97 National Aboriginal Health Strategy Working Group, *National Aboriginal Health Strategy,* AGPS, Canberra, 1989, pix.

98 Cunningham, J., 'Diagnostic and therapeutic procedures among Australian hospital patients identified as Indigenous', (2002), 176(2) *Medical Journal of Australia* 58, p60.

99 Walsh, W., Ring, I., Brown, A., *(et al),* 'Ischaemic Heart Disease', in Editors Couzos, S. and Murray, R., Aboriginal Primary Health Care, (2nd ed.), Oxford University Press, Melbourne, 2003, p337.

diabetes and other chronic diseases self-reported by community members. There was a limited range of foods stocked at the Watarru community store. Convenience foods high in saturated fat and sugars are often the preferred foods by community members.

Land management is an integral part of the project. This includes maintaining the traditional pattern of fire management regimes that helps minimise the impact of accidental fires that can otherwise devastate the local mulga woodlands from which foods (grubs, mistletoe fruit, honey ants, mulga apples and seeds) and pharmacopeia are found. Fire also is used to encourage regrowth of foods preferred by kangaroos and emus that assist Anangu when hunting. It also includes the control of populations of feral rabbits, foxes, camels, and cats that have had a significant impact on the population of small sized native mammals in the region. Feral camels and horses also foul and damage water sources that native animals rely on and compete with the community for several plant food-sources and are of high cultural significance.

To date the project has exceeded expectations. It continues to employ a minimum of 12 people on a full time basis, increasing the level of self esteem and valuing the 40,000 yr information base of the local people to assist western science. By combining contemporary and traditional skills we are now able to best manage the land. To date, the increase in the physical activity by participants has assisted in the control of diabetes. The guaranteed wage ensures that people are now saving for large items and buying healthy foods. The increase in self- esteem is obvious with the younger people wanting to participate; young men in particular seek to working with camels and learn fire skills as these are considered prestigious occupations.

Since the project began, over 1,000 camels have been mustered, many which have been sold to the overseas market with the profits returning back to the community. Two significant rock holes have been covered to provide protection from camels. A major spring is also being fenced off.

We have located many new mallee fowl nests and great desert skink holes. Anangu are now recognising that animals that they once thought were there are no longer around and are addressing this by shooting feral cats and wild dogs. A helicopter in the area also allowed those less mobile to see the condition of country and advise the younger people as to what land management work was required.

In the preparation of this chapter, my Office also invited Professor Sir Michael Marmot to comment on the implications of the health status of Aboriginal and Torres Strait Islander peoples from an international perspective. Professor Marmot is acknowledged as a pioneering international researcher on the social determinants of health and is a noted public health expert.[100]

100 Professor Sir Michael Marmot MBBS, MPH, PhD, FRCP, FFPHM is currently the Director, International Centre for Health and Society, and Professor of Epidemiology and Public Health, University College London.

Text Box 6: Aboriginal and Torres Strait Islander health status – a comment by Professor Sir Michael Marmot

Poverty exerts its malign influence on health in a variety of ways. The most obvious, and heart-rending, is in the death of infants and young children. The unhappy title for the world leader in these stakes goes to Sierra Leone with an under five mortality rate in 2000 of 316 per 1,000 live births; and an infant mortality rate of 181 per 1,000 live births.[101] It is not difficult to see how poverty of material conditions, poor sanitation and gross malnutrition, added to lack of quality medical care, can be responsible for such tragically foreshortened lives – a life expectancy at birth of 34 years.

At the other end of the scale lie Iceland, Finland and Japan with under-five mortality rates of 3, 4 and 5 per 1000 live births. On this scale, Aboriginal and Torres Strait Islanders people, infant mortality rate 12.7,[102] look more like Iceland than Sierra Leone. If infant mortality rates were the sole criterion of health disadvantage, Aboriginal and Torres Strait Islanders people, would look quite good: better than all of sub-Saharan Africa, better than most of Latin America, better than China and much of South and South-East Asia. There are two problems with such a rosy conclusion.

First, with life expectancy of 59.4 years for men and 64.8 for women,[103] Australian Indigenous peoples do not at all appear to be advantaged. For example, China with infant mortality of 31 per 1000 has life expectancy of 69.6 for men and 72.7 for women. Costa Rica with infant mortality rate of 10, has life expectancy of 74.8 for men and 79.5 for women. Aboriginal health is clearly much lower than it could be, but the problem is one of adult mortality, in addition to avoidable deaths among young children.

Second, the relevant comparison, surely, should be the national average for Australia. Here we see a twenty year gap in life expectancy. Australia has an impressive health picture, except for its Indigenous populations.

The fact that infant and child mortality rates – sensitive indicators of the effects of poverty on health – are low on a world scale might be thought to exonerate poverty as a cause of the health disadvantage of Aboriginal and Torres Strait Islanders people. It does not. We need to think about poverty in a different way. Dirty water and low calorie supply will not, in themselves, account for the fact that major contributors to the lower than average life expectancy are cardiovascular diseases, cancers, endocrine nutritional and metabolic diseases (including diabetes), external causes (violence), respiratory, and digestive diseases. It is the causes of these diseases that we need to understand. The social determinants of health are crucial.[104]

Aboriginal and Torres Strait Islanders people are disadvantaged in a variety of ways beyond material disadvantage. The task is urgent to sort out the nature of that disadvantage, how it leads to such an increased burden of non-communicable disease in adults, and what to do about it.

A wealth of information, internationally, shows that simply telling disadvantaged people to behave better will do little to combat obesity, smoking, or alcohol abuse, important as these behaviours are.

101 World Health Organization, *The World Health Report 2004: Changing history,* WHO, Geneva, 2004.

102 National Indigenous infant mortality rate, 1999-2001: Australian Bureau of Statistics, *Deaths,* ABS cat. no. 3302.0, Canberra, 2001, p23.

103 Australian Bureau of Statistics and Australian Institute of Health and Welfare, *op.cit.,* p148.

104 Marmot, M. and Wilkinson, R., *Social determinants of health, op.cit.*

Changing the marginal position in society of Aboriginal and Torres Strait Islanders people will need an approach that takes in the whole of life, starting with women of child bearing age, focussing on the care of infants and young children and proceeding through the life course. If the problem lent itself to easy solutions it would have been solved. On the other hand, the health situation of indigenous peoples in New Zealand, the USA and Canada has also been poor compared to the majority society. But their disadvantage is now less than that of Aboriginal and Torres Strait Islanders people.

The right place to start is documentation of the problem. Its solution will require broad social action that goes well beyond the health sector.[105]

105 Marmot, M., *Status Syndrome – How your social standing directly affects your health and life expectancy,* Bloomsbury, London & Henry Holt, New York, 2004.

3. Existing policy approaches for improving the health status of Aboriginal and Torres Strait Islander peoples

There have been a number of developments in Indigenous policy over recent years where governments have made commitments to addressing Aboriginal and Torres Strait Islander health inequality a major priority.

This has been through the processes of the Council of Australian Governments (COAG) that has made a number of commitments to address Aboriginal and Torres Strait Islander disadvantage as well as through the agreement of a specific health sector framework for addressing Aboriginal and Torres Strait Islander health issues.

The combination of these commitments provides a substantial foundation from which to address Aboriginal and Torres Strait Islander health inequality. They provide a number of opportunities and challenges, particularly as a consequence of the recently introduced changes to the administration of Indigenous affairs at the federal level. These new arrangements, introduced in July 2004, are intended to operate across all areas of government activity – including programs and services relating to Aboriginal and Torres Strait Islander health.

This section provides an overview of the commitments and processes that have been entered into by governments and the potential contributions of each of these to addressing Aboriginal and Torres Strait Islander health inequality.

a) The commitments of the Council of Australian Governments to address Indigenous disadvantage

Commitments to address Aboriginal and Torres Strait Islander disadvantage, including inequality in Aboriginal and Torres Strait Islander health status, have been made at the inter-governmental level over many years.

For example, COAG endorsed the 'National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal peoples and Torres Strait Islanders' in 1992. This recognised the need to address the underlying and fundamental causes of Aboriginal and Torres Strait Islander inequality and disadvantage and for governments to work together in partnership to address this.[106] Very little was done by COAG to advance this commitment during the 1990s.

COAG stated its commitment to reconciliation in its communiqué of November 2000. It noted that, 'Governments can make a real difference in the lives of Indigenous people by addressing social and economic disadvantage, including life expectancy, and improving governance and service delivery arrangements with Indigenous people'. While noting that, 'governments have made solid and consistent efforts to address disadvantage and improvements have been achieved', they also noted that, 'much remains to be done in health and the other areas of government activity'.[107]

Accordingly, COAG committed itself to 'an approach based on partnerships and shared responsibilities with Indigenous communities, programme flexibility and coordination between government agencies, with a focus on local communities

106 Council of Australian Governments, Communiqué, 7 December 1992, available online at www.coag.gov.au/meetings/071292/index.htm#aboriginal.

107 Council of Australian Governments, Communiqué, 3 November 2000, available online at www.coag.gov.au/meetings/031100/index.htm#reconciliation.

and outcomes'.[108] COAG also agreed that, '[w]here they have not already done so, Ministerial Councils will develop action plans, performance reporting strategies and benchmarks'[109] in accordance with these commitments.

Progress in implementing this commitment was initially slow.[110] However, subsequent COAG communiqués have built on this commitment and given content and meaning to it.

In April 2002, COAG agreed to conduct up to 10 whole-of-government community trials for coordinated service delivery to Aboriginal and Torres Strait Islander peoples. At the same meeting, COAG agreed to commission a regular report against key indicators of Aboriginal and Torres Strait Islander disadvantage in order 'to measure the impact of changes to policy settings and service delivery and provide a concrete way to measure the effect of the Council's commitment to reconciliation through a jointly agreed set of indicators.'[111]

Known as the *Overcoming Indigenous Disadvantage Framework,* it reports on progress in addressing both the larger, cumulative or 'headline indicators' that provide a snapshot of the overall state of Aboriginal and Torres Strait Islander disadvantage (such as life expectancy) and a number of supporting 'strategic change indicators' to measure progress within the shorter term. Ultimately, the Framework is built on the vision that 'Indigenous people will one day enjoy the same overall standard of living as other Australians. They will be as healthy, live as long, and participate fully in the social and economic life of the nation.'[112]

In June 2004, COAG then agreed to a *National Framework of Principles for Government Service Delivery to Indigenous Australians* in order to 'underpin government effort to improve cooperation in addressing (Indigenous) disadvantage.'[113] It was also agreed that this framework of principles would 'guide bi-lateral discussions between the Commonwealth and each State and Territory Government on the Commonwealth's new arrangements for Indigenous affairs and on the best means of engaging with Aboriginal and Torres Strait Islander people at the local and regional levels'.[114]

As a consequence of these COAG commitments:

- There is now a joint commitment from all governments in Australia to coordinated service delivery with the objective of addressing Aboriginal and Torres Strait Islander disadvantage, including health inequality.

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108 *ibid.*

109 *ibid.*

110 Most Ministerial Action Plans never materialised: See the commentary in Aboriginal and Torres Strait Islander Social Justice Commissioner, Social Justice Report 2002, HREOC, Sydney, 2002, Chapters 3 and 4. This is also acknowledged by COAG in its communiqué of April 2002: Council of Australian Governments, Communiqué, 5 April 2002, available online at www.coag.gov.au/meetings/050402/index.htm#reconciliation..

111 *ibid.*

112 The Overcoming Indigenous Disadvantage Framework is available online at: www.pc.gov.au/gsp/reports/Indigenous/keyindicators2005/index.html and is reproduced in Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004, ibid.,* Appendix 1 – Chronology.

113 Council of Australian Governments, Communiqué, 25 June 2004, available online at www.coag.gov.au/meetings/250604/index.htm#attachments.

114 *ibid.*

- Efforts towards this goal are to be guided by the *National Framework of Principles for Government Service Delivery.* These address the following themes: sharing responsibility; harnessing the mainstream; streamlining service delivery; establishing transparency and accountability; developing a learning framework; and focusing on priority areas.[115]
- Progress in addressing these commitments is able to be measured against the *Overcoming Indigenous Disadvantage Framework* on a biennial basis.

b) Commitments to address Aboriginal and Torres Strait Islander health inequality at the inter-governmental level

In addition to these commitments to address Aboriginal and Torres Strait Islander disadvantage generally, specific commitments have also been made at the inter-governmental level to address Aboriginal and Torres Strait Islander health inequality. This is through the development of a specific Aboriginal and Torres Strait Islander health policy framework and partnership process.

■ *The National Strategic Framework for Aboriginal and Torres Strait Islander Health*

The *National Aboriginal Health Strategy* (NAHS) of 1989 remains the key document in this regard. The document itself presented problems in terms of implementation (for example, it contained no recommendations). But as a statement of guiding principles, it enjoys broad support among all governments and Aboriginal and Torres Strait Islander peoples.

In July 2003, all Australian Governments renewed their commitments to Aboriginal and Torres Strait Islander health with the agreement of the *National Strategic Framework for Aboriginal and Torres Strait Islander Health* (or the *National Strategic Framework*).[116] This establishes a ten year plan for Aboriginal and Torres Strait Islander health, building on the principles of the NAHS.[117]

The *National Strategic Framework* reflects developments that had occurred since 1996, when responsibility for Aboriginal and Torres Strait Islander health and the implementation of the NAHS was transferred from ATSIC to the Department of Health and Ageing. The first *Framework Agreements for Aboriginal and Torres Strait Islander Health* were also completed and Aboriginal health planning forums were established during this period.

Through the *National Strategic Framework*, all governments recognise that progress in improving Aboriginal and Torres Strait Islander health status has been too slow and is unacceptable. The foreword to the Strategy's *Framework for Action by Governments* states:

> At the beginning of the 21st century, the devastating impact of poor health on Aboriginal and Torres Strait Islander peoples and communities cannot go on. *It is timely for us to commit to a long-term collaborative approach to addressing the*

115 *ibid.* These are also reproduced at: Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004,* HREOC, Sydney, 2005, p182.

116 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health: Framework for action by Governments,* NATSIHC, Canberra, 2003.

117 The *National Strategic Framework* is described by governments as supplementing the principles established in the NAHS and giving content to them: *ibid.,* p2.

health status of Aboriginal and Torres Strait Islander peoples as a matter of urgency. It is time for us to work together across governments and across portfolios in a spirit of bi-partisanship and in full collaboration with Aboriginal and Torres Strait Islander health leaders and communities to progress long-term strategies for sustainable outcomes.[118]

The key commitments of the *National Strategic Framework* are set out in the text box below.

Text Box 7: The *National Strategic Framework for Aboriginal and Torres Strait Islander Health* and specific health strategies

The goal of the *National Strategic Framework* is 'to ensure that Aboriginal and Torres Strait Islander peoples enjoy a healthy life equal to that of the general population that is enriched by a strong living culture, dignity and justice'.[119]

The Strategy also lists the following specific aims to measure whether this goal is achieved:

1. Increase life expectancy to a level comparable with non-Indigenous Australians.
2. Decrease mortality rates in the first year of life and decrease infant morbidity by:
   - Reducing relative deprivation; and
   - Improving well-being and quality of life.
3. Decrease of all-causes mortality rates across all ages.
4. Strengthen the service infrastructure essential to improving access by Aboriginal and Torres Strait Islander peoples to health services and responding to:
   - Chronic disease, particularly cardiovascular disease, renal disease, diseases of the endocrine system (such as diabetes), respiratory disease and cancers;
   - Communicable disease, particularly infections in children and the elderly, sexually transmissible infections and blood borne diseases (including Hepatitis C);
   - Substance misuse, mental disorder, stress, trauma and suicide;
   - Injury and poisoning;
   - Family Violence, including child abuse and sexual assault; and
   - Child and maternal health and male health.[120]

The Framework identifies nine **'key result areas'** for achieving this goal and these aims. These relate to measures to:

- *achieve a more effective and responsive health system* (including a focus on community controlled health care services; the health system delivery framework; development of a health workforce; and focus on social and emotional well-being);
- *influence the health impacts of the non-health sector* (such as through environmental health and wider strategies that impact on health); and
- *provide the infrastructure to improve health status* (including adequate data, research and evidence; resources and finance; and accountability mechanisms).[121]

118 *ibid.,* p2. Emphasis added.

119 *ibid.,* p7.

120 *ibid.*

121 These are set out in more detail in the framework: *ibid.,* pp13-38.

The *National Strategic Framework* also commits governments to work in accordance with the following nine **principles**:

- *Cultural respect:* ensuring that the cultural diversity, rights, views, values and expectations of Aboriginal and Torres Strait Islander peoples are respected in the delivery of culturally appropriate health services.
- *A holistic approach:* recognising that the improvement of Aboriginal and Torres Strait Islander health status must include attention to physical, spiritual, cultural, emotional and social well-being, community capacity and governance.
- *Health sector responsibility:* improving the health of Aboriginal and Torres Strait Islander individuals and communities is a core responsibility and a high priority for the whole of the health sector. Making all services responsive to the needs of Aboriginal and Torres Strait Islander peoples will provide greater choice in the services they are able to use.
- *Community control of primary health care services:* supporting the Aboriginal community controlled health sector in recognition of its demonstrated effectiveness in providing appropriate and accessible health services to a range of Aboriginal communities and its role as a major provider within the comprehensive primary health care context. Supporting community decision-making, participation and control as a fundamental component of the health system that ensures health services for Aboriginal and Torres Strait Islander peoples are provided in a holistic and culturally sensitive way.
- *Working together:* combining the efforts of government, non-government and private organisations within and outside the health sector, and in partnership with the Aboriginal and Torres Strait Islander health sector, provides the best opportunity to improve the broader determinants of health.
- *Localised decision making:* health authorities devolving decision making capacity to local Aboriginal and Torres Strait Islander communities to define their health needs and priorities and arrange for them to be met in a culturally appropriate way in collaboration with Aboriginal and Torres Strait Islander health and health related services and mainstream health services.
- *Promoting good health:* recognising that health promotion and illness prevention is a fundamental component of comprehensive primary health care and must be a core activity for specific and mainstream health services.
- *Building the capacity of health services and communities:* strengthening health services and building community expertise to respond to health needs and take shared responsibility for health outcomes. This includes effectively equipping staff with appropriate cultural knowledge and clinical expertise, building physical, human and intellectual infrastructure, fostering leadership, governance and financial management.
- *Accountability:* including accountability for services provided and for effective use of funds by both community-controlled and mainstream health services. Governments are accountable for effective resource application through long-term funding and meaningful planning and service development in genuine partnership with communities. Ultimately, government is responsible for ensuring that all Australians have access to appropriate and effective health care.[122]

122 *ibid.,* pp2-3.

Specific health strategies

Key Result Area Four of the *National Strategic Framework* is specifically aimed at enhancing the emotional and social well-being of Aboriginal and Torres Strait Islander peoples. An important commitment made was to develop a strategic framework for emotional and social well-being[123] This was released in October 2005: *A National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Well-being 2004-2009.*

The Framework aims to achieve for Aboriginal and Torres Strait Islander peoples 'three basic elements of care':[124]

- Action across all sectors to enhance social and emotional well-being, promote mental health and prevent problems from arising;
- Access to well-resourced and professional primary health care service, including Social Health Teams linked to community initiatives and to mainstream services; and
- Responsive mainstream health services linked in and accessible through the primary health care system.[125]

Implementation will sit within the implementation, monitoring and evaluation arrangements of the *National Strategic Framework* and the *National Mental Health Plan* (2003-2008).[126]

The *National Strategic Framework* also includes a commitment to implement the *National Aboriginal and Torres Strait Islander Hearing Strategy.*[127] The strategy focuses on improving the ear and hearing health of infants and children aged 0-5 years by improving access to health care services and improving standards of care. It was implemented in 1996 with initiatives in four complimentary areas: training and equipment; child health sites; capital infrastructure; and strategic research.[128]

A review of the strategy in 2002 found that although there was much to commend in the strategy, 0-5 year olds were not being effectively reached by it because of its focus on older, school-aged children.[129] There is some suggestion that this is in turn is linked to inadequate reach of primary health care in communities, resulting in a lack of screening of infants.[130]

There is also a commitment to implement the *National Aboriginal and Torres Strait Islander Sexual Health and Blood Borne Virus Strategy*[131] in the *National Strategic Framework*. This is intended to complement the *National HIV/AIDS Strategy 2005-2008*; the *National Hepatitis C Strategy 2005-2008*; and the *National Sexually Transmissible Infections Strategy 2005-2008*. The purpose of the Strategy is to highlight the additional

123 *ibid.,* p17.

124 Australian Health Ministers Advisory Council, *A National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Well Being 2004-2009,* Commonwealth of Australia, Canberra, 2004, p4.

125 *ibid.*

126 *ibid.*

127 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health – Framework for action by governments, op.cit.,* p13.

128 Office of Aboriginal and Torres Strait Islander Health, *National Aboriginal and Torres Strait Islander Hearing Strategy 1995-1999,* 22 September 2004, OATSIH Website: http://www.health.gov.au/internet/wcms/publishing.nsf/Content/health-oatsih-pubs-hearing.htm. (Accessed June 14, 2004).

129 Department of Health and Ageing, *Report on Commonwealth Funded Hearing Services to Aboriginal and Torres Strait Islander Peoples – Strategies for future action,* Commonwealth of Australia, Canberra, October 2002, p6, Key finding no 2.

130 *ibid.,* p18.

131 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health – Framework for action by governments, op.cit.,* p13.

priorities and special issues that are unique to the prevention and treatment needs of Aboriginal and Torres Strait Islander people.[132]

Other health-specific strategies and strategies that are committed to by the *National Strategic Framework* include:

- The *National Drug Strategy: Aboriginal and Torres Strait Islander Peoples Complementary Action Plan*[133] which builds on the *National Tobacco Strategy 2004-2009*[134] and the *National Alcohol Strategy: a plan for action 2001-2003/4*;[135]
- The development of a national Aboriginal and Torres Strait Islander child and maternal health framework;[136]
- The development of a national approach to Aboriginal and Torres Strait Islander oral health[137] and the health of males;[138]
- The *Commonwealth, State and Territory Strategy on Healthy Ageing* (with an Indigenous implementation plan currently being developed);[139] and
- The *Active Australia* strategy.[140]

In accordance with the *National Strategic Framework*, Aboriginal and Torres Strait Islander Health Framework Agreements have been negotiated between the Commonwealth and each state or territory. The Agreements are intended to:

- increase the level of resources for Aboriginal and Torres Strait Islander health to reflect the higher level of need of Aboriginal and Torres Strait Islander peoples;
- improve access to mainstream and Indigenous specific health and health-related programs;
- establish joint planning processes which allow for 'full and formal Aboriginal and Torres Strait Islander participation in decision-making and determination of priorities'; and
- improve data collection and evaluation mechanisms.[141]

132 Department of Health and Ageing, *National Aboriginal and Torres Strait Islander Sexual Health and Blood Borne Virus Strategy 2005-2008,* Commonwealth of Australia, Canberra, 2005, pviii.

133 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health – Framework for action by governments, op.cit.,* p17. Ministerial Council on Drug Strategy, *National Drug Strategy: Indigenous Peoples Complementary Action Plan,* Commonwealth of Australia, Canberra, 2003.

134 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health – Framework for action by governments, op.cit.,* p17. Ministerial Council on Drug Strategy, *National Tobacco Strategy 2004-2009,* Commonwealth of Australia, Canberra, 2004.

135 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health – Framework for action by governments, op.cit.,* p17. National Expert Advisory Committee on Alcohol, *National Alcohol Strategy 2001-2003/4,* Commonwealth of Australia, Canberra, 2001.

136 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health – Framework for action by governments, op.cit.,* p22.

137 *ibid.,* p10.

138 *ibid.,* p17.

139 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health: Context, op.cit.,* p29.

140 *ibid.*, p23. Department of Health and Ageing, *Developing an Active Australia: A framework for physical activity and health,* Department of Health and Ageing, Canberra, 1998.

141 *ibid.*

In accordance with these agreements and the *National Strategic Framework*, each government is required to develop its own implementation plan for addressing the goal and aims of the Framework. This process, including qualifications on how the commitments will be met, is described in the foreword of the *National Strategic Framework* as follows:

> This *National Strategic Framework* commits governments to monitoring and implementation within their own jurisdictions, working together at the national level and working across government on joint initiatives between health departments and other portfolios. Through their Framework Agreement partnership structures, each jurisdiction will develop and publish a detailed Strategic Framework implementation plan including accountabilities for progressing the action areas, timeframes and reporting mechanisms.
>
> Provision of financial resources to implement the Strategic Framework will depend on fiscal management strategies and competing funding priorities as determined by each jurisdiction's budget processes. An independent mid term review of progress against the implementation plan and outcomes achieved will be undertaken and published and an independent evaluation of the *National Strategic Framework*'s outcomes will be conducted and published at its completion. Health portfolios will report on progress annually to the Australian Health Ministers' Conference and biennial whole of government progress reports will be prepared and published. Progress with implementation of this *National Strategic Framework* will be monitored by the Australian Health Ministers' Advisory Council through a joint meeting of its Standing Committee of Aboriginal and Torres Strait Islander Health and the National Aboriginal and Torres Strait Islander Health Council.[142]

Governments have acknowledged that they have failed in the past to make good on their commitments to Aboriginal and Torres Strait Islander peoples in relation to health service provision.[143] They have acknowledged, for example, the findings of the 1994 evaluation of the *NAHS* which stated that it was 'never effectively implemented' due to:

- underfunding by governments in rural and remote areas targeted at meeting the objective of environmental equity by 2001;
- a lack of political will and commitment from all government ministers and ATSIC;
- a lack of accountability for implementation;
- the absence of meaningful partnerships between the mainstream health system and Aboriginal and Torres Strait Islander peoples; and
- the fact that other portfolios, such as housing, essential services, education and local government were not party to the strategy.[144]

Accordingly, the foreword to the *National Strategic Framework* states that:

> Governments intend this *National Strategic Framework* for Aboriginal and Torres Strait Islander Health to inspire confidence amongst Aboriginal and Torres Strait Islander communities, organisations and leaders that we recognise the broader context of health disadvantage amongst Aboriginal and Torres Strait Islander peoples and have a long-term and bipartisan commitment to working with them to address it.[145]

142 *ibid.,* p4.

143 *ibid.,* p4.

144 Aboriginal and Torres Strait Islander Commission, *The National Aboriginal Health Strategy: An evaluation,* ATSIC, Canberra, 1994.

145 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health: Framework for action by Governments, op.cit.,* p4.

In correspondence with my Office, the federal Department of Health and Ageing has noted the progress in developing implementation plans in the past year:

> During 2004-05 the Department developed the Australian Government Implementation Plan 2003-2008 against the *National Strategic Framework for Aboriginal and Torres Strait Islander Health 2003-2013* and worked with jurisdictions on a reporting framework for the Implementation Plans that of all jurisdictions will replace the existing Framework Agreement reporting and assist in streamlining reporting.[146]

They also note progress in finalising the Health Performance Framework for monitoring and evaluation progress under the *National Strategic Framework*:

> During 2004-05, the Department provided a significant contribution to the development of the new Aboriginal and Torres Strait Islander Health Performance Framework which is being auspiced by the Standing Committee on Aboriginal and Torres Strait Islander Health. This Framework has been developed to provide the basis for quantitative measurement of the impact of the *National Strategic Framework for Aboriginal and Torres Strait Islander Health*. It will replace the existing National Performance Indicators from 2006 and will provide the focus for improvements in Indigenous health data in the longer term.
>
> The Aboriginal and Torres Strait Islander Health Performance Framework… includes a set of around 90 performance measures in three Tiers:
>
> – health outcomes;
> – determinants of health; and
> – health system performance.
>
> *Tier 1 Health Outcomes* includes measures of health conditions, life expectancy and mortality. *Tier 2, Determinants of Health* includes measures of socioeconomic factors, environmental factors and risk factors that all have an influence on final health outcomes. *Tier 3, Health System Performance* measures the effectiveness, capability and sustainability of the health system in relation to Indigenous health. It measures inputs and intermediate outcomes of the health system (such as antenatal care, immunisation, screening, management of chronic illness etc where there is clear evidence in the literature of a linkage between health system activity and health outcomes). The Health Performance Framework measures the performance of the whole health system in relation to Aboriginal and Torres Strait Islander health.
>
> The new Health Performance Framework is consistent with the COAG principles for service delivery and incorporates the majority of the health related performance measures from the National Reporting Framework on Indigenous Disadvantage and extends these to cover health outcomes more broadly such as health conditions, mortality by leading causes and health system performance beyond the issue of accessibility.[147]

Despite this extensive system of monitoring, the *National Strategic Framework* does not require the setting of timeframes within which to achieve the goal and aims set out in the Framework. It states that:

> each jurisdiction will develop and publish a Strategic Framework Implementation Plan against which progress in the jurisdiction will be measured. *Within this implementation plan each jurisdiction will be responsible for determining its own specific initiatives, priorities and timeframes…*

146 Department of Health and Ageing, Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner regarding the Social Justice Report 2005, 21 July 2005, p4.

147 *ibid.,* p4. Emphasis added.

> This *National Strategic Framework* sets agreed direction for reform in Aboriginal and Torres Strait Islander health *without imposing specific targets or benchmarks on the Commonwealth, State and Territory governments in recognition of the different histories, circumstances and priorities of each jurisdiction.* Therefore, reporting will record progress in areas consistent with the action areas detailed in each key result area and against the stated aims and, over time, chart each government's progress against their own baselines.[148]

The *National Strategic Framework* does, however, indicate in general terms the type of results that can be anticipated over the life of the Framework:

> Some results of the *National Strategic Framework* for Aboriginal and Torres Strait Islander Health will be seen in the shorter term, such as the provision of enhanced primary care services under the Primary Health Care Access Program, outcomes of environmental health surveys, and outcomes of existing workforce capacity building initiatives.
>
> In the medium term, it will be important to assess the aims of the key result areas to ensure that important initiatives are being implemented, including changes to service delivery, enhanced community participation and increases in the numbers of Aboriginal and Torres Strait Islander health professionals.
>
> Some impacts on health outcomes may be expected in the medium term, such as changes to the health care provided to infants and young children and reductions in communicable diseases as a result of improved health information and immunisation programs. However, some results will take longer to achieve. Change in health outcomes must be monitored and the aim of reducing incidence, prevalence and impact of these disorders kept firmly in mind.[149]

In summary, the *National Strategic Framework*:

- sets out a coordinated framework for all governments to work in partnership to address Aboriginal and Torres Strait Islander health inequality;
- recognises that addressing Aboriginal and Torres Strait Islander health inequality is a shared responsibility between governments and requires partnerships with Aboriginal and Torres Strait Islander communities;
- acknowledges that governments have, in part, failed to deliver on their commitments in the past, and so introduces a more comprehensive monitoring framework which involves bilateral agreements between the Commonwealth and the states and territories, implementation plans and health planning forums;
- is now supported by a revised Aboriginal and Torres Strait Islander Health Performance Framework, which has been agreed at the inter-governmental level to report progress on the *National Strategic Framework*;
- sets the goal as achieving health equality, with a number of identified aims to support this;
- acknowledges the urgency of addressing Aboriginal and Torres Strait Islander health inequality, although it does not set a timeframe, targets

148 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health: Framework for action by Governments, op.cit.,* pp39-40. Italics added.

149 *ibid.,* p40.

or benchmarks for achieving the goals and aims of the Framework; and

- recognises the importance of addressing a wide variety of related issues outside of the health sector which have an impact on Aboriginal and Torres Strait Islander people's well-being.

■ *Public health strategies relating to Aboriginal and Torres Strait Islander peoples*

The National Public Health Partnership Group (NPHP) was established in 1996 by the Australian Health Ministers' Advisory Council to provide a mechanism for the Commonwealth, States and Territory governments to come together to develop joint approaches to public health. It currently operates under a Memorandum of Understanding signed by all Australian Health Ministers in February 2003, for the period 2003-2007.[150]

In 2002, the NPHP published *Guidelines for the development, implementation and evaluation of National Public Health Strategies in relation to Aboriginal and Torres Strait Islander peoples*.[151]

A number of national strategies and commitments in relation to environmental health workers, housing and the supply of food have also been developed. An overview of these frameworks is provided in the Text Box below. All require governments to work with Aboriginal and Torres Strait Islander communities to plan and deliver aspects of health infrastructure. However, there is yet to be developed an overarching strategy to address health infrastructure needs in communities in an integrated fashion.

Text Box 8: Public health strategies relating to health infrastructure

(a) National Environmental Health Strategy

The *National Environmental Health Strategy* has as an outcome 'environmental health justice' for Aboriginal and Torres Strait Islander peoples. It sets out establishing collaborative approaches and partnerships to address housing, adequate safe water, food supplies and waste disposal as priorities.[152] The *National Environmental Health Strategy Implementation Plan* sets out the 'challenge' of 'improv[ing] the health status of Indigenous Australian communities through the development of appropriate environmental health standards commensurate with the wider Australian population'.[153] The enHealth Council, responsible to the National Public Health Partnership, is responsible for providing national leadership and pursuing the partnerships necessary to implement the plan.[154]

In relation to Aboriginal and Torres Strait Islander communities, the *National Environmental Health Strategy Implementation Plan* commits to training Environmental Health Workers (EHW) to provide services and maintain health infrastructure on the

150 See the National Public Health Partnership (NPHP) website for the history of the NPHP: http://www.nphp.gov.au/about/background.htm; and its terms of reference and objectives: http://www.nphp.gov.au/about/tor.htm.

151 National Public Health Partnership, *Guidelines for the development, implementation and evaluation of National Public Health Strategies in relation to Aboriginal and Torres Strait Islander peoples,* NPHP, Canberra, 2002.

152 Department of Health and Aged Care, *National Environmental Health Strategy,* Commonwealth of Australia, Canberra, 1999, p23.

153 *ibid.,* p14.

154 *ibid.,* p6.

ground in Aboriginal and Torres Strait Islander communities on a day to day basis.[155] Developing a consensus on national standards for the education and training of EHWs is an important component of the approach.[156] The health sector has committed to supporting the strategy through the *National Strategic Framework*, although it is not yet clear whether that will translate into extra funds to provide workers on the ground.[157]

(b) Eat Well Australia

Eat Well Australia 2000-2010 is the national public health nutrition strategy developed under the auspices of the NPHP. It includes the *National Aboriginal and Torres Strait Islander Nutrition Strategy and Action Plan 2000-2010* (NATSINSAP), developed by a working party and endorsed by Australian Health Ministers, in 2001.[158]

In common with many of the other the plans and strategies discussed in this chapter, there were no recommendations for funding attached to the *NATSINSAP*. The Office for Aboriginal and Torres Strait Islander Health, has provided funding for the employment of a Project Officer to support targeted national implementation through the Strategic Inter-Governmental Nutrition Alliance. The National Steering Committee is focusing on two of the key action areas: Workforce and Food Supply.[159]

(c) Building a better future

The Commonwealth Government, with the States, helps to fund Indigenous-specific public housing provided through Indigenous Housing Organisations. The Aboriginal Rental Housing Program (AHRP), a component of the Commonwealth-State Housing Agreements, aims to improve the healthiness and expand upon the housing stock available for rental by Aboriginal and Torres Strait Islander people through IHOs.[160]

In 2001, Indigenous Housing Agreements (IHAs) were negotiated between the Commonwealth Government, some State and Territory governments and, originally, ATSIC.[161] Each agreement is different (some covering housing as well as health infrastructure programs). However, they share common features:

- The pooling of funds and the delivery of CHIP and ARHP as one program;
- The establishment of an Indigenous Housing Authority in each State and Territory to provide for greater Aboriginal and Torres Strait Islander decision making and community involvement in the delivery of housing programs.

Just as the *National Strategic Framework* is intended to be a guide to the planning activities of the Partnership Forums, the *Building a Better Future: Indigenous Housing to 2010* (BBF) strategy is designed to guide the planning activities of Indigenous Housing Authorities and a whole of government approach.

155 *ibid.,* pp9-10.

156 enHealth Council, *National Review of Indigenous Environmental Health Workers, Discussion Paper,* Department of Health and Ageing, Canberra, 2004, p3.

157 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health – Framework for Action by Governments, op.cit.,* p20, Key Result Area 5.

158 National Aboriginal and Torres Strait Islander Nutrition Working Party, *National Aboriginal and Torres Strait Islander Nutrition Strategy and Action Plan 2000-2010,* NPHP, Canberra, 2001, p8.

159 Office of Aboriginal and Torres Strait Islander Health, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner,* 5 November, 2004.

160 Department of Family and Community Services website: http://www.facs.gov.au/internet/facsinternet.nsf/indigenous/programs-arhp.htm, 27 May 2005, (Accessed 12 September 2005).

161 McIntosh, G. and Phillips, J., 'Commonwealth-State Housing Agreements', Parliamentary Library of Australia website: http://www.aph.gov.au/library/intguide/sp/statehouseagree.htm, 29 November 2001. (Accessed September 2, 2004).

BBF also considers environmental health, self management of communities, Aboriginal and Torres Strait Islander communities as partners in service delivery and the investigation of other forms of housing tenure to community housing including public housing, mainstream community housing and home ownership.

BBF includes the following vision for Aboriginal and Torres Strait Islander housing:

Aboriginal and Torres Strait Islander people throughout Australia will have:

- access to affordable and appropriate housing which contributes to their health and well-being;
- access to housing which is safe, well-designed and appropriately maintained.
- a vigorous and sustainable Aboriginal and Torres Strait Islander community housing sector, operating in partnership with the Australian Government and State and Territory and local governments; and
- Aboriginal and Torres Strait Islander housing policies and programs are well developed and administered in consultation and cooperation with Aboriginal and Torres Strait Islander communities with respect for Aboriginal and Torres Strait Islander cultures.[162]

A draft *Framework for Evaluating Building a Better Future: Indigenous Housing to 2010* was completed in June 2005 by the National Indigenous Housing Implementation Committee.[163]

c) Aboriginal and Torres Strait Islander health and the new arrangements for the administration of Indigenous affairs at the federal level

The COAG commitments noted above and the health sector specific processes underway for Aboriginal and Torres Strait Islander health exist alongside newly introduced arrangements for the administration of Indigenous affairs at the federal level. These new arrangements are intended to ensure:

- direct engagement with Aboriginal and Torres Strait Islander peoples at the local level (including through Shared Responsibility Agreements);
- needs-based planning at a regional level (including through Regional Partnership Agreements and the operation of regional Indigenous Coordination Centres);
- improved whole of government coordination (both between federal departments and between levels of government); and
- improved accessibility of mainstream services.[164]

The new arrangements apply to *all* federal government activity, including the delivery of health programs and services. It is also anticipated that the states and territories will align their service delivery processes with the new arrangements. This is asserted based on the agreement of the *National Framework of Principles*

162 Department of Family and Community Services, *Community Housing and Infrastructure Program, Program Guidelines 2005-06,* FACS, Canberra, 2005, (no page nos.), Section 1.

163 Rogers, P., Stevens, K. and Briskman, L., *(et al), Framework for Building a Better Future Indigenous Housing to 2010, Vol. 2: Proposed Evaluation Framework,* Australian Housing and Urban Research Institute, Canberra, June 2005, available online at http://www.ahuri.edu.au/global/docs/doc843.pdf?CFID=406747&CFTOKEN=29475227.

164 For a detailed overview of the new arrangements see Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004,* HREOC, Sydney, 2005, Chapter 2 and Appendix 1.

for Government Service Delivery to Indigenous Australians and the negotiation of bilateral agreements on Indigenous affairs based on these principles.[165]

There is already an extensive focus within the health sector on the type of issues that the new arrangements are grappling with. For example, the Framework Agreements on Aboriginal and Torres Strait Islander Health in each state and territory establish processes for advancing policy development, planning and resource allocation in a coordinated manner at the inter-governmental level and in partnership with Aboriginal and Torres Strait Islander communities (through community controlled health organisations).

Similarly, the Primary Health Care Access Program (PHCAP), which is the main program for the delivery of primary health care services to Aboriginal and Torres Strait Islander communities:

- is underpinned by a regional planning process which seeks to engage with Aboriginal and Torres Strait Islander communities to identify the key health needs and planning priorities for each region;
- recognises the importance of Aboriginal community controlled service delivery, and is supportive of local Aboriginal and Torres Strait Islander participation;
- is focused on improving the accessibility of mainstream services, such as through establishing mechanisms to improve access to Medicare and the Pharmaceutical Benefits Scheme and the funding available through these;
- involves coordinated care trials which have focused on achieving improved whole of government and holistic service delivery; and
- includes capacity building as a significant component of all strategies for improved access to health care.

The *National Strategic Framework for Aboriginal and Torres Strait Islander Health* notes that while a responsive health system is fundamentally important, 'action in areas such as education, employment, transport and nutrition is also required if sustainable health gains are to be achieved'.[166] Accordingly, one of the groupings of Key Result Areas in the *National Strategic Framework* relates to influencing the health impacts of the non-health sector. It states:

> The health sector can contribute to action on the agendas of other portfolios through research, advocacy, partnerships and linkages. Comprehensive primary health care services provide the infrastructure, and the *Framework Agreements* the partnership arrangements for intersectoral collaboration between the health sector, members of Aboriginal and Torres Strait Islander communities, other government agencies, the private sector and voluntary organisations. It is clear, however, that action on broader intersectoral issues also requires a commitment to undertake activity consistent with the overall vision of this *National Strategic Framework* from government ministers in other portfolios at the Commonwealth and state/territory level.[167]

165 These bilateral agreements related to service delivery to Indigenous peoples generally, and are in addition to existing framework agreements in specific areas, such as health and housing.

166 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health: Framework for action by Governments, op.cit.,* p24.

167 *ibid.*

Achieving such integration has been a central challenge for the health sector over the past decade. As discussed above, the 1994 evaluation of the *National Aboriginal Health Strategy* found that one of the reasons for the failure of that strategy had been the lack of engagement with the strategy by portfolios other than health.

The new arrangements provide the opportunity to sharpen the focus of service delivery so that it addresses those related issues that impact on Aboriginal and Torres Strait Islander health and to do so within an integrated framework.

The potential of the new arrangements to address these issues has been acknowledged by the Department of Health and Ageing. In correspondence with my Office, they note:

> In light of the changed arrangements in Indigenous Affairs, ICCs (Indigenous Coordination Centres) now represent the key mechanism that Aboriginal communities can use to contribute to the whole of government health planning and priority setting.[168]

They also acknowledge the potential to better utilise the existing processes set up in accordance with the framework agreements on Aboriginal and Torres Strait Islander health with the states and territories and under the Primary Health Care Access Program (PHCAP):

> Under PHCAP, regional planning arrangements provide an important mechanism for promoting effective working relationships with Indigenous communities through the activities of joint planning forums, local regional steering committees and planning consultants. These planning processes enable direct engagement with Indigenous communities in the identification of key health needs and planning priorities. The momentum gained through the planning processes and structures needs to be maintained after regional plans are completed… in order to capitalise on the benefits of continued community involvement.
>
> The regional plans developed to date include a broad examination of health needs – including analysis of the underlying determinants of health such as the quality and availability of housing, environment issues (e.g. clean water supply and adequate sanitation) and adequate employment and education opportunities. *Specific recommendations emerging from the regional planning process could prove useful in the inter-agency negotiations conducted through the ICCs*.[169]

As at 30 June 2005, the arrangements for aligning activities in the health sector with those of ICC's, and more generally under the new arrangements, were as follows:

- The Department of Health and Ageing had four staff nationally who were located in ICC's (two in Broome, one in Port Hedland and one in Darwin).[170]
- The Department intends to use the 'staffing resources transferred to it with the abolition of ATSIC and ATSIS to establish its physical presence in Indigenous Coordination Centres across the country. These resources comprised a mix of occupied and unoccupied positions across a range of APS levels in a range of locations and will be used to

168 Department of Health and Ageing, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner regarding the Social Justice Report 2005, op.cit.,* p8.

169 *ibid.,* p5. Emphasis added.

170 The substantive levels of these staff were as follows: 1 x Executive Level 1, 2 x APS6, 1 x APS4: *ibid.,* p1.

recruit, over time, solution brokers at the APS6 – EL1 levels. Solution brokers will represent the Department's programs within ICCs, and in particular, in the development of Shared Responsibility Agreements (SRAs) and Regional Partnership Agreements (RPAs)'.[171]

- Until these solution brokers are recruited and placed in ICCs, '*ICC Contact Officers* have been established in the Department's State and Territory offices' who serve as 'an important point of contact for ICC managers in relation to SRA development around health issues'.[172]
- To date, six (6) SRAs have been finalised which involve funding contributions from programs run by the Department of Health and Ageing.[173] Further SRA's are under negotiation which involve either funding contributions from the Department or other support and assistance to Aboriginal and Torres Strait Islander communities.[174]
- The Department of Health and Ageing has also invited State policy managers from the Office of Indigenous Policy Coordination to participate in the state-level Aboriginal Health Forums, in order to facilitate engagement with Aboriginal and Torres Strait Islander communities at the regional level.[175]
- The Department have also noted that 'Over time, the work of ICCs will link in to health planning processes established under the… Framework Agreements (on Aboriginal and Torres Strait Islander health) and implemented through Aboriginal Health Forums at the State and Territory level.'[176]

These actions to align activities on Aboriginal and Torres Strait Islander health with the operation of ICC's are welcomed. The clear recognition from the Department of Health and Ageing of the central role of ICCs in coordinating federal government activity at the regional level is also welcomed.

I acknowledge that the efforts to build the capacity of the Department of Health and Ageing to fully participate in the new arrangements are at an early stage.

It is also acknowledged that further improvements in coordination of activity will most likely be built into the Framework Agreements on Aboriginal and Torres

171 Department of Health and Ageing, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner regarding the Social Justice Report 2005, op.cit.,* p7. At the time of finalising this report, it was understood that an extensive recruitment process was underway for these positions.

172 *ibid.*

173 These are Larrakia Nation Aboriginal Corporation SRA (Darwin, NT) – funding to support the Larrakia Tank Art Project – Youth at Risk Project; Aboriginal Community of Wanarn (WA) (attached to the Ngaanyatjarra RPA) – funds to build a nutrition and training centre attached to the store; Lockhart River SRA (QLD) – funds for the employment of a number of part-time community education and diversion coordinators; Yungngora SRA (WA) – funds towards the establishment of an ablution block and laundry; Cape Barren Island SRA (TAS) – funds towards the establishment of the Cape Barren Island Community Well-being Centre; and Western Desert Nganampa Walytja Palyantjaku Tjutaku (WDNWPT) SRA (NT) – funds for the purchase of a bus to facilitate access to health services and the maintenance of social networks for renal patients and their families while they are in Alice Springs. Source: *Correspondence between Social Justice Commissioner's Office and Office of Aboriginal and Torres Strait Islander Health,* 4-5 October 2005.

174 These SRAs are in addition to those being brokered through the Anangu Pitjantjatjara Lands (APY Lands) COAG Trial site.

175 Department of Health and Ageing, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner regarding the Social Justice Report 2005, op.cit.,* p7.

176 *ibid.,* pp7-8.

Strait Islander Health when they are next renegotiated between governments. It must be recognised, however, that the COAG *Principles for government service delivery to Indigenous Australians* already require governments to work together to better coordinate their service delivery and so, strictly speaking, the alignment of health service delivery with the new arrangements is not dependent on the re-negotiation of the framework agreements.

Overall, it is fair to say that the Department of Health and Ageing has not played a significant role in the roll-out of the new arrangements for the administration of Indigenous affairs to date. In particular, the Department does not as yet have a significant presence in Indigenous Coordination Centres and has limited capacity to influence the strategic directions underpinning engagement at the regional level and through agreement making processes such as SRAs. Similarly, the new arrangements have not sought to build on the significant progress and experience of the health sector. At this early stage, the new arrangements are yet to:

- apply the methodologies and lessons learned from the health sector;
- build upon the significant community resources and capacity that exists through the Aboriginal community controlled health sector – for example, by building a relationship between the Aboriginal Community Controlled Health Organisations and ICCs at the regional level; or
- build on the findings and recommendations of the regional planning processes conducted under the state-wide Aboriginal Health Forums – despite these processes identifying the priority health needs of Aboriginal and Torres Strait Islander people for each region and involving broad-based community consultation and providing a solid evidence base.

As a consequence, there is a disconnect between existing programs relating to Aboriginal and Torres Strait Islander health and the whole of government approach adopted through the new arrangements. This is despite the clear inter-connections between the issues. Even though there is recognition by governments that Aboriginal and Torres Strait Islander health outcomes require a holistic response in order to achieve lasting and sustainable improvements, in most instances issues are still being addressed separately.

d) Summary – Existing policy frameworks and the challenge of addressing Aboriginal and Torres Strait Islander health inequality

So what can we ascertain about the existing policy environment for addressing Aboriginal and Torres Strait Islander health inequality?

First, there has been significant work completed over the past 3 years to reinvigorate the commitments of governments to address Aboriginal and Torres Strait Islander health inequality through the *National Strategic Framework*. This commits governments to work in a holistic, whole of government manner and in partnership with Aboriginal and Torres Strait Islander peoples.

Second, processes have been put into place to administer the *National Strategic Framework* and through which to achieve the Framework's goal and aims. This includes through the finalisation of bilateral health agreements between the Commonwealth and states and territories; the establishment of state level health forums; the development of regional plans which identify needs and priorities;

and the establishment of a national performance monitoring framework. The 'whole of government' machinery necessary to implement the commitments of COAG is in place.

Third, there has been significant work to address many public health issues affecting Aboriginal and Torres Strait Islander peoples, notably commitments in place in relation to environmental health workers, food and housing. There is, however, an absence of an overarching strategic response to public health issues (notably health infrastructure) faced by Aboriginal and Torres Strait Islander peoples.

Fourth, the specific commitments to address Aboriginal and Torres Strait Islander health inequality have progressed parallel to the agreement by COAG of commitments and processes to address Aboriginal and Torres Strait Islander disadvantage more generally (such as through the establishment of the *Overcoming Indigenous Disadvantage* reporting framework and the principles for service delivery to Aboriginal and Torres Strait Islander peoples). The health specific and Aboriginal and Torres Strait Islander disadvantage commitments are being progressed in a consistent manner, and are mutually reinforcing. However, both processes could benefit from better coordination of activities, including through building on the achievements and structures that have been established in relation to health.

Fifth, the more established approach in the health sector has not played a significant role during the first twelve months of these new arrangements for the administration of service delivery at the federal level. There remains much potential to learn from the achievements and structures of the health sector, particularly through its engagement with Aboriginal and Torres Strait Islander communities and assessment of need on a regional basis. The health sector could be more actively engaged in progressing the new arrangements. This would also clearly benefit efforts to address health issues that are impacted on through the activities of other departments.

Finally, the current processes recognise the urgency of the need to address Aboriginal and Torres Strait Islander health inequality. There is acknowledgement that efforts to address this in the past, such as those undertaken in accordance with the NAHS from 1989 to 1994, were insufficient. There is now a more sophisticated basis for planning activities and monitoring progress than in the past. There is also no broader agenda for setting a timeframe within which to achieve equality in health status or to match funding contributions and activities to the achievement of this goal.

Accordingly, the key issue for Aboriginal and Torres Strait Islander health remains the need to implement the extensive commitments of governments and to ensure that the quantum and pace of activities is sufficient to achieve the goal of addressing Aboriginal and Torres Strait Islander health inequality.

4. The human rights based approach to health

Human rights provide a framework for addressing the consequences the health inequality experienced by Aboriginal and Torres Strait Islander peoples. This includes recognising its underlying causes as well as the inter-connections with other issues. Human rights require more than a rhetorical acknowledgement of the existence of inequality and general commitments to overcome this situation at some unspecified time in the future.

Ultimately, human rights standards provide a system to guide policy making and to influence the design, delivery and monitoring and evaluation of health programs and services. It is a system for ensuring the accountability of governments.

This section of the chapter outlines the human rights based approach to health. While issues relating to health and human rights have been of international concern since the establishment of the United Nations, 'the actual linkages between health and human rights had not been recognized even a decade ago.'[177] Since then:

> a "health and human rights" language (has developed)… which has allowed for the connections between health and human rights to be explicitly named, and therefore for conceptual, analytical, policy and programmatic work to begin to bridge these disparate disciplines and to move forward. In the last few years human rights have increasingly been at the centre of analysis and action in regard to health and development issues.[178]

There are three main issues at the international level which are drawn on in setting out a human rights based approach to health. These are the application to the right to health of *over-arching principles of non-discrimination and progressive realisation*; the emergence in international practice of the *connection between human rights standards and participatory development processes*; and the content of *the right to health itself*.

a) Non-discrimination and the progressive realisation principle

Article 2 of the International Covenant on Economic, Social and Cultural Rights states that:

> 1. Each State Party to the present Covenant undertakes to take steps… to the *maximum of its available resources*, with a view to *achieving progressively* the full realization of the rights recognized in the present Covenant by *all appropriate* means, including particularly the adoption of legislative measures. *(emphasis added)*.
>
> 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The non-discrimination principle outlined above (in Article 2(2)) applies to all human rights. It establishes a baseline position that all people are entitled to be treated equally and to be given equal opportunities. The progressive realisation principle (as outlined in Article 2(1)) gives meaning to this principle where such

177 Gruskin, S. and Tarantola, D., *Health and human rights,* in Editors, Detels, R. and Beaglehole, R., The Oxford Textbook of Public Health, Oxford University Press, Oxford, 2001, p311.

178 *ibid.*

equality does not exist for a particular group defined by race, sex or range of other characteristics.

There are two key features to the obligation 'to take steps' in Article 2(1). First, it allows governments to introduce specific measures to addressing the lack of equality experienced by a particular group within society. This includes a group defined by race, such as Aboriginal and Torres Strait Islander peoples.

Each of the main human rights treaties contains a provision which encourages (and indeed requires)[179] governments to redress inequality in the enjoyment of economic, social, cultural or civil and political rights. These provisions are sometimes referred to as 'special measures' provisions.[180] They are a form of differential treatment that is considered non-discriminatory. This is because they are aimed at achieving substantive equality *or* equality 'in fact' *or* outcome.

The rationale for such measures is that 'historical patterns of racism entrench disadvantage and more than the prohibition of racial discrimination is required to overcome the resulting racial inequality'.[181] Special measures are time limited, in that they can only be justified for so long as there is a situation of inequality which they are aimed at redressing. They cannot, therefore, lead to the maintenance of separate rights for different racial groups and are not to be continued after the objectives for which they were taken have been achieved.[182]

Second, the obligation 'to take steps' in Article 2(1) also means that governments must progressively achieve the full realisation of relevant rights and to do so without delay. Steps must be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.[183]

The High Commissioner for Human Rights has described this principle and its relevance to policy-making as follows:

> Since the realization of most human rights is at least partly constrained by the availability of scarce resources, and since this constraint cannot be eliminated overnight, the international human rights law explicitly allows for progressive realization of rights… While the idea of progressive achievement is common to all approaches to policy-making, the distinctiveness of the human rights approach is that it imposes certain conditions on the behaviour of the State so that it cannot use progressive realization as an excuse for deferring or relaxing its efforts.
>
> First, the State must take immediate action to fulfill any rights that are not seriously dependent on resource availability. Second, it must prioritize its fiscal operations so that resources can be diverted from relatively non-essential uses to those that are essential for the fulfillment of rights that are important for poverty reduction. Third, to the extent that fulfillment of certain rights will have to be deferred, the State must develop, in a participatory manner, a time-bound plan of action for their progressive realization. The plan will include a set of intermediate as well as

179 For example, Article 2(2) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) requires governments to pay attention to the socio-economic situation of ethnic or minority groups 'in order to ensure that their development in the social, economic and cultural spheres takes place on an equal footing with that of the general population': Valencia Rodriguez, L., 'The International Convention on the Elimination of All Forms of Racial Discrimination' in United Nations Centre for Human Rights, *Manual on human rights reporting under six major international human rights instruments,* UNCHR Geneva/New York 1991, p131.

180 This is the term given to such remedial programs in Articles 1(4) and 2(2) of ICERD.

181 Race Discrimination Commissioner, *The CDEP scheme and racial discrimination,* HREOC, Sydney, 1997, p40.

182 Article 1(4), ICERD.

183 Committee on Economic, Social and Cultural Rights (CESCR), *General Comment 3: The nature of States parties obligations.* Contained in UN Doc: E/1991/23, 14/12/90 para 2.

> long-term targets, based on appropriate indicators, so that it is possible to monitor the success or failure of progressive realization. Finally, the State will be called to account if the monitoring process reveals less than full commitment on its part to realize the targets.[184]

Accordingly,

> The idea of progressive realization has two major strategic implications. First, it allows for a time dimension in the strategy for human rights fulfillment by recognizing that the full realization of human rights may have to occur in a progressive manner over a period of time. Second, it allows for setting priorities among different rights at any point in time since the constraint of resources may not permit a strategy to pursue all rights simultaneously with equal vigour.[185]

This approach requires that governments identify appropriate indicators, in relation to which they should set ambitious but achievable benchmarks, so that the rate of progress can be monitored and, if progress is slow, corrective action taken. Setting benchmarks enables government and other parties to reach agreement about what rate of progress would be adequate. Such benchmarks should be:

- Specific, time bound and verifiable;
- Set with the participation of the people whose rights are affected, to agree on what is an adequate rate of progress and to prevent the target from being set too low; and
- Reassessed independently at their target date, with accountability for performance.[186]

My predecessor as Social Justice Commissioner elaborated on this rights-based approach in the context of addressing Aboriginal and Torres Strait Islander disadvantage. In particular, he identified five integrated requirements that need to be met to incorporate a human rights approach into redressing Aboriginal and Torres Strait Islander disadvantage and to provide sufficient government accountability. Namely:

- Making an unqualified national commitment to redressing Indigenous disadvantage;
- Facilitating the collection of sufficient data to support decision-making and reporting, and developing appropriate mechanisms for the independent monitoring and evaluation of progress towards redressing Indigenous disadvantage;
- Adopting appropriate benchmarks to redress Indigenous disadvantage, negotiated with Indigenous peoples, state and territory governments and other service delivery agencies, with clear time-frames for achievement of both longer term and short-term goals;
- Providing national leadership to facilitate increased coordination between governments, reduced duplication and overlap between services; and

184 Hunt, P., Osmani, S. and Nowak, M., *Summary of the draft guidelines on a human rights approach to poverty reduction,* OHCHR, Geneva, 2004, paras 19-20.

185 High Commissioner for Human Rights, *Human rights and poverty reduction – a conceptual framework,* United Nations, Geneva 2004, p22.

186 United Nations Development Programme, *Human Development Report 2000,* as quoted in Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2002,* HREOC Sydney 2002, p101.

- Ensuring the full participation of Indigenous organisations and communities in the design and delivery of services.[187]

b) The human rights based approach to development

There have been a number of developments at the international level in recent years which have seen a clearer understanding emerge of the relationship between human rights and development and poverty eradication. Past Social Justice and Native Title Reports have highlighted this work[188] – such as the extensive focus on human rights by the United Nations Development Programme, including through its annual Human Development Reports; increased focus on the right to development; and also through the drafting of guidelines on human rights and poverty eradication by the High Commissioner for Human Rights and the United Nations Development Programme.

These have emerged largely as a result of the objective set in 1997 by the Secretary-General of the United Nations, Mr Kofi Annan, to mainstream human rights into all United Nations activities. This has been reaffirmed through the Millennium Declaration of 2000 and the commitment of all countries to achieve the *Millennium Development Goals*[189] (MDGs) by 2015.

The focus of the MDGs is very much centred on developing nations. The usual context in which the involvement of countries like Australia is discussed is in relation to international aid, technical assistance and debt relief. But the implications of this focus on poverty eradication clearly relate to the situation of Aboriginal and Torres Strait Islander peoples in Australia. It is ironic that the Government has committed to contribute to the international campaign to eradicate poverty in third world countries by 2015, but has no similar plans to do so in relation to the extreme marginalisation experienced by Aboriginal and Torres Strait Islander Australians.

One of the most significant outcomes of this focus on integrating human rights and development and poverty eradication activities has been the agreement among the agencies of the United Nations of the *Common Understanding of a Human-Rights Based Approach to Development Cooperation*.[190]

This document outlines the human rights principles that are common to the policy and practice of the UN bodies. The *Common Understanding* states that these principles are intended to guide programming in relation to health, among other issues.[191] This includes all development cooperation directed towards the achievement of the *Millennium Development Goals* and the Millennium Declaration.

187 *Social Justice Report 2002, ibid.*, p93.

188 See in particular: *Social Justice Report 2000; Social Justice Report 2002;* and *Native Title Report 2003*.

189 The goals are: eradicate extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce child mortality; improve maternal health; combat HIV/AIDS, malaria and other diseases; ensure environmental sustainability; and develop a global partnership for development.

190 United Nations, *The Human Rights-Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies*, United Nations, New York 2003, available online at: www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf.

191 Such as education, governance, nutrition, water and sanitation, HIV/AIDS, employment and labour relations, and social and economic security.

The *Common Understanding* has three principles. Namely, that:

- all programmes, policies and technical assistance should further the realisation of human rights;
- human rights standards guide all development cooperation and all phases of programming; and
- development cooperation contributes to the development of the capacity of 'duty-bearers' to meet their obligations and of 'rights-holders' to claim their rights.[192]

The *Common Understanding* also identifies the following elements that are 'necessary, specific, and unique to a human rights-based approach' to development.[193]

Text Box 9: Elements of a human rights based approach to development

- Assessment and analysis identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realisation of rights.
- Programs assess the capacity of rights-holders to claim their rights and of duty-bearers to fulfill their obligations. They then develop strategies to build these capacities.
- Programs monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- Programming is informed by the recommendations of international human rights bodies and mechanisms.

Other elements of good programming practices that are also essential under a human rights based approach include that:

(i) People are recognised as key actors in their own development, rather than passive recipients of commodities and services.
(ii) Participation is both a means and a goal.
(iii) Strategies are empowering, not disempowering.
(iv) Both outcomes and processes are monitored and evaluated.
(v) Analysis includes all stakeholders.
(vi) Programs focus on marginalised, disadvantaged, and excluded groups.
(vii) The development process is locally owned.
(viii) Programs aim to reduce disparity.
(ix) Both top-down and bottom-up approaches are used in synergy.
(x) Situation analysis is used to identity immediate, underlying, and basic causes of development problems.
(xi) Measurable goals and targets are important in programming.
(xii) Strategic partnerships are developed and sustained.
(xiii) Programs support accountability to all stakeholders.

These principles provide useful guidance for incorporating participatory development principles into domestic policies and programs relating to Aboriginal and Torres Strait Islander health.

192 United Nations, *op.cit.,* p2.
193 *ibid.,* p3.

c) The right to the enjoyment of the highest attainable standard of health

Article 12 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'.

A detailed overview of the content of this right is provided at **Appendix 4** of this report. The key elements of this right are set out in the following text box. It reflects the understanding of the progressive realisation principle and participatory development practice as set out above.

Text Box 10: Key elements of the right to health[194]

1. The right to health includes the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health. It is not to be understood as a right to be *healthy* (which is something that cannot be guaranteed solely by governments).

2. The right to health extends not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.

3. The right to health contains the following interrelated and essential elements:

(a) *Availability*. Functioning public health and health-care facilities, goods and services, as well as programs, have to be available in sufficient quantity within the country.

(b) *Accessibility*. Health facilities, goods and services have to be accessible to everyone without discrimination. Accessibility has four overlapping dimensions:

- *Non-discrimination:* health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalised sections of the population, in law and in fact, without discrimination.
- *Physical accessibility:* health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalised groups, such as Indigenous populations. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas.
- *Economic accessibility (affordability):* health facilities, goods and services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups.
- *Information accessibility:* accessibility includes the right to seek, receive and impart information and ideas concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality.

194 This textbox contains extracts from: United Nations Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), op.cit.*

(c) *Acceptability*. All health facilities, goods and services must be respectful of medical ethics as well as respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.

(d) *Quality*. As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality.

4. Governments have immediate obligations in relation to the right to health. These include the guarantee that the right will be exercised without discrimination of any kind; and the obligation to take deliberate, concrete and targeted steps towards the full realisation of the right to health (known as the progressive realisation principle).

5. Governments are under the obligation to respect, protect and fulfil the right to health. This requires:

(a) *Respect*. Governments refrain from denying or limiting equal access for all persons to preventive, curative and palliative health services; abstain from enforcing discriminatory practices as a State policy; and abstain from imposing discriminatory practices relating to women's health status and needs.

(b) *Protect*. Governments adopt legislation or take other measures to ensure equal access to health care and health-related services provided by third parties; ensure that privatisation of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services; control the marketing of medical equipment and medicines by third parties; and to ensure that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct.

(c) *Fulfil*. Governments give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation, and to adopt a national health policy with a detailed plan for realising the right to health. They ensure provision of health care and equal access for all to the underlying determinants of health, such as nutritiously safe food and potable drinking water, basic sanitation and adequate housing and living conditions.

Governments also take positive measures that enable and assist individuals and communities to enjoy the right to health, and undertake actions that create, maintain and restore the health of the population. Such obligations include:

- fostering recognition of factors favouring positive health results, e.g. research and provision of information;
- ensuring that health services are culturally appropriate and that health care staff are trained to recognise and respond to the specific needs of vulnerable or marginalised groups;
- ensuring that the State meets its obligations in the dissemination of appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services; and
- supporting people in making informed choices about their health.

6. Governments have a **core obligation** to ensure the satisfaction of, at the very least, minimum essential levels of rights, including essential primary health care. This includes ensuring:

- access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalised groups;
- access to the minimum essential food which is nutritionally adequate and safe;
- access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water; and
- equitable distribution of all health facilities, goods and services.

7. Governments are also required to:

- ensure reproductive, maternal (pre-natal as well as post-natal) and child health care;
- provide immunisation against the major infectious diseases occurring in the community;
- take measures to prevent, treat and control epidemic and endemic diseases;
- provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them; and
- provide appropriate training for health personnel, including education on health and human rights.

8. In determining whether an action or an omission amounts to a violation of the right to health, it is important to distinguish the inability from the unwillingness of a government to comply with its obligations. A government which is unwilling to use the maximum of its available resources for the realisation of the right to health is in violation of its obligations. If resource constraints render it impossible for a government to comply fully with its obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations. A government cannot under any circumstances whatsoever justify its non-compliance with the core obligations set out above.

9. ICESCR clearly imposes a duty on each government to take whatever steps are necessary to ensure that everyone has access to health facilities, goods and services so that they can enjoy, as soon as possible, the highest attainable standard of physical and mental health. This requires the adoption of a national strategy to ensure to all the enjoyment of the right to health, based on human rights principles which define the objectives of that strategy, and the formulation of policies and corresponding right to health indicators and benchmarks. The national health strategy should also identify the resources available to attain defined objectives, as well as the most cost-effective way of using those resources.

10. The formulation and implementation of national health strategies and plans of action should respect the principles of non-discrimination and people's participation. In particular, the right of individuals and groups to participate in decision-making processes, which may affect their development, must be an integral component of any policy, program or strategy developed to discharge governmental obligations. Promoting health must involve effective community action in setting priorities, making decisions, planning, implementing and evaluating strategies to achieve better health.

11. Governments should establish national mechanisms for monitoring the implementation of national health strategies and plans of action. National health strategies should identify appropriate right to health indicators and benchmarks. These should include provisions on:

- the targets to be achieved and the time-frame for their achievement;
- the means by which right to health benchmarks could be achieved;
- the intended collaboration with civil society, including health experts, the private sector and international organisations;
- institutional responsibility for the implementation of the national strategy and plan of action; and
- possible recourse procedures.

Specifically in relation to Indigenous peoples, it has also been noted that:

> Indigenous peoples have the right to specific measures to improve their access to health services and care. These health services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines. States should provide resources for Indigenous peoples to design, deliver and control such services so that they may enjoy the highest attainable standard of physical and mental health. The vital medicinal plants, animals and minerals necessary to the full enjoyment of health of Indigenous peoples should also be protected. The Committee notes that, in Indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension…[195]

d) Summary

Overall, the human rights based approach to health has the following components. It:

- emphasises the accountability of governments for socio-economic outcomes among different sectors of civil society by treating these outcomes as a matter of legal obligation, to be assessed against the norms established through the human rights system;
- establishes fundamental principles to guide policy development – such as that Indigenous peoples are not discriminated against and are provided with *equality of opportunity*, including through recognising their distinct cultural status;
- highlights that governments have immediate responsibilities to guarantee that the right to health will be exercised without discrimination of any kind, and to take deliberate, concrete and targeted steps towards the full realisation of the right to health;
- recognises as legitimate, and as non-discriminatory, the establishment of specific programs for particular groups (such as based on race) which are taken with the purpose of addressing inequality;
- establishes that the obligation of government is to respect, protect and fulfil the right to health, which requires a combination of responses ranging from refraining from committing harmful acts, introducing measures to prevent others from committing such acts, and taking positive steps to realise the right to health;
- emphasises *process* for achieving improvements in these outcomes, with the free, active and meaningful participation of Indigenous peoples being critical;
- establishes criteria against which to assess health policy and program interventions to ensure that services are appropriate, accessible, available and of sufficient quality, and that they also do not fall below a core minimum or essential level of rights;
- requires governments, working in partnership with Indigenous peoples, to demonstrate that they are approaching these issues in a targeted manner, and are accountable for the achievement of defined goals within a defined timeframe; and

195 *ibid.,* para 27.

- places the burden on government of justifying that it has made every effort to use all available resources at its disposal in order to satisfy, as a matter of priority, the right to health.

While the right to health has been recognised for some time, it is only in recent years that detailed consideration has been given to it. This framework therefore offers a relatively new perspective on the factors necessary to address health inequalities and ensure to all people the right to the enjoyment of the highest attainable standard of health.

It is timely to consider the existing health frameworks for Aboriginal and Torres Strait Islander people within Australia against this perspective. This is particularly so given the slow pace of progress that has been made in recent decades in reducing Aboriginal and Torres Strait Islander health inequality and the opportunities that currently exist to address these issues in a coordinated, whole of government manner.

5. Aboriginal and Torres Strait Islander health inequality and human rights

This section notes the strengths and deficiencies of the current framework for Aboriginal and Torres Strait Islander health from a human rights perspective. The following section then proposes how the existing health framework should be enhanced in order to achieve the goal of Aboriginal and Torres Strait Islander health equality within a generation.

There are two aspects of the current health situation faced by Aboriginal and Torres Strait Islander peoples in terms of human rights compliance.

a) The human rights implications of the current health status of Aboriginal and Torres Strait Islander peoples

The first is that the extent of health inequality experienced by Aboriginal and Torres Strait Islander peoples raises issues of compliance with Australia's human rights obligations.

Both the *International Covenant on Economic, Social and Cultural Rights* (Article 12) and the *International Convention on the Rights of the Child* (Article 24) recognise the right of all people to the enjoyment of the highest attainable standard of health. By entering into these treaties, the Government has guaranteed the exercise of this right without discrimination.

The extent of inequality experienced by Aboriginal and Torres Strait Islander peoples indicates that they do not enjoy this and related rights in a non-discriminatory manner. The size of the inequality gap indicates the need for urgent attention to this issue. This has been acknowledged by successive governments in Australia.[196]

In September 2005, the United Nations Committee on the Rights of the Child expressed concern at the level of inequality experienced by Aboriginal and Torres Strait Islander children, particularly in relation to health related issues. The Committee's comments included the following:

> 47… (T)he Committee remains concerned at Indigenous children malnutrition and under-nutrition compared with over-nutrition, overweight and obesity at national level. Furthermore, the Committee, despite recent studies suggesting that Indigenous infant mortality has declined in the past years, remains concerned at the disparity in the health status between Indigenous and non-Indigenous children and at unequal access to health care experienced by children living in rural and remote areas.
>
> 48. The Committee recommends that the State Party undertake all necessary measures to ensure that all children enjoy the same access to and quality of health services, with special attention to children belonging to vulnerable groups, especially Indigenous children and children living in remote areas. In addition, the Committee recommends that the State party take all adequate measures to overcome, in a time-bound manner, the disparity in the nutritional status between Indigenous and non-Indigenous children.

196 See, for example, the 2nd and 3rd periodic report of Australia to the Committee on the Rights of the Child (submitted 29 December 2004, UN Doc: CRC/C/129/Add.4, p5) and the 14th periodic report of Australia to the Committee on the Elimination of Racial Discrimination (submitted 1 April 2004, UN Doc: CERD/C/428/Add.2, paras 80-81).

> 51. The Committee… remains concerned that youth suicide rate is still high, especially among Indigenous children… and that mental health problems and substance abuse are increasing.
>
> 53. The Committee… is concerned at recent reports showing that the number of Indigenous (peoples) diagnosed with AIDS has more than doubled in the past four years.
>
> 54. The Committee recommends that the State party continue to closely look into the issue of HIV/AIDS, and in particular:
>
> > c) urgently address the marked increase of AIDS diagnosis among Indigenous peoples, including through culturally sensitive safe sex campaigns tailored for Indigenous communities
>
> 75. Despite the numerous measures taken by the State party's authorities, including the Indigenous Child Care Support Programme, the Committee remains concerned about the overall situation of Indigenous Australians, especially as to their health, education, housing, employment and standard of living.
>
> 77. The Committee recommends that the State party strengthen its efforts to continue developing and implementing – in consultation with the Indigenous communities – policies and programmes ensuring equal access for Indigenous children to culturally appropriate services, including social and health services and education.[197]

In March 2005, the United Nations Committee on the Elimination of Racial Discrimination also identified that the extent of inequality in health status of Aboriginal and Torres Strait Islander peoples raises issues of compliance with Article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination*. The Committee stated:

> While noting the improvement in the enjoyment, by the Indigenous peoples, of their economic, social and cultural rights, the Committee is concerned over the wide gap that still exists between the Indigenous peoples and others, in particular in the area of employment, housing, health, education and income. (Article 5)
>
> The Committee recommends that the State party intensify its efforts in order to achieve equality in the enjoyment of rights and allocate adequate resources to programmes aimed at the eradication of disparities. It recommends in particular that decisive steps be taken in order to ensure that a sufficient number of health professionals provide services to Indigenous peoples, and that the State party set up benchmarks for monitoring progress in key areas of Indigenous disadvantage.[198]

b) Is the current framework for addressing Aboriginal and Torres Strait Islander health inequality consistent with the human rights based approach?

The second issue to consider in terms of human rights compliance receives less attention – namely, whether the current processes in place to address Aboriginal and Torres Strait Islander health inequality comply with the key elements of the human rights based approach to health.

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197 United Nations Committee on the Rights of the Child, *Concluding Observations – Australia,* unedited version, UN Doc: CRC/C/15/Add.268. The Committee also expressed concern at the discriminatory disparities existing towards Aboriginal and Torres Strait Islander children, especially in terms of provisions of and accessibility to basic services (para 24); and the inadequate standard of living and housing of Indigenous children and children living in rural and remote areas (paras 55, 57).

198 United Nations Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on Australia,* UN Doc:CERD/C/AUS/CO/14, para 17.

The human rights based approach to health is practical in that it acknowledges that inequality and discrimination may be the result of long term, perhaps even historical, treatment and cannot be overcome in the short term. While a rights based approach does not excuse such inequality, it is primarily focused on considering the steps that are currently being taken by governments to address this situation.

Accordingly, it is focused on determining the *suitability* of the steps being taken. For example, do the steps taken by government respect, protect and fulfil the right to the highest attainable standard of health for Aboriginal and Torres Strait Islander peoples? Are programs and services accessible, available, appropriate and of a sufficient quality? Do they involve the full participation of Aboriginal and Torres Strait Islander peoples? Do they target the systemic barriers faced by Aboriginal and Torres Strait Islander peoples?

It is also focused on determining the *adequacy* of the steps being taken. For example, are they meeting core minimum obligations? Are they resulting in a progressive improvement in the realisation of the right to health for Aboriginal and Torres Strait Islander peoples? Is the rate of progress sufficient, given the extent of the inequality? Do data collection, performance monitoring and evaluation processes exist which enable progress to be monitored? Are programs targeted, delivered and financed at a level that is capable of addressing the level of inequality?

From this perspective, there are a number of aspects of the current approach to Aboriginal and Torres Strait Islander health that *do* meet the requirements of the human rights based approach to health. But there are also aspects of the current approach that *do not* meet these requirements. The strengths and weaknesses of the current framework are identified in the two boxes below.

Text Box 11: Positive aspects of the existing approach to Aboriginal and Torres Strait Islander health from a human rights perspective

The following aspects of the existing framework for Aboriginal and Torres Strait Islander health are consistent with the requirements of the human rights based approach to health.

1. **Commitments to address Aboriginal and Torres Strait Islander health inequality**
   - The existence of significant disparities in the health status of Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians is acknowledged by all governments and recognised as unacceptable.
   - All governments have committed, through the *National Strategic Framework*, to the goal of achieving health equality for Aboriginal and Torres Strait Islander peoples. This includes through committing to provide equality in access to primary health care and health infrastructure issues.
   - All governments have accepted the holistic definition of Aboriginal and Torres Strait Islander health, as set out in the *National Aboriginal Health Strategy*. This recognises that 'health to Aboriginal peoples is a matter of determining all

aspects of their life, including control over their physical environment, of dignity, of community self-esteem, and of justice'.[199]

- All governments recognise the importance of addressing a wide variety of related issues outside of the health sector which have an impact on Aboriginal and Torres Strait Islander people's well-being (and have identified influencing the health impacts of the non-health sector as a key result area for the *National Strategic Framework*).

2. National leadership

- The *National Strategic Framework* has been adopted, providing a national health policy with a detailed plan for realising the right to health. This is consistent with the obligation to fulfil the right to health.
- Related commitments have also been made by COAG to address Aboriginal and Torres Strait Islander disadvantage and to work cooperatively and in a whole of government manner. All governments have agreed to the *National Framework of Principles for Government Service Delivery* to guide these commitments.
- The 'whole of government' machinery necessary to implement the *National Strategic Framework* is in place. This includes through the finalisation of bilateral health agreements between the Commonwealth and states and territories; the establishment of state level health forums; the development of regional plans which identify needs and priorities; and the establishment of a national performance monitoring framework.
- There is recognition among governments that addressing Aboriginal and Torres Strait Islander health inequality is a shared responsibility between governments and requires partnerships with Aboriginal and Torres Strait Islander peoples and communities.

3. Performance indicators and monitoring and evaluation processes

- Ensuring that there is adequate data collection, research and evidence is identified as a key challenge to support the commitments of governments. Various strategies and processes have been put in place to address this, albeit with uneven rates of progress.[200]
- The *Aboriginal and Torres Strait Islander Health Performance Framework* has been finalised at the inter-governmental level, in accordance with the *National Strategic Framework*. It provides a solid basis for monitoring the performance of governments, while also taking into account variations across jurisdictions in capacity, mortality, morbidity and other issues.

199 National Aboriginal Health Strategy Working Party, *op.cit.*, as cited in National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health: Context, op.cit.*, p4.

200 The Aboriginal and Torres Strait Islander Research Agenda Working Group (RAWG) is a sub-committee under the National Health and Medical Research Council. In April 2002, the RAWG endorsed a draft strategic framework for Indigenous health research, known as the Road Map. The Road Map is intended to guide Indigenous health research taking place through the National Health and Medical Research Council and nationally. This is the first time such a framework has existed. The Road Map identifies major themes and approaches for Aboriginal and Torres Strait Islander research. Commonwealth Department of Health and Ageing, 2001-02 *Annual Report – Outcome Reports,* http://www.health.gov.au/internet/wcms/publishing.nsf/Content/health-pubs-annrepar2002-part2-02_7203.htm, 24 September 2004, (Accessed May 5, 2005). In December 2002, the Cooperative Research Centre for Aboriginal Health was established, linking 19 universities and research institutions to further trans-disciplinary research into Aboriginal and Torres Strait Islander health. It has a budget of $145 million over 7 years, Latrobe University, *La Trobe wins Aboriginal Research Funds,* Media release, 19 December 2002, available online at http://www.latrobe.edu.au/news/2002/mediarelease_124.html. See also the Cooperative Research Centre for Aboriginal Health website http://www.crcah.org.au/index.cfm?attributes.fuseaction=aboutus.

- A comprehensive monitoring framework has been agreed at the inter-governmental level, which involves bilateral agreements between the Commonwealth and the states and territories, implementation plans and health planning forums.
- Each government has finalised its individual implementation plan for the *National Strategic Framework*.
- Progress in addressing Aboriginal and Torres Strait Islander health inequality is also able to be measured on a whole of government basis against the *Overcoming Indigenous Disadvantage Framework*. This framework includes headline indicators and strategic change indicators that are included within the Aboriginal and Torres Strait Islander Health Performance Framework. It also presents this data in a holistic manner, alongside other 'non-health sector' outcomes so that the inter-connections between these can be better understood.

4. Participation of, and partnerships with, Aboriginal and Torres Strait Islander peoples

- The *National Strategic Framework* commits to the use of Aboriginal Community Controlled Health Organisations as the primary vehicle for delivery of primary health care programs and also to facilitating local participation of Aboriginal and Torres Strait Islander peoples.
- The participation of Aboriginal and Torres Strait Islander peoples in the design of Aboriginal and Torres Strait Islander health programs is provided through the state-wide Aboriginal Health Forums and in the development of regional plans.
- This is consistent with the requirement to ensure the participation of Aboriginal and Torres Strait Islander peoples in decision-making processes which may affect their development, as well as the requirement that health promotion must involve effective community action in setting priorities, making decisions, planning, implementing and evaluating strategies to achieve better health.

5. Accessibility of health services

- The *National Strategic Framework* identifies as a key result area achieving a health system that is more effective and responsive to Aboriginal and Torres Strait Islander needs. It is recognised that this requires a focus on Indigenous specific services (such as community controlled health care services) as well as improvements to the mainstream health system. This provides a focus on the human rights requirements for services to be available, accessible, acceptable and of a sufficient quality (even though there remain some concerns that these requirements are not being fully met at present).
- While there is still significant progress required, there is evidence of 'increasing capacity in the primary health care system and greater engagement by the mainstream health system'.[201] There is evidence of the effectiveness of primary health care which warrants the further investment required[202] and evidence of the success of trials to improve access to mainstream programs and funding, such as through the coordinated care trials in providing improved access to Medicare and Pharmaceutical Benefits Scheme funding.

201 Dwyer, J., Silburn, K., and Wilson, G., *National Strategies for Improving Indigenous Health and Health Care,* Aboriginal and Torres Strait Islander Primary Health Care Review: Consultant Report No 1, Commonwealth of Australia, Canberra, 2004, pxi.

202 *ibid.*

Text Box 12: Areas for improvement in the existing approach to Aboriginal and Torres Strait Islander health from a human rights perspective

Despite these positives, there remain a number of concerns about the adequacy of the current framework for addressing Aboriginal and Torres Strait Islander health inequality. Many of these concerns relate to the need for the key features of the current framework, some of which are acknowledged as positive developments above, to be extended so that they are more comprehensive and better linked to overcoming existing levels of inequality.

1. Lack of equal access to primary health care and health infrastructure

- Aboriginal and Torres Strait Islander peoples today still do not have the equal opportunity to be as healthy as non-Indigenous Australians. This is due to a continued lack of equal access to primary health care and health infrastructure, and the continued inaccessibility of mainstream programs.[203] This raises concerns about the availability, accessibility, acceptability and quality of health services for Aboriginal and Torres Strait Islander peoples.
- In 2004, it was estimated that Aboriginal and Torres Strait Islander peoples enjoyed 40% of the per capita access of the non-Indigenous population to primary health care provided by general practitioners.[204]
- In terms of *availability:* Health services are not available as widely for Aboriginal and Torres Strait Islander peoples as non-Indigenous peoples, particularly in rural and remote areas. In 2002, there were twice as many medical practitioners per person in major cities than in remote areas and ten times the number of specialists[205]
- In terms of *accessibility:* The *Community Infrastructure and Housing Needs Survey* 2001 (CHINS) reported that 174 communities representing 3,255 people lived over 100 kilometres from both a community health centre and a hospital while over 151 communities representing 2,453 people lived over 100 kilometres from the nearest first aid clinic.[206] This is compounded by a lack of access to transport: the 2002 National Aboriginal and Torres Strait Islander Social Survey reported that 23% of households with Aboriginal and Torres Strait Islander persons did not have access to a motor vehicle (compared to 10% in the non-Indigenous population).[207]
- In terms of *acceptability:* Aboriginal and Torres Strait Islander peoples do not tend to use mainstream primary health care even where it is otherwise available and physically accessible, for example in urban areas.[208] Governments have accepted the importance of maintaining distinct health services in urban centres for Aboriginal and Torres Strait Islander people as a consequence of this.
- The lack of equal access to primary health care and health infrastructure may also raise issues as to whether governments are meeting their *core minimum*

203 *ibid.* See also Australian Bureau of Statistics and Australian Institute of Health and Welfare, *The Health and Welfare of Aboriginal and Torres Strait Islander People 2005, op.cit.,* p179.

204 Britt, H., Miller, G. and Knox, S., *(et al), General practice activity in Australia: 2001-02,* AIHW cat. no. GEP 10, Commonwealth of Australia, Canberra, 2002, p114, available online at: http://www.aihw.gov.au/publications/index.cfm/title/8149.

205 *ibid.,* p181.

206 *ibid.,* p182.

207 *ibid.,* p183.

208 Commonwealth Grants Commission, *Report on Indigenous Funding,* CGC, Canberra, 2001, pp116 and 135.

obligations in some remote communities. This is particularly in relation to access to the minimum essential food which is nutritionally adequate and safe; and access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water.

2. Matching commitments to address Aboriginal and Torres Strait Islander health inequality to the progressive realisation principle

- Existing commitments to address Aboriginal and Torres Strait Islander health inequality do not acknowledge that:
  - While there has been progress on some individual indicators of health status for Aboriginal and Torres Strait Islander peoples, this has not been sufficient to close the inequality gap.
  - The burgeoning size and young age structure of the Aboriginal and Torres Strait Islander population creates additional urgency for redressing the existing level of health inequality. This is on the basis that the current lack of equal access to health care and infrastructure has the potential to compound the poorer health outcomes experienced by Aboriginal and Torres Strait Islander peoples during the timeframe of the *National Strategic Framework*.
- These factors, and the lack of equal access referred to above, require more than an acknowledgement of the existence of inequality. It requires:
  - an acknowledgement of the urgency to address this health inequality and of its ongoing and compounding effects;
  - that commitments extend to supporting the adoption of 'special measures' programs at a quantum that can address ongoing systemic barriers, as well as redress historical exclusion and lack of equality; and
  - for this to occur on a holistic basis, recognising the inter-connections between issues.

3. Performance indicators, targets and benchmarks

- As noted, the *National Strategic Framework* provides a national health policy with a detailed plan for realising the right to health. However, it does not:
  - include the necessary targets at a jurisdictional level which indicate when *equality of opportunity* is intended to be achieved, with intermediate and short term targets to assess progress; and
  - ensure that the resources available are realistically capable of meeting these targets and ultimately of achieving the goal and aims of the *National Strategic Framework*.
- As an example, the most recent review of the primary health care scheme notes that current access to and investment in Aboriginal and Torres Strait Islander primary health care is too low to address existing need.[209] Accordingly, existing resources are not enough to meet the goal and aims of the *National Strategic Framework*.
- The current framework provides a suitable basis for the creation of time bound benchmarks and the matching of resources to these. This is evidenced in the indicators developed through the *Aboriginal and Torres Strait Islander Health Performance Framework;* the Aboriginal Health Forums; regional planning processes and role of Aboriginal Community Controlled Health Organisations.
- The *Overcoming Indigenous Disadvantage Framework* also provides an appropriate basis for measuring progress in a holistic manner, once benchmarks and targets have been agreed.

209 Dwyer, J., Silburn, K. and Wilson, G., *op.cit.,* ppxiii-xiv.

4. Needs based funding

- The Aboriginal and Torres Strait Islander health system continues to be under-funded. Recent reports have suggested that an additional $300-400 million per annum is required to address the shortfall for primary health care needs alone.[210]
- While there have been some positive developments in identifying models for needs based planning and resource allocation, this requires further work. There remains a need for great scientific rigour in these processes.
- While this funding shortfall continues, it is acknowledged that governments have steadily increased the level of funding available in the health sector over the past decade, particularly since 1995.[211] There have also been corresponding increases in the health workforce and the capacity of the primary health care system.[212]
- In relative terms, there has been little change in funding levels for Aboriginal and Torres Strait Islander health *when compared* to non-Indigenous health funding in recent years. This is despite the continuation of a significant inequality gap between the two groups. As the most recent report on health expenditure by the Australian Institute of Health and Welfare found:

  > the relative position of Indigenous Australians compared with non-Indigenous people has changed little since… 1998-99. This finding relates to both their shares of national health spending and the structure of health expenditures. Indeed, there have been only small changes since the first report for 1995-96. However, health expenditure for both Indigenous and non-Indigenous people has risen substantially.[213]

5. Participation of, and partnerships with, Aboriginal and Torres Strait Islander peoples

- The replacement on the Aboriginal Health Forums of ATSIC representation (following its abolition) with State Managers of the Office of Indigenous Policy Coordination is not appropriate to ensure regional or informed representation of Aboriginal and Torres Strait Islander peoples in decision making and planning processes.
- The new arrangements for the administration of Indigenous affairs have not engaged sufficiently with the health sector in settling regional priorities and engaging with Aboriginal and Torres Strait Islander communities.

6. A focus on urgent issues

- While the *National Strategic Framework* is supported by a number of additional policies on specific issues, there remains inadequate attention to serious issues such as maternal and child health; substance abuse; dental health and mental health (although a draft social and emotional well-being framework is currently being considered for adoption at the inter-governmental level, which would see the commitment to a 5 year framework for action on mental health and social and emotional well-being).

210 The level of under-resourcing and recent estimates is discussed further below.

211 For details of this see: Dwyer, J., Silburn, K. and Wilson, G., *op.cit.,* pp19-20, Figure 2.

212 *ibid.*

213 Australian Institute of Health and Welfare, *Expenditures on health for Aboriginal and Torres Strait Islander peoples, 2001-02,* AIHW, Canberra, 2005, pi. Further, the report estimated in 2001–02 that $1.18 was spent per capita on health goods and services for Aboriginal and Torres Strait Islander peoples for every dollar spent on non-Indigenous people. This was less than the ratio of Indigenous to non-Indigenous spending reported in the previous study into health expenditure for Indigenous Australians. This decline in the relativity between spending on health for Indigenous Australians and non-Indigenous people occurred despite the continued poorer health status of Indigenous Australians and recognition by all levels of government of the need to address this imbalance.

- For example, Aboriginal and Torres Strait Islander peoples enjoy less access to dental services. Many dental services involve direct out-of-pocket payments by patients. To the degree this makes those services economically inaccessible, this is likely to have a greater impact on Aboriginal and Torres Strait Islander people than on other Australians.[214]
- Aboriginal and Torres Strait Islander communities also experience disproportionate and high rates of illnesses such as trachoma, rheumatic heart disease and otitis media. Disease-focused strategies will be necessary to address these in addition to attention being provided to health infrastructure and primary health care issues.[215]
- The antecedents to chronic disease in adulthood require a focus on maternal and child health to prevent low birth weights, improve childhood nutrition, reduce early onset ear infections, and enhance immunisation coverage. The much higher rates of these problems affecting Aboriginal children impact directly on higher rates of chronic diseases such as kidney failure, diabetes and heart disease in adulthood. Maternal and child health should be an urgent priority.

214 Australian Bureau of Statistics and Australian Instititute of Health and Welfare, *The Health and Welfare of Aboriginal and Torres Strait Islander People 2005*, *op.cit.*, pp130, 184.

215 Taylor, H., *op.cit.*

6. A campaign for Aboriginal and Torres Strait Islander health equality within a generation

What this chapter shows is that significant opportunities currently exist to make lasting inroads into the longstanding problem of health inequality for Aboriginal and Torres Strait Islander peoples.

There is significant capacity in the health sector which can be built on. The new arrangements for Indigenous affairs at the federal level and associated commitments of COAG also provide perhaps unprecedented leverage for coordinating health programs with other departments and agencies.

We need to acknowledge these foundations and encourage them to achieve better compliance with the human rights based approach. If we do not do this, we are unlikely to see improvements in Aboriginal and Torres Strait Islander health status. In fact, it is possible that by not providing sufficient attention and resources the inequality gap currently experienced by Aboriginal and Torres Strait Islander peoples could widen further.

Perhaps the factor that is most striking, in its absence from the current framework, is the lack of a timeframe for achieving Aboriginal and Torres Strait Islander health equality. The human rights treaty committees quoted above express their concerns about Australia's progress in addressing Aboriginal and Torres Strait Islander health inequality. Their concern lies in terms of the need for governments to take adequate measures (including through the allocation of adequate resources) to overcome, in a time-bound manner, the disparity in rights experienced by Aboriginal and Torres Strait Islander peoples.

We should not be timid about setting a timeframe for when the solid commitments of government will be realised. The absence of such timeframes promotes a lack of accountability of governments. It sends a tacit message that it is fine for things to simply drift along.

But it is not fine. We are facing an urgent and emerging health crisis and all aspects of government activity should reflect this. This includes:

- stating that high priority is attached to addressing Aboriginal and Torres Strait Islander health inequality;
- sending a message to the general community that additional steps are necessary to address this;
- contributing the necessary resources to actually achieve this; and
- setting targets and benchmarks which enable the community to determine whether government progress is sufficient.

The failure of the policies and programs of the past twenty years to achieve significant improvements in Aboriginal and Torres Strait Islander health status, yet alone to reduce the inequality gap, reveal two things that Aboriginal and Torres Strait Islander peoples and the general community can no longer accept from governments.

First, we can no longer accept the making of commitments to address Aboriginal and Torres Strait Islander health inequality *without* putting into place processes and programs to match the stated commitments. Programs and service delivery must be adequately resourced and supported so that they are capable of achieving the stated goals of governments.

Second, and conversely, we can also not accept the failure of governments to commit to an urgent plan of action. It is not acceptable to continually state that the situation is tragic and ought to be treated with urgency, and then fail to put into place bold targets to focus policy making over the short, medium and longer term or to fund programs so they are capable of meeting these targets. *A plan that is not adequately funded to meet its outcomes cannot be considered an effective plan*. The history of approaches to Aboriginal and Torres Strait Islander health reflects this: Australian governments have proved unwilling to fund Aboriginal and Torres Strait Islander health programs based on the need and, as a result, plans have failed.[216]

The following description of Australia's human rights obligations to fulfil the right to health identifies the key issue that we presently face:

> In determining whether an action or an omission amounts to a violation of the right to health, *it is important to distinguish the inability from the unwillingness of a government to comply with its obligations. A government which is unwilling to use the maximum of its available resources for the realisation of the right to health is in violation of its obligations.* If resource constraints render it impossible for a government to comply fully with its obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations.[217]

The commitments exist. The processes for implementing them also exist. But can it be said that government efforts are operating at the maximum of available resources?

A budget surplus of $13.6 billion as at 30 June 2005 at the federal level suggests that resource availability is not the issue. It is not credible to suggest that government efforts are being held back by an 'inability' to take action.

Such action does, of course, need to be linked to the capacity of the health sector. The progressive realisation principle, however, requires that this be done *in a time bound manner* and as expeditiously as possible. Resourcing should be increased to the maximum extent possible and rolled out in accordance with regional plans and benchmarks.

The combination of the healthy economic situation of the country, the substantial potential that currently exists in the health sector and the national leadership being shown through the COAG process, means that the current policy environment is ripe for achieving the longstanding goal of overcoming Aboriginal and Torres Strait Islander health inequality. Steps taken now could be determinative.

As set out in the introductory sections of this chapter, I consider that we need to commit to a campaign for Aboriginal and Torres Strait Islander health equality within a generation. This final section of this chapter sets out some of the necessary elements that I consider need to be addressed for this to be achieved. It also sets out how my Office will seek to broaden public debate on this issue over the coming year.

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216 See for example, Commonwealth Grants Commission, *Report on Indigenous Funding 2001,* CGC Canberra 2001.

217 United Nations Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), op.cit.,* para 47. Emphasis added.

This goal can be met. And it can be done by building on the existing *National Strategic Framework*, through the commitments and processes of COAG and in accordance with the new arrangements for Indigenous affairs at the federal level.

a) The goal – Achieving Aboriginal and Torres Strait Islander health equality within a generation

At the beginning of this chapter I set out my first recommendation for addressing Aboriginal and Torres Strait Islander health inequality.

Recommendation 1

That the governments of Australia commit to achieving equality of health status and life expectation between Aboriginal and Torres Strait Islander and non-Indigenous people within 25 years.

This recommendation seeks to place a time dimension on the goal and aims of the *National Strategic Framework* for *Aboriginal and Torres Strait Islander Health* as well as on the commitments of the Council of Australian Governments (COAG) to overcome Aboriginal and Torres Strait Islander disadvantage. It provides a long term vision to focus government activity.

I note the following factors relating to this commitment.

i) This commitment should not stand in isolation

A focus **solely** on such a goal would be impractical and difficult. This point has been acknowledged through the Aboriginal and Torres Strait Islander Health Performance Framework and the development of COAG's Overcoming Indigenous Disadvantage Framework.

The *Overcoming Indigenous Disadvantage Framework* recognises that changes in indicators such as life expectancy cannot be expected within short timeframes or as a consequence of a single policy intervention. Accordingly, the Framework also identifies seven strategic areas for action and strategic change indicators, which are designed to show progress over the shorter term. They also allow us to identify progress on individual areas which have a cumulative impact on the larger and longer term indicators like life expectancy.[218] The *Aboriginal and Torres Strait Islander Health Performance Framework* also seeks to trace the links from strategic action through to headline indicators.

A commitment to achieve equality in life expectancy within a generation is not meaningless or problematic. It does, however, require that such a target be supported with the establishment of other, more detailed targets and benchmarks on a number of discrete, smaller indicators relating to health status and which exist over the short and medium term. *The Overcoming Indigenous Disadvantage Framework*, as well as the *Aboriginal and Torres Strait Islander Health Performance Framework* provide an appropriate basis for establishing time bound targets and benchmarks in the short and medium term across a variety of

218 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2005, op.cit.*, ppxxii-xxiii.

contributing areas that should ultimately contribute to the achievement of equal rates of life expectancy.

Such targets and benchmarks also need to be developed at a regional level and with recognition of the variations in health status between communities. Additional work is required to ensure that data collection methods can support such disaggregation and account for regional variations.

Prior to 2000, the *Aboriginal and Torres Strait Islander National Performance Indicators* were linked to health targets. A selection of these are set out in Table 1 below. They indicate the type of targets that could be aimed for, with appropriate commitments of resources and effort to match.

Table 1: National Performance Indicators and Targets to monitor governments' efforts to improve Aboriginal and Torres Strait Islander health, 1998-2000

Life expectancy and mortality targets (various)	A 20% reduction in age standardised all mortality rate ratios over ten years[219]
Stillbirths	A 50% reduction within 10 years[220]
Infant mortality ratio	A 50% reduction within 10 years[221]
Mortality from CVD and rheumatic heart disease	A 50% reduction in 10 years[222]
Morality from injury or poisoning	A 50% reduction in 10 years[223]
Mortality from pneumonia	A 50% reduction in 10 years[224]
Mortality from diabetes	A 20% reduction in 10 years[225]
Mortality from cervical cancer	A 50% reduction in 10 years[226]
Women at risk from cervical cancer	Equivalent to the level in the non-Indigenous community within 3 years[227]

In addition, broader commitments at the level of the Council of Australian Governments (COAG) to address Indigenous disadvantage can also be considered an address to Aboriginal and Torres Strait Islander health to the degree they address the social determinants of health.

ii) There must also be a commitment to provide equality of opportunity for Aboriginal and Torres Strait Islander peoples

In terms of medium term targets to support a commitment to achieve equality within 25 years, there are two clear areas of need which must be addressed to render such a commitment realistic. These are commitments to ensure equal

219 Australian Health Ministers Advisory Council, *National Performance Indicators and Targets for 1998-2000 to monitor governments' efforts to improve Aboriginal and Torres Strait Islander health,* Department of Health and Ageing, Canberra, 1998, pp.4-9.

220 *ibid.,* p10.

221 *ibid.,* p11.

222 *ibid.,* p12.

223 *ibid.,* p13.

224 *ibid.,* p14.

225 *ibid.,* p15.

226 *ibid.,* p16.

227 *ibid.,* p38.

access to primary health care services for Aboriginal and Torres Strait Islander peoples, and equal access to health infrastructure.

It is a simple fact that Aboriginal and Torres Strait Islander peoples still do not enjoy the same opportunities to be healthy as non-Indigenous Australians, due to the lack of equal access to primary health care and infrastructure provision.

If we compare the health situation of Aboriginal and Torres Strait Islander peoples with other Australians, there is some evidence to suggest that Aboriginal and Torres Strait Islander peoples today enjoy a similar state of health as non-Indigenous Australians did almost a century ago. For example, life expectation for Aboriginal and Torres Strait Islander males in 1999-2000 was estimated to be the same as the total male population in 1901-1910, while for Aboriginal and Torres Strait Islander females it is similar to the total female population in 1920-22;[228] Adelaide was recorded as having an infant mortality rate of 140 deaths per 1,000 live births at the end of the nineteenth century,[229] similar to Aboriginal and Torres Strait Islander peoples in the 1960s and 1970s; trachoma was common in the capital cities of the late nineteenth century, as it is in some Aboriginal and Torres Strait Islander communities today.[230]

What happened over the twentieth century is that the non-Indigenous population gained *opportunities to be healthy* that were not extended to Aboriginal and Torres Strait Islander peoples. As a result, life expectancy for Australian women increased 26.7 years over the past century; while for males it increased 28.7 years.[231] This overall gain can be linked to a raft of smaller gains in specific areas. For example: as noted previously, death rates from cardiovascular disease have fallen 30% since 1991, and 70% in the last 35-years,[232] and; the infant mortality rate figure reduced 25% over 1993-2003 and 48% over 1983-2003.[233]

A commitment to achieve equality of health status and life expectation between Aboriginal and Torres Strait Islander and non-Indigenous people within 25 years therefore requires commitments to address inequality of opportunity for Aboriginal and Torres Strait Islander peoples. Accordingly, governments should also commit to achieving equal access to primary health care and health infrastructure within 10 years for Aboriginal and Torres Strait Islander peoples.

This will require improving processes to ensure needs based assessment of resource allocations, as well as targets and benchmarks across a range of matters. The *Aboriginal and Torres Strait Islander Health Performance Framework* contains appropriate measures for access to primary health care. These include proxy indicators such as access to Medicare and the Pharmaceutical Benefits Scheme, rates of hospitalisation from preventable diseases, rates of Sexually Transmitted Infections and so on.

228 Australian Bureau of Statistics and Australian Institute of Health and Welfare, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples, 2001,* ABS cat. no. 4704.0, Commonwealth of Australia, Canberra, 2001, p121.

229 Baum F, *The New Public Health,* (2nd ed.), Oxford University Press, Melbourne, 2002, p21.

230 Taylor, H., *op.cit.*

231 Baum, F., *op.cit.,* p198.

232 National Health and Medical Research Centre (NHMRC), *Promoting the health of Australians, Case studies of achievements in improving the health of the population,* AGPS, Canberra, 1997, p35.

233 Australian Bureau of Statistics, *Deaths 2003,* ABS cat. no. 3302.0, Canberra, Commonwealth of Australia, 2004, p15.

iii) High quality, integrated primary health care should be prioritised

It is generally accepted that:

> Ready access to local primary health care (PHC) is … the foundation of a functioning health system. Primary health care provides an immediate response to acute illness and injury; it protects good health through screening, early intervention, population health programs (such as antenatal care and immunisation) and programs to promote social and emotional well-being and prevent substance abuse.
>
> Critically for the Indigenous population, primary health care identifies and treats chronic diseases (including diabetes, cardiovascular and renal disease) and their risk factors. Primary health care also acts as a pathway to specialist and tertiary care, and enables local (or regional) identification and response to health hazards; transfer of knowledge and skills for healthy living; and identification and advocacy for the health needs of the community.[234]

However, it must be emphasised that while many communities have a primary health care service, the quality of that service may not be adequate. It is vital that these services are high quality and *integrated* (that is services in which health promotion, screening and treatment for various conditions are coordinated) to achieve lasting change in the health status of Aboriginal and Torres Strait Islander peoples.

It is for this reason the *National Strategic Framework* contains a commitment to 'comprehensive' primary health care encompassing 'clinical/medical care, illness prevention services, specific population health programs for health gain, access to secondary and tertiary health services and client/community support and advocacy.'[235]

The most recent review of the Aboriginal and Torres Strait Islander primary health care system argues that:

> The available evidence of health impact in Indigenous populations, and the known effective interventions of primary health care, indicates that the impact of effective primary health care is seen in:
>
> - reduced prevalence and incidence of communicable diseases that are susceptible to immunisation programs;
> - reduced complications of chronic disease through effective chronic disease management programs;
> - improved maternal and child health outcomes (such as birth weight) through the implementation of culturally appropriate antenatal and early childhood programs; and
> - reduction in social and environmental risks through effective local public health advocacy, such as changes to liquor licensing regulations.
>
> The available evidence of intermediate health outcomes achieved by effective Indigenous-specific health services gives grounds for governments to increase their investment in improving access to comprehensive primary health care. Further, there is no reason to believe that health interventions that are of proven effectiveness for the general population cannot be effective in Indigenous populations, provided that the delivery system that brings these interventions is effectively tailored to the needs of Indigenous communities.[236]

234 Dwyer, J., Silburn, K. and Wilson, G, *op.cit.,* ppxii-xiii.

235 National Aboriginal and Torres Strait Islander Health Council, *National Strategic Framework for Aboriginal and Torres Strait Islander Health, Framework for action by Governments, op.cit.,* p13.

236 Dwyer, J., Silburn, K. and Wilson, G., *op.cit.,* p33.

A focus on primary health care interventions addressing chronic diseases can be expected to have a significant impact on Aboriginal and Torres Strait Islander peoples' life expectation. Table 2 below indicates the potential gains to Aboriginal and Torres Strait Islander life expectancy through addressing five chronic conditions.[237]

Table 2: Potential years of life expectancy gained by Aboriginal and Torres Strait Islander peoples if death rates from five chronic disease groups were reduced to that of the total population (1998-2000)[238]

Chronic Disease group	Aboriginal and Torres Strait Islander males can expect to gain	Aboriginal and Torres Strait Islander females can expect to gain
Diseases of circulatory system (inc. heart diseases, strokes)	6.5 years of life if rates of death lowered to that of non-Indigenous population	6.4 years of life if rates of death lowered to that of non-Indigenous population
Neoplasms (inc. cancers)	2.4 years of life if rates of death lowered to that of non-Indigenous population	2.5 years of life if rates of death lowered to that of non-Indigenous population
Diseases of respiratory system	2.0 years of life if rates of death lowered to that of non-Indigenous population	1.7 years of life if rates of death lowered to that of non-Indigenous population
Endocrine, nutritional and metabolic diseases (inc. diabetes)	1.6 years of life if rates of death lowered to that of non-Indigenous population	2.5 years of life if rates of death lowered to that of non-Indigenous population
Diseases of the digestive system	1.0 years of life if rates of death lowered to that of non-Indigenous population	0.8 years of life if rates of death lowered to that of non-Indigenous population

iv) Aboriginal Community Controlled Health Organisations have a vital role to play

The current approach to improving primary health care access is based on a combination of support for Aboriginal and Torres Strait Islander-specific services alongside improving the accessibility of the mainstream primary health care system (such as through adjustments to Medicare and the Pharmaceutical Benefits Scheme). Both Aboriginal and Torres Strait Islander community controlled and mainstream services are needed by Aboriginal and Torres Strait Islander communities. It should be noted that in regions with no other services,

237 Note: This is included for illustrative purposes only. These calculations are based on the life expectation formula which was subsequently changed in 2003. Similarly, given the complex interaction between diseases and causes of death, the impact of addressing each chronic disease would not necessarily be cumulative.

238 Australian Bureau of Statistics, *Australian Social Trends 2002,* ABS cat. no. 4102.0, Commonwealth of Australia, Canberra, p90.

Aboriginal community controlled services are an essential service which are also used by the non-Indigenous population.

There should be continued support for Aboriginal community controlled health services. There is evidence that they are a highly effective process for the provision of primary health care. Reports and studies have found that community controlled health services can offer:[239]

- better communicable disease control through vaccination;[240]
- improved treatment of communicable diseases – i.e. reduced rates of STIs and scabies;[241]
- increased screening for cancer – i.e. cervical cancer screening;[242]
- early detection and reduced complications of chronic diseases;[243]
- early detection and reduced complications of mental illness;[244]
- improved child and maternal health outcomes – i.e. reduced infant mortality and low birth weight babies;[245]
- reductions in social and environmental risks – i.e. reduced alcohol consumption and ill-health resulting from injuries;[246] and
- increased access to primary and specialist health care, including mainstream services and major gains in diabetes management.[247]

The following text box is extracted from the recent review of Aboriginal primary health care services, and illustrates some of the benefits of Indigenous-specific health services.

Text Box 13: Examples of impacts and outcomes of Indigenous-specific health services[248]

Communicable diseases control through vaccination

- Increased childhood immunisation rates – to 91% of children in the Tiwi Islands and 100% in Wilcannia.
- Aboriginal and Torres Strait Islander people who attend an Indigenous-specific medical service are more likely to be appropriately vaccinated for pneumococcal disease than Aboriginal and Torres Strait Islander persons who attend a general practitioner (76% versus 32% respectively).

Treatment of communicable diseases

- By 1997-98, the prevalence of gonorrhoea in a region was reduced by 46% and chlamydia by 20%. Prevalence has since remained stable at 5% and 6% respectively. Approximately 70% of the adult population served by the Aboriginal community controlled health service participate in an annual Sexually Transmitted Infection screen.[249]

239 See Dwyer, J., Silburn, K. and Wilson, G., *op.cit.,* pp91-106, Appendix.
240 *ibid.,* pp91-92.
241 *ibid.,* p93.
242 *ibid.,* p94.
243 *ibid.,* pp95-96.
244 *ibid.,* pp96-97.
245 *ibid.,* pp98-101.
246 *ibid.,* p102.
247 *ibid.,* pp103-106.
248 *ibid.,* pxvi.
249 The communities for this item have been de-identified.

Cancer screening

- The Northern Territory Well Women's Program, which operates in a region with a high proportion of Aboriginal women and has a long history of engagement with women and local Aboriginal Health Services, has achieved a high rate of cervix screening (61%) in the Alice Springs remote area, which is comparable to the rate for Australian women generally (62%).

Reduced complications of chronic disease

- In 1999 a trial to improve diabetes care in the Torres Strait Islands resulted in an 18% fall in hospital admission rates and a reduction of 41% in the number of people admitted to hospital for diabetes-related conditions. On follow-up in 2002 there was a continuing reduction in hospital admissions for diabetes complications (from 25% in 1999 to 20% in 2002). The proportion of people with good glycaemic control increased from 18% to 25%, and the proportion of people with well-controlled hypertension increased from 40% to 64%.
- A mental health project at the Geraldton Regional Aboriginal Medical Service reduced psychiatric admissions of Aboriginal and Torres Strait Islander people to Geraldton Regional Hospital by 58%.

Improved maternal and child health outcomes

- Since 2000 the Townsville Aboriginal and Islander Health Service's Mums and Babies Project increased the numbers of women presenting for antenatal care (from 40 to over 500 visits per month in 1 year). The number of antenatal visits made by each woman has doubled, with the number having less than four visits falling from 65% to 25%. Pre-natal deaths per 1,000 reduced from 56.8 prior to the program to 18 in 2000; the number of babies with birth weights less than 2,500 grams has dropped significantly; and the number of premature births has also decreased.
- Since 1990 an antenatal program at Daruk Aboriginal Community Controlled Medical Service, Western Sydney has achieved increased awareness among Aboriginal women of the importance of antenatal care. Thirty-six (36) per cent of Indigenous women presented within the first trimester, compared with 21% at Nepean and 26% at Blacktown Hospitals' antenatal clinics; and women attended more antenatal visits (an average of 10 at Daruk compared to 6 at Nepean and 9 at Blacktown).

As the recent review of Aboriginal and Torres Strait Islander primary health care also noted:

> the role of Indigenous-specific services is not simply one of substitution for mainstream services. They also provide a base for training of both Indigenous and non-Indigenous health professionals, and for research and development of new approaches to Indigenous health (either alone or in partnership with mainstream agencies and researchers). This aspect is particularly important in urban services, because of their proximity to medical schools etc. and to the headquarters of mainstream specialist providers (e.g. the leadership of child and adolescent mental health services tends to be based in capital cities). Indigenous specific services in all areas provide the referral pathway to specialist and tertiary services, and support the providers in their responses to Indigenous patients. They are

also the appropriate base for community development approaches to improving health.[250]

It is acknowledged, however, that there is limited research that highlights what works well in community controlled health organisations. Accordingly, it can be difficult to identify those factors which lead to a high performing and effective service. While support for Aboriginal community controlled health services should continue, there should also be independent research conducted to determine the success factors and governance issues which contribute to achieving the most effective community controlled health services possible.

The expansion of community controlled health services must take place alongside efforts to improve the accessibility of mainstream services. It should also be accompanied by health care programs focusing on specific diseases. If, through these, early stage symptoms are detected not only can suffering be prevented, but cost savings made.

A positive development in relation to these issues is the recently introduced 'Healthy for Life' program. This was introduced in the 2005-06 Budget and has funding totalling $113.6m over the next 5 years. This initiative involves the establishment of a number of 'Healthy for Life' sites providing primary health care interventions. These are aimed to improve the quality of child and maternal health care and the early detection and management of chronic diseases. Each site will be subject to a formal evaluation process and has benchmarks set for the life of the program. These include halving incidence of low-birth weight babies within 5 years.[251] This program does not, however, exist at a level that can address the need in Aboriginal and Torres Strait Islander communities. Greater attention is required to address child and maternal health as an urgent priority alongside increases in core funding for primary health care services.

In terms of mainstream accessibility, I welcome the development of a *Cultural Respect Framework for Aboriginal and Torres Strait Islander Health* to guide policy and service delivery for utilisation by the mainstream health care system.[252] It aims to ensure that the mainstream health system is able to deliver 'assurances of cultural safety' to Aboriginal and Torres Strait Islander people and that 'traditional Aboriginal and Torres Strait Islander peoples' healing practices are legitimised'.[253] It is an ambitious document that aims to embed cultural respect at the 'corporate, organisational and care delivery levels' of the health system.[254]

v) Investing in primary health care is cost-effective

It should be noted that investing in Aboriginal and Torres Strait Islander health care needs offers significant cost benefits. In particular, money spent on primary

250 Dwyer, J., Silburn, K. and Wilson, G., *op.cit.,* pxiv. The study also found that an effective primary health care system for Indigenous Australians requires Indigenous specific services in urban as well as rural and remote areas. While a much higher proportion of Australian Government health care spending for Indigenous people in remote regions is through OATSIH funding (over 90% of primary health care spending in remote areas was through OATSIH in 1998–99) more than half of all spending for urban and rural people was also through OATSIH (between 50% and 60%), in spite of the much greater availability of mainstream services: *ibid.*

251 Information available online at: www.atsia.gov.au/budget/budget05/c_fact_sheet_8.pdf.

252 Australian Health Minister's Advisory Committee, *Cultural Respect Framework for Aboriginal and Torres Strait Islander Health, 2004-2009,* Commonwealth of Australia, Canberra, 2004, p3.

253 *ibid.,* p11.

254 *ibid.,* p13.

health care could be expected to reduce Aboriginal and Torres Strait Islander peoples' demand on clinical and hospital services, resulting in savings.

This was highlighted in a report commissioned by the Commonwealth Department of Health and Ageing to assess the cost-effectiveness of current services provided for Aboriginal and Torres Strait Islander Australians in the Northern Territory.[255] The report aimed to provide an understanding of what might happen if investment increased and decreased for primary care over time, looking at hypertension, diabetes, renal disease, ischaemic heart disease, chronic obstructive pulmonary disease, respiratory and related ear infections, diarrhoea, malnutrition and skin infections.[256]

The study considered the cost benefit of existing investment in primary health care, noting that:

> [I]f this funding was not provided, it was estimated that total health costs on other parts of the system would be higher, exceeding $136 million over five years after funding was no longer provided, $470 million in 10 years, and $1,261 million over 20 years (which is largely expected to be hospital, renal dialysis and some Medical Benefits Scheme (MBS)/Pharmaceutical Benefits Scheme (PBS) costs). Also, without these investments, late diagnosis and treatment could be expected to lead to worse health outcomes, with a loss of healthy life years due to premature death and increased disability equivalent to 2.6, 6.1 and 12.6 years per person over five, ten and 20 years time respectively.[257]

The report also considered the potential impact of a staged increase in investments in primary health care across the continuum of health promotion, prevention and clinical care over a ten year period. It found that:

> this investment would save an additional 3 disability adjusted life years per person over five years, 5.7 years per person over ten years, and 9.9 years per person over 20 years due to reduced rates of disability and death (these years would be otherwise lost due to the nine preventable diseases modelled). The total benefit/cost ratio is 28 over five years, 17 over ten years, and 12 over 20 years.[258]

vi) An Aboriginal and Torres Strait Islander health workforce is an essential first step

An equitable distribution of primary health care rests on a prior effort to increase the numbers of health professionals to provide the services. For example:

- Professor Deeble estimated in 2001 that 500 new general practitioners and over 3,000 new nurses and Aboriginal Health Workers were needed.[259]
- Access Economics in 2004 estimated an annual increase in health personnel costs in the order of $280 million per annum was required to address Indigenous health needs, including primary health care.[260] Personnel costs would go towards the following positions, based on

255 Beaver, C. and Zhao, Y., *Investment Analysis of the Aboriginal and Torres Strait Islander Primary Health Care Program in the Northern Territory,* Aboriginal and Torres Strait Primary Health Care Review, Consultant Report No. 2, Commonwealth of Australia, 2002, p1.

256 *ibid.*

257 *ibid.*

258 *ibid.,* p2.

259 Deeble J., *Expenditures on Aboriginal and Torres Strait Islander Health 2003,* AMA, Canberra, 2003, p5.

260 Access Economics, *Indigenous Health Workforce Needs,* AMA, Canberra, 2004, pp21-22, 36.

an assessment of need: the equivalent access to at least 430 medical professionals (at least 250 of these being general practitioners needed in primary health care);[261] 450 dentists and other health professionals; approximately 1,000 nurses and 2,000 more Aboriginal health workers.[262] Training up this workforce, Access Economics estimate, would cost $167 million over 6 years; $36.5 million in the first three years, then tailing off.[263]

There is some overlap between the *workforce needs* shortfall in relation to Indigenous health care with the Indigenous *health workforce representation* shortfall – Indigenous under-representation in the health workforce based on 2.4% of the population being Indigenous. Rectifying the imbalance requires training 928 Indigenous general practitioners and specialists; 161 dentists; 2,570 nurses and 275 pharmacists, according to Access Economics.[264]

There is some overlap between the *workforce needs* shortfall in relation to Aboriginal and Torres Strait Islander health care with the Aboriginal and Torres Strait Islander *health workforce representation* shortfall – Aboriginal and Torres Strait Islander under-representation in the health workforce based on 2.4% of the population being Aboriginal and Torres Strait Islander. Rectifying the imbalance requires training 928 Aboriginal and Torres Strait Islander general practitioners and specialists; 161 dentists; 2570 nurses and 275 pharmacists, according to Access Economics.[265]

In 2001, while Aboriginal and Torres Strait Islander people held 67% of positions in Aboriginal Community Controlled Health Services, 98% of the doctors and 87% of the nurses were non-Indigenous.[266] Significant attention is needed in relation to the recruitment and retention of Aboriginal and Torres Strait Islander health professionals.[267]

Any substantive address must begin at school – students must not only complete school, but they must receive a thorough grounding in maths and science to enter medicine. Recruitment campaigns must start focusing on Aboriginal and Torres Strait Islander young people at an early age.

More broadly, there is a national shortage of health professionals that is only beginning to be addressed. At present, general practitioners are being recruited into primary health care from Australian hospitals, leaving hospitals to recruit from overseas. Recent initiatives have been announced to train up many more nurses and doctors. It is not yet clear how many of those positions are intended to be filled by Aboriginal or Torres Strait Islander people. While there are a number of initiatives designed to encourage Aboriginal and Torres Strait Islander people to study in the area of medicine, including scholarships and incentives to universities to enrol more Aboriginal and Torres Strait Islander students in health

261 *ibid.,* pp16 -17, 36.
262 *ibid.,* pp20, 36.
263 *ibid.*
264 *ibid.,* p3.
265 *ibid.,* p3.
266 Australian Bureau of Statistics and Australian Institute of Health and Welfare, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples 2003, op.cit.,* p63.
267 *ibid.,* p67, Table 4.18.

related fields there is no plan to quarantine places for Aboriginal and Torres Strait Islander people in relation to this shortfall.[268]

The *Indigenous Health Workforce National Strategic Framework* (Workforce Framework) is the response to the health workforce shortfall. The Aboriginal and Torres Strait Islander Health Workforce Working Group was established by the Australian Health Ministers' Advisory Council in 2002 to oversee the national level implementation of the *Workforce Framework* and to ensure effective national level coordination of workforce policies and activities.[269] It includes:

> Objective 5. Include clear accountability for government programs to quantify and achieve these objectives and support for Aboriginal and Torres Strait Islander organisations and people to drive the process.[270]

In May 2002 the Aboriginal and Torres Strait Islander Health Workforce Working Group (ATSIHWWG) was established to oversee implementation of the *Workforce Framework*.[271] Important developments to date include:

- The development of new national Aboriginal and Torres Strait Islander Health Worker generalist primary health care competencies;[272]
- The development of jurisdictional plans such as NSW Health *Aboriginal Workforce Development Strategic Plan 2003–2007*;[273]
- The development of an *Indigenous Health Curriculum Framework* developed by the Committee of Deans of Australian Medical Schools in 2004;[274]
- The report by AIDA: *Healthy Futures, defining best practice in the recruitment and retention of Indigenous medical students (Healthy Futures)*[275] in 2005;
- The continuation of scholarships (such as the funding of the Puggy Hunter Memorial Scholarship Scheme for Aboriginal and Torres Strait Islander students in medicine, nursing, health management and Aboriginal Health Worker courses by the Department of Health and Ageing.[276]

However, despite Objective 5 of the *Workforce Framework* outlined above, the Office of Aboriginal and Torres Strait Islander Health has indicated that at present

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268 Minister for Education, Science and Training, (Nelson, B.), *Correspondence with Social Justice Commissioner,* 31 August 2004.

269 Aboriginal Health Ministers' Advisory Committee (AHMAC), *Aboriginal and Torres Strait Islander Health Workforce National Strategic Framework*, Commonwealth of Australia, Canberra, 2002, p5.

270 *ibid.,* p3.

271 Aboriginal and Torres Strait Islander Health Workforce Working Group, *Annual Report 2002- 2003,* AHMAC, Canberra, 2004, pp6-7.

272 *ibid.*

273 New South Wales Department of Health, *Aboriginal Workforce Development Strategic Plan 2003-2007,* NSW Health, Sydney, 2003 available online at http://www.health.nsw.gov.au/pubs/a/pdf/ab_work_strat.pdf.

274 Phillips, G., Committee of Deans of Australian Medical Schools, *Indigenous Health Curriculum Framework,* VicHealth Koori Health Research and Community Development Unit, Melbourne, 2004, available online at http://www.cdams.org.au/pdf/CDAMS%20Indigenous%20Health%20Curriculum%20Framework.pdf.

275 Australian Indigenous Doctors Association, *op.cit.*

276 For the 2005 academic year 30 scholarships were awarded. The scholarship program is not linked to targets. Department of Health and Ageing, *Annual Report 2004-05,* DOHA, Canberra, p187 (Outcome 7).

there are no national targets associated with its implementation.[277] In September 2003, the ATSIHWWG agreed to establish an Evaluation Group to progress issues related to workforce performance measures and aligning implementation with the *National Strategic Framework*. A full evaluation of the implementation of the *Workforce Framework* will occur in 2007.[278]

By contrast, the Australian Indigenous Doctor's Association propose the following headline workforce targets by 2010:

- Australian medical schools will have established specific pathways in to medicine for Indigenous Australians;
- Committee of Deans of Medical Schools Indigenous Health Curriculum Framework will be fully implemented by Australian medical schools; and
- There will be 350 extra Indigenous students enrolled in medicine.[279]

vii) The proposed timeframes are achievable

There is sufficient evidence to demonstrate that the improvements sought in Aboriginal and Torres Strait Islander peoples' health status are achievable. For example, the most recent review of Aboriginal primary health care states that:

> international figures demonstrate that optimally and consistently resourced primary health care systems can make a significant difference to the health status of populations, as measured by life expectancy, within a decade. For example, in the 1940s to the 1950s in the United States, Native American life expectancy improved by about 9 years; an increase in life expectancy of about twelve years took place in Aotearoa/New Zealand over two decades from the 1940s to the 1960s. Figures from within Australia demonstrate dramatic improvements in infant mortality (for example from 200 per 1,000 in mid 1960s Central Australia to around 50 per 1,000 by 1980) through the provision of medical services.[280]

A number of programs in Australia have also achieved rapid improvement in Aboriginal and Torres Strait Islander peoples' health in response to specific program interventions. For example, death rates among Aboriginal and Torres Strait Islander people from pneumonia have dropped 40% since 1996 due to the rolling out of pneumococcal vaccinations;[281] and the Strong Babies, Strong Culture program has shown that significant reductions in the number of low birth weight babies can occur within a matter of years.[282]

The following case study of the impact of a four year program targeting kidney disease in one Aboriginal community vividly demonstrates the progress that can be made even over a short timeframe.

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277 Office of Aboriginal and Torres Strait Islander Health, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner regarding the Social Justice Report 2005,* November 11, 2004.

278 Aboriginal and Torres Strait Islander Health Workforce Working Group, *op.cit.,* pp6-7.

279 The Australian Indigenous Doctor's Association targets reflect those proposed by Access Economics discussed further below: *ibid.*

280 Dwyer, J., Silburn, K. and Wilson, G., *op.cit.,* p40.

281 Figure cited as being drawn from Australian Bureau of Statistics sources in Ring, I. and Brown, N., 'Indigenous Health; chronically inadequate responses to damning statistics', *op.cit.*

282 Australian Bureau of Statistics and Australian Institute of Health and Welfare, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples 1999,* ABS cat. no. 4704.0, Commonwealth of Australia, Canberra, 1999, p87, Text Box 6.8.

Text Box 14: Case study: Tackling end-stage renal disease in one Aboriginal community

Notifications of Aboriginal and Torres Strait Islander people with end-stage renal disease occur at nine times the rate of notifications in relation to the non-Indigenous population. The onset of end-stage renal disease among non-Indigenous people occurs largely among older people, but rates among Aboriginal and Torres Strait Islander people are high from the 25-34 years age group. For people aged 35-64 years, the rates among Aboriginal and Torres Strait Islander people were 12-18 times higher than the rates for non-Indigenous people over 1997-2001.[283]

In the Northern Territory, the incidence of kidney disease requiring dialysis rose from fewer than 400 per million Aboriginal people in 1984 to almost 1,300 per million in 2001. This is at a cost of more than $112,000 per person each year. In 2004, there were only two dialysis centres in the Northern Territory – one in Alice Springs, one in Darwin. People from the remote communities with renal failure have to move from their communities to receive treatment. This profoundly disrupts their community and family life, and can lead to despair, demoralisation, and voluntary withdrawal from dialysis treatment.

A four-year treatment program in one community, however, was able to reduce the incidence of kidney disease by 62 per cent. The death rate in people with kidney disease was also halved. Savings on kidney dialysis amounted to $3 million during the program, which involved fewer than 300 people.

The program involved education about diet, exercise, health behaviours and medical treatment. Medical treatment consisted of blood pressure control, particularly in relation to hypertension. Participants were seen at least monthly while medications were introduced or changed, then at least every three months for the first year, and at least every six months thereafter. After a start-up period, the day-to-day program was largely conducted by local health workers and community project officers, who were supported by telephone contacts and regular visits by nurse coordinators from Darwin.[284]

viii) Resources must be provided at a level that is capable of meeting need

There currently exist significant programs which focus on improving primary health care and health infrastructure for Aboriginal and Torres Strait Islander communities – such as the Primary Health Care Access Program and the Community Housing and Infrastructure Program and other mainstream programs and services. These schemes do not, however, operate at a level that matches the need in communities.

As noted, the Primary Health Care Access Program (PHCAP), a Commonwealth initiative, is the main vehicle for the expansion of existing primary health care services in communities and the establishment of new services. Announced in the 1999/2000 budget, the original Commonwealth contribution of $78.8 million over 4 years was increased by a further $19.7 million in the 2003/04 budget taking

283 Australian Health InfoNet, *Summary of renal and other urologic disorders among Indigenous Australians,* http://www.healthinfonet.ecu.edu.au/html/html_health/specific_aspects/chronic/renal/renal_2.htm#summary, 15 August 2005, (Accessed 1 September 2005).

284 Hoy, W., Baker, P., Kelly, A., *(et al),* 'Reducing premature death and renal failure in Australian Aboriginals – a community based cardiovascular and renal protective program' (2000) 172 *Medical Journal of Australia* 473, pp473-478.

the recurrent funding base of the project to $54.8 million.[285] The 2005/06 Budget announced an additional $40 million for the four years until 2008/09.[286]

PHCAP has never been fully or appropriately funded. Not all zones have been rolled out and there are no plans to roll out further PHCAP zones in the Top End. Similarly, the Department of Health and Ageing has not provided estimates of the funding required to implement PHCAP up to the benchmark funding level in Aboriginal and Torres Strait Islander communities over the next 5 years.

The spending shortfall on Aboriginal and Torres Strait Islander peoples by the Commonwealth Government through Medicare and the Pharmaceutical Benefits Scheme (PBS) provides a basis for gauging the size of the primary health care shortfall. Through these programs, the Commonwealth Government facilitates the general populations' access to primary health care as provided by general practitioners and other private health services. PBS and Medicare expenditure by Aboriginal peoples remains 39 cents for every dollar and this discrepancy (despite 3 times greater disease burden) has not been alleviated in the last several years.[287]

Per capita Medicare underspend estimates have been used to assess the quantum of the Aboriginal and Torres Strait Islander primary health care shortfall. Factoring in greater health needs has created the following estimates of costs:

- In 2003, the Australian Medical Association (AMA) calculated there was a $250 million per annum shortfall in Medicare and related spending on Aboriginal and Torres Strait Islander peoples by the Commonwealth that, if made up, could be devoted to primary health care.[288] The AMA added that $50 million was required to increase public heath, preventative programs, screening and health education in communities, to compensate for the fact that national health campaigns did not reach Aboriginal and Torres Strait Islander communities as they reached the general population.[289]
- Access Economics estimated there was approximately a $400 million per annum shortfall that should be devoted to an Aboriginal and Torres Strait Islander health program including provision of an equitable distribution of primary health care in a report published in May 2004.[290]

285 Dwyer. J., Silburn, K. and Wilson, G., *op.cit.,* p16.

286 Department of Immigration, Multiculturalism and Indigenous Affairs, *Indigenous Budget Measure 12: Primary Health Care Access programme – additional funding,* (fact sheet) http://www.atsia.gov.au/budget/budget05/c_fact_sheet_12.pdf July 2005 (Accessed 3 August 2005).

287 Australian Institute of Health and Welfare, *Expenditures on health for Aboriginal and Torres Strait Islander peoples, 2001-02,* AIHW cat. no. HWE 30, Canberra, 2005, p24.

288 Deeble, J., *Expenditures on Aboriginal and Torres Strait Islander Health 2003,* AMA, Canberra, 2003, p5.

289 *ibid.*

290 Access Economics, *Indigenous Health Workforce Needs,* Australian Medical Association, Canberra, 2004, p36, available online at: http://www.ama.com.au/web.nsf/doc/WEEN-63Q9J7. Access Economics and Deeble used different models quantify need. Deeble uses rates of Indigenous mortality as an approximation of the rate of morbidity as a measure of health needs, while also factoring in costs associated with providing services to remote areas. Access Economics uses a more disgregated range of indicators because, they argue, that would more directly reflect health needs (use of medical services, hospital use, and weighted risk factors). They also factoring in the cost of services at a distance, using the same cost loading as Deeble. Access Economics, *op.cit.,* p39.

In 2004, the report *Costings Models for Indigenous Health,* estimated the cost of extending Indigenous specific universal primary health care to be between $409 million and $570 million depending on the quality of service offered.[291] The consultants based their lower estimate on a needed health spending ratio of 2.21:1 (Aboriginal and Torres Strait Islander to non-Indigenous) based only on extra needs. There was no adjustment made for the additional costs of remoteness or for culturally appropriate services. The higher estimate relates to the cost of funding services to the level currently provided to a set of eight 'best practice' services.

A recent review of their findings noted problems with the model and estimated that spending ratios of between 3:1 and 6:1 might be required to provide universal and comprehensive primary health care to communities.[292]

It should be noted that addressing this need offers significant cost benefits to Australian governments and allows for the most efficient targeting of resources in relation to health. In particular, money spent on primary health care could be expected to reduce Aboriginal and Torres Strait Islander peoples' demand on hospital services, resulting in savings at that end; while money spent on health infrastructure could be expected to significantly reduce Aboriginal and Torres Strait Islander peoples' use of health services in general.

In relation to health infrastructure, a century of neglect of health infrastructure in Aboriginal and Torres Strait Islander communities has left what could be a $3-4 billion[293] project for this generation.

The Community Housing and Infrastructure Program (CHIP) is the program for the provision of capital works infrastructure to communities. In 2004, the program was transferred from ATSIC to the Department of Family and Community Services. The Commonwealth spent $256 million on the CHIP in 2004-2005.[294] Over the decade 1991-2001, $725m was spent on construction or purchase of 5901 houses; $106m on upgrades/renovation of 6534 houses; and $645m on capital costs of housing related infrastructure (water, power, sewerage).[295]

CHIP is not a strategic plan to ensure that an equal standard of infrastructure is provided to Aboriginal and Torres Strait Islander communities. Funding is not linked to need under this program. It was estimated in 2001 that at the current rate of funding it would take at least 20 years to achieve an equal standard of infrastructure in communities.[296]

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291 Econtech, *Costings Models for Aboriginal and Torres Strait Islander Health Services,* Aboriginal and Torres Strait Islander Primary Health Care Review: Consultant Report No.3, Commonwealth of Australia, Canberra, 2004, pxi.

292 Dwyer, J., Silburn, K., and Wilson, G., *op.cit.,* pxxv.

293 The Aboriginal and Torres Strait Islander Commission estimated the cost of meeting healthy infrastructure needs in communities to be $3.5 billion in 2001. Aboriginal and Torres Strait Islander Commission, *ATSIC Health Policy,* http://www.atsic.gov.au/issues/disadvantage/health/health_policy_2001.asp, February 2001, (Accessed 3 February 2004).

294 Senate Community Affairs Legislation Committee, *Examination of Budget Estimates 2005 -2006, Additional Information Received, Vol 1, Family and Community Service Portfolio,* September 2005, p83, available online at http://www.aph.gov.au/Senate/committee/clac_ctte/estimates/bud_0506/vol1_facs_Sep05.pdf.

295 Etherington, S. and Smith, L., 'Construction, – The design and construction of Indigenous housing: the challenge ahead', article in Australian Bureau of Statistics, *Year Book Australia 2004,* ABS, Commonwealth of Australia, Canberra, 2004, p553.

296 Aboriginal and Torres Strait Islander Commission and the Cooperative Research Centre for Aboriginal and Tropical Health, *Atlas of Health Related Infrastructure in Discrete Indigenous Communities,* ATSIC, Melbourne, 2002, p10.

There is a danger that if infrastructure needs are not addressed expeditiously, the rapidly growing Aboriginal and Torres Strait Islander population may put such pressure on existing infrastructure that much of the good work of the past decade will be undone. Planning to address this historical lack of infrastructure is an essential joint step with the provision of primary health care if improvements to health are to be realised. There is, however, currently no overall plan to address these needs that meets with the human rights principle of progressive realisation- i.e., that the inequality is steadily being reduced with the commitment of the maximum of available resources.

Only with funding commitments that are proportionate to the outstanding need in communities will it be feasible for governments to meet the outstanding primary health care and infrastructure needs of Aboriginal and Torres Strait Islander communities within 10 years.

While the estimated amounts required to address primary health care access and infrastructure provision are significant, they represent about 1% of the current national per annum spending on health. Total expenditure on health goods and services, health-related services and capital formation in Australia in 2003–04 was estimated at $78.4 billion. This was an increase of $6.1 billion over the previous year.[297]

ix) Responsibility for addressing the funding shortfall should be shared between governments

Addressing this funding shortfall is a shared responsibility between levels of government. The most recent review of expenditure patterns on Aboriginal and Torres Strait Islander Health notes that:

> the Australian Government provided 43.1% of the total funding for Indigenous health expenditures, the state and territory governments provided 49.5%, and 7.3% came from non-government sources, including out-of-pocket payments. The corresponding figures for non-Indigenous people were 47.8% from the Australian Government, 19.5% from the states and territories and 32.7% from private sources.
>
> An estimated 70.5% of expenditures were through programs managed by the state and territory governments; 23.4% were through Australian Government programs; and the remaining 6.2% were for services that were essentially the responsibility of non-government providers.[298]

Generally, primary health care is a responsibility of the federal government – but savings made here can prevent engagement of Aboriginal and Torres Strait Islander peoples with the secondary and tertiary systems, which are predominately responsibilities of the states and territories. The states and territories also have significant responsibilities for service delivery in areas which impact on health outcomes, such as housing.

297 Australian Institute of Health and Welfare, *Health Expenditure 2003-2004,* AIHW cat. no. HEW 32, Canberra, 2005, p6.

298 Australian Institute of Health and Welfare, *Expenditures on health for Aboriginal and Torres Strait Islander peoples, 2001–02, op.cit.,* pxxiv. Notably, the federal government spends comparatively *less* on Indigenous peoples to non-Indigenous peoples in percentage terms: 43.1% of total Indigenous health expenditure compared to 47.8% for total non-Indigenous health expenditure.

In light of the comprehensive national frameworks and strategies in place, it would appear that there exists a solid basis for governments to work together to address the projected funding shortfall. Additional funding to the states and territories could be made contingent on the agreement of states and territories to match federal contributions. This was done in the negotiation of the Australian Health Care Agreements for 2003-2008.[299]

In the last round of negotiations of the Australian Health Care Agreements (AHCAs) such leverage was not used by the federal government to seek improvements in funding or performance from the states and territories on Aboriginal and Torres Strait Islander health.[300]

x) Data collection and methodological issues remain to be addressed

To support these commitments and proposed targets, further reform of health financing models and data collection methods is required.

There has been significant work done to improve health financing models towards processes that identify the level of need. For example, quantifying the Medicare Benefit Scheme spending shortfall on Aboriginal and Torres Strait Islander peoples has provided a basis for quantifying the primary health care shortfall and stimulated initiatives to ensure Aboriginal and Torres Strait Islander enjoy greater access to Medicare and the Pharmaceutical Benefits Scheme. Further work is required to quantify enable the level of need to be quantified nationally, as well as at a regional and sub-regional level for both primary health care access and health infrastructure provision.

This raises the broader issue of the poor quality of data in many areas upon which to base planning. This is a long standing issue. Developing appropriate standards of Aboriginal and Torres Strait Islander health information was identified as a national health information priority in 1995, with the *National Indigenous Health Information Plan* (1997) being developed as a consequence.[301] However, the plan remains largely unimplemented.[302] The Overcoming Indigenous Disadvantage report has also identified concerns about the quality of data available on health measures contained in that framework.[303]

The National Public Health Partnership has produced guidelines for the assessment of need in Aboriginal and Torres Strait Islander communities.[304] These aim to promote accurate and comprehensive processes to identify Aboriginal and Torres Strait Islander need, including adequate processes for data collection.

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299 For details see: Prime Minister, *Australian Health Care Agreements 2003-2008,* Media release, 23 April 2003, available online at: http://www.pm.gov.au/news/media_releases/media_Release 143.html, (accessed 21 November 2003).

300 The Australian Health Care Agreements Improving Indigenous Health Reference Group, established prior to the negotiations of the 2003-2008 agreements, proposed that a detailed schedule be attached to the AHCA to forward the implementation of the *National Strategic Framework*. The Commonwealth Government did not accept the need for the schedule at the time. See: Australian Health Care Agreements Improving Indigenous Health Reference Group, *Improving Indigenous Health*, 2003, p136, available online at www.health.gov.au/haf/Indigenous. pdf. (Accessed 12 August, 2003).

301 Thomson, N., *The Need for Indigenous Health Information,* in Editor, Thomson, N., *The Health of Indigenous Australians, op.cit.,* p2.

302 *ibid.,* p4.

303 Steering Committee for the Review of Government Service Provision, *op.cit.,* pp2.17, 3.13, 5.5, 8.4, 10.4.

304 National Public Health Partnership, *op.cit.,* pp18-19.

b) What role should health issues play in the new arrangements for the administration of Indigenous Affairs?

Improving Aboriginal and Torres Strait Islander peoples' health will not occur by focusing exclusively on the health sector. It also requires commitments and action from other sections of government and the community. As recently noted:

> Much could also be gained if current initiatives to strengthen community capacity and coordinate investments in Indigenous communities are successful in addressing some of the social determinants of ill-health; and if Indigenous communities and governments are successful in fostering an environment that enables communities, families and individuals to engage more actively in sharing responsibility for their own health.[305]

For this reason, the new arrangements for the administration of Indigenous affairs at the federal level provide a good opportunity to build on the strategic focus and structures that are in place to address Aboriginal and Torres Strait Islander health inequality.

This is particularly through the coordination role of the Indigenous Coordination Centres (with solution brokers from different departments, including Department of Health and Ageing, to operate as a contact point for multiple programs and funding sources, and to ensure better coordination of mainstream and Indigenous specific programs); the focus on local level engagement and participation of Aboriginal families, clans and communities; and the Regional Partnership Agreement and Shared Responsibility Agreement processes.

As noted earlier in this chapter, the Department of Health and Ageing has not played a significant role in the new arrangements to date. There remains a disconnect between existing programs relating to Aboriginal and Torres Strait Islander health and the operation of the new arrangements despite the clear inter-connections between the issues. Even though there is recognition by governments that Aboriginal and Torres Strait Islander health outcomes require a holistic response in order to achieve lasting and sustainable improvements, in most instances issues are still being addressed separately.

My Office has been informed that staffing levels in the Office of Aboriginal and Torres Strait Islander Health (OATSIH) within DOHA have not permitted a fuller engagement in the new arrangements to date. There had been a reduction in staffing within OATSIH which limits their ability to participate in policy debates and the new arrangements. OATSIH have indicated that they have recently conducted a recruitment campaign which should see increased capacity in the near future. In addressing the issues raised here, however, there should be no diversion of resources away from the roll out and management of the PHCAP scheme.

I consider that the new arrangements can make a significant contribution to efforts to achieve health equality for Aboriginal and Torres Strait Islander peoples in the following ways.

i) Matching programs to need on a regional basis

The health sector provides substantial evidence of the level of need in communities, particularly as it relates to health issues. The new arrangements should build on this.

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305 Dwyer, J., Silburn, K. and Wilson, G., *op.cit.,* pxi.

Indigenous Coordination Centres should utilise the findings and recommendations of the regional planning processes conducted under the state-wide Aboriginal Health Forums, as well as other regionally based information in developing coordinated regional approaches.

Text Box 15 below illustrates the type of information that is available and which could be utilised to achieve an improved focus on health issues through the new arrangements. It provides a brief overview of some of the planning tools that are available in relation to two regions in Western Australia.

Text Box 15: Case studies: Regional planning tools on health in two regions of Western Australia

a) Wunan (East Kimberly) Region

1. *Kimberly Regional Aboriginal Health Plan* (1999)

The plan identifies need across the Kimberly Region, including the East Kimb erly.

- *Health services:* as an 'absolute minimum' an additional $13 million per annum spending was required to meet the need for PHC.[306] Ten additional GPs were needed (increasing by one every two years to cope with population increases), as well as 12 community nurses and 100 Aboriginal Health Workers (AHW).[307]
- *Health infrastructure:* 300 new homes were needed every year for 5 years to address overcrowding.[308]

2. *Community Housing and Infrastructure Needs Survey* (2001)

Of 368 dwellings managed by an Indigenous Housing Organisation in the East Kimberly region, 85 (23%) were declared in need of replacement, 58 (16%) were in need of major repair, and all of the remainder needed minor repair.[309]

3. *ATSIC Wunan Regional Council: Regional Plan 2004-2007* (2004)

- *Health services:* need for functioning, effective and efficient Aboriginal Health Services in the region; Patient Management Plans and Patient Recall Systems; regular specialist visits to communities.
- *Environmental health:* regular environmental health surveys; environmental health standards; safe and reliable water supplies and; effective dust control.
- *Improved health awareness:* regular screening for chronic diseases; nutrition and healthy lifestyles programs; healthy food available at reasonable prices.[310]

306 Atkinson, D., Bridge, C., and Gray, D., *Kimberley Regional Aboriginal Health Plan*, The University of Western Australia, Nedlands, 1999, p84, Recommendation 27, p7.

307 *ibid.,* p85, Recommendation 31.

308 *ibid.,* p78, Recommendation 6. Note also that in the 1992 and 1999 Community Housing and Infrastructure Needs Surveys and the 1997 WA Environmental Health Needs Survey, the East Kimberley region was reported as having the greatest Aboriginal housing need of all WA regions and quantifications of that need occurred. Taylor, J., *Aboriginal Population Profiles for Development Planning in the Northern East Kimberley,* Centre for Aboriginal Economic Policy Research, Research Monograph No. 23, Australian National University, Canberra, 2003, p62.

309 *ibid.,* (Taylor, J.). See also Australian Bureau of Statistics, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities 2001, op.cit.*

310 Atkinson, D., Bridge, C., and Gray, D., *op.cit.,* p6.

4. *WA Environmental Health Needs Survey* (2004)

Sixty three communities from the region were surveyed and further disaggregation to community level is available. Regionally, it reported 76% needed additional housing; 66% of communities had no monthly testing of water supplies; 86% of communities' solid waste dumping area was not well fenced; 70% of communities had no access to a septic tank, or pump out equipment; and 80% of communities had no dust suppression program.[311]

5. *Western Australian Aboriginal Child Health Survey* (2005)

This is disaggregated for all ATSIC Regions in WA including the Wunan (Kununurra) ATSIC Region:

- Volume 1 (general health) reported children were significantly reliant on nurses and Aboriginal Health Workers despite higher rates of ear, chest, skin and gastrointestinal infections than reported in Aboriginal children in the rest of WA:[312] only 39% had seen a doctor in the six months prior to the survey compared to 49% for other Aboriginal children.[313] Childrens' diets were found to be poorer, particularly their access to vegetables.[314]
- Volume 2 (emotional and social health) noted the need for strategies to combat family stress[315] and high levels of tobacco, alcohol and marijuana use among children. Of particular concern 21% of children had only a limited understanding of sexual health and contraception.[316]

b) Perth and surrounding area

1. *Nyoongar Health Plan* (1999)

The Plan contained a goal of reducing the ratio of Aboriginal and Torres Strait Islander to non-Indigenous premature deaths from approximately 1:2.5 to 1:1.9 by 2010.[317] It identified as priorities the establishment of an AMS in the Wheatbelt area and the decentralisation of the AMS in Perth to Aboriginal population centres. It recommended that the Aboriginal Health-Related workforce be expanded.[318] Special programs in relation to dental health, alcohol and substance abuse, smoking and pregnant women were identified as needs.[319]

2. *Perth Noongar ATSIC Regional Council Action Plan* (2004)

The plan identifies as needs: accessible and appropriate health services, an address to substance misuse (including health promotion in relation to this) and an address to infant mortality. It sets as a goal the development of a 'Noongar centre for healing' for the healing of 'physical, mental and spiritual injury and disease'.[320]

311 Environmental Health Needs Coordinating Committee, *Environmental Health Needs in Indigenous Communities in Western Australia,* EHNCC, Perth, 2005, p115.

312 Telethon Institute, *The Health of Aboriginal Children and Young People, Wunan (Kununurra) ATSIC Region, Summary of Findings from Volume One of the Western Aboriginal Child Health Survey,* Telethon Institute, Perth, 2005, p9.

313 *ibid.,* p7.

314 *ibid.*

315 Thirty four per cent of Aboriginal children were living in families that had experienced 'high stress events' compared to 22% across WA. Telethon Institute, *The Social and Emotional Well-being of Aboriginal Children and Young People, Wunan (Kununurra) ATSIC Region, Summary of Findings from Volume Two of the Western Aboriginal Child Health Survey,* Telethon Institute, Perth, 2005, (no page numbers).

316 *ibid.*

317 Western Australian Aboriginal Health Joint Planning Forum, *Nyoongar Health Plan,* WAAHJF, Perth, 1999, pp33-37.

318 *ibid.,* p73.

319 *ibid.,* pp47-52.

320 Perth Noongar ATSIC Regional Council, *Regional Plan,* ATSIC, Perth, 2004, pp7-9.

3. *WA Environmental Health Needs Survey* (2004)

Three communities (non-metropolitan) were surveyed and disaggregation to community level is available. The main needs related to transport and access to services; and an address to waste disposal; dust suppression and dog programs.[321]

4. *Western Australian Aboriginal Child Health Survey* (2005)

- Volume 1 (general health) reported more children in the region had seen doctors in the six months prior to the survey that in the rest of WA and were less reliant on nurses and AHWs (56% in Perth compared to 49% in WA).[322]
- Volume 2 (emotional and social health) noted the need for strategies to combat family stress and high levels of tobacco, alcohol and marijuana use among children.[323]

Solution Brokers in ICCs and 'ICC Contact Officers' in state offices of the Department of Health and Ageing are well placed to bring this experience and information to the process.

ii) Engaging with the Aboriginal community controlled health sector

The new arrangements should also build upon the significant community resources and capacity that exists through the Aboriginal community controlled health sector. Aboriginal medical services are often at the centre of community life. They provide a valuable tool for engaging with communities as well as providing basic information to communities about the new government processes.

Aboriginal primary health care providers would also be able to identify strategies and processes that are complementary and additional to the delivery of health services to the community, such as sport and recreation activities or support for governance and capacity building among sections of communities. *These are the types of activities that would be amenable to local level agreements and trials of new activities.*

Relationships should be developed between Aboriginal Community Controlled Health Organisations and ICCs at the regional level. These could be advanced through the negotiation of Regional Partnership Agreements. This could also be advanced by negotiating with the peak representatives of Aboriginal Community Controlled Health Organisations such as state and territory affiliates of the National Aboriginal Community Controlled Health Organisation (NACCHO).

I note that this may place additional burdens on Aboriginal Community Controlled Health Services. NACCHO had expressed concern about the potential implications of this to the Senate Inquiry into the abolition of ATSIC. They noted that 'mainstreaming' may have adverse effects on the Aboriginal Community Controlled Health sector through:

- Increased demands on the sector for consultation, advice and coordination from several government departments.

321 Environmental Health Needs Coordinating Committee, *op.cit.,* p149.

322 Telethon Institute, *The Health of Aboriginal Children and Young People, Perth Noongar ATSIC Region, Summary of Findings from Volume One of the Western Aboriginal Child Health Survey,* Telethon Institute, Perth, 2005, p9.

323 Telethon Institute, *The Social and Emotional Well-being of Aboriginal Children and Young People, Perth Noongar ATSIC Region, Summary of Findings from Volume Two of the Western Aboriginal Child Health Survey,* Telethon Institute, Perth, 2005, (no page numbers).

- The lack of Aboriginal and Torres Strait Islander focus, experience and knowledge in mainstream government departments.
- The operation of staff from departments who do not have an Aboriginal and Torres Strait Islander focus and will compete with a 'broader policy agenda' will find it difficult to prioritise Indigenous issues.
- The lack of coordination among departments and levels of government when responding to Aboriginal and Torres Strait Islander health issues.
- The difficulty in developing policy expertise and experience in the area of Aboriginal and Torres Strait Islander issues when it is seen as a tertiary part of a department's activities.
- The poor present and historical record of government departments in addressing Aboriginal and Torres Strait Islander disadvantage.[324]

iii) Shared Responsibility Agreements and health promotion

A number of the Shared Responsibility Agreements and other funding initiatives have already been introduced that involve activities that are intended to have a significant health benefit.[325] These include the 'no school, no pool' policy; provision of sport and recreation facilities or equipment; support for market gardens and nutrition programs; through to support for women's groups and child care services.

Text Box 16 below provides a case study of the type of program that is susceptible to coordinated federal government engagement, including through Shared Responsibility Agreements. The Community Stores Program was initiated by the Jawoyn Association in the Katherine region of the Northern Territory in partnership with the Fred Hollows Foundation in 1999. This has seen the federal government work with the private sector and non-government sector to improve food quality and availability. It has the potential to be extended into other communities and regions.

Text Box 16: Nyirranggulung Nutrition Project

The *Nyirranggulung* ('all together as one mob') *Nutrition Project* is an umbrella name for a number of programs that aim to secure long-term improvements in nutrition in communities, in particular by increasing the availability of affordable, nutritious food.

It involves a school meals program, developed and run by a local Women's Centre and sustained through deductions from family allowances paid through Centrelink. The Fred Hollows Foundation has provided a cool room and commercial cooking facilities for the program.

Accessible nutrition advice is also provided through the appointment of a nutritionist, based at the Sunrise Health Service, to advise families, stores and take-away outlets and the school meals program.

324 National Aboriginal Community Controlled Health Organisation, *Submission to the Senate Select Committee on the Administration of Indigenous Affairs,* August 2004, p8, available online at http://www.naccho.org.au/SenateCommittee.html.

325 An overview of finalised Shared Responsibility Agreements is provided in Chapter 3 of this report.

It also involves the Community Stores Program.

For the past two years, Woolworths Limited has provided an experienced store manager to mentor, train and advise community store management committees, local managers and staff in the Jawoyn communities. As a result, the two major communities in the region have regained control of their stores and transformed them in just over 18 months.

Store committees have developed a range of relevant store policies which have been documented in a regularly updated Stores Procedures Manual – for example, "book up" (or credit) is limited to aged pensioners and kept to $50.00 per person; alcohol sales are restricted to certain hours and can limits strictly enforced; healthy foods are priced at cost recovery only; and store operational and management systems have been improved.

There had also been significant increases in employment. In one community this had created an additional $120,000 in wages over eight months. Stores have progressively turned around debt and made profits; local Aboriginal managers and staff have received accredited training; store infrastructure, such as refrigerated display units, have been upgraded, enabling stores to stock a full range of affordable, quality fresh produce including fresh fruit, meat, vegetables and dairy products; and a broader range of goods that support health such as refrigerators, washing machines, shoes and clothing are now for sale.

Commonwealth Government funding of $1.5 million in 2004 enabled the program to be extended to the communities in the west of Katherine and in Central Australia.

Eventually, it is hoped that the program will reach other regions in the north of South Australia and Queensland. It is anticipated that other food retailers will also participate in the program in the future.[326]

Shared Responsibility Agreements (SRAs) provide a significant opportunity to advance non-health sector issues which impact on Aboriginal and Torres Strait Islander health status. They are able to target social determinants of health, as well as support partnership approaches to addressing some issues relating to infrastructure provision and management within communities.

While SRAs are appropriate for targeting social determinants of health and supporting some (non-essential) infrastructure provision, there are limits on when they should be used.

Principles relating to the making of Shared Responsibility Agreements from a human rights perspective are set out in Chapter 3 of this report and apply to the making of agreements relating to health issues. These principles note the following:

> The Committee on Economic, Social and Cultural Rights has identified the following as included within core minimum obligations that would not be appropriate for inclusion within SRAs:
>
> – access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;
> – physical access to water facilities or services that provide sufficient, safe and regular water;

326 Fred Hollows Foundation, *The Fred Hollows Foundation Welcomes Federal Government Support of $1.5 Million for Remote Indigenous Community Stores Program,* Media release, 12 June 2004, available online at http://www.hollows.org/upload/9400.pdf.

- measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation;[327]
- the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;[328]
- basic shelter, housing and sanitation;[329] and
- essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs.[330]

Respecting, protecting and fulfilling rights: Governments are obliged to fulfil all human rights. *Fulfilling* human rights is a positive obligation that places an onus on governments to ensure that human rights subject matters (such as water, food and housing) are provided to its population and that they are equally accessible to different population groups.[331]

Accordingly, SRAs must respect human rights and protect the rights of Indigenous peoples from third party abuse. But they may also be used to fulfil Indigenous peoples' enjoyment of human rights. The United Nations Committee on Economic, Social and Cultural Rights has provided the following illustrations of measures to fulfil economic, social and cultural rights:

- In relation to *food:* proactively engaging in activities intended to strengthen people's access to and utilisation of resources and means to ensure their livelihood, including food security.[332]
- In relation to *water:* to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.[333]
- In relation to *health:* taking positive measures that enable and assist individuals and communities to enjoy the right to health, and undertake actions that create, maintain and restore the health of the population. This includes: disseminating appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services; and supporting people in making informed choices about their health.[334]

  SRAs should not be used to negotiate the delivery of primary health care access or the delivery of essential infrastructure provision – such as water supply, sanitation and sewerage.

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327 United Nations, *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies,* UN Doc. HRI/GEN/1/Rev.6, 2003, p113, para 37, (United Nations Committee on Economic, Social and Cultural Rights, General comment 15: the right to water). United Nations Committee on Economic Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), op.cit.,* para 43.

328 *ibid.*

329 *ibid.*

330 *ibid.*

331 Governments also have obligations to respect and protect human rights. *Respect* for human rights places an onus on governments to restrain itself from acting in a manner that breaches human rights. *Protecting* human rights places an onus on governments to monitor and regulate the behaviour of non-government parties to ensure that they do not breach human rights.

332 United Nations, *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, op.cit.,* p66, para 15 (United Nations Committee on Economic, Social and Cultural Rights, General comment No. 12: the right to adequate food).

333 *ibid.,* p112, para 25 (United Nations Committee on Economic, Social and Cultural Rights, General comment 15: the right to water).

334 United Nations Committee on Economic Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), op.cit.,* paras 36-37.

NACCHO have also argued that state government *core minimum obligations* could include disease control responsibilities under their relevant Public Health Acts. The responsibility for trachoma control, rheumatic fever and a range of other communicable diseases is a core obligation. However, there is little accountability, benchmarking and forward targeting for this activity.

In relation to the Shared Responsibility Agreement with the Mulan community, NACCHO note:

> The problem with the Mulan agreement is that it includes the provision of government services which are already required under the WA Health Act (1911) and should be delivered regardless of the SRA. In other words, unlike every other Australian town or community, this particular community has to sign an agreement to receive these government services. It would be an outrage if any other rural or remote town had to sign an agreement with the government before public health authorities would evaluate disease control and environmental health standards. These are required under Public Health Acts and are a mandatory responsibility of State governments. Most analysts have not examined this fundamental issue and have focused only on the obligations required in order to obtain petrol bowsers, not the obligations required for the provision of services (required under the Act).
>
> In addition, there is a focus on the obligation to "ensure children shower daily and wash their faces twice a day." There are other obligations placed on communities which are not often alluded to. These include actions to prevent petrol sniffing amongst others. Efforts to prevent petrol sniffing are a huge ask! What would constitute an effort? How would a community know what would be the best approach? What funding would be provided to assist this community to implement such a public health intervention? These questions are relevant in freely choosing to participate. It is difficult to speculate on the discussions which must have ensured around this agreement but it is likely that there was some degree of coercion and misunderstanding from both partners in the transaction.
>
> Clearly a community can agree to do whatever it wants in exchange for goods and services, but perhaps the question should be – is the transaction ethical, acceptable and evidence-based? From a public health analysis, the evidence underpinning a community obligation is paramount. A policy analyst should be asking, what is the evidence for face washing in the prevention and disease control of trachoma? If the community undertook these actions, given it is so difficult to mandate by local council, would trachoma rates be reduced? Unfortunately, the answer is no (there is an abundance of literature on this matter which shows that face washing alone does not affect trachoma rates – the SAFE approach is necessary). So, is this Mulan Agreement setting up the community to fail? Will it be judged by the media as having failed on its agreement with government if trachoma is still endemic? There are a number of appalling consequences in a non-evidence-based approach to SRAs.[335]

335 Unpublished NACCHO policy paper. Information provided by NACCHO to the Aboriginal and Torres Strait Islander Social Justice Commissioner.

Similarly, the Office of Aboriginal and Torres Strait Islander Health within the Department of Health and Ageing should remain firmly fixed on expanding primary health care services and implementing existing health programs such as *Healthy for Life*. We should not see resources diverted from this approach to SRAs. The placement of solution brokers from the Department of Health and Ageing within ICCs will, however, be of great benefit in ensuring that the experience and frameworks of the health sector are able to be incorporated and utilised in the Shared Responsibility Agreement process and in the establishment of Regional Partnership Agreements. Funds should be made available to do both.

At the National Reconciliation Workshop in Canberra in May 2005, the Prime Minister stated:

> I simply, along with I'm sure all of you, want an Australia where an Aboriginal child - whether born in a remote community or in one of our cities or in regional centres - can grow up and reach their full potential in life. I want that child to be loved and nurtured and morally guided, to be healthy, educated, optimistic, ambitious and to feel a full part of the Australian community. Economic opportunity and prosperity and social stability and cohesion; these goals I sometimes talk about [are] as relevant to our first citizens and to that Aboriginal child…. as … to the rest of our society…
>
> The journey towards reconciliation will only be complete when Indigenous Australians enjoy the same opportunities as other Australians. And that frankly is going to take a very long time. And… we do ourselves harm if we impose unrealistic time limits on what can be achieved...
>
> I am a realist and the work of reconciliation will be the work of generations. And it does require… a long term commitment. But as well as being a realist I'm an optimist… I believe in the human spirit and I believe in the potential of individuals and of families and of communities not only in Indigenous Australia but all around our great country. I'm an optimist because I believe very much in the courage shown by many Indigenous leaders; individuals with the courage to challenge conventional thinking, to promote economic opportunity, wealth creation and self-reliance; to assert the view that individual responsibility on the part of Indigenous Australians is as much a part of the reconciliation process as is the discharge of government responsibilities in the name of the rest of the Australian community.
>
> And finally I'm an optimist because I believe in the essential decency, fairness and egalitarianism of the Australian people. It is not always on perfect display and there are some that do that notion shame. But fundamentally it is at the core of the way in which Australians live their lives. And the reason why the notion of reconciliation, however inadequately and differently expressed, has survived and how a gathering as representative of people who care about the future of the Indigenous people of Australia as this gathering - the reason why it has come together is I believe a reflection of that innate decency, fairness and egalitarianism.[336]

There is no larger challenge to this sense of decency, fairness and egalitarianism than the current status of Aboriginal and Torres Strait Islander health.

Addressing inequality in health status is not insurmountable, although it will require long term action and commitment. Committing to a 25 year time frame to achieve this is feasible. It is also a long time in which to accept that inequality would continue to exist.

But history shows us that an absence of targeted action and a contentedness that we are 'slowly getting there' is not going to result in the significant improvements in health status that Aboriginal and Torres Strait Islander peoples deserve – simply by virtue of the fact that we are members of the human race and of the Australian community.

336 Prime Minister, *Address at the National Reconciliation Planning Workshop,* Transcript, 30 May 2005, available online at: www.pm.gov.au/news/speeches/speech1406.html.

We have an unprecedented opportunity to make this happen due to the solid work in the health sector over the past decade and the new coordinated service delivery processes. But we do need to augment current efforts.

Accordingly, I have chosen to make the following recommendations to achieve long term commitments to the goal of health equality for Aboriginal and Torres Strait Islander peoples within a generation. My Office will follow up these recommendations up with governments over the next twelve months, and through consultation with Aboriginal Community Controlled Health Organisations and their representatives, Aboriginal and Torres Strait Islander peoples, the non-government and private sector.

Recommendations

Recommendation 1: A commitment to achieve Aboriginal and Torres Strait Islander health equality

That the governments of Australia commit to achieving equality of health status and life expectation between Aboriginal and Torres Strait Islander and non-Indigenous people within 25 years.

Recommendation 2: Supporting commitments and processes to achieve equality of health status

a) That the governments of Australia commit to achieving equality of access to primary health care and health infrastructure within 10 years for Aboriginal and Torres Strait Islander peoples.

b) That benchmarks and targets for achieving equality of health status and life expectation be negotiated, with the full participation of Aboriginal and Torres Strait Islander peoples, and committed to by all Australian governments. Such benchmarks and targets should be based on the indicators set out in the *Overcoming Indigenous Disadvantage Framework* and the *Aboriginal and Torres Strait Islander Health Performance Framework*. They should be made at the national, state/ territory and regional levels and account for regional variations in health status. Data collection processes should also be improved to enable adequate reporting on a disaggregated basis, in accordance with the *Aboriginal and Torres Strait Islander Health Performance Framework*.

c) That resources available for Aboriginal and Torres Strait Islander health, through mainstream and Indigenous specific services, be increased to levels that match need in communities and to the level necessary to achieve the benchmarks, targets and goals set out above. Arrangements to pool funding should be made with states and territories matching additional funding contributions from the federal government.

d) The goal and aims of the *National Strategic Framework for Aboriginal and Torres Strait Islander Health* be incorporated into the operation of Indigenous Coordination Centres and the new arrangements for Indigenous affairs. This includes through reliance on the outcomes of regional planning processes under the Aboriginal Health Forums.

Recommendation 3: Endorsement of this commitment by all Australian Parliaments

That the Australian Health Minister's Conference agree a *National Commitment to achieve Aboriginal and Torres Strait Islander Health Equality* and that bi-partisan support for this commitment be sought in federal Parliament and in all state and territory parliaments.

This commitment should:

- acknowledge the existing inequality of health status enjoyed by Aboriginal and Torres Strait Islander peoples;
- acknowledge that this constitutes a threat to the survival of Aboriginal and Torres Strait Islander peoples, their languages and cultures, and does not provide Aboriginal and Torres Strait Islander peoples with the ability to live safe, healthy lives in full human dignity;
- confirm the commitment of all governments to the *National Strategic Framework* and the *National Aboriginal Health Strategy* as providing over-arching guidance for addressing Aboriginal and Torres Strait Islander health inequality;
- commit all governments to a program of action to redress this inequality, which aims to ensure equality of opportunity in the provision of primary health care services and health infrastructure within ten years;
- note that such a commitment requires partnerships and shared responsibility between all levels of government, Aboriginal and Torres Strait Islander peoples and communities, non-government organisations and the private sector;
- acknowledge that additional, special measures will be necessary into the medium term to achieve this commitment;
- acknowledge that significant advances have been made, particularly in levels of resourcing, since 1995 to address this situation;
- commit to celebrate and support the success of Aboriginal and Torres Strait Islander peoples in addressing health inequality;
- accept the holistic definition of Aboriginal and Torres Strait Islander health and the importance of Aboriginal community controlled health services in achieving lasting improvements in Aboriginal and Torres Strait Islander health status;
- commit to engage the full participation of Aboriginal and Torres Strait Islander peoples in all aspects of addressing their health needs;
- commit to continue to work to achieve improved access to mainstream services, alongside continued support for community controlled health services in urban as well as rural and remote areas; and
- acknowledge that achieving such equality will contribute to the reconciliation process.

Chapter 3

Progress in implementing the new arrangements for the administration of Indigenous affairs – Ensuring the effective participation of Aboriginal and Torres Strait Islander peoples in decision-making processes

The first twelve months of the federal government's new arrangements for the administration of Indigenous affairs has ended. The primary focus of this period has been on abolishing the Aboriginal and Torres Strait Islander Commission (ATSIC) and creating new processes to engage with local Indigenous communities and coordinate mainstream delivery of services to Aboriginal and Torres Strait Islander peoples. Twelve months on, the new arrangements remain in a transitional phase. It will be a number of years before they are fully locked into place.

In the *Social Justice Report 2004*, I noted that my Office would monitor the introduction of the new arrangements from a human rights perspective. I noted a number of issues of concern in that report and identified a range of follow up actions that my Office would monitor over the next 12-18 months.[1] This chapter considers developments in the implementation of the new arrangements since my previous report.

There have been mixed results, outcomes and experiences in the initial twelve months of these new arrangements. There are some significant positive developments in promoting whole of government coordination and a more holistic approach to Indigenous issues, but there are also worrying gaps that remain in the new arrangements and challenges that are yet to be grappled with adequately or appropriately.

From a human rights perspective, Aboriginal and Torres Strait Islander peoples must be assured the opportunity to participate effectively in all aspects of policy development and service delivery by governments that impact upon their communities. This includes in the design, delivery, monitoring and evaluation of programs and services delivered by governments. In considering developments over the past twelve months, this chapter focuses on whether the new arrangements enable the effective participation of Aboriginal and Torres Strait Islander peoples at all levels of decision-making and service delivery that affect their lives.

1 For the list of follow up actions see: Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2004*, HREOC Sydney 2005, pp138-139. (Herein, *Social Justice Report 2004*).

There are four aspects to ensuring the effective participation of Aboriginal and Torres Strait Islander peoples. First, there are issues relating to Indigenous *representation* at the international, national, regional and local levels. Second, there are issues relating to Indigenous *participation* through agreement making and planning processes at the national, regional and local levels. Third, there are issues relating to processes for *engagement* with Indigenous peoples, such as through coordinated service delivery across governments and between governments, and through the development of an appropriately skilled public service. Finally, there are issues of *accountability and transparency* through the existence of appropriate data collection, performance monitoring and evaluation processes.

I consider developments in relation to these four sets of issues. The chapter concludes with a series of recommendations to governments and a number of follow up actions that my Office will engage in to continue to monitor significant issues over the coming twelve to eighteen months.

1) Overview of main developments in the new arrangements for the administration of Indigenous affairs: 1 July 2004-30 June 2005

The new arrangements for the administration of Indigenous affairs commenced at the federal level on 1 July 2004.[2] **Appendix 1** to this report provides a chronology of events relating to the introduction of the new arrangements from 1 July 2004 to 30 June 2005.

The chronology shows that there has been much activity across all areas of the federal government over the past twelve months to implement the new arrangements. In summary, the following events occurred during the past financial year in accordance with the new arrangements:

- ***Abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC).*** The *Aboriginal and Torres Strait Islander Commission Amendment Act 2005* passed through Parliament on 16 March 2005. This followed the conduct of an inquiry by the Senate into ATSIC's proposed abolition and the replacement structures which were progressively being introduced through administrative measures. The *ATSIC Amendment Act* abolished the National Board of ATSIC with immediate effect and ceased the activities of Regional Councils from 30 June 2005. The *ATSIC Amendment Act* amends the *Aboriginal and Torres Strait Islander Commission Act* and renames it the *Aboriginal and Torres Strait Islander Act 2005*. The new Act maintains, as well as making consequential amendments to the operations of, the Torres Strait Regional Authority, Indigenous Business Australia, the Indigenous Land Corporation and the Office of Evaluation and Audit (Indigenous Programs).
- ***Administrative changes to effect the demise of ATSIC and ATSIS.*** Most programs and staff were transferred from ATSIS and ATSIC to mainstream departments on 1 July 2004. Further programs and staff were transferred in March 2005, when the *ATSIC Amendment Act* authorised the transfer of ATSIC's assets to other agencies within the Australian government. ATSIC did not cease to exist, however, until 30 June 2005 when Regional Councils were closed.
- ***The establishment of new structures for administering Indigenous affairs.*** New mechanisms were put into place to administer the federal government's activities in Indigenous affairs. The Office of Indigenous Policy Coordination (OIPC) was established to coordinate policy nationally, and Indigenous Coordination Centres (ICCs) were established in each of the former ATSIC regions to deliver a whole of government approach to programs on a regional basis and to negotiate with Indigenous communities at the local level. The position of Indigenous Employment Coordinator was established in the Australian Public Service Commission to more clearly elaborate a competency framework for public servants working in Indigenous affairs and to address the declining representation of Indigenous peoples within the public service.

2 The *Social Justice Report 2004* provided a detailed overview of the main components of the new arrangements and the principles that underpin them. See: *ibid*, Chapter 3 and Appendix 1.

- ***The introduction of measures to lead and support a whole of government approach at the federal level.*** The Ministerial Taskforce on Indigenous Affairs and Secretaries Group on Indigenous Affairs had been established prior to July 2004 and were confirmed as the mechanisms to lead the new arrangements. The National Indigenous Council (NIC) was also established to provide independent advice to the government, through the Ministerial Taskforce.
- ***The negotiation of arrangements with the states and territories to improve coordination between governments.*** The Council of Australian Governments had adopted *Principles for Government Service Delivery to Indigenous Australians* in June 2004. These have implemented during the past year with the finalisation of the first bilateral overarching agreement on Indigenous affairs with the Northern Territory, and continued negotiations for similar agreements with other states and territories. The first stage of evaluations of the COAG trials also commenced and the NSW government agreed to co-locate staff from the Department of Aboriginal Affairs in regional ICC offices.
- ***Changes to the Indigenous budget, grant management and financial reporting processes.*** Commencing with the 2005-06 Budget in May 2005, all Indigenous specific funding by the federal government is coordinated through a new, single budget submission process which is overseen by the Secretaries Group and Ministerial Taskforce. New grant management processes have also begun to be introduced with a revamp of the funding process for Aboriginal and Torres Strait Islander Legal Services, which has been accompanied by the progressive roll out of a public tender process. A new Indigenous management information system, known as AGIMIS, is also under development to support the new whole of government approach.
- ***Re-alignment of programs to coordinate the operation of mainstream and Indigenous specific services.*** The new arrangements involve commitments to improve the performance of mainstream programs and services for Indigenous peoples. Projects such as the development of the AGIMIS reporting system are intended to provide improved and more coordinated information about access to mainstream services and programs in the longer term. During the past year, the Department of Employment and Workplace Relations reviewed the operation of the Community Development Employment Projects (CDEP) Scheme to align it closer to mainstream employment programs.
- ***Consideration of regional Indigenous representative structures.*** Consultations have been jointly convened by the federal government and various state and territory governments to consider models for regional Indigenous representation. Agreement to progress the Northern Territory's preferred regional authority model was included in the bilateral agreement between the Commonwealth and Northern Territory governments. No alternative structures were funded as at 30 June 2005, although shortly afterwards agreement was reached on a Regional Partnership Agreement with the Ngaanyatjarra Council and funding has been provided for the Murdi Paaki Regional Assembly

(including through a number of Shared Responsibility Agreements). A number of ATSIC Regional Councils also released their Regional Plans during the financial year, many of which focused on mechanisms to ensure Indigenous participation post-ATSIC.

- ***Negotiation of agreements with Indigenous peoples at the local level***. A target of 50-80 Shared Responsibility Agreements (SRA's) was set and met for the first twelve months of the new arrangements. Processes were set up to support Indigenous communities to identify their needs; as well as the establishment of a number of expert panels to assist communities to build their capacity to engage in the SRA process.

These developments have been accompanied by the Federal Government's acceptance of the legitimacy of my functions, as the Aboriginal and Torres Strait Islander Social Justice Commissioner, to focus on the human rights implications of the new arrangements.

The government has acknowledged in public forums that the Human Rights and Equal Opportunity Commission (HREOC), through the functions of the Social Justice Commissioner, is one of the independent monitoring mechanisms for the new arrangements. This is along with the Office of Evaluation and Audit (Indigenous Programmes) in the Department of Finance and Administration, the Australian National Audit Office and through the reporting of the Productivity Commission and Steering Committee on Government Service Provision.[3]

The Office of Indigenous Policy Coordination has also put into place formalised processes to interact with HREOC on the new arrangements and in the production of the *Social Justice Report*. These include:

- the establishment of a contact officer at the senior level within OIPC to facilitate the preparation of responses and furnishing of information in response to all requests for information to OIPC by my Office, as well as to coordinate meetings with officers within the OIPC and ICCs;[4]
- the establishment of quarterly meetings with the Associate Secretary and senior officials of the OIPC to discuss developments in the new arrangements; and
- the furnishing of copies of finalised Shared Responsibility Agreements and Regional Partnership Agreements to my Office on an ongoing basis.[5]

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3 Presentation by Office of Indigenous Policy Coordination at the *Canberra Evaluation Forum: Australian Government Indigenous Affairs Accountability Framework*, 21 July 2005, and Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 19 September 2005, p1.

4 To date, this arrangement has been effective in providing timely and streamlined access to information and in identifying the appropriate staff to address the issues raised by my Office. In agreeing to these administrative arrangements I have informed the OIPC that I will not accept any arrangement that limits my ability to independently exercise my statutory functions. No concerns have arisen in this regard to date.

5 Agreements are provided with the consent of the affected communities and on a confidential basis. In the discussion of SRAs in this chapter, details of individual agreements that are not in the public domain (such as through the summary information on agreements published on the internet by the Australian Government or made available by affected communities) are de-identified to maintain this confidentiality.

2) Ensuring the effective participation of Aboriginal and Torres Strait Islander peoples in decision making that affects us

I have chosen to focus my review of the first twelve months of the new arrangements specifically on the impact on the ability of Indigenous peoples to participate in decision-making processes. There are three main reasons for choosing this focus.

First, the government has confirmed that a central objective of government activity remains to ensure the maximum participation of Aboriginal and Torres Strait Islander peoples. The objects of the amended *Aboriginal and Torres Strait Islander Act 2005* confirm this.[6] Section 3 of this Act states:

> The objects of this Act are, in recognition of the past dispossession and dispersal of the Aboriginal and Torres Strait Islander peoples and their present disadvantaged position in Australian society:
>
> (a) to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of government policies that affect them;
>
> (b) to promote the development of self-management and self-sufficiency among Aboriginal persons and Torres Strait Islanders;
>
> (c) to further the economic, social and cultural development of Aboriginal persons and Torres Strait Islanders; and
>
> (d) to ensure co-ordination in the formulation and implementation of policies affecting Aboriginal persons and Torres Strait Islanders by the Commonwealth, State, Territory and local governments, without detracting from the responsibilities of State, Territory and local governments to provide services to their Aboriginal and Torres Strait Islander residents.

It is appropriate to consider how the new arrangements respond and contribute to these inter-related objectives.

Second, in addition to the significant changes introduced as part of the new arrangements, Indigenous communities are facing multiple government reform processes. I am concerned that the cumulative impact of the parallel reforms currently taking place is overwhelming some communities and individuals.

This renders it very difficult for Indigenous peoples to participate meaningfully in policy development, program design and service delivery. This is particularly so in the absence of representative structures to coordinate and focus the input of communities, particularly in relation to legislative reform and inquiry processes.

The intention of the reforms is plainly to improve engagement and service delivery with Indigenous peoples. However, the impact of individual arms of government proceeding with simultaneous reforms is challenging to communities and individuals. The rapid rate of the reforms and the accompanying impact it is having on communities and individuals needs to be acknowledged by governments.

Text Box 1 below outlines some of the reforms introduced over the past year at either the federal, state and territory level.

6 This is the name of the Act that resulted from the *Aboriginal and Torres Strait Islander Commission Amendment Act 2005*.

Text Box 1: Current government reform processes which impact on Aboriginal and Torres Strait Islander communities and individuals

At the national level, communities are being impacted upon through the following reforms:

- The abolition of ATSIC, particularly the Regional Councils. Grant management processes are now being administered by a variety of different departments (with differing degrees of flexibility in interpreting program guidelines) and the regional interface taking place through ICC's. There are also consultation processes underway to determine appropriate representative structures for Indigenous peoples regionally.
- Reform to the operation of the CDEP Scheme, with revised grant conditions, regional hub arrangements, and a renewed focus on mainstream employment targets.
- The negotiation with individual communities for the lifting of remote area exemptions for Centrelink benefits.
- The tendering out of Aboriginal and Torres Strait Islander legal services, which has particularly impacted in Queensland with the reduction in the number of legal services to two. This is likely to impact in a similar way in New South Wales and the Northern Territory over the coming year.
- The announcement of the reform process for the Aboriginal Councils and Associations Act, with new requirements to be met from 1 July 2006. This will impact on most Indigenous community organisations (as they are incorporated under this legislation). A parliamentary committee is also examining the Bill and undertaking consultations with Indigenous communities until early 2006.
- Changes to funding processes for Indigenous education, including changes to the Aboriginal Student Support and Parental Awareness (ASSPA) Committees which were previously funded on a per child per school basis and have now been replaced by the Parent School Partnerships Initiative (PSPI) which require schools or incorporated organisations in partnership with the Indigenous community to apply for funding for individual projects.

The following inquiries and consultation processes have also been announced at the national level, which relate to the rights and interests of Indigenous peoples and communities. The capacity of Indigenous communities to participate in and inform these processes will depend on available resources:

- Consultation processes announced to reform the native title system, including the operation of Native Title Representative Bodies and Prescribed Bodies Corporate.
- Proposed changes to communal land ownership regimes to enable long term leasing and private home ownership. This will initially be focused on the Northern Territory, although the federal government has announced that a new home ownership program and incentive scheme for long term renters may be extended to other states if they also change their land rights/communal land ownership provisions.
- Proposed amendments to the Aboriginal and Torres Strait Islander Heritage Protection Act were introduced into Parliament in October 2005.

- Parliamentary committee inquiries are currently being conducted into Indigenous employment;[7] the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005;[8] the operation of native title representative bodies;[9] and mental health.[10] An inquiry into Indigenous training and employment outcomes was deferred in 2004 and is anticipated to be recommenced in late 2005.[11] This is in addition to other inquiries that are not Indigenous specific but which raise issues of concern to Indigenous peoples.
- Parliamentary committee inquiries which took place during the past year and which have recently been completed included inquiries into the access of Indigenous Australians to law and justice services;[12] the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 and the proposed administration of Indigenous programs and services by mainstream departments and agencies (the ATSIC inquiry);[13] and the provisions of the Indigenous Education (Targeted Assistance) Amendment Bill 2005 (in relation to funding to provide tutorial support to Indigenous students who need to move away from remote communities to study).[14]

At the state and territory level, communities are being impacted upon through the following processes:

- In **New South Wales**, a taskforce has been established to review the operation of the land council system. Community consultations on proposed amendments to the Aboriginal Land Rights Act will occur in late 2005.
- The *Redfern-Waterloo Authority Act 2004* has established an Authority to consider issues which impact upon the Aboriginal communities of the Redfern and Waterloo areas.
- In the **Northern Territory**, the *Parks and Reserves (Framework for the Future) Act 2003* came into effect in 2004 and has resulted in Indigenous Land Use Agreements and land tenure changes to introduce leasing and joint management arrangements in 27 national parks and reserves across the Northern Territory.
- Amendments to the *Aboriginal Land Rights (Northern Territory) Act 1976* are also expected in early 2006.
- In **Queensland**, corporate governance reforms are underway with the transition of Deed of Grant in Trust communities into local council structures.
- In **South Australia,** a review of the operation of the *Aboriginal Lands Trust Act 1966*, the *Maralinga Tjarutja Land Rights Act 1984* and the *Pitjantjatjara Land Rights Act 1981* has occurred. Amendments to the *Pitjantjatjara Land Rights Act 1981* are expected shortly.

7 For terms of reference see: www.aph.gov.au/house/committee/atsia/Indigenousemployment/tor.htm.

8 For terms of reference see: www.aph.gov.au/Senate/committee/legcon_ctte/corporations/index.htm.

9 For terms of reference see: www.aph.gov.au/senate/committee/ntlf_ctte/rep_bodies/tor.htm.

10 For information see: www.aph.gov.au/senate/committee/mentalhealth_ctte/index.htm.

11 For information see: www.aph.gov.au/Senate/committee/eet_ctte/Indigenous04/index.htm.

12 For the report see: www.aph.gov.au/house/committee/jpaa/atsis/report.htm.

13 For the report see: www.aph.gov.au/Senate/committee/Indigenousaffairs_ctte/index.htm.

14 For the report see: www.aph.gov.au/Senate/committee/eet_ctte/Indigenous05/info.htm.

- In **Tasmania**, the *Aboriginal Lands Amendment Bill 2005* introduces a definition of 'Aboriginal person', which is based on a 'three-part' test of Aboriginality. This impacts on the election of members of the Aboriginal Land Council of Tasmania and more broadly, to the accessibility to indigenous specific services.

The third reason for a focus on the impact of the new arrangements on the ability of Indigenous peoples to participate in decision making processes is that such participation is central to a human rights based approach to development.

As Chapter 2 demonstrates in relation to the right to health, the principle of effective participation is integral to meeting the requirements of accessible, appropriate, acceptable and quality services in the realisation of economic, social and cultural rights.

Principles relating to self-determination, non-discrimination, equality before the law and minority group cultural rights have also been interpreted as requiring the effective participation of Indigenous peoples in decisions that affect them, and that such participation be on the basis of free, prior and informed consent.[15]

In August 2005, the Human Rights and Equal Opportunity Commission co-hosted a workshop with the United Nations Permanent Forum on Indigenous Issues to consider the key elements which underpin the engagement of governments, the private sector and civil society with Indigenous communities. The text box below sets out guidelines for engaging with indigenous peoples and communities based on human rights principles.

Text Box 2: Guidelines for engagement with indigenous peoples

These guidelines were developed at the *International Workshop on Engaging with Indigenous Communities* which took part at the *International Conference on Engaging Communities* in Brisbane in August 2005.[16]

It sets out principles for governments, the private sector and civil society to engage with indigenous peoples, in relation to the following contexts:

- Indigenous systems of governance and law;
- Indigenous lands and territories, including sacred sites;
- Policies and legislation dealing with or affecting indigenous peoples.

15 For an overview of the relevant human rights principles see: United Nations Permanent Forum on Indigenous Issues, *Report of the International Workshop on methodologies regarding free, prior and informed consent and Indigenous Peoples*, UN Doc: E/C.19/2005/3, 17 February 2005, Annex IV, available online at: http://daccessdds.un.org/doc/UNDOC/GEN/N05/243/26/PDF/N0524326.pdf?OpenElement; and United Nations Working Group on Indigenous Populations, *Expanded working paper submitted by Mrs. Antoanella-Iulia Motoc and the Tebtebba Foundation offering guidelines to govern the practice of Implementation of the principle of free, prior and informed consent of Indigenous peoples in relation to development affecting their lands and natural resources*, UN Doc: E/CN.4/Sub.2/AC.4/2005/WP.1, 14 July 2005, available online at: www.ohchr.org/english/issues/Indigenous/docs/wgip23/WP1.doc.

16 Human Rights and Equal Opportunity Commission and United Nations Permanent Forum on Indigenous Issues, *Engaging the marginalised: Report of the workshop on engaging with Indigenous communities*, HREOC, Sydney, and United Nations, New York, 2005, available online at: www.humanrights.gov.au/social_justice/. For further information about the International Conference on Engaging Communities, Brisbane, August 2005, see: www.engagingcommunities2005.org/home.html.

The guidelines for engaging with indigenous communities specifically include:

A Human Rights-Based Approach to Development

- All policies and programs relating to indigenous peoples and communities must be based on the principles of non-discrimination and equality, which recognise the cultural distinctiveness and diversity of indigenous peoples;
- Governments should consider the introduction of constitutional and or legislative provisions recognising indigenous rights;
- Indigenous peoples have the right to full and effective participation in decisions which directly or indirectly affect their lives;
- Such participation shall be based on the principle of free, prior and informed consent,[17] which includes governments and the private sector providing information that is accurate, accessible, and in a language the indigenous peoples can understand;
- Mechanisms should exist for parties to resolve disputes, including access to independent systems of arbitration and conflict resolution;

Mechanisms for representation and engagement

- Governments and the private sector should establish transparent and accountable frameworks for engagement, consultation and negotiation with indigenous peoples and communities;
- Indigenous peoples and communities have the right to choose their representatives and the right to specify the decision making structures through which they engage with other sectors of society;

Design, negotiation, implementation, monitoring, and evaluation

- Frameworks for engagement should allow for the full and effective participation of indigenous peoples in the design, negotiation, implementation, monitoring, evaluation and assessment of outcomes;
- Indigenous peoples and communities should be invited to participate in identifying and prioritising objectives, as well as in establishing targets and benchmarks (in the short and long term);
- There should be accurate and appropriate reporting by governments on progress in addressing agreed outcomes, with adequate data collection and disaggregation;
- In engaging with indigenous communities, governments and the private sector should adopt a long term approach to planning and funding that focuses on achieving sustainable outcomes and which is responsive to the human rights and changing needs and aspirations of indigenous communities;

17 The elements of a common understanding of free, prior and informed consent, as identified at the *International Workshop on Methodologies regarding free prior and informed consent and Indigenous peoples* (UN Doc: E/C.19/2005/3, 19 January 2005) are set out in the *UN Workshop on engaging the marginalized: Background paper prepared by the Secretariat of the UN Permanent Forum on Indigenous Issues*. The workshop report identifies the main areas where the principle of free, prior and informed consent is relevant; what constitutes consent; the timeframes for seeking such consent; who may provide it on behalf of an indigenous community; how it should be sought; and procedures and mechanisms for oversight and redress.

Capacity-building

- There is a need for governments, the private sector, civil society and international organisations and aid agencies to support efforts to build the capacity of indigenous communities, including in the area of human rights so that they may participate equally and meaningfully in the planning, design, negotiation, implementation, monitoring and evaluation of policies, programs and projects that affect them;
- Similarly, there is a need to build the capacity of government officials, the private sector and other non-governmental actors, which includes increasing their knowledge of indigenous peoples and awareness of the human rights based approach to development so that they are able to effectively engage with indigenous communities;
- This should include campaigns to recruit and then support indigenous people into government, private and non-government sector employment, as well as involve the training in capacity building and cultural awareness for civil servants; and
- There is a need for human rights education on a systemic basis and at all levels of society.

The remainder of the chapter considers the impact of the new arrangements in relation to four elements of the effective participation of Aboriginal and Torres Strait Islander peoples. These are issues relating to:

- Indigenous representation at all levels of decision making;
- Indigenous participation through agreement making and planning processes;
- Processes for government engagement with Indigenous peoples; and
- Mechanisms for ensuring accountability and transparency.

3) Indigenous representation and the new arrangements

A challenge for the new arrangements is to ensure that there are processes through which Indigenous peoples can be represented at all levels of decision making.

In announcing the abolition of ATSIC, the Government stated that it intended to address this issue by:

- Supporting the creation of a network of regional representative Indigenous bodies to interact with governments;
- Negotiating agreements at the regional level with representative Indigenous structures which link to local level decision making processes; and
- Utilising existing ATSIC Regional Council structures (until 30 June 2005) and building on ATSIC Regional Plans.[18]

Last year's *Social Justice Report* noted that, at that time, these proposed new mechanisms were either not in place or had not been operating for long enough to determine their effect. Accordingly, the adequacy of the government's approach would need to be revisited in twelve months time when these aspects of the new arrangements were in place.[19]

i) Progress in establishing regional Indigenous representative structures

The Minister for Immigration and Multicultural and Indigenous Affairs confirmed in June 2005 that the Government remains committed to establishing representative bodies at the regional level:

> We have always stated that, following the dissolution of ATSIC Regional Councils from 1 July this year, there will be room for genuine Indigenous representative bodies to emerge in their place…
>
> Indigenous Coordination Centres are taking the lead in consulting with communities about their interest in and preferences for new representative arrangements from July 1 and many are well advanced…
>
> In keeping with the Government's desire to engage at the community level, the new bodies are to act as the interface between communities and governments. They will help articulate community views and provide a framework for contributing to Regional Partnership Agreements.
>
> We want communities to tell us how they could best be represented and we are seeing diverse and flexible arrangements emerge as a consequence.
>
> Where communities have not yet formalised arrangements for the future, ICCs are talking with a range of individuals and community organisations, particularly in relation to the establishment of Shared Responsibility and Regional Partnership Agreements.

18 The Government also announced the appointment of a National Indigenous Council of Indigenous experts. However, members of the Council would advise government in their individual capacities and not in a representative capacity.

19 *Social Justice Report 2004*, *op.cit.*, pp103-104. My previous report identified ten 'follow up actions' that my Office would take during the subsequent year. This section of the chapter considers follow up actions 3 (participation in framework agreements); 4 (linking local and regional representation to the national level); 5 (Torres Strait Islanders on the mainland); and 6 (engagement with ATSIC Regional Councils and developments on regional representative structures).

> To ensure that the new bodies have the opportunity to meet and consult with their communities we, along with State and Territory Governments, will provide modest, targeted funding.[20]

Consultations have been conducted across many regions to identify replacement representative structures during the past year. The Office of Indigenous Policy Coordination has noted that they have:

> provided funds through the ICCs for Indigenous people to convene local and regional meetings to discuss options for new regional representative arrangements. The funding has varied among regions depending on requirements but has generally covered the cost of advertising and printing, venues, lunches, travel expenses for participants, and the fee of a consultant or facilitator. Where possible, these consultations have been undertaken with State government counterparts.[21]

No replacement Indigenous representative bodies were actually in place when ATSIC Regional Councils ceased to exist on 30 June 2005.[22]

At that time, the Minister reflected on the status of the consultations and stated that 'arrangements have already been finalised in 10 of the 35 regions covered by the ATSIC Regional Councils and consultations and negotiations are ongoing in others.'[23] The Office of Indigenous Policy Coordination subsequently confirmed to my Office that this statement meant that a regional structure had been developed for those 10 regions and did not mean that arrangements were actually in place or funded.

A map released by the government on 30 June identified the areas where representation arrangements 'are in place and where consultations are continuing.'[24] The map suggests that:

- Representative arrangements are in train for the entire Northern Territory, through the movement to a local government based regional authority model.[25]
- New representation is 'finalised' in the following 10 regions: Bourke and Coffs Harbour in New South Wales; Cairns, Mt Isa and Rockhampton in Queensland; Port Augusta in South Australia; and Broome, Geraldton, Kununurra and Warburton in Western Australia.
- Community consultations are 'continuing' in the following regions: Ceduna and Adelaide in South Australia; Sydney, Tamworth and Wagga Wagga in New South Wales; Brisbane, Cape York and Townsville

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20 Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), *Minister announces new Indigenous representation arrangements*, Media Release, 29 June 2005, p1.

21 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 19 September 2005, p1.

22 In recent months, at least two regional structures have been supported with a Regional Partnership Agreement in place with the Ngaanyatjarra Council (in August) and funding provided to the Murdi Paaki Regional Assembly. There is also ongoing support to support the transition of the Thamarrurr Regional Council in Wadeye as a regional authority under local government provisions as part of the COAG trial.

23 Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone), *Minister announces new Indigenous representation arrangements*, *op.cit*, p1.

24 *ibid*. The map is available online at: www.Indigenous.gov.au/OIPC_Regional_Representational_Map.pdf.

25 The regional authority model is discussed in Text Box 4 below.

in Queensland; Derby, Perth and Kalgoorlie in Western Australia; and across the whole of Victoria and Tasmania.

- Community consultations are 'to begin shortly' in the following regions: Queanbeyan (which includes the Australian Capital Territory) and New South Wales; Roma in Queensland; and South Hedland in Western Australia.[26]

An overview of the 10 structures identified by the Minister as 'finalised' are provided in Text Box 3 below.

Text Box 3: Regional representative Indigenous models proposed as at 30 June 2005 (by ICC region)

The Murdi Paaki Regional Assembly (Bourke ICC region, NSW)

The Assembly has already met a number of times and consists of one representative from each of the 16 existing Community Working Parties. Shared Responsibility Agreements have been negotiated which support the operation of the Community Working Parties through the provision of secretariat and administrative support, employment for an administrative trainee and the provision of computer hardware and software.

It is intended that the Assembly shall be recognised as the peak Indigenous regional body and the primary point of Indigenous community coordination and input, while the Community Working Parties shall be the primary points of Indigenous contact at the community level.

Many Rivers region, (Coffs Harbour ICC region, NSW)

A two-tier model has been designed to provide flexibility of representation at the local level and deliver delegates to a regional body. At the community level, local coalitions of organisations, groups and individuals will meet to identify needs and priorities, and have input to the development of Shared Responsibility Agreements. At the regional level, a coalition of organisations, consisting of representatives from the local level, will provide a liaison point for the delivery of services.

Cairns and District Regional Reference Group (Cairns ICC region, Qld)

A two level model has been agreed at a recent regional workshop after meetings with each community in the region. At the local level, Community Reference Groups will involve community service delivery organisations as well as representatives from youth, women and elders groups. At the regional level, delegates will be drawn from the Community Reference Groups to form a Regional Reference Group. The regional body will negotiate a Regional Partnership Agreement, provide input to government decisions, and provide regular reports to communities. This model focuses on community and regional planning as a central part of the relationship between Indigenous communities and governments.

Gulf & West Queensland (Mt Isa ICC region, Qld)

An Indigenous Regional Coordination Assembly has been finalised that will consist of 15 representatives from Community Issue Groups and Community Negotiating Teams, as determined in different communities. The Assembly will develop and maintain working partnerships with all levels of government, monitor services, and enter into regional agreements as needed. The model will develop procedures to remove and replace representatives on the Assembly.

26 *ibid.*

Central Queensland (Rockhampton ICC region, Qld)

A three-tiered Central Queensland Forum Model has been supported through Indigenous community consultation for the Central Queensland region. The Forum is a three-tier structure:

- The first tier is comprised of eight local shire clusters, or Community Working Parties, which represent all 36 communities/towns in the Central Queensland area. They will meet on a monthly basis to identify priority issues;
- The second tier consists of local groups which feed into eight Regional Assemblies that will meet quarterly to develop strategic regional plans that focus on the delivery of services;
- The third tier is an overarching Central Queensland Aboriginal and Torres Strait Islander Regional Forum that will meet twice each year to compare initiatives that may be working across the region.

Local communities will identify the selection processes with an emphasis on the representation of women, men, youth and elders at each level. It has been anticipated that funding for the regional representative structure will be negotiated through the Regional Partnership Agreement process.

Nulla Wimila Kutja (Port Augusta ICC region, SA)

The proposed regional representative model draws a representative from eight 'community-focused' bodies, where the arrangement is based on the idea of 'smaller regions co-existing within a larger representative body'. It is proposed that the new entity will have input to government policy and program development, monitor the effectiveness of service delivery, and identify Indigenous people or groups that can liaise with government bodies, such as the Aboriginal Housing Authority and Indigenous Land Corporation.

Wunan, East Kimberley District Council (Kununurra ICC region, WA)

A model of local governance has been proposed to establish Community Representative Committees or Local Development Committees, depending on the preferences of communities, which provide delegates to a regional East Kimberley District Council. The model creates strong links between the regional body and local communities, thereby providing significant opportunities for community participation.

Discussions are continuing with communities on selection processes, the boundaries used to define groupings, input of portfolio bodies, and the role of the Chair of the District Council.

Kullarri Regional Indigenous Body (Broome ICC region, WA)

The Kullarri Regional Indigenous Body will consist of three representatives from each of four discrete areas or wards. This body will be supported by a panel of Aboriginal experts on key issues, including education, economic development, communications, employment and training, governance and strategy, health, housing, and infrastructure, justice, land and natural resources, women's issues, families and youth. The representative body proposes to provide regional plans, monitor outcomes of service providers and government agencies, offer independent advice and advocate for the improvement of the wellbeing of Indigenous people in the region.

Yamatji Regional Assembly (Geraldton ICC region, WA)

The proposed Yamatji Regional Assembly includes nominees from 12 organisations or communities representing specific issues or groups: land, housing, health, justice, education, employment and training, women, youth, remote communities, town based communities, as well two other community representatives. The Assembly is designed to provide an interface between communities and government at all levels.

The roles and responsibilities of the Assembly will include: advising governments on regional needs, policy development and program design; input to regional planning; monitoring and evaluating service delivery; promoting cultural issues; providing leadership; and advocating for the Indigenous people of the region.

Ngaanyatjarra Council, (Warburton ICC region, WA)

The Australian Government, Western Australian Government and Ngaanyatjarra Council have finalised a Regional Participation Agreement which establishes the Council as the regional representative body in August 2005. The agreement is discussed further below.

All state and territory governments have also acknowledged the importance of representative structures and have committed to supporting their operation. Most have collaborated with the OIPC in the conduct of consultations to establish new structures post-ATSIC.

Text Box 4 below provides an overview of the commitments of each state and territory government to representative arrangements.

Text Box 4: State and Territory developments in supporting regional Indigenous representative organisations

Australian Capital Territory

The ACT Government have provided their support for both national and regional elected Indigenous representative bodies. They have stated that:

> The ACT government has proposed to establish an elected body to provide advice on issues and needs of the ACT and Australian Governments, and the Aboriginal and Torres Strait Islander community... [and is] exploring how to link community and regional planning processes with the ACT Government's planning processes.[27]

Consultations with Indigenous people in the ACT regarding alternative representative structures are currently occurring and a final structure has yet to be decided. The ACT government also gains advice on Indigenous policy and issues from its Aboriginal Consultative Council and Ngunnawal Council of Elders.

New South Wales

In September 2004, the New South Wales Department of Aboriginal Affairs and the ATSIC State Council co-hosted the *Our Future, Our Voice* summit to discuss options for Indigenous representation. Delegates were presented with three different models:

1. Regional Assembly Model – based on the Murdi Paaki model;
2. Coalition of Peak Aboriginal Bodies – building on the organisations that already exist on the ground as the foundation for any future representative model; or
3. Combined ATSIC/Land Council model – with local land councils provide input to regional councils which input to the state land council. Embedded within the local, regional and state land councils are 'cultural councils'

27 Acting Chief Minister (Australian Capital Territory), *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 17 June 2005, p2.

> and with the state and regional councils directly linking to a national representative body, if it exists.[28]

In addition to the summit, DAA in conjunction with the Office of Indigenous Policy Coordination, through its State Indigenous Coordination Centre, hosted a series of forums in early 2005 for Indigenous people across New South Wales to discuss the federal Indigenous affairs reforms as well as alternative regional representation structures post-ATSIC.

Part of these consultations touched on DAA's policy framework, *Two Ways Together*.[29] It is intended that local 'cluster groups' comprised of representatives from NSW government agencies, Commonwealth Governments and peak Aboriginal organisations will be formed for each of the priority areas of the strategy. Local groups will advise these cluster groups on the priorities and needs for their particular areas.

Northern Territory

In April 2005, the Northern Territory and Commonwealth governments entered into the *Overarching Agreement on Indigenous Affairs between the Commonwealth of Australia and the Northern Territory of Australia 2005-2010*. It states that, 'Governments will work with Indigenous people to determine arrangements for Indigenous consultations and representation at the regional or local level.'[30]

The agreement establishes that the NT government's *Building stronger regions – Stronger futures Strategy* will be the basis for representative bodies in remote areas. The government has stated that it:

> The NT Government's *Building stronger regions – Stronger futures Strategy* is directed towards the creation of larger, more effective local government bodies with legitimate authority to represent and deliver services to their communities. By encouraging the voluntary transformation of existing remote local governing arrangements in regional Authorities these bodies to aim to marry contemporary governance requirements with Indigenous traditional and cultural values.
>
> The NT Government sees the development of Regional Authorities as a mechanism for facilitating strong Indigenous representation at the local level in the aftermath of the Aboriginal and Torres Strait Islander Commission Regional Councils.[31]

Under this strategy, Regional Authorities will be established where existing community councils agree to amalgamate; Partnership Agreements between regions and government will be negotiated; and Regional Development Plans will then be negotiated.[32]

The bilateral agreement also notes that in urban areas, the NT government and Australian government will look to flexible arrangements (including options that bring together Indigenous peak bodies).

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28 *Our Future, Our Voice – Report on the NSW Summit on Aboriginal Governance,* NSW Department of Aboriginal Affairs and ATSIC, September 2004, Sydney, p5.

29 New South Wales Department of Aboriginal Affairs, *Two Ways Together – New South Wales Aboriginal Affairs Plan 2003-2012,* Sydney, 2003.

30 *Overarching Agreement on Indigenous Affairs between the Commonwealth of Australia and the Northern Territory of Australia 2005-2010,* Commonwealth of Australia and Northern Territory Government, signed 6 April 2005, p6.

31 Chief Minister of Northern Territory, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 5 July 2005, p3.

32 Department of Community Development, Sport & Cultural Affairs, *Building Stronger Regions – Stronger Futures*, Northern Territory Government, Darwin, May 2003, p1.

Queensland

The Queensland Government has stated that it 'has a commitment to engaging at the local level with Indigenous communities, using negotiation tables as the primary mechanism of engagement. The local level is preferred over the regional level because of the diversity of communities in Queensland.'[33] The Government's new strategy for Indigenous affairs, *Partnerships Queensland,* emphasises the importance of the negotiation table process. As outlined in Text Box 3 above, consultations on regional structures have been advanced in several former ATSIC regions.

South Australia

The South Australian government's *Doing it Right* policy is aimed at targeting the needs of Indigenous South Australians on a local and regional level. The Department of Aboriginal Affairs and Reconciliation has stated that it will work with the Office of Indigenous Policy Coordination to consult with the Aboriginal community about alternative representative structures.[34]

As part of the *Doing it Right* policy the South Australian government has developed an Indigenous Advisory Council. The role of the Council is to 'oversee the application of the *Doing it Right* policy framework and report to the Premier'.[35] Members of the Council include the 'Minister for Indigenous Affairs, representatives from the ATSIC State Council, leaders of land councils, other Aboriginal peak bodies and community leaders'.[36] It is undecided at this stage how the gap left by the ATSIC representatives will be filled.

Tasmania

The Tasmanian government has advised that no progress has been made in establishing formal representative structures. The government is currently relying upon existing community organisations and groups which have an informal representative mandate from communities.

While individual portfolio strategies exist to target the needs of Aboriginal Tasmanians, there is no one whole-of-government strategy which guides the engagement between government and Aboriginal communities.

Victoria

In 2004-2005, the Victorian government and the Tumbukka and Binjurru ATSIC Regional Councils have conducted consultations with Indigenous peoples to discuss alternative representative structures. Three alternative models of representation have emerged from these consultations. The consultations have consisted of local community meetings and a questionnaire, with a second round of return meetings planned in late 2005. At the second round meetings, each community will be asked to nominate 2 local delegates to represent that community at a regional forum at which the preferred model for the regional will be confirmed. Two delegates will then be nominated from each regional forum to attend a state forum to determine the model for a state-wide representative body.[37]

33 Premier of Queensland, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 14 July 2005, p2.

34 http://www.daare.sa.gov.au/projects.jsp?doc=strategic

35 South Australian Department for Aboriginal Affairs and Reconciliation, *Doing It Right*, South Australian Government, Adelaide, May 2003, p14.

36 *ibid*.

37 Premier of Victoria, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 9 August 2005, pp4-6.

Western Australia

The Western Australian Department of Indigenous Affairs, in collaboration with ICCs in Western Australia, is undertaking the Western Australia Indigenous Representation Project. The government notes that:

> An emerging trend from consultations has shown that each region has different views and expectations and is formulating their own model of representation for consideration by the State and Commonwealth Governments. Any new arrangements will be based on building partnerships with Indigenous people and will recognise the diversity and needs of Indigenous peoples across the State.[38]

The government's state-wide Indigenous Affairs Advisory Committee is in abeyance subject to the outcomes of the consultation project on representation models.

In 2001 the Western Australian Government and ATSIC signed the *Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians*. The Western Australian Government has advised that it will continue its commitment to the Statement as well as use ATSIC Regional Plans to inform priority setting within the state.[39]

This overview shows the progress made in the first twelve months of the new arrangements. There are promising developments in determining culturally appropriate regional representative models.

Most of the models for regional representation as highlighted above are premised on connecting local services and decision-making bodies to a regional council (and in some instances, a state-wide forum). Members of the regional structure are derived from elected nominees from the local working groups or organisations. Some of the models deviate from this approach with membership being based on traditional ownership as opposed to service/organisations affiliation.

At this stage it seems that the primary role of all of the proposed regional bodies is to connect local and regional needs to all levels of government through advocacy. They are not intended to deliver services or administer funds (and the federal government has made clear that it will not support models that seek to do so). This differentiates all these models from the Torres Strait Regional Authority model, and the more extensive models for regional autonomy that were recommended by ATSIC through consultations in 1999 and 2000.[40]

There remain, however, gaps in these representative structures. For example, the Northern Territory Government's preferred model of regional authorities relates to remote areas. It is not clear what arrangements will apply in urban centres. Indeed, it is notable that none of the representative structures that are finalised to date are in regions that encompass major urban centres such as capital cities.

Common to all the existing proposals is that the federal government has not as yet outlined in concrete terms how they will support them. There are concerns

38 Premier of Western Australia, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 9 August 2005, pp2-3.

39 *ibid*.

40 Aboriginal and Torres Strait Islander Commission (ATSIC), *Report on greater regional autonomy*, ATSIC National Policy Office, Canberra 2000 and ATSIC, *Regional autonomy for Aboriginal and Torres Strait Islander communities*, Discussion paper, ATSIC Canberra 1999.

about how regional representative bodies will be funded and the type and level of administrative support they will be provided.

The representative models that have been designed need to be finalised and supported so that they can become operational. Greater progress is needed in other regions where models have not yet been finalised.

The consequence of the current status of these models is that there are few mechanisms for Indigenous participation at the regional level. This issue needs to be progressed as an urgent priority.

ii) Regional agreement making processes

Along with regional representative bodies, regional agreement making processes are an integral component of the new arrangements. As noted in the *Social Justice Report 2004*, Regional Partnership Agreements (RPAs) are intended to 'provide a mechanism for guiding a coherent government intervention strategy across a region, eliminating overlaps or gaps, and promoting coordination to meet identified priorities for the region.'[41] RPAs will also operate in tandem with Shared Responsibility Agreements, particularly as SRAs move towards a more comprehensive model.[42] Some consideration has been given to using RPAs to develop industry strategies for a region, i.e. tourism, economic development, pastoral, mining and employment strategies.

Where states and territories have agreed, RPAs may also incorporate state and territory investment. This is in accordance with the *National Framework of Principles for Government Service Delivery to Indigenous Australians* as agreed by the Council of Australian Governments (COAG) in June 2004.[43]

At the time of announcing the new arrangements, the Government indicated that Indigenous Coordination Centre Managers would negotiate RPAs outlining the priorities in that region with such representative bodies.[44]

As at 30 June 2005, there were no Regional Partnership Agreements in place.[45] This is not surprising, given that regional representative arrangements had not been finalised by this time and since RPAs will establish the role of such representative structures.

The first Regional Partnership Agreement was subsequently signed on 12 August 2005. It relates to the Ngaanyatjarra lands in Western Australia. The OIPC has advised my Office that other RPAs are under currently under discussion, including with the new Murdi Paaki Regional Assembly; in Cape York; on the Anangu Pitjantjatjara lands; in the East Kimberley region; and, in southwest Western Australia.[46]

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41 Office of Indigenous Policy Coordination (OIPC), 'Indigenous Representation', *New Arrangements in Indigenous Affairs,* OIPC, http://www.oipc.gov.au/About_OIPC/new_arrangements/Indigenous Representation.asp (25 August 2005).

42 The proposed comprehensive approach to SRAs is discussed in the next section of this chapter.

43 Office of Indigenous Policy Coordination (OIPC), 'Indigenous Representation', *New Arrangements in Indigenous Affairs, op.cit.*

44 Vanstone, A (Minister for Indigenous Affairs), *Australian Government changes to Indigenous affairs services commencing tomorrow*, Press Release, 30 June 2004, p1.

45 This does not include the 'Regional Shared Responsibility Agreements' signed through the COAG trials, such as in Murdi Paaki.

46 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, p1.

Each RPA will reflect the specific circumstances of the Indigenous communities of the region that it covers. Bearing this in mind, the Ngaanyatjarra RPA still provides a useful demonstration of the content and purposes of the RPA process.

The agreement relates to twelve discrete communities on the Ngaanyatjarra lands. It 'sets out strategic approaches and projects for joint innovative action by Governments and Council in partnership with Ngaanyatjarra people and communities'. It is intended to:

- establish the principles and engagement processes necessary to enable a range of agreements, including Shared Responsibility Agreements (SRAs), which address jointly agreed issues, to be developed through cooperation and partnership;
- ensure that all Parties have the capacity and capability to effectively jointly develop agreements including SRAs and their respective Service or Funding Agreements where appropriate; and
- increase Indigenous people's access to Governments and maximise access of Indigenous people to all levels of service delivery.[47]

Table 1 below outlines the main elements of the Ngaanyatjarra RPA.

Table 1: Overview of the Ngaanyatjarra Regional Partnership Agreement[48]

Parties to the agreement	• Australian Government; • Western Australian Government; • Ngaanyatjarra Council; and • Shire of Ngaanyatarraku
Objectives	• establish partnerships and sharing responsibility for achieving measurable and sustainable improvements for people living in the Ngaanyatjarra lands; • provide better coordinated and resourced programs and services to achieve improvements in priority areas; • establish mainstream programs and ensuring improved access to them; • reduce inefficiencies; and • develop a Strategic Investment Plan for the region.
Principles that underpin the agreement	• National Framework Principles for Service Delivery to Indigenous Australians, endorsed by COAG on 25 June 2004. • The vision of COAG for Indigenous peoples to 'have the same rights and opportunities and participate equally in society as do other Australians.'[49]

47 Regional Partnership Agreement between the Ngaanyatjarra Council (Aboriginal Corporation), the Australian Government, the State Government of Western Australia and the Shire of Ngaanyatjarraku, 12 August 2005, Section 1.2.

48 This summary is developed from the full text of the Regional Partnership Agreement: *ibid*.

49 *ibid*, para 1.6.7.

	• 'Key Ngaanyatjarra Principles that the Ngaanyatjarra people hold to be important'.[50] These are: – recognising existing capabilities and capacity; – maintaining control of our own affairs; – recognising the role of the Ngaanyatjarra Council and its capacity to drive planning and negotiation; – maintaining and strengthening traditional Ngaanyatjarra cultural and social values and connection to land; – recognising the need for change and innovation to improve living conditions; – wishing to live in communities on traditional country that have the best achievable standard of living and a healthy and safe environment; – wishing to secure core infrastructure funding for all Ngaanyatjarra communities and to develop all participating communities in the agreement; and – supporting an educational system that provides children with relevant and useful mainstream education while also reinforcing culture.
Representation Issues	The Ngaanyatjarra Council will: • represent the communities within its area that wish to be represented by the Council; • conduct consultations and then advise government of which communities wish to be represented by it; and • facilitate closer working relationships between Governments and communities, including through the facilitation of SRAs. Governments will: • commit to support the Council in its representative role through active engagement with the Council as the peak regional body and through funding for Ngaanyatjarra Council to fulfil that role; and • not seek to establish any other representative arrangement in respect of those communities that have endorsed Ngaanyatjarra Council's representative status.
Outcomes & Priorities (four projects)	1. **Improved Regional Capacity** – all parties review their capacity to achieve the objectives of the RPA and make appropriate changes to structure, behaviour or capacity. 2. **Establishment of effective structures to manage the RPA** – establish, maintain and use the Tiered Coordination Structure (which includes a Regional Partnership Committee and Agreement Coordinators Group) to monitor and develop the partnership described by the agreement.

50 *ibid*, para 1.5.

	3. **Reducing 'red tape'** – implement an on-going process to identify 'red tape', create new efficiencies and address the accessibility of mainstream services, initially in relation to housing and housing maintenance issues and the provision of municipal and essential services. 4. **Develop and implement a Ngaanyatjarra Strategic Investment Plan** – develop and agree to a 20-30 year vision for the Ngaanyatjarra people and communities.
Monitoring & Evaluation processes	Project progress is to be monitored by all Parties in accordance with the timeframes and performance indicators as outlined in Project Plans. An independent evaluation will be completed in the third year of the agreement's operation. The agreement notes that there is no baseline data required to establish whether the indicators have been met, and some of the measurements are subjective and not easily measured, such as 'improved communication' and that Secretarial support to the Committee set up under the agreement is effective. It is anticipated that more detailed indicators, referenced to baseline data, will be developed as the initial projects under the Agreement are completed.
Legal status and dispute settlement processes	The agreement is described as a 'statement of the mutual intentions of the Parties and is not intended to give rise to any enforceable rights or binding obligations'. It includes an 'escalation procedure' as a dispute settlement process which can be activated where: • Another party has not met timeframes or performance measures contained in this Agreement and a satisfactory arrangement for dealing with that lack of performance has not been agreed; • Agreement between parties can not be reached about prioritisation of projects and/or SRA development; and • any other matter of importance to one of the parties has not been dealt with satisfactorily.
Duration	The agreement will continue until 30 June 2008.

This agreement establishes a comprehensive basis for the relationship between governments and Indigenous communities in the Ngaanyatjarra region. I particularly welcome the following structural aspects of the agreement:

- it seeks to integrate the activities of all four levels of government – federal, state, local and Indigenous nation;
- it commits to a community development approach, building the capacity of all participants (including through identifying existing capital) and developing a longer term strategic plan;
- it is incremental in its approach;
- it involves requirements for communities to endorse the representative agency, guaranteeing their participation in the formulation of the new structures;

- it focuses on the delivery of mainstream services in addition to Indigenous specific services;
- it sets a strategic framework through which local level agreement making processes can take place, which has the potential to contribute to a more holistic and systemic approach to SRA development;
- through recognising the Key Ngaanyatjarra Principles, is built on an acknowledgement of the rights of the Ngaanyatjarra peoples;
- establishes clear goals and targets, and commits to evaluation processes to determine how well the objectives of the agreement are met; and
- acknowledges existing deficiencies, such as the absence of baseline data, that are necessary to support a rigorous evaluation framework and commits to joint efforts to address these as the long term strategic directions for the region are developed.

One aspect of the agreement that I consider can be improved over time is to provide a more solid basis to the relationship between the regional authority and governments, as well as to enshrine governance principles for the regional authority.

As noted in the table above, the agreement does not give rise to any enforceable rights or binding obligations. This has two main consequences.

First, the relationship with governments is dependent on good will. It may ultimately be preferable for the regional authority to have a legislative base to ensure a clear understanding (from both government and the regional authority) of its functions and role, and to ensure that the regional authority has the legitimacy to engage with government. A legislative basis to the powers of the regional authority would provide clear guidance to government agencies and departments into the future. It would assist in ensuring that attention from government to issues with the regional authority does not wane as the processes lose their 'newness' or that the engagement process deviates from its original purpose over time.

Second, the non-binding nature of the agreement also provides limited ability for Indigenous communities within the region to hold either the governments or the regional authority to account. Regulatory provisions guiding the operation of the regional authority are limited to those provisions for the incorporation of Aboriginal organisations. It is not clear how a community, or part of a community, that is unhappy with the operation of the regional authority will be able to have their concerns addressed formally.[51] In the longer term, it may be advantageous to establish a minimum set of common standards for governance for regional bodies in legislation to enshrine the rights of communities and ensure their full participation in the process.

In both these regards, the RPA approach (as illustrated by the Ngaanyatjarra Agreement) falls below the standard set by the Torres Strait Regional Authority (TSRA) model. The TSRA operates with a high degree of autonomy, administers

51 I note that the agreement establishes an 'escalation procedure' as a dispute resolution process and parties to the agreement have committed to use this procedure prior to taking any formal legal action. This does not, however, prevent individuals from taking legal action against any of the parties to the agreement – for example, under racial discrimination laws or by way of judicial review of administrative decisions made by government.

government funding and has legislative backing through the *Aboriginal and Torres Strait Islander Act 2005* with a detailed set of functions, powers and obligations.

While it may be advantageous in the initial stages for agreements to have the maximum flexibility by not being tied to legislative requirements, in the longer term there should be a more secure basis for the operation of regional bodies. This could be achieved through the introduction of new provisions to the *Aboriginal and Torres Strait Islander Act 2005* to support the role of regional representative bodies on the mainland. Regional Participation Agreements could be given legislative backing by introducing provisions which enable the government to schedule such agreements to the Act. The adequacy of the legal status of regional representative bodies should be considered as part of monitoring processes for RPAs within the next two years (that is, during the life of the Ngaanyatjarra Agreement).

Accounting for this concern, the Ngaanyatjarra Agreement demonstrates that the Regional Partnership Agreement approach has the potential to contribute to governments working together in a coordinated manner and in true partnership with Indigenous communities in a structured and systemic manner.

The Department of Family and Community Services has also proposed additional processes to support Regional Partnership Agreements. They state:

> FACS is proposing the formulation of regional support committees of four types – economic, human, social and environmental – consisting of staff from relevant departments, from both levels of government, to support the development processes in families and communities. It is also proposing the formulation of regional development plans to integrate regional development with community and family level development needs. These regional development plans would then guide the prioritisation of funding within the region. It is likely that these bi-level government committees would have an important role in the formulation of regional development plans, as would the (currently) emerging forms of regional Indigenous representation.[52]

My Office will monitor developments relating to this proposal over the coming year.

iii) Utilising ATSIC Regional Councils and Regional Council Plans

ATSIC Regional Councils continued to operate until 30 June 2005. Broadly, the Councils had two main roles that remained of central importance in the introductory phase of the new arrangements. First, to represent 'Aboriginal and Torres Strait Islander residents of the region and to act as an advocate of their interests'[53] and second, to develop Regional Plans 'for improving the economic, social, and cultural status of Aboriginals and Torres Strait Islander residents of the region.'[54]

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52 Department of Family and Community Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 17 October 2005, p8.

53 *Aboriginal and Torres Strait Islander Commission Act 1989* (Cth), s.94(e). Note s.94(d) also provides that a related role of the Regional Council is to 'receive, and to pass on to the Commission the views of Aboriginal and Torres Strait Islanders about their activities, in the region, of the Commission, other Commonwealth bodies and State, territory and local government bodies'.

54 *ibid*, s.94(a). Section 94(b) also provides that the Council is 'to assist, advise, and co-operate with the Commission, other Commonwealth bodies and State, Territory and local government bodies in the implementation of the regional plan'.

The past twelve months has been a difficult time for Regional Councils. The demise of ATSIC was not confirmed in legislation until March 2005, creating great uncertainty for the Councils in their operations. They also faced severe resource constraints during the year to support their activities.

Despite this, most Regional Councils assisted in the transition to the new arrangements and worked with the OIPC and ICCs in developing alternative regional structures.

Federal government departments also engaged with the Regional Councils on a variety of issues relating to the transition to the new arrangements. For example, the Department of Employment and Workplace Relations state:

> The Department has worked with Regional Councils in a formal and informal way on the following issues:
>
> - CDEP reforms;
> - Regional Council meetings;
> - Reviewing of Regional Plans;
> - Development of Indigenous employment strategies such as the Structured Training and Employment Project (STEP) and the Indigenous Small Business Fund (ISBF).[55]

Similarly, the Attorney-General's Department state:

> As part of the Government's new arrangements, agencies were required to continue to engage with ATSIC Regional Councils and their planning processes in the administration of the Government's programs and services. AGD staff have liaised with ATSIC Regional Councils and Indigenous organisations on matters relating to Indigenous service delivery in their regions.[56]

The Department of Family and Community Services, in particular, 'undertook a concerted approach to engage with the ATSIC Regional Councils in its planning processes'.[57] This included:

- meeting with various regional councils to discuss draft regional plans and subsequently analysing the finalised plans in accordance with FACS' service responsibilities;
- inviting Regional Council Chairpersons in Western Australia to strategic planning workshops to present their views from a regional Indigenous perspective on matters which may impact on the planning processes;
- continuing involvement of regional councils on consultative committees such as the Joint Indigenous Housing Consultative Committee and working parties such as the Family Wellbeing Curriculum Development committee, both in Tasmania; and

55 Acting Deputy Secretary, Department of Employment and Workplace Relations, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 20 July 2005, p1.

56 Secretary, Attorney-General's Department, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 15 July 2005, p1.

57 Department of Family and Community Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner - Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

- relying on ATSIC planning documents, such as the Regional Housing and Infrastructure Plans, as a basis for allocating funding in relation to housing, family violence and in assessing submissions received for 2005-2006 funding.[58]

Government departments have also engaged with ATSIC Regional Councils in order to match their programs and activities with the priorities identified in the ATSIC Regional Council Plans. The Office of Indigenous Policy Coordination notes that:

> The ATSIC Regional Council plans have provided useful information to ICC managers and staff on community needs and priorities, strategies for service delivery and community consultation methodologies.[59]

The Department of Family and Community Services states:

> In all States and Territories, FaCS has ATSIC Regional Council Plans to assist in determining communities' needs. For instance:
>
> - FaCS Tasmania discussed the ATSIC Tasmanian Regional Plan with the Chairperson and provided comments regarding housing and family matters to the Hobart ICC.
> - FaCS Victoria used the ATSIC Regional Housing and Infrastructure Plan for its funds allocation of capital purchases in 2005-2006 as well as a supplementary allocation of $3.7million received late 2004-2005.
> - FaCS ACT Aboriginal and Torres Strait Islander Bilateral Housing Agreement Steering Committee utilised the ATSIC Queanbeyan Region Council Plan to develop its ACT Housing Plan 2004-2005.
> - In NSW, FaCS Coffs Harbour utilised the ATSIC Many Rivers Regional Plan to inform decisions and as input to the Housing Bilateral Plan and the Family Violence Action Plan.
> - FaCS SA used ATSIC Regional Plans as a basis for its appraisal of the Family Violence Regional Activity Program (FVRAP) appraisal process and to inform the formulation of projects.
> - FaCS WA referred to ATSIC Regional Plans to provide strategic focus and prioritisation for each of the regions, as well as inviting the participation of regional councilors in their strategic planning workshops.
> - FaCS NT used ATSIC Regional Council Homelands policies as an information tool in determining program funding agreements in 2004-2005 and 2005-2006.[60]

The Department of Employment and Workplace Relations noted:

> A number of DEWR State Offices have engaged ATSIC Regional Councils in relation to their Regional Plans, including reviewing the plans with the Councils as these pertain to this portfolio and exploring mechanism for achieving the objectives set out in those Plans.

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58 *ibid*, pp2-3.

59 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

60 Department of Family and Community Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p4.

> During the current financial year the Northern Territory (NT) Office will be developing employment and business development strategies with each CDEP, which will recognise Regional Plans.[61]

The Department of Education, Science and Training also stated that they have utilised the Murdi Paaki Regional Council Plan in the COAG trial for that region. They have also continued the relationship with the Regional Council through the use of Community Working Parties and the development of local Community Action Plans which will form basis of the development of a new regional plan.[62]

The ATSIC Regional Council Plans have ongoing significance in the administration of services to Indigenous people and communities. Regional Council Plans have identified regional priorities through a process of consultation and evidence-based analysis. As such, the Plans provide a workable platform for government and alternative regional representative structures to begin to establish commitments and processes to address regional need through RPAs, SRAs and Strategic Investment Plans.

In some instances further work is required to be able to 'operationalise' the Regional Council Plans. For example, the Department of Family and Community Services have stated in relation to the Sydney Regional Council Plan that it:

> provided limited added value. This is not a criticism of the plan itself. More acceptance of their relevance is required in… policy, program and service development.
>
> Firstly, the broad strategic areas identified in the plan, frequently match the needs identified in specific communities. This should be no surprise because the regional plans were developed in consultation with the community.
>
> Secondly, they lack a detailed operational level. This level is the advantage of the new approach, where specific solutions can be recommended and lead agencies can be nominated for delivering against a specific strategic priority. No instructions in the regional plans have been directed to a lead agency nor are there any specific project details for strategic priority.[63]

As noted above, section 94(b) of the ATSIC Act envisaged a role for Regional Councils (or alternative representative structures from now on) 'to assist, advise, and co-operate with… Commonwealth bodies and State, Territory and local government bodies in the implementation of the regional plan'. Negotiating the operational level of the plans was intended to be an ongoing role of the ATSIC Regional Council.

The Chairperson of the Sydney Regional Council explained the significance of their plan at its launch on 15 September 2004:

> The Plan is the result of a process of engagement by Regional Council with our Aboriginal community throughout the region… (It) is built entirely on community knowledge and expertise, through the process of community engagement, and enhanced by Council through a lengthy process of discussion, debate and

61 Department of Employment and Workplace Relations, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

62 Department of Education, Science and Training, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.,* p1.

63 Department of Family and Community Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p4.

> analysis. Regional Council's are mandated to undertake planning on behalf of our communities…
>
> The Sydney Regional Plan reflects the aspirations of the Sydney Aboriginal community and will become the template for government and community action over the next few years. Our greatest challenges during that time will be in ensuring governments adhere to the broad outcomes expressed in the plan, and effectively negotiating with the community on localised priorities and concerns…
>
> While our future role is currently subject to Parliamentary debate, Council is very serious about assisting the community to identify future processes of engagement in a landscape of public policy that is vastly different to what we have seen before. *This becomes even more important in negotiating the implementation of the Plan, and indeed, monitoring performance against the Plan's objectives*.[64]

The fact that ATSIC does not exist to build on the strategy should not deter from the importance of Regional Plans. Without reliance on the plans, there is currently no mandate and no informed basis for governments to determine the regional priorities of Indigenous peoples and communities.

Appendix 2 of this report provides an overview of the key issues identified in each of the 35 ATSIC Regional Council Plans, and the strategies proposed to advance these issues. It is notable that a number of the plans include models for regional representation post-ATSIC, as well as identifying relevant indicators to measure progress in addressing the key issues raised in the plan. This includes by linking to the headline and strategic change indicators of COAG's Overcoming Indigenous Disadvantage Framework.

A whole of government approach should surely include utilising existing research and consultation outcomes to ground the new arrangements. The Regional Council Plans provide such a basis. They are particularly important in light of local Indigenous participation in their development and in the absence of replacement representative structures to guide policy development and service delivery in most regions.

iv) Representative arrangements for Torres Strait Islanders on the mainland

A particular concern in the new arrangements is the absence of specific mechanisms at the regional level for consulting with, and ensuring the participation of, Torres Strait Islander peoples living on mainland Australia.

The *ATSIC Act* provided mechanisms to ensure the interests of mainland Torres Strait Islanders were represented. Despite this, ATSIC had noted in 2000 as an ongoing challenge that 'mainland Torres Strait Islanders are experiencing problems with access and equity issues to funding bodies, programs and services'.[65]

With the abolition of ATSIC these mechanisms no longer exist. Participation of mainland Torres Strait Islanders is no longer assured.

The Office of Indigenous Policy Coordination has described the options for participation of mainland Torres Strait Islanders in the new arrangements at a regional level as follows:

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64 ATSIC Sydney Regional Council, *Last Annual Report 2004-2005*, ATSIC Sydney 2005, pp21-22. Emphasis added.

65 Aboriginal and Torres Strait Islander Commission, *Submission to the House of Representatives Standing Committee into The Needs of Urban Dwelling Aboriginal and Torres Strait Islander Peoples*, ATSIC, Canberra, October 2000, p71.

> Torres Strait Islander people living on the mainland have been invited to, and participated in, meetings on the new arrangements in Indigenous affairs, particularly community consultations on new regional representative bodies, and will be able to continue their involvement in planning through the new representative mechanisms. They can also be part of the development of SRAs in communities.[66]

The federal budget in May 2005 indicates that specific funding to assist Torres Strait Islanders living on mainland Australia totalling $480,000 per annum has been incorporated into the *Shared Responsibility Agreements and Community Engagement – Implementation Assistance Program*. The Minister announced:

> The new whole-of-government arrangements for service delivery to Indigenous people are based on shared responsibility. This measure will provide resources for SRA development and fund SRA priorities that do not fall neatly into individual government agencies' responsibilities, while also supporting existing and new Communities in Crisis interventions and continuing assistance for Torres Strait Islanders on the mainland.[67]

The OIPC have advised my Office that the 'guidelines for the SRA Implementation Assistance Program allow for funding activities previously funded under the Torres Strait Islanders on the Mainland program, not necessarily through SRAs.'[68]

They have also advised that there has been some discussions on funding arrangements for 2005-06 for the National Secretariat of Torres Strait Islander Organisations Ltd (NSTSIOL). This organisation was previously funded by ATSIC/ ATSIS through the Torres Strait Islanders on the Mainland Program to:

- advocate for the protection and maintenance of Torres Strait Islander culture, language and heritage;
- provide secretariat services and corporate governance assistance for member organisations;
- develop strategic plans for the engagement of Torres Strait Islander people and community organisations on the mainland; and
- conduct conferences and workshops designed to bring people together to discuss issues, priorities and aspirations of Torres Strait Islander people on the Mainland.

OIPC advise that NSTSIOL had some grant funding carried over from 2004-05 to cover operational costs in 2005-06 and to conduct a workshop for members of NSTSIOL to start future planning for the organisation.[69]

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66 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

67 Minister for Immigration and Multicultural and Indigenous Affairs, *Indigenous budget measure 1: Shared Responsibility Agreements and community engagement – Implementation Assistance*, Fact sheet, online at: www.atsia.gov.au/budget/budget05/c_fact_sheet_1.pdf.

68 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 2 November 2005, p1.

69 *ibid.*

The Queensland Government has noted that in Queensland (where a large proportion of mainland Torres Strait Islanders live):

> There are no specific measures for Torres Strait Islander living on the mainland. However… Partnerships Queensland explicitly recognises that Queensland has two distinct Indigenous cultures – Aboriginal and Torres Strait Islander. It is anticipated that the Bilateral Agreement (with the Commonwealth on Indigenous Affairs) will also make this distinction clear.[70]

The ATSIC Central Queensland Regional Council advised my Office that they did not consider these arrangements appropriate:

> (We are) not confident that mainland Torres Strait Islanders will be able to effectively participate based on early observations, as the focus from a national perspective has been on Aboriginal issues, mainly in relation to DOGIT / remote communities and there has been no specific documentation focusing specifically on ways to capture engagement of Torres Strait Islander issues…
>
> Part of the problem relates to the carry over of the emphasis on program delivery, including financial accountability, rather than being proactive and devising strategies to capture all disadvantaged groups, which includes Torres Strait Islanders on the mainland. There is also a need for ICCs to have an understanding of Torres Strait Islander cultural protocols around engagement.[71]

Ms Kerry Arabena, a Torres Strait Islander woman specialising in Torres Strait Islander policy and research and living on the mainland, has expressed concerns about the options for representation of Torres Strait Islanders as follows:

> Very few Torres Strait Islander corporations on the mainland will have the capacity to negotiate about services to benefit our communities with governments. To my knowledge, very few Torres Strait Islander groups have even been approached by bureaucrats to discuss regional representation, or to fully engage in the development of SRAs that might deliver resources to provide services for specific purposes within my community.
>
> Governments have articulated that models of representation must be workable, affordable, effective and efficient and have a membership and capacity to provide informed advice about regional priorities, service delivery methods and assist in the development of a 20-30 year vision for the region. Yet very few attempts have been made to engage Torres Strait Islanders on the mainland to work out what our aspirations are at a regional level, particularly for those residing in the southern part of Australia. These discussions have highlighted how much of a minority within a minority we are, and a preparedness by bureaucrats to homogenise our experiences into the singular descriptor of 'Indigenous'. This is an unsatisfactory outcome for all concerned, and not at all what was promised by the reform agenda.[72]

My Office will continue to monitor how mainland Torres Strait Islanders are able to participate in the new arrangements over the coming year, particularly once regional representative Indigenous bodies exist.

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70 Premier of Queensland, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p4.

71 ATSIC Central Queensland Regional Council, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 30 June 2005, p5.

72 Arabena, K, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner*, 31 October 2005, p1. See also: Arabena, K, *Not fit for modern Australian society: Aboriginal and Torres Strait Islander people and the new arrangements for the administration of Indigenous affairs*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra 2005, pp40-42.

v) Linking community and regional level structures to the national and international levels

The majority of attention over the past year has been devoted to establishing alternative processes at the regional level and engaging with communities at the local level.

There has been very little focus on ensuring national level input of Indigenous peoples into policy making processes. Issues of concern that have arisen with the abolition of ATSIC at the national level include:

- establishing replacement processes for the participation of Indigenous peoples in Commonwealth-State framework agreements;
- the absence of requirements for government to consult with Indigenous organisations;
- facilitating Indigenous participation in national policy debates through linking local and regional level structures to the national level; and
- negotiating with Indigenous peoples on the positions on Indigenous rights adopted by the government in international fora.

■ *Representation of Indigenous peoples in framework agreements*

Previously, ATSIC participated as a formal partner on inter-governmental agreements, such as those relating to Indigenous health and housing. It had also been involved in the negotiation of these agreements. Addressing Indigenous participation in these agreements post-ATSIC remains an outstanding concern under the new arrangements.

In relation to health framework agreements, the Department of Health and Ageing has noted:

> The (Framework) Agreements on Aboriginal and Torres Strait Islander Health are the primary vehicle for ensuring collaboration in resource allocation, joint planning and priority setting for service delivery between key stakeholders in Indigenous health within each state and territory.
>
> Aboriginal Health Forums or partnerships are established under the Framework Agreements to oversee this collaborative work.
>
> Until 30 June 2004 the signatories to the Framework Agreements and membership of the Forums included: the Australian Government; State/Territory governments; the Aboriginal community controlled health sector; and ATSI and the Torres Strait Regional Authority.
>
> Since the abolishment of ATSIC and ATSIS, Framework Agreements and Forums will in future involve the three remaining partners plus the Torres Strait Regional Authority.[73]

In terms of the participation of Indigenous peoples in the Framework Agreements and Aboriginal Health Forums the Department also notes that:

> The development of Indigenous Coordination Centres at the regional level will provide one mechanism for ongoing representation of Aboriginal communities in whole of government planning and priority setting. State policy managers from

73 Department of Health and Ageing, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 21 July 2005, p7.

> the Office of Indigenous Policy Coordination have been invited to participate in the Forums.[74]

This practice is not appropriate to ensure regional or informed representation of Aboriginal and Torres Strait Islander peoples in decision-making and planning processes relating to health. It is wrong to describe ICCs as providing 'ongoing representation of Aboriginal communities' when they are government offices which are intended to streamline the interaction of government with communities. The involvement of OIPC State Managers in Health Forums may be of assistance in achieving better engagement from non-health sector agencies but it does not assist in assuring Indigenous peoples appropriate representation in the health forums. This issue needs to be addressed.

In terms of housing agreements between governments, the Department of Family and Community Services has indicated that it:

> is currently negotiating new bilateral Indigenous Housing and Infrastructure Agreements (IHIAs) with all States and Territories for 2005-08. The Minister wrote to relevant State and Territory Ministers in June 2005 advising of the Australian Government's policy priorities for negotiating new IHIAs. This advice included the need for all jurisdictions to develop and agree to new arrangements for engaging Indigenous participation in policy and planning roles under the bilateral agreement.
>
> The composition, function and powers of Indigenous Housing Authorities (in New South Wales and South Australia) and Indigenous housing advisory groups in all other jurisdictions, are being revised as part of the negotiation of the new IHIAs. The membership of the majority of Indigenous Housing Authorities and Indigenous housing advisory groups will consist of eight members, with at least five members being Indigenous. In a number of jurisdictions the membership will be entirely Indigenous. *In all jurisdictions members will be selected based on merit against an agreed criteria.*
>
> A key function of Indigenous Housing Authorities and Indigenous housing advisory groups is to assist Government to determine appropriate regional participation in housing and infrastructure planning processes. Jurisdictions are at different stages in the development of new arrangements for regional participation. The New South Wales Government has established Regional Aboriginal Housing Committees, and these provide a best practice model in providing regional Indigenous participation in housing an infrastructure planning.
>
> As well, FaCS has negotiated interim bilateral agreements with the States and Territories over the provision of Indigenous housing. These interim Indigenous Housing Agreements have been or are being negotiated with the ACT, NSW, NT, SA and WA. Basically, they pool Indigenous specific housing funds, with the programs implemented by the State or Territory body. In these jurisdictions, Indigenous Housing Authorities (IHAs) undertake planning at the regional level, resulting in Regional Housing and Infrastructure Plans. These then input into an overarching State or Territory Plan.[75]

This is a much more satisfactory approach than that adopted in relation to health agreements.

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74 *ibid.*

75 Department of Family and Community Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner - Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p6. Emphasis added.

I will continue to monitor developments relating to Indigenous participation in framework agreements over the coming year as negotiations on framework agreements are concluded and as more lasting arrangements are put into place.

■ *Requirements to consult with Indigenous peoples at the national level*

The *Aboriginal and Torres Strait Islander Commission Act 1989* (Cth) also established requirements for various federal agencies and Ministers to consult with ATSIC on specified issues. These provisions were repealed as part of the abolition of ATSIC. Alternative processes for consulting with Indigenous organisations or peoples were not substituted into the amended Act.

For example, the relevant Minister was previously required to consult with ATSIC when considering the appointment of new Directors to Indigenous Business Australia or the Indigenous Land Corporation, and when selecting a Torres Strait Islander for the Council of the Australian Institute for Aboriginal and Torres Strait Islander Studies. ATSIC could also nominate a member to the National Health and Medical Research Council. ATSIC also had a close relationship with the Australian Bureau of Statistics and was consulted in the setting of data collection processes.[76]

The impact of these changes is likely to be subtle and not easily identified. There may be practical difficulties in identifying who would be an appropriate body to consult with in relation to certain issues, particularly in the absence of a national representative body or regional representative bodies.

However, the potential impact of these changes is that they distance Indigenous peoples from decision-making processes. Government departments should build into their policy processes, as a minimum standard, engagement with Indigenous peoples about issues that directly or indirectly affect their rights.

■ *The absence of engagement with Indigenous peoples at the national level*

This reflects a broader concern about the new arrangements to date. Since the abolition of ATSIC, there has been no national representative body that can participate in national level debates on Indigenous issues. While the new arrangements are built on a commitment to local level engagement, the nature of this engagement is established through national processes that do not consistently involve the participation of Indigenous peoples.

The only mechanisms for participation of Indigenous peoples are through the National Indigenous Council or sector specific organisations – such as national committees on education, the National Aboriginal Community Controlled Health Organisation, the Secretariat of National Aboriginal and Islander Child Care and affiliations of local bodies (such as working groups of native title representative bodies).

Neither of these mechanisms is sufficient to ensure appropriate representation of Indigenous peoples in national decision-making processes.

In relation to the National Indigenous Council (NIC), it is not a representative organisation. It does not claim such a role – indeed, the Chairperson, Dr Sue

76 In relation to my functions as Social Justice Commissioner, the requirement that I *must* consult with ATSIC was deleted although the existing provision that I *may* consult with Indigenous organisations was retained.

Gordon, has made clear that the NIC is not a replacement for ATSIC. Rather, the Council is an advisory body to Government.[77]

The consequence of this is clear. While the NIC is entitled to put positions to government based on the individual and collective expertise of its members, its views can in no way be seen as providing consent or agreement on behalf of Indigenous peoples to any proposal. This is despite the fact that the NIC is made up of Indigenous experts. The NIC also has no capacity to undertake consultations with Indigenous peoples and hence no capacity to seek endorsement of its views among Indigenous communities.

Similarly, while sector specific organisations play an important role in their relevant sector they also do not have the mandate or representative base from which to be able to effectively represent Indigenous peoples across the full range of issues necessary. Many organisations are also service based rather than representative in their structures.

Accordingly, there is presently an absence of a connection between local level participation of Indigenous peoples and regional and national representation. In part, this flows from the absence of regional representative structures. I had proposed in last year's *Social Justice Report* a number of mechanisms for joining such representative bodies to the national level.[78] None of these suggestions is capable of being implemented until there exist operating regional bodies.

Concern at the absence of national representation (connected at all levels) was one of the major themes that emerged from the National Reconciliation Workshop in May 2005. As stated in the final report of the workshop:

> discussion centred around the dismantling of ATSIC and the roles legitimately played, and not played, by the National Indigenous Council and Reconciliation Australia. There was broad agreement by participants of the need for a strong, representative voice for Indigenous Australians at the national level, as well as the regional and local level…
>
> Reconciliation Australia used the workshop to reiterate a message it has consistently conveyed since the dismantling of ATSIC - that it strongly supports the need for a body which draws its authority from, and can legitimately speak for, Indigenous peoples. RA believes its structure and establishment are matters for Indigenous Australians to determine with backing from non-Indigenous quarters and to this end, RA continues to support, alongside the Australian Indigenous Leadership Centre, a series of meetings and consultations to canvass options.[79]

Efforts are also continuing to determine an appropriate structure for a national non-government organisation to represent Indigenous peoples. The OIPC had provided funding to assist in this, along with the support of Reconciliation Australia, the Australian Indigenous Leadership Centre, and the Australian Institute of Aboriginal and Torres Strait Islander Studies.

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77 National Indigenous Council 2nd Communiqué, *Second meeting of the National Indigenous Council,17-18 February 2005*, OIPC 18 February 2005, at http://www.oipc.gov.au/NIC/communique/PDFs/2ndcommunique.pdf.

78 *Social Justice Report 2004*, *op.cit.*, pp106-107. Suggestions included the convening of a national congress of Indigenous representative organisations accompanied by a national conference on service delivery to Indigenous communities and the establishment of a national non-government organisation peak body.

79 Reconciliation Australia, *Proceedings Report of the National Reconciliation Planning Workshop – 30/31 May 2005*, Reconciliation Australia, Canberra 2005, pp 3-4, online at: www.reconciliation.org.au/docs/planning_workshop/proceedings_report.pdf.

■ *Consultation with Indigenous communities on international issues*

There is also an absence of appropriate engagement of the government with Indigenous communities regarding Indigenous rights in international arenas. There are three aspects to this:

- supporting the ability of Indigenous peoples to participate in negotiations in a coordinated manner;
- engaging in consultations and negotiations with Indigenous communities about the positions to be adopted by the government in international fora; and
- supporting domestic processes for Indigenous organisations to develop a representative position for international meetings and to disseminate information about the outcomes and implications of decisions in international fora afterwards.

The government is an active participant in international negotiations which are directly related to the rights of Indigenous peoples – such as the Working Group on the United Nations Draft Declaration on the Rights of Indigenous Peoples, the Article 8(j) Committee under the Convention on Biological Diversity and the traditional knowledge working group of the World Intellectual Property Organisation. It also participates in processes which guide the development of international standards relating to Indigenous peoples, such as the United Nations Permanent Forum on Indigenous Issues and the United Nations Working Group on Indigenous Populations.

The abolition of ATSIC has severely restricted the ability of Indigenous peoples to input into these international processes. Of the four Indigenous organisations in Australia with accreditation as a non-government organisation at the ECOSOC level,[80] only the Foundation for Aboriginal and Islander Research Action has maintained an active engagement in international negotiations on Indigenous rights.[81] It has done so with minimal funding and on occasion, with funding provided by foreign governments or through the voluntary fund for Indigenous issues at the United Nations (i.e., funding that is usually provided to indigenous representatives in relatively poor countries and regions of the world).

The ATSIC Review had commented on the importance of ATSIC's international advocacy role to Indigenous peoples:

> ATSIC's international advocacy role is widely supported by Aboriginals and Torres Strait Islanders and judged as essential in keeping all Australians informed of global human rights issues and providing an Indigenous Australian voice overseas…
>
> The review panel agrees that ATSIC plays an important advocacy and representation role at the international level… Regional council and community meetings highlighted the need for there to be better reporting back mechanisms

80 To participate in most UN meetings, organisations must be accredited in accordance with procedures established by the Economic and Social Council of the United Nations. Indigenous organisations can, however, participate in some UN meetings (such as the WGIP, Permanent Forum and Draft Declaration negotiations) specific to Indigenous issues without such formal accreditation (although they cannot participate in other bodies of the UN such as the CHR, General Assembly, ECOSOC etc).

81 The Social Justice Commissioner also participates in select negotiations in the capacity of a national human rights institution.

by the representatives of ATSIC who are attending international forums, detailing the purpose of the involvement, and the outcomes.[82]

Mechanisms that existed within ATSIC to consult with Indigenous organisations in Australia, such as the Indigenous Peoples Organisations network, have now ceased. There is an absence of routine engagement between the government and Indigenous organisations prior to the commencement of international meetings (with the exception of small scale and limited consultations being held specifically on the Draft Declaration on the Rights of Indigenous Peoples in recent years).

In my view, this absence of dialogue contributes to less effective engagement by both the government and Indigenous organisations in international meetings. Indigenous organisations have every right to participate in international discussions on their rights and interests and I am not supportive of any restrictions on such participation. However, establishing common ground between the government and Indigenous peoples prior to going overseas, and looking to where the government and Indigenous organisations could jointly advance Indigenous issues in such forums, could contribute significantly to the outcomes of these meetings.

HREOC has made a number of recommendations to the government to ensure that a systematic approach is adopted to international negotiations and fora. The proposals include:

- funding community education activities on Indigenous rights, including community workshops to inform communities about their rights and corresponding responsibilities and about developments in international fora;
- convening domestic fora for Indigenous organisations to collaborate ahead of international meetings, and for negotiations to take place with government ahead of such meetings;
- supporting Indigenous involvement in international meetings, including through mentoring Indigenous youth and supporting leadership programs; and
- disseminating information back to communities about international developments in Indigenous rights.

The funding necessary to support such proposals is minimal and was carried over to the budget of the Office of Indigenous Policy Coordination from the budget of ATSIS in 2003. As at 30 June 2005, there was no decision on these proposals.[83]

vi) Conclusions and recommendations

There has been substantial effort made during the first twelve months of the new arrangements to identify processes for engaging with Indigenous peoples in a representative manner and on a regional basis. Despite this, there remain significant gaps relating to Indigenous representation.

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82 ATSIC Review Team, *In the hands of the regions – A new ATSIC. Report of the Review of the Aboriginal and Torres Strait Islander Commission*, Commonwealth of Australia, Canberra 2003, p37.

83 Note: The budget statement on SRA implementation states that funding for international activities has been included within the SRA Implementation Program and as such, continues to exist in the OIPC budget: Minister for Immigration and Multicultural and Indigenous Affairs, *Indigenous budget measure 1: Shared Responsibility Agreements and community engagement – Implementation Assistance*, *op.cit.*

In most instances where regional representative structures have been developed, they are not yet operational. In other regions, there are no agreed mechanisms developed. There are no specific mechanisms in place to ensure that the distinct issues of Torres Strait Islander peoples are addressed in mainland areas, with available funding subsumed within the SRA development program, and there is a particular absence of representative arrangements in major urban areas.

Interim steps have been taken to engage with Indigenous representatives in housing framework agreements, and assuring such engagement is a key priority in the renegotiation of these agreements between the Commonwealth and the states and territories over the coming year. Adequate arrangements are yet to be put into place for health framework agreements.

There are also limited mechanisms for engaging with Indigenous representatives at the national level and in relation to international developments, and the need for established links between local and regional levels, and then the regional and national levels.

The legacy of ATSIC Regional Councils is their Regional Planning documents, most of which were updated or revised during the past twelve months. The ATSIC Regional Council Plans provide a useful basis for identifying the regional needs and priorities of Indigenous peoples, as well as proposing mechanisms for engagement. Further work is needed to 'operationalise' the plans – a task that was a central function of the ATSIC Regional Councils themselves. Further effort should be made to utilise the plans in the development of regional structures and in identifying the priorities for each region.

The absence of processes for Indigenous representation at all levels of decision making contradicts and undermines the purposes of the new arrangements.

It severely restricts the ability of Indigenous peoples to participate in decision making and service delivery which affects them in a systematic and coordinated manner. Any regional planning, priority setting or agreement-making made in the absence of Indigenous representative structures is also problematic. Not consulting a representative structure excludes Indigenous people from participating in decision-making processes and does not provide for their active participation in issues that affect their lives.

The first priority must be the establishment of regional representative bodies which can link to the local level as well up to the state and national levels. Regional Partnership Agreements provide a solid basis for this to occur. These agreements should also be evaluated in the coming years with a view to strengthening the recognition provided to representative bodies, including through providing them legislative recognition under the *Aboriginal and Torres Strait Islander Act 2005*.

Addressing the absence of regional representative structures is an urgent priority for the 2005-06 financial year. It would be wholly unacceptable for regional structures to not exist and not be operational in all ICC regions by the end of this period.

In producing this report I am required to make recommendations to address issues of concern. I make the following recommendation in relation to the absence of appropriate representation for Indigenous peoples in the first twelve months of the new arrangements. I have also identified follow up actions that my Office will undertake for the next *Social Justice Report* to retain a focus on issues of concern.

Recommendation 4

That the federal government, in partnership with state and territory governments, prioritise the negotiation with Indigenous peoples of regional representative arrangements. Representative bodies should be finalised and operational by 30 June 2006 in all Indigenous Coordination Centre regions.

Follow Up Action by Social Justice Commissioner

1. The Social Justice Commissioner will consider the adequacy of processes undertaken by all governments to consult and negotiate with Indigenous peoples and communities on policy development, program delivery and monitoring and evaluation processes. This will include:
    - identifying best practice examples for engaging with Indigenous peoples on a national, state-wide and regional basis;
    - identifying existing protocols or principles for engaging with Indigenous peoples;
    - identify existing processes for engaging with Torres Strait Islander communities on the mainland; and
    - developing a best practice guide to negotiating with Indigenous communities from a human rights perspective.

4) Indigenous participation through local level agreement making

An integral component of the new arrangements is direct engagement with local communities. A major focus of activity in the past twelve months has been the negotiation of local level agreements within Indigenous communities, known as Shared Responsibility Agreements (SRAs).

The term 'Shared Responsibility Agreement' (SRA) was first used to describe agreements within the eight sites of the Council of Australian Governments' whole of government community trials initiatives (COAG trials) that commenced in 2003.[84]

SRAs are based on the principle of 'mutual obligation.' It is intended that:

> communities… take responsibility for determining their own priorities for change and to work out what they can contribute to making things better. This contribution could involve using community assets, such as a community centre, upgraded sports facility or tourism business; or it could be a commitment to invest time and energy towards outcomes. For real change, the community is expected to actively contribute, in some way, to achieving better outcomes for its people.[85]

84 For an overview of the trials see: Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2003,* Human Rights and Equal Opportunity Commission, Sydney, 2004, pp 227-250.

85 Office of Indigenous Policy Coordination, *Indigenous Coordination Centres – Questions and answers (What can communities expect from governments?)*, www.Indigenous.gov.au/icc/qa.html, (Accessed 20 July 2005).

With the introduction of the new arrangements from 1 July 2004, the government set a target of finalising 50 -80 SRAs by 30 June 2005.[86] A target of 100 SRAs has now been set for the 2005-06 financial year.[87]

This section of the report considers developments during the first twelve months of the new arrangements in relation to the negotiation of SRAs.[88] It sets out relevant human rights standards to ensure the effective participation of Indigenous peoples at the local level and to ensure that the content of SRAs do not breach human rights standards.

i) Human rights principles and Shared Responsibility Agreements

As Social Justice Commissioner, my primary interest in SRAs is how they impact on the well-being of Indigenous peoples and whether they promote the achievement of social justice. To do so, SRAs must be consistent with human rights standards.

There are two aspects to whether SRAs comply with human rights standards.

First, is whether SRAs operate as a tool that promotes the enjoyment of human rights (i.e. as a *positive* mechanism for human rights protection). SRAs have the potential to provide a significant breakthrough in policy and program implementation. By achieving a direct relationship between government and Indigenous peoples, SRAs could overcome the flaws of the approach of government adopted over the past thirty years.

This approach has misunderstood and misapplied the principle of self-determination. This is by governments walking away from a direct relationship with Indigenous people themselves, and avoided any responsibility and accountability for this relationship. In the place of government, Indigenous peoples have had to deal with organisations and people of varying capacity, and in the case of some community advisers, store managers and administrators, of varying honesty. SRAs potentially signal the return of government to communities through direct engagement.

SRAs have the **potential** to improve the enjoyment of human rights by Indigenous peoples in the following ways:

- by being based on local level negotiation and consultation, they could ensure the effective participation of Indigenous peoples in decision-making that affects them;
- by tailoring services to the specific circumstances of the community, they could lead to culturally appropriate service delivery and improved accessibility of mainstream services;
- by supporting the development of local enterprises that are culturally relevant, they could expand the existence of otherwise limited economic development opportunities in remote communities; and

86 *Social Justice Report 2004*, *op.cit.*, pp115-116.

87 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p2.

88 It follows on from the discussion of SRAs in the *Social Justice Report 2004*. The information in this report does not repeat the findings of that report. *See: Social Justice Report 2004*, *op.cit.*, pp 113-120 and Appendix 2. My previous report identified ten 'follow up actions' that my Office would take during the subsequent year. This section of the chapter considers follow up action 7 (Shared Responsibility Agreements).

- by being part of a comprehensive plan to address the needs and build the capacity of communities, they could lead to the empowerment of Indigenous communities.

As such, SRAs could be tools for promoting:

- the realisation of the right to self-determination (in accordance with Article 1 of the *International Covenant on Civil and Political Rights* (ICCPR) and *International Covenant on Economic, Social and Cultural Rights* (ICESCR);
- the protection of minority group cultural rights (in accordance with Article 27 of the ICCPR and Article 30 of the *Convention on the Rights of the Child*);
- the achievement of culturally appropriate delivery of economic, social and cultural rights (in accordance with various provisions of the ICESCR);[89] and
- the achievement of equality before the law (in accordance with Article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), Article 26 of the ICCPR and related provisions in other instruments).

Second, and conversely, is whether SRAs impact *negatively* on the enjoyment of human rights by Indigenous peoples. SRAs may negatively impact on the enjoyment of human rights if they do not address the issues raised above – for example, if they do not ensure that service delivery is appropriately adapted to cultural circumstances or do not ensure the effective participation of Indigenous peoples.

In particular, SRAs could be problematic if they are not negotiated with the appropriate representatives of the Indigenous community (in cultural terms). Government has to be under a clear responsibility to find ways of negotiating with Indigenous communities that do not simply rely on existing community councils, regardless of whether they are culturally inclusive, representative, well governed or the reverse.

Additionally, SRAs have the **potential** to restrict the enjoyment of human rights by Indigenous peoples in the following ways:

- if they impose conditions on Indigenous peoples' access to services where such services are otherwise available to other sectors of the community without condition;
- if SRAs make the progressive realisation in enjoyment of rights for Indigenous peoples contingent upon conditions being met (this is particularly given the existing state of inequality experienced by Indigenous peoples); and
- if they make Indigenous peoples' access to core minimum entitlements conditional (as matters which constitute core minimum obligations are required to be met with immediate effect and are not subject to negotiation).

89 For an overview of these principles in relation to the right to health see Text Box 6 in Chapter 2 of this report. There are four inter-related principles of accessibility, adaptability, adequacy and quality. Similar principles exist in relation to rights to an adequate standard of living, water, housing and education.

As such, SRAs could raise issues of non-compliance with human rights standards in relation to:

- the principles of non-discrimination on the basis of race and equality before the law (as set out in Articles 2 and 5 of ICERD, Articles 2 and 26 of the ICCPR, Article 2 of ICESCR, and related provisions);[90]
- the progressive realisation principle (as set out in detail in Chapter 2 of this report, and contained in Article 2 of the ICESCR, Articles 1 and 2 of ICERD, and related provisions);
- the obligations for governments to respect, protect and fulfil the enjoyment of human rights, especially economic, social and cultural rights, and the satisfaction of core minimum obligations (as set out in various provisions of ICESCR in relation to economic, social and cultural rights).[91]

To assist in determining whether the SRA approach as a whole, as well as individual SRAs, comply with human rights standards I have developed the following overview of key considerations for making SRAs. They relate to the *process* of SRA making as well as to the *content* of SRAs.

■ *Human rights standards relating to the process of SRA making*

Text Box 2 in this chapter outlines guidelines for engaging with indigenous communities, based on human rights principles and best practice. It notes the following principles that are of relevance to SRA making:

1. **Non-discrimination and equality:** All policies and programs relating to Indigenous peoples and communities must be based on the principles of non-discrimination and equality, which recognise the cultural distinctiveness and diversity of Indigenous peoples. This acknowledges the following related factors:

   a) that Indigenous peoples continue to face unequal enjoyment rights and access to services;

   b) that Indigenous peoples have not in the past, nor in many instances in the present, benefited from mainstream services and programs;

   c) that special measures may be required to address the resultant inequality in enjoyment of rights;

   d) that programs need to be tailored to the specific cultural circumstances of Indigenous peoples for them to be effective (this may be through either mainstream or Indigenous specific programs); and

   e) that an approach which recognises the distinct needs of Indigenous peoples is not discriminatory, so long as it is aimed to providing equality in outcome or fact and constructed with the full participation of the affected peoples.

90 Appendix 2 to the *Social Justice Report 2004* set out the elements to be met to ensure that SRAs do not breach the *Racial Discrimination Act 1975* (Cth). That Act implements Australia's obligations under ICERD. The Act applies to the negotiation stage of SRAs, the terms and conditions imposed on communities through SRAs, and any other affects on communities or individuals through SRAs.

91 There are also provisions which indicate that certain rights are non-derogable, meaning that governments must always meet these rights, even in time of war or national emergency: see Articles 4 and 5 of the ICCPR.

2. **Effective participation:** Indigenous peoples have the right to full and effective participation in decisions which directly or indirectly affect their lives. Such participation shall be based on the principle of free, prior and informed consent. The key elements of free, prior and informed consent are set out below.

3. **Transparent government frameworks:** Governments should establish transparent and accountable frameworks for engagement, consultation and negotiation with Indigenous peoples and communities. Frameworks for engagement should allow for the full and effective participation of Indigenous peoples in the design, negotiation, implementation, monitoring, evaluation and assessment of outcomes; as well as in identifying and prioritising objectives, as well as in establishing targets and benchmarks (in the short and long term).

4. **Indigenous representation:** Indigenous peoples and communities have the right to choose their own representatives and the right to specify the decision making structures through which they engage with other sectors of society.

5. **Reporting and data collection:** There should be accurate and appropriate reporting by governments on progress in addressing agreed outcomes, with adequate data collection and disaggregation. The effective participation of Indigenous peoples in all stages of data collection and analysis has also been identified as an essential component of emerging participatory development practice.[92]

6. **Adopting a long term approach:** In engaging with Indigenous communities, governments and the private sector should adopt a long term approach to planning and funding that focuses on achieving sustainable outcomes and is responsive to the human rights and changing needs and aspirations of Indigenous communities.

7. **Capacity building:** There is a need for governments and other sectors to support efforts to build the capacity of Indigenous communities, including in the area of human rights so that they may participate equally and meaningfully in the planning, design, negotiation, implementation, monitoring and evaluation of policies, programs and projects that affect them. Similarly, there is a need to build the capacity of officials of government and other sectors, including by increasing their knowledge of Indigenous peoples and awareness of the human rights based approach to development, so that they are able to effectively engage with Indigenous communities.[93]

92 Permanent Forum on Indigenous Issues, *Report of the workshop on Data Collection and Disaggregation for Indigenous Peoples*, UN Doc: E/C.19/2004/2, United Nations, New York 2004. In relation to this, note the discussion in the previous section about the removal from the ATSIC Act of the requirement for consultation by a number of agencies and deletion of provisions relating to the relationship between ATSIC and the Australian Bureau of Statistics.

93 The Common Understanding of a Human Rights Based Approach to Development, as adopted by the United Nations agencies, was set out in Chapter 2 of the report. It also provides useful guidance as to a development approach to engaging with communities.

A key principle that re-emerges throughout the above points is that of *the effective participation of Indigenous peoples in decision making*. Obligations to ensure effective participation exist in nearly all the main human rights treaties. These obligations have been synthesised into the principle of free, prior and informed consent of indigenous peoples. The key elements of this principle are set out in Text Box 5 below.[94]

Text Box 5: Key elements of free, prior and informed consent[95]

1. What?

Free should imply no coercion, intimidation or manipulation;

Prior should imply consent has been sought sufficiently in advance of any authorisation or commencement of activities and respect time requirements of indigenous consultation/consensus processes;

Informed – should imply that information is provided that covers (at least) the following aspects:

a. The nature, size, pace, reversibility and scope of any proposed project or activity;
b. The reason/s or purpose of the project and/or activity;
c. The duration of the above;
d. The locality of areas that will be affected;
e. A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle;
f. Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others)
g. Procedures that the project may entail.

Consent

Consultation and participation are crucial components of a consent process. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communicating among interest holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of indigenous women is essential, as well as participation of children and youth as appropriate. This process may include the option of withholding consent.

Consent to any agreement should be interpreted as Indigenous peoples have reasonably understood it.

2. When?

Free, prior and informed consent (FPIC) should be sought sufficiently in advance of commencement or authorization of activities, taking into account Indigenous peoples' own decision-making processes, in phases of assessment, planning, implementation, monitoring, evaluation and closure of a project.

94 See further footnote 17 above.

95 Permanent Forum on Indigenous Issues (PFII), *Key elements of the principle of free, prior and informed consent*, PFII, New York, 2005.

3. Who?

Indigenous peoples should specify which representative institutions are entitled to express consent on behalf of the affected peoples or communities. In FPIC processes, indigenous peoples, UN Agencies and governments should ensure a gender balance and take into account the views of children and youth as relevant.

4. How?

Information should be accurate and in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand. The format in which information is distributed should take into account the oral traditions of indigenous peoples and their languages.

5. Procedures/Mechanisms

- Mechanisms and procedures should be established to verify FPIC as described above, including mechanisms of oversight and redress, such as the creation of national mechanisms.
- As a core principle of FPIC, all sides of a FPIC process must have equal opportunity to debate any proposed agreement/development/project. "Equal opportunity" should be understood to mean equal access to financial, human and material resources in order for communities to fully and meaningfully debate in indigenous language/s as appropriate, or through any other agreed means on any agreement or project that will have or may have an impact, whether positive or negative, on their development as distinct peoples or an impact on their rights to their territories and/or natural resources.
- FPIC could be strengthened by establishing procedures to challenge and to independently review these processes.
- Determination that the elements of FPIC have not been respected may lead to the revocation of consent given.

■ *Human rights standards relating to the content of SRAs*

In addition to these principles relating to the *process* of engagement, there are a number of principles that are relevant to the *content* of SRAs to ensure that are consistent with human rights standards and in particular those set out in the *International Covenant on Economic Social and Cultural Rights* (ICESCR).

Those principles can be summarised as:

1. **Non-discrimination and equality before the law:** Human rights instruments such as ICESCR obligate governments to guarantee the enjoyment of the rights protected by those instruments *without discrimination*. The *Racial Discrimination Act 1975* (Cth) (RDA) also embodies this principle. This principle applies to the process for negotiating SRAs, as well as the content and implementation of SRAs.[96]

96 See Appendix 2 of the *Social Justice Report 2004* for an overview of the relevant factors to be considered to establish whether a particular SRA complies with the *Racial Discrimination Act 1975*.

2. As I noted in the *Social Justice Report 2004*, the relevant question to determine whether an SRA breaches this principle is not whether it involves an 'essential service' but whether it involves the impairment of a human right or fundamental freedom.[97] Examples of such rights and freedoms include, but are not limited to, the rights to housing, public health, medical care, social security and social services, education and training, and access to any place or service intended for use by the general public.

3. **Special measures and legitimate differentiation of treatment:** Where an SRA does involve a differentiation in treatment based on race, it will only be permissible if it can be classified as a 'special measure' or as a legitimate differentiation of treatment.[98] Special measures are actions taken to provide additional protection or benefits to an identified group within society in order to remedy an existing inequality in the enjoyment of rights by that identified group. The criteria for a special measure were set out in the *Social Justice Report 2004*.[99] If an SRA involves the imposition of requirements on a identified group that might otherwise be found to be discriminatory, it may be considered a special measure *only* if it meets all the criteria for a special measure.

4. **Progressive realisation:** Governments must take deliberate, concrete and targeted steps towards ensuring the full realisation of rights (Article 2(1) ICESCR) and must establish that they are progressively realising the enjoyment of rights. This requires that service delivery occur within an overall strategy that includes time-bound benchmarks and indicators to ensure that the enjoyment of rights improves over time. In terms of SRAs, the progressive realisation principle means that they should be linked to a comprehensive assessment of need and inequality in communities and form part of an overall approach to meeting that need.

5. ICESCR places an onus on governments to ensure the provision of economic, social and cultural rights. However, apart from the obligation to progressively realise them it is not prescriptive as to how they should go about doing this and does not, for example, rule out agreement making as an appropriate basis for this. Human rights standards require that:
   - the government takes whatever steps are necessary;
   - strategies should reflect extensive genuine consultation with, and participation by, all of those affected; and
   - the government can demonstrate that, in aggregate, the measures being taken are sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources (particularly where the relevant group experience inequality in the enjoyment of rights).

97 *ibid.*, p193.

98 This is in accordance with the provisions of ICESCR and the International Convention on the Elimination of All Forms of Racial Discrimination.

99 *ibid.*, Appendix 2.

6. For example, in order to address the right to adequate housing the United Nations Committee on Economic, Social and Cultural Rights[100] has stated that the approach adopted may consist of whatever mix of public and private sector measures considered appropriate and that governments may utilise 'enabling strategies' so long as these are combined with a full commitment to realise the right to adequate housing.[101] SRAs may constitute an appropriate enabling strategy to assist in the realisation of the right to housing.

7. Governments remain under an obligation to ensure equal enjoyment of rights and to take steps to ensure such equal enjoyment at all times. Accordingly, programs or services cannot be withdrawn or not offered in the future to a community if an SRA does not achieve it goals.

8. **Core minimum obligations:** There is a requirement to ensure the satisfaction of minimum essential levels of economic, social and cultural rights at all times. This is not subject to negotiation.

9. The Committee on Economic, Social and Cultural Rights has identified the following as included within core minimum obligations that would not be appropriate for inclusion within SRAs:

- access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;
- physical access to water facilities or services that provide sufficient, safe and regular water;
- measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation;[102]
- the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;[103]
- basic shelter, housing and sanitation;[104] and
- essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs.[105]

10. **Respecting, protecting and fulfilling rights:** Governments are obliged to fulfil all human rights. *Fulfilling* human rights is a positive obligation that places an onus on governments to ensure that human rights subject matters (such as water, food and housing) are provided to its

100 This committee is established under the ICESCR to monitor the compliance of governments with their obligations under the treaty.

101 United Nations (UN), *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6, 2003, pp21-22, paras 13-14, (Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 4: The right to adequate housing).

102 *ibid.,* p96, para 43, (CESCR, General comment 14: the right to the highest attainable standard of health); *ibid,.* p113, para 37, (CESCR, General comment 15: the right to water).

103 *op.cit.,* p96, para 43, (CESCR, General comment 14: the right to health).

104 *ibid.*

105 *ibid.*

population and that they are equally accessible to different population groups.[106]

11. Accordingly, SRAs must respect human rights and protect the rights of Indigenous peoples from third party abuse. But they may also be used to fulfil Indigenous peoples' enjoyment of human rights. The United Nations Committee on Economic, Social and Cultural Rights has provided the following illustrations of measures to fulfil economic, social and cultural rights:

- In relation to *education*: taking positive measures to ensure that education is culturally appropriate for minorities and Indigenous peoples, and of good quality for all; designing and providing resources for curricula which reflect the contemporary needs of students; and actively developing a system of schools, including building classrooms, delivering programmes, providing teaching materials, training teachers.[107]
- In relation to *food*: proactively engaging in activities intended to strengthen people's access to and utilisation of resources and means to ensure their livelihood, including food security.[108]
- In relation to *water:* to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.[109]
- In relation to *health:* taking positive measures that enable and assist individuals and communities to enjoy the right to health, and undertake actions that create, maintain and restore the health of the population. This includes: disseminating appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services; and supporting people in making informed choices about their health.[110]

ii) Shared Responsibility Agreements – Key features

There has been much debate about the SRA process over the past year. This debate has generally been based on the very limited information about the process that is publicly available. In order to comment on the compliance of SRAs with human rights standards, I first identify the key features of the SRA approach. This includes noting developments over recent months which aim to evolve this process into a more sustained and holistic one.

■ *Definitions of SRAs and their content*

The government has defined Shared Responsibility Agreements (SRAs) and identified the key elements of them as follows.

106 Governments also have obligations to respect and protect human rights. *Respect* for human rights places an onus on governments to restrain itself from acting in a manner that breaches human rights. *Protecting* human rights places an onus on governments to monitor and regulate the behaviour of non-government parties to ensure that they do not breach human rights.

107 *ibid.,* p81, para 50, (CESCR, General comment No. 13: the right to education).

108 *ibid.,* p66, para 15 (CESCR, General comment No. 12: the right to adequate food).

109 *ibid*., p112, para 25 (CESCR, General comment 15: the right to water).

110 *ibid.,* pp95-96, paras 36-37(CESCR, General comment 14: the right to health).

Text Box 6: Extract: Secretaries' Group Bulletin 1/2005. What are Shared Responsibility Agreements[111]

What is a SRA?

SRAs are agreements between the government and Indigenous communities or groups, to provide a discretionary benefit in return for community obligations. These discretionary benefits may take the form of extra services, capital or infrastructure *over and above* essential services or basic entitlements.

They can involve all or some of the people in a residential community. They can be developed in remote communities, regional areas or urban areas if Indigenous people locally decide they want to make changes in this way.

The government wants to do business this way because SRAs are driven by community priorities and provide a mechanism to deliver services with much more flexibility to tailor to community needs than has been used in the past.

SRAs are to contribute towards the long term vision and plans that Indigenous people have for their communities, their children and grandchildren. However, this does not mean they have to be complex documents that attempt to address all issues facing a particular community at the one time.

What is in a SRA?

Initially, we are expecting simple SRAs, perhaps covering only a single issue. Over time, we want to see this building to a whole–of–community SRA that includes all discretionary spending. Either way SRAs need to have the following key elements:

- one or more priority issues identified locally by Indigenous people (e.g. increased school attendance, healthier kids, stronger governance, Indigenous people able to get into available jobs and including how CDEPs best support community needs);
- government agencies' commitments to support initiatives to address community priorities;
- a description of the discretionary benefit(s) that will flow to the community;
- an outline of the obligations the community commits to in return.

SRAs can also include other partners besides the government and Indigenous groups, such as state and territory governments, local governments, businesses or non-government organisations.[112]

■ *The legal status/requirements of a SRA*

SRAs are made in 'the spirit of non-legal partnership and shared responsibility.'[113] The Minister for Immigration and Multicultural and Indigenous Affairs has indicated that SRAs are 'good faith agreements'[114] based on trust. The Secretary

111 Secretaries Group on Indigenous Affairs, *Bulletin 1 – March 2005*, Available online at: www.apsc.gov.au/indigenousemployment/bulletin0105.htm.

112 Office of Indigenous Policy Coordination, *Indigenous Coordination Centres – Questions and answers (Shared Responsibility Agreements)*, www.Indigenous.gov.au/icc/qa.html, (accessed 20 July 2005).

113 Wellington SRA.

114 Minister for Immigration and Multicultural and Indigenous Affairs, *Speaking Out*, ABC Online, 20 March 2005, www.abc.net.au/message/radio/speaking/stories/s1324685.htm.

of the Department of Prime Minister and Cabinet has noted that SRAs operate on the understanding that further SRAs might not be made with communities or groups who do not uphold their part of an agreement (and further benefits through SRA-making would not accrue).[115]

Consistent with this position, the Australian Government has indicated that an Indigenous group that intends to be a party to a SRA does not need to be an incorporated council or association. However, they must have 'the authority, given to them by their group or community, to make an agreement on their behalf.'[116] The delivery of SRA subject matters by the Government, however, requires 'arrangements [being] made with an incorporated organisation to contract with the Government to provide the services and administer and account for the funds identified in the SRA.'[117]

■ *Scope of the SRA process*

Appendix 3 of this report provides an overview of the content and the obligations agreed by the Australian Government and Indigenous communities in SRAs up to 30 June 2005.

As at 21 June 2005, 76 SRAs had been signed in 64 communities.[118] SRAs have been made in COAG trial sites with:

- ATSIC Regional Councils – to be replaced as partners to the SRA by regional representative bodies as they emerge;[119]
- Community Working Parties (within each trial site these have been set up to address priority areas – e.g. education - within the trial site area); and
- Communities within the trial sites.

In communities outside of the COAG trial sites:

- The bulk of SRAs are being made directly with communities, with the SRA being signed off by representatives from each family group;[120]
- Some have been made with community organisations representing the community;[121]

115 Shergold, P, *Hansard,* Senate Select Committee on the Administration of Indigenous Affairs, Canberra, 8 February 2005, p15.

116 Office of Indigenous Policy Coordination, *Indigenous Coordination Centres – Questions and answers (Shared Responsibility Agreements)*, *op.cit.*

117 *ibid.*

118 Office of Indigenous Policy Coordination, *Fact sheet: What are Shared Responsibility Agreements?* Available online: http://www.indigenous.gov.au/sra/kit/what_are.pdf. There were in excess of 100 agreements in place at the time of submitting this report to government.

119 In June 2005, it was suggested that the Murdi Paaki SRA upon which the COAG trial in that region was based was to be adapted to refect the emergence of the Murdi Paaki Regional Assembly consisting of a representative from each of the 16 CWPs as the peak body within the trial site, following the abolition of the ATSIC Regional Council. Media release, *Minister announces new Indigenous representation arrangements,* 29 June 2005 DIMIA website, http://www.atsia.gov.au/media/media05/v0522.htm.

120 For example, the Kulaluk/Minmarama Community SRA, OIPC, 24 March 2005.

121 For example, the Sarina community SRA, June 2005.

- One SRA has been made with an organisation representing traditional owner groups;[122] and
- SRAs have also been made with community service organisations representing sub-community groups such as men's services.[123]

In addition to the Indigenous community and the federal government, SRAs have been made with Indigenous communities which include mining companies,[124] other corporations,[125] local governments (shire and city councils),[126] and state and territory governments[127] as partners.

Most of the SRAs finalised up to 30 June 2005 are what the government has termed 'single-issue' SRAs which set out agreement to undertake a specific project or activity.

The Department of Family and Community Services note that over the past year, the approach to SRAs has changed from the initial model in the COAG trials:

> SRAs were initially developed as part of the whole-of-government trials. They typically took the form of a general agreement between government and the relevant community about who would assume responsibility and to identify their role. Each project relevant to the overall implementation of the SRA was described in attached schedules. With the more widespread use of SRAs, and with the setting of numerical targets for a minimum number by 30 June 2005, the number of agreements has multiplied rapidly. As a general rule though, their focus has narrowed, with most now describing projects.[128]

A fact sheet on SRAs published by the OIPC specifies that these agreements are intended to 'contribute to bring about long-term changes which will achieve better outcomes for Indigenous communities.'[129] It notes that:

> initially, the Australian Government has been entering into simple, single-issue agreements that are meaningful to communities and provide examples of what

122 Girringun Aboriginal Corporation SRA on behalf of 9 traditional owner groups: the Jirrbal, Gulgnay, Djiru, Warungnu, Girramay, Bandjin, Waragamay, Nywaigi and Gugu-Badhun peoples), 3 March 2005.

123 For example, the Wamba Nilgee Burru Ngardu, (Derby Men's Service) SRA, 17 March 2005 or the Jayida Burru Abuse and Family Violence Forum SRA, March 2005.

124 Gelganyem Trust SRA, July 2005.

125 For example, the Arnhemland Progress Association Inc is a partner to the SRA made with the Aboriginal Communities of Galinwin'ku, Gapuwiyak, Milingimbi, Ramingining and Minjaling. This is an Indigenous-owned organisation that manages community stores throughout Arnhem Land, (Gapuwiyak SRA, June 2005). Tropical Aquaculture Australia is a partner to the Kulaluk/ Minmarama Community SRA, (24 March 2005).

126 For example: Palmerston City Council is a partner to the Palmerston Indigenous Village SRA, May 2005; Brewarrina Shire Council is a partner to the Ngemba Community Working Party SRA, (April 2005).

127 States and territories are formal partners to SRAs within the COAG trial sites. Formal partnership outside the COAG trial sites is predicated upon the completion of Indigenous Affairs Agreements in each jurisdiction, At the time of writing, only the Northern Territory agreement had been completed: *Overarching Agreement On Indigenous Affairs Between The Commonwealth Of Australia And The Northern Territory Of Australia 2005 – 2010*, 6 April 2005, available online at the Northern Territory Government Website: http://www.nt.gov.au/dcm/Indigenous_policy/pdf/20050406/OverarchingAgreement.pdf.

128 Department of Family and Community Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p7.

129 Office of Indigenous Policy Coordination, *Fact Sheet – What are Shared Responsibility Agreements?*, Available online at: www.indigenous.gov.au/sra/kit/what_are.pdf.

SRAs can achieve. Over time, SRAs will become more comprehensive, building towards a community's long-term vision for the future.[130]

The Secretaries' Group has identified how they expect the SRA approach to evolve over the next year to contribute to this longer term vision, through the development of a 'comprehensive approach to SRAs.'

Text Box 7: Extract: Secretaries' Group Bulletin 3/2005. What do we mean by a more comprehensive approach to SRAs?[131]

This describes the more intensive work that we will do with Indigenous communities that goes beyond addressing single issues. It will require strong partnerships between communities and government at all levels, with business and our provider networks.

While it is important not to underestimate the impact of single-issue SRAs - particularly in smaller and remote communities as the first step – progress will always be limited in any single area unless factors in related areas are addressed. For example, only limited success can be expected in the area of employment (even if real job opportunities exist), if education and health issues are not also addressed.

It can be done by building on the single-issue SRAs that are now in place in communities and working from there to identify long term goals and what needs to be done by all parties for goals to be met.

Alternatively it can begin at the other end of the spectrum, where communities have already identified long term goals and want to work back from there. These communities know where they need to get to, want to take responsibility for progress from the start and want help from us to do that.

This might mean they want to take a whole of community or even a cross community approach – here they might start with a comprehensive (multi issue) SRA if it's just for one community, or with an RPA if they want to work across several communities in a region.

RPAs tend to set out higher level community goals and the outcomes to be delivered. However, as they progress, they should include SRAs with clear shared responsibilities for local communities or groups which support the objectives of the RPA. This is what happened with the recently signed RPA with Ngaanyatjarra Council in WA, which included three community SRAs.

The key in going forward with more comprehensive work is to keep it simple, clear and focussed on the outcomes that the Indigenous communities, with our support, are seeking to achieve. Playing our critical role in a way that enables Indigenous people to take more responsibility locally becomes more important in this comprehensive approach.

The more intensive work might encompass some of the following elements:

- supporting the community to develop its long term strategic goals, building on planning that many Indigenous communities have already done, and identifying the practical steps about how to achieve these goals;
- a family/community development component (eg developing the skills to negotiate SRAs or developing family capability to manage money);

130 *ibid.*

131 Secretaries Group on Indigenous Affairs, *Secretaries Group Bulletin (3/2005) – A comprehensive approach to Indigenous reforms*, October 2005, Available online at: www.apsc.gov.au/indigenousemployment/bulletin0305.pdf.

- some mapping of the assets of a community – people, infrastructure, other physical assets – so that these can be drawn into the community's overall effort to support the community's development aspirations; and
- governments identifying how they will strategically package the funding that supports the community in achieving its goals (eg make sure funding responds to the community's priorities and is delivered in a practical way that suits the location, size and capacity of the community and doesn't add more red tape).

The Department of Family and Community Services have stated that they 'are collaborating with the Office of Indigenous Policy Coordination to evolve the approach to SRAs.'[132] They identify four phases of this evolution:

> Phase One SRAs will involve the negotiation of communication and participation protocols between governments and Indigenous communities. Phase Two SRAs will involve communities in processes of self-assessment and a discourse on what sustainable development may mean for them. Phase Three SRAs will work with families to develop economic, human, social and environmental development plans. The proposed process will assist families to participate effectively in Phase 4 SRAs, which will correspond to what has generally been referred to as 'community development planning'. They will involve communities in developing collective responses to shared concerns. Like the Phase 3 SRAs, they will result in the production of integrated economic, human, social and environmental development plans.[133]

The Secretaries Group has stated that activities relating to SRAs in the coming financial year (i.e. 2005-06) will focus on three areas. Namely:

- delivering on the commitments in existing SRAs;
- working with more communities on small (one or two issue) SRAs; and
- expanding the scope of SRA work in locations where communities are ready and willing to build on what they have already achieved (through a more comprehensive approach to SRAs or RPAs).[134]

■ *Linking SRAs to the Community Development Employment Project (CDEP) Scheme*

The CDEP scheme enables local Aboriginal organisations to provide employment and training as an alternative to unemployment benefits. CDEP participants forgo their social security entitlements and receive wages from CDEP organisations at a similar level to benefits in return for part-time work. The Scheme is led by the communities and participants involved, and any activity that benefits the community can be a CDEP activity.

132 Department of Family and Community Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p7.

133 *ibid*, pp7-8.

134 Secretaries Group on Indigenous Affairs, *Secretaries Group Bulletin (3/2005) – A comprehensive approach to Indigenous reforms*, *op.cit.*, p1.

The Australian Government has stated that:

> If the CDEP is in a community with a Shared Responsibility Agreement (SRA) the CDEP's activities should link to the SRA. If there is no SRA relevant to the CDEP organisation's activities then another arrangement for measuring community satisfaction with the CDEP organisation's activities will be negotiated with DEWR and included in the funding agreement.[135]

This is borne out in many SRAs *where CDEP has been used as the way to deliver the commitments of Government* in relation to labour for capital works, maintenance and other programs.

The use of CDEP in SRAs coincides with an announcement by the government of its intention to phase out the remote area exemption (RAE) on the activity test for income support in remote communities.

Since the late 1980s, obligations have been required of income support recipients. In 1998, in accordance with the mutual obligation principle, the receipt of income support was made conditional on the meeting of an activity test. The shorter term unemployed are required to be actively looking for work. The Work for the Dole program requires income support recipients to 'actively seek work, constantly strive to improve their competitiveness in the labour market, and give something back to the community that supports them.'[136]

The RAE was put in place because opportunities for meeting the requirements of the activity test were limited in remote communities and to apply the test rigidly would be punitive. Community Participation Agreements (CPA), the forerunner to SRAs in ATSIS, flagged the lifting of the exemption.

It is proposed that communities in which large numbers of people are receiving income support would consent to the lifting of the RAE by agreeing to meet the activity test. The community would be involved in designing and negotiating their obligations and activities in a manner similar to CDEP. It has been suggested that activities completed in accordance with the activity test could be administered by the CDEP organisation operating in the community. This would result in two streams of activity in a community – those undertaking 'activities' in order to receive income support, and those participating in CDEP for wages. The amount provided under income support is slightly less than the 'work for wages' CDEP amount, which is intended to create an incentive to work for wages.

The lifting of the RAE is being progressed with a number of trial communities. A further batch of communities has also been identified for the second phase of lifting of the exemption, ahead of a complete lifting of the exemption.

- *The SRA Implementation Assistance Program*

In the 2005-06 federal budget, the government announced the SRA Implementation Assistance Program to support the development and funding of SRAs over the next four years.

This Program allocates $23.1 million over 2005-06, and a total of $85.9 million over four years to 2008-09, to support community engagement with government about the development of SRAs and Regional Partnership Agreements. The funds are sourced from a number of programs previously managed by ATSIS, including

135 DEWR, Building on Success, CDEP Future Directions, Commonwealth of Australia, Canberra.

136 Parliament of Australia Parliamentary Library, 'Current issues: Social Policy Group: Welfare review', Parliament of Australia, Canberra, 2000, p6.

Community Participation Agreements, Planning and Partnership Development, Indigenous Rights and International Issues programs.[137] The Torres Strait Islanders on the Mainland and Communities in Crisis programs have also been incorporated into this program, but are to be managed in a discrete fashion.

The Program provides funds for SRAs that 'do not fit neatly into individual government agencies' responsibilities' (the 'flexible funding pool').[138] Conversations between my Office and the OIPC have clarified that there is no quarantining of funding sources in relation to SRA-making (i.e. this funding is additional to that which can still be drawn from any Indigenous specific or mainstream program).

The Program is intended to provide resources to communities to build their capacity to engage effectively with government and to government in engaging with communities.[139]

A key aspect of the Program is the creation of four specialist panels to provide technical assistance in developing SRAs. The OIPC note that 'once the need for services covered by the Panels is identified at the community level, and agreed between the community and the ICC, the ICC arranges for a suitable Panel member to undertake the project.'[140] It is not intended that the panel members will be available to communities independently of the ICC. Details about the Program and the nature of the expert panels are set out in the text box below.

Text Box 8: SRA Implementation Assistance Program – Specialist Panels[141]

Four expert panels have been established with the following roles.

1. **Financial/project/program management and governance**
    - Financial management/accounting/business service and advice for community organisations, community councils, etc (including advice on specific issues as well as working in a broader advisory role for specific periods of time).
    - Financial management training and skills transfer (both one-off training tailored to specific organisation/community circumstances/needs and longer term skills transfer approaches).
    - Financial systems implementation, advice or improvements.
    - Business restructuring assistance, advice and planning.
    - Grant administrators/controllers (to work on ICCs/OIPC behalf to take over management of the finances of an organisation/community for a time until it can be handed back to community control).
    - Financial auditors (to provide expert audit advice and services to community organisations; this will not include forensic audit as it can be accessed through a different mechanism).

137 OIPC, 'Shared Responsibility Agreements Implementation Assistance Program (fact sheet)', *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner,* email, 23 August 2005, p1.

138 OIPC, Fact *Sheet 1. Indigenous Budget Measure 1: Shared Responsibility Agreements community engagement – Implementation Assistance*, , Australian Government Indigenous Budget 2005, June 2005, available at www.atsia.gov.au/budget/budget05/IndigenousBudget2005.pdf.

139 *ibid.*

140 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner*, email, 17 October 2005, p1.

141 Office of Indigenous Policy Coordination, 'Panels of experts, description of services (fact sheet)', *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner*, Email, 23 August, 2005, p1.

- Corporate governance advice and training for effective financial and operational management.
- Community governance advice – for example advice/training about roles and responsibilities of community boards, councils, etc (incl. in financial matters).
- Project/program management and advice/training (including short term assistance in running projects/programs on the ground in crisis situations).
- Advice and training for community organisations regarding contract management, human resources management and workplace relations, organisational planning and change management processes.

2. Risk/crisis assessment and management

- Major assessment of activities of Australian and at times State Government investments.
- Risk assessment at the community level to assist ICCs/OIPC in designing appropriate responses to crisis situations in communities.
- Risk analysis and development of risk management plans following the assessment.
- Crisis response and intervention advice, planning and coordination (this may include working with ICC managers, communities and other stakeholders – eg. State governments, to develop the appropriate strategy, as well as on the ground coordination role for a specified time).

3. Building community capacity to engage with governments and negotiate/ implement Shared Responsibility Agreements

Assistance for ICCs

- Support facilitation of government's engagement with communities (assistance for ICC Managers, including cultural appropriateness training, negotiating and partnering in a culturally appropriate way, and community development training for ICC Managers and staff).
- Support in negotiating and developing SRAs with ICC and other agency staff.

Assistance for communities

- SRA engagement/negotiation stage: assistance/facilitation for communities in priority setting, developing responses based on shared responsibility and negotiating with governments.
- SRA implementation stage: support for communities to implement, manage and monitor agreed shared responsibility activities.
- Facilitating/coordinating communities' access to specialised expertise in community development, including scoping project proposals.
- Mediation and other appropriate support for community members to enable inclusive engagement in the SRA process.

Support for community leaders – short to medium term
(not a structured leadership program)

- Coaching for community leaders to support SRA development and implementation work.
- Leadership development, mentoring and training for community leaders (including short term intense support for leaders on the ground in crisis situations).

Regional level support

- Support to facilitate engagement between communities and engagement between government and communities in consultations, development and the implementation of regional representative networks; also support leading to the development of Regional Partnership Agreements.

4. Coaching for communities and government agencies in whole of government collaboration

- Support for the OIPC and the ICC Managers to create leadership teams and resolve barriers to more effective whole of government working in the new arrangements for Indigenous affairs.
- Training (including train-the-trainer) on the new arrangements for Indigenous affairs, including broader issues impacting on the new arrangements (such as welfare reform, strategic indicator framework, accountability frameworks).

The OIPC have stated that following tenders for the panels in early 2005:

> 73 firms/organisations were invited to join the panels, with 50 being successful for more than one panel. They represent a mix of private sector consultants, NGOs and Indigenous organisations (for example, Cape York Institute, Wunan Foundation). Projects undertaken by the panels are in the main funded from the SRA Implementation Assistance Program. Projects can also be jointly funded, with other Australian or State government agencies contributing their program funds.[142]

Some project work by Panel members has commenced in recent months. The OIPC have provided the following examples of activities conducted by panel members:

- assisting a community to establish a company and financial management systems around a farming venture (NT);
- the facilitation of community meetings to identify proposed regional representation models (Qld) and
- conducting a financial and an operational review of an Indigenous incorporated organisation, including the assessment of financial and management systems and controls, administrative procedures and the operation of essential services in the community (WA).[143]

■ *Key Performance Indicators for SRAs*

The OIPC have prepared draft guidelines for the negotiation of key performance indicators in Shared Responsibility Agreements to ensure that commitments made in agreements are measurable, and where possible, link to the National Overcoming Indigenous Disadvantage Framework (as prepared by the Steering Committee for Government Service Provision and reported against every second year).

The OIPC has indicated to my Office that the negotiation of Key Performance Indicators is guided by the following basic principles:

1. Performance indicators should relate clearly to the objectives of the SRA/RPA, and are best agreed upon at the time the objectives are negotiated. A good question on an objective is, 'If this is what you want to achieve, how will you know when it is achieved?' Testing the community objective against baseline data for an indicator is a useful verification of community priority objectives.

142 Office of Indigenous Policy Coordination, 'Shared Responsibility Agreements Implementation Assistance Program', *op.cit.*, p1.

143 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner*, email, 17 October 2005, p1.

2. A performance indicator is useless if it will not be reported against. You will need to identify, and get the agreement of, a data provider for every indicator included in an SRA/RPA.
3. A statistic… can be used as an indicator against more than one issue (and in relation to more than one) strategic area… for action.
4. You should only use a small number of critical indicators in an SRA – four or five at the maximum – and preferably outcome indicators rather than process indicators. Go for quality and relevance, not quantity.
5. When you negotiate a performance indicator, you should negotiate the frequency of data collection, beginning with baseline data. You should also agree who in the ICC/OIPC will receive the data.
6. Rather than using performance indicators, in some cases it may be appropriate for some or all of the performance information in an SRA (particularly an enabling SRA) to be milestones that an event or action has been completed.
7. ICCs should not feel limited (in choice about what constitutes)… relevant indicators with a community.
8. (Most) indicators… have been… designed with small populations in mind. They are not designed to enable comparison between communities or aggregation across communities. While rates are typically considered to be better indicators, (we recommend the use of) raw numbers… to get around the problem (of) determining the denominator population size for communities, especially as this can fluctuate.[144]

An example of how an indicator might be utilised in a SRA or RPA is provided in Table 2 below.

Table 2: Potential key performance indicators for a Shared Responsibility Agreement[145]

Strategic Area for Action	Possible Indicator	Comments
Parenting and Early Childhood (0-3 years)	• Proportion of (Indigenous births with a birth weight above 2,500 grams	• *Purpose:* An indicator of good nutrition, lifestyle, and pre-natal care for mothers • *Source:* Need to get agreement from local hospital and/or Aboriginal Medical Services to provide the data
	• Number of (Indigenous) children fully immunised	• *Purpose:* An indicator of the risk of preventable illness among children • *Source:* Need to get agreement from local hospital and/or Aboriginal medical Service to provide data • *Caveat:* Would not be appropriate for very small community as individuals may be identifiable

144 Office of Indigenous Policy Coordination, *A guide to possible small area performance indicators for SRAs and RPAs – draft*, Correspondence received 26 September.

145 *ibid.*

iii) Compliance of SRAs with human rights

My Office has been provided access to a number of Shared Responsibility Agreements. I have also visited some communities involved in SRA-making and talked to community members about their experience in making the SRAs.

This has confirmed to me that great care must be taken in passing judgment on individual agreements based solely on press reports or even the text of the agreements themselves. SRAs have been developed with an eye to the history of service delivery in the relevant community and with the participation of community members. What may at first appear to be a problematic condition may in fact represent a solution to an intransigent, pre-existing problem faced by the community.

For example, consider that a SRA is made for the provision of a garbage truck to a community. The community has previously had a garbage truck and other infrastructure provided through the CDEP scheme. That truck was taken on kangaroo hunts and used as a private vehicle by members of the community. In a short time it was in a state of disrepair. The SRA requires the community to keep the new truck locked up and not to use it for any other purpose than garbage collection.[146] While such a condition may not be insisted on in other communities, it is difficult to argue that such a condition is inappropriate or places any greater onus/requirement on the Indigenous community.

Concepts such as 'no school, no pool' must also be closely examined.[147] This short hand description of the shared responsibility principles attached to funding for swimming pools in remote communities appears punitive in nature. However, in at least one SRA that my Office has considered the 'no pool' element does not involve the prohibition on school truants from using the swimming pool (and thus denying them the potential health benefits of exposure to chlorinated water in relation to ear, eye and skin infections, or general health and fitness benefits). Instead, it is based on not providing a subsidy for pool entry fees and other support to those children who do not attend school.

In other words, the child may still swim but the family will have to pay. The child will not get the benefit of the subsidy provided through the agreement. While this may be a subtle difference, it changes the nature of the program from one that places *restrictions* on communities to one that confers *benefits* on sectors of the community who comply with the commitments contained in the agreement.

The checklist of principles for the content of SRAs contained above indicates that addressing the issue of whether an SRA complies with human rights standards is not a straightforward task. It is a task that must be approached with sufficient information about the state of service delivery in the community and the exact details of the obligations and approach that the government is considering.

The government has indicated that its rule of thumb is that SRAs are to concern the provision of 'discretionary benefits in the form of extra services, capital or infrastructure *over and above essential services or basic entitlements'*. I have provided my support to this position, so long as there exists no discrimination in the requirements insisted upon in any agreement.

146 This example is a hypothetical, but reflects situations that I have experienced visiting some communities.

147 There are variations on this concept among different SRAs – such as 'no school, no play' in relation to basketball facilities and 'no school, no scout' in relation to participation in scout groups.

The checklist of principles suggests that an SRA may still breach human rights if it provides a benefit that is over and above essential services, if it is provided in a manner that is discriminatory or that makes addressing existing inequalities contingent upon the completion of mutual obligation principles.

The checklist also suggests that it may be appropriate for governments to agree to some subject matter that are *related* to the delivery of basic entitlements or essential services, such as housing, water supply, education or health. But this is only where the nature of the agreement is to promote the fulfilment of the relevant right and does not make the delivery of the actual service or entitlement contingent on meeting obligations.

As an example, the SRA in Coonana relates to improving the water supply by providing trap yards to cull feral animals as well as to control the movement of animals around dams from which the water supply is sourced. As part of the agreement, the community agrees to maintain the dams. Such an obligation can be seen as contributing to the protection of water sources and related to improving the quality of the water supply. As such, it is consistent with the right to water and is not an inappropriate condition to include in a SRA.

Appendix 3 to this report identifies the commitments that have been agreed by both government and communities in SRAs finalised in the 2004-05 financial year. A number of the commitments made are related to the provision of basic entitlements. However, I consider that they are most likely consistent with the obligation on the government to fulfil the enjoyment of rights to education, health, nutrition and housing. Some agreements provide commitments relating to:

- positive measures to ensure that education is culturally appropriate for local Indigenous communities and to incorporate Indigenous perspectives into educational curricula (see for example, the Mungkarta, Narrandera, Tumut, Enngonia, Coober Pedy and Bourke SRAs);
- processes to facilitate broader engagement of the Indigenous community in education (see for example, the Barrow Creek, Tara, Kalumburu, Ninga Mia, Yalata, Anangu and Aroona SRAs);
- initiatives that promote healthy lifestyles and better nutrition (see for example, the Bonya, Minjilang, Alpurrurlum, Wilora, Kalumburu, Punju Njamal, Mungullah and Brewarrina SRAs);
- initiatives to provide recreational facilities and promote healthy/ fitness activities for children, consistent with the fulfilment of the right to health (for example, the Kundat Djaru, Balgo, Kupartiya, Billiluna, Palmerston, Wangkatjungka, Ninga Mia, Bidyadanga and Woorabinda SRAs);
- support for the role of elders and women in communities (for example, Tennant Creek, Aroona, Doomadgee, Brewarrina and K'Gari (Fraser Island) SRAs); and
- processes to manage and maintain housing stock (Wreck Bay and Murdi Paaki SRAs).

Over the next twelve months, my Office will particularly focus on agreements that involve commitments about subject matter that relate to the delivery of basic entitlements or essential services. This is in order to ensure that the obligations

made in such agreements amount to positive measures to fulfil human rights and do not place restrictions on the accessibility of basic entitlements.

My Office will also focus on whether the government has fulfilled its commitments in SRAs. Delivering on a commitment involves more than simply making funding available for a project. I consider that the government is under an obligation to ensure that the proposed benefit in an SRA is realised in the community, including through supporting the community with technical support and capacity building initiatives. A failure to provide such support could render individual SRAs unsustainable.

At this stage, my concerns about SRAs are focused on:

- the systemic approach adopted to SRA making by the government and the way that this accounts for human rights standards as a whole; and
- specific issues that have been raised during consultations with community members that have been engaged in the SRA process.[148]

The SRA process is clearly an evolving one. Most of the developments in relation to the SRA process set out above (such as the issue of bulletins by the Secretaries Group explaining the process, the development of guidelines to assist in agreeing on Key Performance Indicators in SRAs or the operation of the expert panels) are recent or not yet fully in place. Most documents and processes intended to clarify the purpose and content of the SRA process have been produced since March 2005.

At this stage, the SRA process appears to lack some of the key elements necessary to ensure the appropriate engagement of Indigenous communities. In particular:

- There are not transparent frameworks for government accountability, with an absence in many agreements of sufficient benchmarks or targets. Recent guidance on developing relevant and appropriate key performance indicators goes some way to addressing this concern and achieving better consistency among SRAs in the future.
- A number of SRAs (particularly those which were made earlier in the year) confuse the terms benchmarks, performance indicators, targets and monitoring processes. For example:
  - one SRA states 'Community need and participation opportunities to be reflected in longer term business plan', in response to the question '*How will the strategy be monitored?*';
  - one SRA outlines an existing situation in relation to rental collections without identifying how it will measure improvement in the collection of rent in its response to benchmarking; and
  - a further SRA states that one of its benchmarks will be a reduction in social and health problem without providing specific targets.

  These examples highlight the need for specific information to be provided to government representatives and communities alike on what are performance indicators, benchmarks, targets and monitoring

148 The relevant communities who have provided this information has not been included and descriptions have been de-identified.

processes. Each one has a specific role in effective performance monitoring and evaluation.

- There is also limited information available publicly about the content of SRAs. The agreements are not made available publicly by the government, although summaries of most of the agreements finalised in 2004-05 have been placed on a government website.[149] I note, however, that my Office is able to obtain copies of SRAs in accordance with section 46K of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth)[150] for use in the performance of my statutory functions.
- Monitoring and evaluation mechanisms for SRAs are also limited within agreements and are even less satisfactory at a system wide level (with no independent monitoring in place). OIPC have advised that informal audits of select agreements will be undertaken in the first half of 2006 to establish some of the features of SRAs that work in order to guide future work. These 'mini-evaluations', expected to be no longer than 1 to 2 pages for each SRA involved in the process, are intended to be purely qualitative in focus and it appears they will be based on anecdotal evidence. There will also be no external or independent evaluation of the SRA process as a whole by either the Office of Evaluation and Audit or the Australian National Audit Office in the foreseeable future.
- With the initial focus on single issue SRAs, it is also difficult to see that a capacity building approach tied to long term change is being prioritised in the SRA approach – although the government has clearly indicated that this is an intention of the process and will be built upon through the negotiation of more comprehensive SRAs.

I anticipate that there will continue to be uneven levels of information and understanding of the new arrangements as a whole, and SRAs in particular, until such time as replacement Indigenous representative structures are in place to support and facilitate engagement with Indigenous communities. The Ngaanyatjarra Regional Partnership Agreement illustrates the value of regional representative bodies in bringing a coordinated and more holistic approach to the SRA process.

My Office will continue to monitor these issues over the next twelve months, particularly to establish whether these concerns have been appropriately addressed when systems to support the SRA process are more established or functioning.

149 See: www.indigenous.gov.au/sra.html#kitcontents.

150 This section provides that '(1) If the Commissioner has reason to believe that a government agency has information or a document relevant to the performance by the Commissioner of functions under this Part, the Commissioner may give a written notice to the agency requiring the agency: (a) to give the information to the Commissioner in writing signed by or on behalf of the agency; or (b) to produce the document to the Commissioner. (2) The notice must state: (a) the place at which the information or document is to be given or produced to the Commissioner; and (b) the time at which, or period within which, the information or document is to be given or produced… (5) In this section: *government agency* means: (a) an authority of the Commonwealth, or of a State or Territory; or (b) a person who performs the functions of, or performs functions within, an authority of the Commonwealth, or of a State or Territory'.

While accepting that we are in the early days of SRA making, there are a number of practical issues that have arisen to date in relation to the negotiation of SRAs with communities.

In the *Social Justice Report 2004*, I noted that a practical issue that had arisen in community consultations up to November 2004 was the lack of information that ICC staff and Indigenous peoples and communities had about the new arrangements in general. This view has continued to be expressed to me in consultations and at community events during this year.

As recently as October 2005, a number of communities that have been engaged in the process of negotiating and finalising SRAs had indicated to me that they are still not clear about the purpose of the SRA process.[151]

One community has advised me that they have received brochures from the government setting out the approach of the new arrangements, but that there has been limited consultation with the community to explain this material. As a consequence, the assessment by the community organisation that was a signatory to the SRA was that community members didn't really understand what the process was about. This was not a concern of just one community. Similar comments were made to me by communities across three states. I believe it to be a common issue.

A number of staff in ICCs, including senior officers, have made similar comments. They have stated that communication about the government's approach is 'patchy' outside of Canberra and has not resulted in a consistent understanding within ICCs as yet. I note that the Secretaries Group have commenced issuing bulletins to public servants from March 2005 which set out their expectations of the new processes. These bulletins include the two reproduced in Text Box 6 and 7 above relating to the SRA process. Training for ICC staff was also due to commence from September 2005.

An illustration of the general lack of understanding about SRAs was that at least two documents that were identified by the government, as well as referred to by the community, as SRAs did not contain all of the essential elements of an SRA as set out by the Secretaries Group in their Bulletin (as set out in Text Box 5 above).

One agreement in the Kimberley region was with a service organisation that delivered services to the entire community, not just Indigenous community members, and could not be described as an agreement with an Indigenous community. The service organisation also advised that they had negligible contact with the Indigenous communities they serviced in the development of the SRA. Another agreement in Queensland did not involve any engagement with the community directly and had more of a representative focus (and might more appropriately have been described as a Regional Partnership Agreement).

Consultations with communities who had signed SRAs suggested that the limited information provided by government was not easy to understand. A number of communities, for example, noted that the newspaper style overview of the SRA process distributed by the OIPC was in a font size that was too small for many people in the community to read.

151 I note that a number of non-government organisations have also stated to my Office that they have received numerous inquiries from Indigenous people and organisations seeking advice to understand the new processes and SRAs in particular.

I note that the OIPC advised my Office in November 2004 'that communications experts have recently been engaged to work with OIPC to ensure the consistency and reach of messages about the new arrangements and SRAs in particular.'[152]

In September 2005, they advised me that 'OIPC has been progressively implementing an information and communications strategy to inform Indigenous organisations and communities about the new arrangements.'[153] This strategy consists of:

- letters from the Minister to Indigenous organisations announcing the new arrangements, on their introduction and to introduce the National Indigenous Council;
- the distribution of 'large numbers' of booklets and brochures on the new arrangements and SRAs, particularly to leaders and staff of Indigenous organisations;
- comprehensive information provided through websites;
- briefings to ATSIC Regional Councils (up to 30 June 2005);
- ICC managers and staff holding discussions with communities;
- a fact sheet for all organisations applying for funding in 2005-06; and
- items on the new arrangements being contained in Indigenous print and electronic media.[154]

OIPC note that they are also currently:

- trialling a recently-devised computer animation presentation tool which enables communities to take part in developing their own stories and messages in ways that can be readily understood, including in their languages;
- finalising a whole of government cross-cultural communications strategy to guide future communications with Indigenous people and communities; and
- working on appropriate materials, include radio presentations, for people who have difficulty reading or understanding English.[155]

Only some of this information appears directed at communities, or to be specific, to the SRA process. It is also ad hoc in its approach, with the key elements of the information campaign still not in place.

There appears to be a continued absence of a comprehensive information campaign to engage fully with communities to understand the new processes. This issue continues to concern me, nearly eighteen months into the new arrangements. It raises concerns about the basis on which communities are entering into negotiations on SRAs and particularly, whether communities are able to proceed on an informed basis.

152 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Questions relating to the Social Justice Report 2004*, 22 December 2004, p5.

153 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

154 *ibid*, p2.

155 *ibid.*

Consultations with communities who have finalised a SRA also identified two trends. First, that generally the activities addressed through the SRA reflect the desires of the relevant communities. A number of communities were enthusiastic about the way that the government had directly engaged with the community and about the activity that was funded.

Second, communities noted that when ICCs hold discussions with communities to identify the issues that they face, the community are 'processed' by the ICC into a SRA. A number of communities and organisations claimed that the idea to establish a SRA came from the government. This is not problematic of itself. It does, however, have three potential implications.

- First, it involves channelling communities into processes involving mutual obligation. At least in relation to some SRAs, it may be erroneous to suggest that the agreement is 'community led' in designing community obligations to be undertaken in return for an activity or service. This will particularly be the case if the community believes that it will not be able to undertake the activities that they desire unless they agree to mutual obligation conditions. This may ultimately affect whether the agreement is made with the free, prior and informed consent of the community or whether it is in fact coercive or made under duress. My Office will consider this as a possible scenario when undertaking consultations with communities over the coming year about SRAs.
- Second, a number of agreements involve the government making CDEP places available to complete the activity agreed upon in the SRA. While it can be argued that CDEP involvement ought to be the contribution of the community to the agreement, it is not clear whether the government has allocated additional CDEP places for the community or has redirected the existing places to meet their obligations in the SRA. Any redirection of CDEP places needs to be carefully considered to ensure that basic services provided by the CDEP do not suffer from such a redirection of labour.

  A further concern I have with this is that the obligations for CDEP participants must be understood by the community to be separate from the obligations to be undertaken by the community as part of the SRA. If the two sets of obligations are conflated, then Indigenous communities may be left under the impression that they are required to comply with the obligations set out in the relevant SRAs in return for income support through the CDEP. The OIPC have stated explicitly that SRAs will not put additional conditions on Indigenous peoples' access to benefits or services available to all Australians and have used the example of social security benefits to illustrate this.[156] Steps may be necessary to ensure that this is fully understood and there is no misunderstanding of the role of the CDEP scheme in the performance of the SRA.

156 Indigenous Coordination Centres – questions and answers (Shared Responsibility Agreements). Website of the OIPC. *op.cit.*

- Third, some communities have noted that the emphasis has been on the process of getting a SRA signed and that there has not been genuine engagement to support the process or make it sustainable. In relation to one SRA in Queensland, the relevant community organisation has stated that they were initially excited about the prospect of the SRA and the direct engagement offered by the government. They are now feeling so disillusioned with the SRA that they have considered walking away from the agreement for the following reasons:
  - they are concerned that neither government has sent senior staff to the Negotiating Table or Project Steering Committee set up under the SRA with the consequence that proposals discussed in the process are not feeding back to the governments and not resulting in any action;
  - they were not provided with any information on how to secure funding or to present project ideas in a way that will garner government support and have found it difficult to secure funding for projects through the SRA; and
  - as a consequence, have stated that they may have to start shopping around different State and Commonwealth departments themselves to patch together enough funding for the organisation to remain solvent.

A factor that appears to be affecting this type of outcome is the insistence on ICCs meeting targets for the number of SRAs in the 2004-05 year. As noted earlier, a target has also been set for the 2005-06 financial year.

I expressed the concern in last year's report that ICCs should not be beholden to numerical targets and instead need to be focused on the broader purpose of their role. One ICC manager has told me that he advises his staff when they go into a community not to go in with the intention of making an SRA but rather to 'broker a solution'. They must listen to the community, identify the issues raised and if these could be resolved through a SRA, then a SRA is appropriate. But if the issues would be better resolved through other means such as existing government programs, ICC staff should use these other means.

Other statutory agencies which run discrete programs have informed my Office that they have also faced some pressure from ICCs and OIPC State Offices to translate projects that they are negotiating into SRAs.

iv) Conclusions and recommendations

The SRA process raises complex issues of human rights compliance. These relate to ensuring the effective participation of Indigenous peoples in the agreement making process (including on the basis of their free, prior and informed consent) as well as ensuring that the content of SRAs is consistent with human rights standards. There is limited understanding of both sets of issues among government and among communities.

During the coming year I will visit communities that have been engaged in the SRA process in order to establish how and whether the SRA process complies with the human rights standards set out above. I will also work with the government as well as non-government organisations to promote a clearer understanding by Indigenous peoples and communities of their rights in negotiating SRAs

(in terms of both the process for negotiating agreements and the content of agreements).

Accordingly, I make the following recommendation and follow up action relating to the SRA process.

Recommendation 5

That the Office of Indigenous Policy Coordination, in consultation with the Aboriginal and Torres Strait Islander Social Justice Commissioner, agree to *Guidelines to ensure that Shared Responsibility Agreements comply with human rights standards* relating to the process of negotiating SRAs and the content of such agreements.

Follow up action by Social Justice Commissioner

2. The Social Justice Commissioner will work in partnership with non-government organisations and Indigenous community organisations to promote understanding of the rights of Indigenous peoples in the making of Shared Responsibility Agreements. This will include:

- disseminating information about relevant human rights standards for engaging with Indigenous communities and to guide the content of SRAs; and
- consulting with Indigenous people, organisations and communities about their experiences in negotiating SRAs.

3. The Social Justice Commissioner will monitor the Shared Responsibility Agreements process. This will include:

- considering the process for negotiation and implementation of SRAs;
- considering whether the obligations contained in agreements are consistent with human rights standards or place restrictions on the accessibility of basic entitlements or essential services; and
- establishing whether the government has fulfilled its commitments in SRAs, including through providing appropriate support to communities to ensure that the proposed benefit in an SRA is realised in the community.

5) Government engagement with Indigenous peoples

A key element that will determine the success of the new arrangements is the ability of governments to engage effectively with Indigenous peoples. There are a number of challenges to achieve this:

- ensuring that public servants have the appropriate skills to engage with communities;
- improving the coordination of activities and services at the federal level, as well as with the state, territory and local governments; and
- improving the accessibility of mainstream services, and the coordination of mainstream and Indigenous specific services.[157]

i) An appropriately skilled public service

In the *Social Justice Report 2004*, I raised a number of concerns about the processes of the new arrangements in supporting and recognising the skills of public servants necessary to engage effectively with Indigenous communities. I noted:

- A lack of commitment to using *identified criteria* by the central coordinating agency for the new arrangements (OIPC), meaning that skills relating to communicating with Indigenous peoples and understanding Indigenous cultures are not considered mandatory skills for some key positions in the new arrangements;
- A lack of *cultural awareness training* for staff entering the OIPC or regional service delivery roles through ICCs; and
- A *decline in the employment and retention of Indigenous people in the Australian Public Service*, particularly at the executive and senior executive levels, particularly since the introduction of the new arrangements.[158]

There have been a number of developments in relation to these issues over the past year. In particular, there has been an increased focus on these issues by the Australian Public Service Commission (APSC).

In April 2005, Ms Pat Turner was appointed as Aboriginal and Torres Strait Islander Employment Co-ordinator within the APSC. Her responsibilities focus on fostering Aboriginal and Torres Strait Islander employment in the Australian Public Service by developing and implementing strategies to attract, recruit, develop and retain Indigenous employees.

Another welcome development was the government's response in March 2005 to the Finance and Public Administration References Committee on Recruitment and Training in the Australian Public Service. In this, the Government indicated its support for the APS establishing strategies to increase Indigenous employment

157 My previous report identified ten 'follow up actions' that my Office would take during the subsequent year. This section of the chapter considers follow up actions 2 (financial disadvantage resulting from the transition from ATSIS to mainstream departments); 8 (recruitment and retention of Indigenous peoples in the Australian Public Service and ensuring that public servants have the necessary skills to engage with Indigenous communities); and 9 (whole of government coordination).

158 *Social Justice Report 2004, op.cit.,* p120.

in the APS.[159] As part of its response, the Government agreed to the APSC accessing funding of $400,000 from its accumulated reserve funds to support the *Indigenous Employment Strategy*.

Further, in August 2005 the Prime Minister launched the Australian Public Service *Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees*[160] with $6.4 million funding over three years. It supersedes the *Indigenous Employment Strategy.*[161] There are five elements to the strategy:

1. Supporting whole-of-government by building public sector capability to do Indigenous business;
2. Providing pathways to employment by removing barriers to the effective employment of Indigenous Australians;
3. Supporting employees by maximising their contribution to the workplace;
4. Supporting employers by helping them to align their Indigenous Employment Strategies with their workforce planning and capacity building; and
5. Developing and strengthening cross-agency partnerships to support working together to promote Indigenous employment.[162]

Specifically in relation to Indigenous peoples it aims to:

- stabilise numbers over the next two years, then increase Aboriginal and Torres Strait Islander employment in the mainstream Australian Public Service;
- contribute to increased social equity by improving Indigenous peoples income levels and employment opportunities in the wider Australian employment market;
- increase the extent to which government agencies are able to use the existing and potential skills and capacity of Aboriginal and Torres Strait Islander employees in order to meet their business needs for skilled employees, including in areas of specific skill shortage and recruitment difficulty; and
- build the capacity of the APS generally to provide more effective service delivery to Indigenous people.[163]

Some of the initiatives that the APS will be developing and implementing over the next three years include:

- Secondments for senior Indigenous managers to gain broader experiences and perspectives, including placements in the central agencies;
- Development of a national exchange programme for non-SES employees to provide short-term placement opportunities in other agencies;
- Entry-level traineeships to provide accessible pathways into public sector employment;

159 Government Response to the Senate Finance and Public Administration References Committee Report on Recruitment and Training in the Australian Public Service, *Hansard – Senate*, 10 March 2005, p91.

160 Prime Minister, *New Indigenous Employment Strategy for the Australian Public Service*, Media Release, 12 August 2005.

161 APSC, *Correspondence with the Social Justice Commissioner,* Email, 27 October 2005.

162 Briggs, L., (Public Service Commissioner), *Indigenous Employment in the APS*, Address to the Executive Leadership Group Victoria, Four Points Sheraton Hotel, Geelong, 25 August 2005. Available online at: www.apsc.gov.au/media/briggs250805.htm.

163 APSC, *APS Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees*, undated, APSC Website, http://www.apsc.gov.au/indigenousemployment/index.html, accessed 18 August 2005.

- Job-ready training to equip potential employees with the skills needed for public sector jobs, and advice regarding the conversion of life experiences into evidence of workplace skills;
- Service-wide graduate recruitment to increasingly target Indigenous graduates as potential employees;
- School-to-work transition support, recognising the link between educational attainment and employment outcomes;
- Indigenous Development Programmes across the range of classification groups and in regional centres, and the incorporation of an Indigenous perspective into existing and new 'mainstream' programmes;
- Continued support of Indigenous Employee Networks and the establishment of a SES network;
- A significant research programme looking at areas such as capacity development, separation rates, and effective recruitment and retention strategies, and the development of a range of better practice guidance;
- The establishment of an Indigenous Recruitment Taskforce to target regional recruitment opportunities, and a central employment register of potential Indigenous employees; and
- The creation of an Indigenous Liaison Officer position in the Australian Public Service Commission to assist agencies to develop strategies, negotiate partnerships and linkages, and provide cross-cultural advice.[164]

The strategy lays a solid foundation for improving the ability of public servants to engage with Indigenous communities within a whole of government approach over the next 4 years. I welcome the commitment of the OIPC to be an active partner in the strategy at this early stage. My Office will continue to engage with the Public Service Commissioner and Ms Turner about the implementation of the new strategy to ensure that it addresses the concerns that I have identified.

While the *Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees* has the potential to address the concerns raised in last year's *Social Justice Report,* I remain concerned about the approach of some agencies in their recruitment and training activities.

All federal departments provided information to my Office in the preparation of this report which related to the placement and retention of staff in ICCs, the use of identified criteria to recruit staff working with Indigenous peoples; the conduct of cultural awareness training; and recruitment strategies for Indigenous staff.

The information supplied showed that there was great variation in the use of identified criteria[165] across public service agencies. For example:

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164 Briggs, L., (Public Service Commissioner), *Indigenous Employment in the APS*, *op.cit.*

165 Public service agencies are encouraged to utilise what are called 'identified criteria' in selection processes to require that applicants can demonstrate that they possess relevant skills. The common wording for these criteria that has been used to date in the public service is as follows: 1) Demonstrated knowledge and understanding of contemporary Aboriginal and Torres Strait Islander cultures and the diversity of circumstances of Aboriginal and Torres Strait Islander people; and 2) Demonstrated ability to communicate sensitively and effectively, including proper negotiation and consultation, with Aboriginal and Torres Strait Islander people on matters relevant to delivery of Government Aboriginal and Torres Strait Islander policies. These criteria are not mandatory, but have been identified as strategies that assist agencies to meet their obligations under the *Public Service Act 1999* (Cth) to promote workplace diversity. They have been used as a strategy to recruit Indigenous people into the public service, although recruitment is on the basis of merit and therefore not confined to Indigenous applicants. The Australian Public Service Commission's *State of the Service 2003/04* report notes that 19 federal departments or agencies utilise identified criteria, and a further 4 are developing strategies for their use: APSC, *State of the Service 2003-04*, APSC, Canberra, p155, Table 8.19.

- The Department of Employment and Workplace Relations (DEWR):
  - used an *Identified Position Guide* to recruit for identified positions with Delegates and Selection Advisory Committees 'expected to refer to the Guide' when determining the appropriate selection criteria for such positions;[166]
  - used identified criteria for positions based in ICCs or related to CDEP over the past year;
  - but used such criteria on an *ad hoc* basis for policy positions relating to Indigenous peoples.
- The Department of Education, Science and Training (DEST):
  - use Identified Criteria in positions which involve service delivery to Indigenous Australians; policy development that affects Indigenous Australians; and management positions where a large number of staff to be managed are Indigenous.
- The Department of Family and Community Services (FaCS):
  - used one of the two identified criteria to recruit staff in the Indigenous Housing and Infrastructure Program and the Indigenous Policy Section; and both criteria in the Indigenous Family and Child Well-Being Branch.
- Office of Indigenous Policy Coordination (OIPC):
  - has no policy on the use of Identified Criteria other than supporting individual managers formulating their own selection criteria 'which accurately reflect the attributes required of all applicants, rather than applying blanket criteria to all positions';[167]
  - used a variation of one of the two identified criteria in the recruitment of a majority of positions in ICCs, but with variation as to the ordering of the criterion: some positions listed it as criterion 1 within a list; others placed it as a preamble to the other criteria; others as an 'additional criteria'.

I note that as part of the *Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees,* the APSC has commenced a research program looking at areas such as capacity development, separation rates, and effective recruitment and retention strategies, and the development of a range of better practice guidance. The preliminary results of this research will be available in 2006.

My Office will continue to liaise with the APSC on issues relating to the selection requirements for positions that interact with Indigenous people and communities to ensure that there is appropriate recognition of the skills necessary to effectively engage with communities.

166 Department of Workplace Relations, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p2.

167 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p6.

ii) The role of Indigenous Coordination Centres in whole of government coordination

A key feature of the new arrangements is the placement of staff from across mainstream departments within Indigenous Coordination Centres in regions across Australia.

There are two groups of staff to lead whole of government activity in ICCs – the ICC Manager for the region, who is an officer of the OIPC, and 'Solution brokers'. Solution brokers are staff from different government departments, usually located in ICCs or State Offices of departments, who are intended to progress the whole of government and whole of agency approach of the new arrangements. The OIPC have described their role as follows:

> Solution brokers should have a have detailed understanding of the *full* range of programmes and services in their agency, particularly those impacting on Indigenous Australians, and understand how to link these various programmes – or to suggest how they might need to be adapted so they respond to community circumstances and deliver better outcomes.
>
> Ideally, solution brokers have the skills to understand how the programmes of their agency can be dovetailed with the programmes of other agencies to generate innovative, flexible solutions to issues identified by communities – i.e., they are the people who support ICC Managers in the whole-of-government approach of the ICC.
>
> A key role for solution brokers is to work with ICC Managers to negotiate Shared Responsibility Agreements (SRAs) with Indigenous communities.[168]

The operation of ICCs to date has raised a number of challenges for effective whole of government service delivery.

Consultations for this report have indicated that there remain teething problems within ICCs and coordinating service delivery. This occurs particularly in relation to the interaction of staff from different government agencies that are responsive back to their line managers in state offices or national offices of departments in Canberra as well as to ICC Managers in their region.

ICC staff and communities have expressed frustration to me about delays and inefficiencies caused by staff in regional ICCs having to report to line managers who are not familiar with the local issues being dealt with in the ICC and with little experience of working with Indigenous communities.

A number of ICC managers have also stated that some Commonwealth departments are resisting the 'whole-of-government' approach and continuing to act autonomously. ICCs can find it hard to marshal some departments into acting cooperatively.

On the other hand, I have been told that ICCs are also being expected by some mainstream departments to deal with all Indigenous issues in the way that ATSIC used to, even where the responsibility for certain programs or services now lies with the particular mainstream agency.

I have also noted a tendency for the understanding of processes, such as the SRA process, to differ between departments. Some departments have an understanding that the unrolling of new programs will be done in a gradual or

168 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner* (Email), 15 June 2005.

staggered manner, whereas other departments and their staff in ICCs seek to deal with such issues much more quickly.

As noted earlier in the report, there also remains some confusion as to the role of ICCs and the SRA process among staff, with unclear communication processes from Canberra.

There is also an uneven presence of departments within ICCs. This is particularly in relation to solution brokers. For example:

- The Department of Employment and Workplace Relations has placed staff, including solution brokers in all ICCs.
- The Department of Education, Science and Training (DEST) currently has a presence in 16 ICCs (although it is anticipated that their staffing in ICCs will double when they complete the co-location of staff from some offices). DEST are not, however, placing staff in urban ICCs, instead preferring to maintain staff in State Offices.
- The Department of Family and Community Services had 98 staff in ICCs at 30 June 2005 and the Department of Communications, Information Technology and the Arts a total of 71 staff.
- The Attorney-General's Department have just 17 staff in 13 ICCs; the Department of Health and Ageing 5 staff in 3 ICCs; the Department of the Environment and Heritage 5 staff in ICCs; and the Department of Transport and Regional Services no staff in ICCs.[169]

Concern has been expressed that some of these Departments may be considering 're-centralising' their positions in their National Offices in Canberra. On the basis of the information supplied to my Office, I am not aware of any such attempts to date. However, I will continue to monitor this over the coming years. Any attempts to re-centralise will render it more difficult for agencies to work in a whole of government level at a regional level.

In their most recent bulletin to public servants, the Secretaries Group on Indigenous Affairs note that there is 'a need for some clarity about the ICC model.'[170] They note their:

> expectation that Indigenous Coordination Centres (ICCs) will operate as whole-of-government offices focused on improving service delivery to Indigenous Australians. Success of the ICC model depends on both the efforts of ICC staff, and staff in regional, state and national offices who support, supervise or interact with staff in ICCs.[171]

The Secretaries have identified five key aspects to the role of ICCs, with related expectations on ICC staff and departments. These are as follows:

> **1. All ICC agencies have a role in building partnerships with Indigenous communities and organisations**, based on shared responsibilities, committing to Indigenous participation, demonstrating willingness to engage with representatives and adopting flexible approaches:

169 Figures derived from correspondence from each department with the Social Justice Commissioner.

170 Secretaries Group on Indigenous Affairs, *Bulletin (4/2005) – The ICC model: Five point plan*, October 2005, p1. Available online at: www.apsc.gov.au/indigenousemployment/bulletin0405.pdf. Accessed 25 October 2005.

171 *ibid.*

- in so doing, agencies will present a single, united face of the Australian Government to communities and State/Territory governments.

2. The ICC Manager will exercise the leadership role in the ICC's whole-of-government work, in particular in coordinating government investment in the region and with communities; negotiating with Indigenous representatives; and managing overall ICC stakeholder relationships. This means:

- ICC Managers are responsible for managing, on a day-to-day basis, the coordinated activities of staff from different agencies…
- SRAs will be signed by the ICC Manager on behalf of the Australian Government and will ensure appropriate authorisation by agency delegates of their contribution to Shared Responsibility Agreements (SRAs) and Regional Partnership Agreements (RPAs);
- with respect to annual funding rounds for ex-ATSIS/ATSIC programmes, the ICC Manager will coordinate and sign a single funding offer using the common Program Funding Agreement, while relevant agency delegates will approve and be responsible for their program funds; and
- ICC Manager accountabilities (to OIPC and for working with other agencies' staff) will be reflected in their performance agreements and linked to ICC Business Plans…

3. For **effective whole-of-government collaboration across ICC agencies**, all staff in ICCs and in regional, state and national offices will:

- actively support effective ICC operations, recognising that all staff are integral to achieving both whole of government and agency objectives
- the dual responsibilities of ICC staff will be reflected in staff performance agreements and in the ICC Business Plans;
- communicate and share information effectively, including timely and open feedback on service delivery and funding issues arising from discussions at community level and other matters;
- have an opportunity and obligation to provide input to decisions to tailor government action to identified community needs and aspirations;
- avoid unilateral actions which conflict with whole-of-government processes;
- apply relevant whole-of-portfolio expertise (eg solution brokers) to foster connected initiatives and cross-portfolio partnerships;
- involve the ICC Manager in the selection of agency ICC staff as appropriate, and alert the ICC Manager of significant changes proposed in staffing or service delivery arrangements affecting the ICC; and
- identify and seek early resolution of any issues that may impact on the effectiveness of the whole-of-government approach directly with the ICC Manager and the affected agency(ies).

4. All ICC agencies have both the **opportunity and responsibility to respond flexibly to community-identified priorities** for SRAs and RPAs. You should:

- aim to maximise the benefits to communities from connected initiatives that tap into Indigenous-specific and mainstream, new and existing programs/resources;
- take action to reduce red tape and develop flexible funding solutions;
- look for opportunities to build capability of Indigenous communities at local and regional levels;
- be supported by regular forums of State Managers from relevant agencies convened by OIPC, to provide integrated leadership in the whole-of-government work being undertaken at ICC level…

> **5.** Each ICC Agency will **build the capability of its employees and the agency more generally to undertake its Indigenous business** in a whole-of-government way:
>
> - ICC Managers will coordinate business planning at an ICC level which will draw from and feed into agencies' business plans;
> - OIPC/APSC will arrange relevant whole-of-government training for ICC staff, in consultation with ICC Agencies;
> - APSC will operate a prestigious development programme… to provide preparatory training and development (including about working in a whole-of-government way and with Indigenous people), with opportunities to work for a set period as an ICC Manager.[172]

Indigenous Coordination Centres and the 'solution broker' approach involve a significant shift in the approach of mainstream departments to service delivery for Indigenous communities. Their operation requires ongoing attention to ensure that staff are suitably skilled to undertake the diverse requirements expected of them and to consider best practice models for the integration of activities of different departments within an ICC.

iii) Coordinating federal government activity with the states and territories

If the new arrangements are to succeed, then they will need to ensure improved coordination with state and territory government activities.

This is a central undertaking by all governments through the *National Framework of Principles for Government Service Delivery to Indigenous Australians*, as agreed at the Council of Australian Governments meeting in June 2004. These principles commit to:

- Cooperative approaches on policy and service delivery between agencies, at all levels of government and maintaining and strengthening government effort to address indigenous disadvantage.
- Addressing jurisdictional overlap and rationalising government interaction with Indigenous communities:
  - negotiating bi-lateral agreements that provide for one level of government having primary responsibility for particular service delivery, or where jurisdictions continue to have overlapping responsibilities, that services would be delivered in accordance with an agreed coherent approach.
- Maximising the effectiveness of action at the local and regional level through whole-of-government(s) responses.[173]

There are three main elements of the new arrangements that address such coordination – support for, and interaction with, regional representative Indigenous bodies; the COAG whole of government trials, and bilateral agreements between the Australian Government and each state and territory.

Section 3 of this chapter identified the collaboration between the OIPC and the states and territories in relation to developing models for regional representative Indigenous bodies. As such arrangements are finalised, the introduction of Regional Partnership Agreements will form one of the main sites for coordination

172 *ibid.*

173 Council of Australian Governments' Meeting, Canberra, 25 June 2004, Attachment B, *www.coag.gov.au/meetings/250604/attachments_b.rtf*.

of federal, state and territory activities. The next section of the chapter also reflects on progress in the COAG whole of government community trials, where coordinated approaches to whole of government service delivery across governments are being trialled. As discussed later, the outcomes of this process to date are uncertain and not entirely satisfactory.

In relation to the negotiation of bilateral agreements, the COAG communiqué of the June 2004 meeting notes that the *National Framework of Principles for Government Service Delivery to Indigenous Australians*:

> will provide a common framework between governments that promotes maximum flexibility to ensure tailored responses and help to build stronger partnerships with Indigenous communities. They also provide a framework to guide bi-lateral discussions between the Commonwealth and each State and Territory Government on the Commonwealth's new arrangements for Indigenous affairs and on the best means of engaging with Indigenous people at the local and regional levels. Governments will consult with Aboriginal and Torres Strait Islander people in their efforts to achieve this.[174]

The Office of Indigenous Policy Coordination has commented on the progress of negotiation of bilateral agreements as follows:

> Negotiations on these bilateral agreements on Indigenous affairs are under way in each state and territory. The negotiations have taken place in a spirit of cooperation and collaboration, with jurisdictions taking the opportunity to tackle areas where the lack of clarity about government responsibility has hampered capacity to deliver services to indigenous people.
>
> An overarching agreement with the Northern Territory was signed by the Prime Minister and the Chief Minister in April (2005)… A number of other bilateral agreements are near completion or substantially developed. Many of these include specific undertakings for collaborative planning.[175]

The agreement with the **Northern Territory** Government commenced in April 2005. The agreement, known as the *Overarching Agreement on Indigenous Affairs*, is in place until 2010.

The agreement commits both governments to working together and in partnership with Indigenous people and communities in order to take action and address entrenched levels of disadvantage among Indigenous people in the Northern Territory. It sets out agreed positions on:

- priority areas for bilateral action, including streamlining of existing programs and minimising administrative costs of programs;
- principles underpinning bilateral agreements;
- future arrangements for Indigenous representation at the regional level and consultation with Indigenous people across the Northern Territory;
- core principles for Shared Responsibility Agreements; and
- the whole of government machinery required.[176]

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174 Council of Australian Governments, Communiqué, 25 June 2004, Online at: www.coag.gov.au/meetings/250604/index.htm#indigenous, accessed 30 October 2004.

175 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

176 *Overarching Agreement in Indigenous Affairs between the Commonwealth of Australia and the Northern Territory of Australia 2005-2010*, *op.cit.*, p3.

It agrees on the following priority areas:

- improving outcomes for young Indigenous Territorians, including through early childhood intervention – a key focus of which will be improved mental and physical health, and in particular primary health, and early educational outcomes;
- safer communities which includes issues of authority, law and order;
- strengthening governance and developing community capacity to ensure that communities are functional and effective;
- building Indigenous wealth, employment and entrepreneurial culture, as these are integral to boosting economic development and reducing poverty and dependence on passive welfare; and
- improving service delivery and infrastructure that recognises demographic change and the need to lift the performance of the Governments.[177]

Further detail on these priority areas are set out in the first Schedule to the agreement. Both governments have agreed that as details of further priority areas are finalised by the Governments those details will be added to the Agreement as additional Schedules. Three (3) such schedules were attached when the agreement was signed, which relate to:

- sustainable Indigenous housing – transferring Commonwealth funding and administration for Indigenous housing to the NT government;
- a focus on strengthening and sustaining the Indigenous arts sector; and
- commitments to work towards the establishment of Regional Authorities under the NT government's *Stronger regions, stronger communities* policy.[178]

The Agreement also establishes mechanisms for whole of government coordination which include:

- joint Ministerial oversight and reporting including meetings between relevant Northern Territory and Australian Government Ministers as appropriate;
- up to three meetings a year of senior officials (including representatives from the Department of the Prime Minister and Cabinet, Northern Territory Department of the Chief Minister and Office of Indigenous Policy Coordination) to review and jointly report on progress of this agreement and bilateral agreements through their respective departmental heads to the NT Chief Executives' Taskforce on Indigenous Affairs and the Secretaries' Group on Indigenous Affairs;

177 *ibid*, **Schedule 1**.
178 *ibid*, Schedules 2.1, 2.2 and 2.3.

- establishing or strengthening joint coordination arrangements and include the potential for co-location of service delivery; and
- agreed accountability and outcomes measures.[179]

The Northern Territory government have commented on the bilateral agreement that it:

> is founded on the principle that the two levels of government need to work in partnership with Indigenous communities and determine appropriate arrangements for consultation and participation in setting priority areas and developing solutions at the regional and local level. This is a cornerstone of reconciliation and signals a cooperative approach to achieving better outcomes for Indigenous Territorians.
>
> The Agreement reflects the consistent calls from Indigenous leaders and numerous parliamentary reports for better coordination of Australian and Northern Territory Government programs to remove duplication and unnecessary costs and improve services to Indigenous people. There is also a commitment to ensure that funding under mainstream programs reaches Indigenous communities and is responsive to their needs.[180]

In relation to the other states and territories, negotiations are continuing on bilateral agreements. The **New South Wales** government have stated that they are:

> currently negotiating a bilateral agreement with the Australian Government. This bilateral agreement seeks to ensure coordinated planning and service delivery, underpinned by the COAG principles for service delivery and *Two Ways Together*, the NSW Government's Aboriginal affairs plan. Once this bilateral is agreed, supporting structures to promote effective partnerships between governments and Aboriginal communities at a state, regional and local level will be developed.
>
> The NSW Department of Aboriginal Affairs is currently establishing a network of regional offices. Four out of five of these offices are co-located with Indigenous Coordination Centres. It is expected that this will assist in coordinating regional and local planning and ensure greater accessibility for community members.[181]

In **Victoria,** the state government have indicated that they are currently negotiating a bilateral agreement with the Australian Government and that coordination of activity 'will also depend on reaching agreement on key priority areas and outcomes, including representative arrangements and capacity building'.[182] They have indicated that they do not intend to co-locate staff within ICCs.

The Victorian government has also developed the Victorian Indigenous Affairs Framework through consultation with Indigenous communities to provide a whole of government approach to service delivery. Key aspects of this approach replicate the new arrangements at the federal level. In April 2005, the government released *A Fairer Victoria* which sets out a social policy action plan to address disadvantage among Indigenous communities. It commits to the introduction of single funding agreements with Indigenous organisations and the establishment

179 *ibid,* p6-7.

180 Chief Minister (Northern Territory), *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

181 NSW Cabinet Office, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 18 October 2005, p5-6.

182 Premier of Victoria, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p3.

of a Secretaries group with a charter to oversee Indigenous issues across the Victorian government.[183]

In **Western Australia,** along with negotiations continuing on a bilateral agreement, the WA government has established Regional Managers Coordinating Forums to meet and develop integrated responses to enhance service provision to the Indigenous community.[184]

In **Queensland**, the state government advises that the bilateral agreement is near finalisation. They anticipate that it will formalise the involvement of the Australian Government in the existing Negotiation Tables and Regional Managers' Coordination Network approach that operates under the *Meeting Challenges, Making Choices* strategy and *Partnerships Queensland.*[185]

In **South Australia**, the state government has indicated that new working arrangements to be implemented under the bilateral agreement are still being developed. The government is working in partnership with the Australian Government at the local level through the establishment of 'Action Zones' in certain regions and through the Aboriginal Lands Task Force. This is in accordance with *Doing it right,* the framework for Aboriginal affairs in the state.[186]

In **Tasmania**, bilateral negotiations continue. The Tasmanian government has indicated that it 'is supportive of using the three priority Outcome Areas identified in the Overcoming Indigenous Disadvantage Framework and the COAG Principles… as central to any arrangements'[187] as well as ensuring that any reporting requirements are consistent with *Tasmania together* – the 20 year social, economic and environmental plan for the State.

In the **Australian Capital Territory,** there appears to be limited progress on developing a bilateral agreement. The ACT government has noted that it continues to work with the Australian Government on the ACT COAG trial and to ensure that this process incorporates the COAG framework of principles. They also note that there 'is no ICC in the ACT' and that they have 'proposed to the Australian Government that an ICC be established.'[188]

The bilateral agreements will provide the overarching framework for federal – state relations on Indigenous affairs. The establishment of these agreements is also a precursor to the involvement of state and territory governments in the SRA process.

A concern I have about these agreements is the absence of Indigenous participation in the setting of agreed priority areas. The NT bilateral agreement, for example, commits to participation of Indigenous peoples and yet there appears to have been no such participation in deciding on the key areas for focusing

183 *ibid.,* pp5-6.

184 Premier of Western Australia, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

185 Premier of Queensland, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p2.

186 Minister for Aboriginal Affairs and Reconciliation (South Australia), *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p5.

187 Premier of Tasmania, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p2.

188 Deputy Chief Minister, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p2.

attention. The ATSIC Central Queensland Regional Council have expressed a similar concern about the negotiations in Queensland. They state that there is a:

> lack of engagement with Aboriginal and Torres Strait Islander people / communities in the negotiation of the Bilateral agreements at state level, in relation to housing, health etc as the outcomes of the engagement process should inform policy development, implementation and evaluation and the framework for program delivery.[189]

My Office will continue to monitor the formation of these agreements and the terms and priorities identified through such agreements.

iv) Improving the accessibility of mainstream services

One of the most significant changes through the new arrangements is the requirement for mainstream government departments to take greater responsibility for outcomes for Indigenous peoples.

The movement of programs previously administered by ATSIC and ATSIS to mainstream departments has meant that, in theory at least, it should be easier to align mainstream and Indigenous specific services. Achieving improved accessibility of mainstream services, or 'harnessing the mainstream' as the government refers to it, is a major commitment of the government through the new arrangements.

Addressing this issue is among the hardest challenges to be faced and progress has been slow. Perhaps more than any other area of the new arrangements, the challenge of making mainstream services culturally appropriate and accessible also demonstrates the naivety of blaming ATSIC for the failures to improve Indigenous socio-economic conditions in the past.

The remainder of this chapter notes a number of issues that are of importance in improving the performance and accessibility of mainstream services to Indigenous peoples. It notes for example, the absence of mechanisms for participation of Indigenous peoples – primarily through regional representative bodies but also through mechanisms at the national level and sector specific processes. It has noted the early stages at which efforts to coordinate federal activities with state and territory activities are at. The next section also notes the absence of mainstream data, the lack of linkages between the Overcoming Indigenous Disadvantage reporting framework and mainstream programs, and the absence of appropriate monitoring and evaluation processes. There are, however, steps in train to address some of these issues.

The greatest challenge to accessibility of mainstream services lies in urban areas. OIPC have stated that their approach to urban areas is as follows:

> There are a number of mechanisms under the new arrangements that will facilitate improved service delivery to Indigenous people living in non-remote communities, including SRAs.
>
> First, it is important to note that services will continue to be provided to Indigenous people in urban areas through established mechanisms. Arrangements were made by the Australian Government to ensure a seamless transition to new whole of government funding arrangements with continuity of service delivery. A coordinated application, assessment and contracting process has

189 ATSIC Central Queensland Regional Council, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 30 June 2005, p7.

> been implemented for the majority of former ATSIC/ATSIS programs, through the Government's network of Indigenous Coordination Centres (ICCs). The Government is also working to ensure that services and programs are flexible, so that they can be adapted to the different needs of Indigenous people.
>
> As part of the new arrangements ICCs have been working with Indigenous people and communities in both rural and urban areas to identify their needs and priorities as well as develop Shared Responsibility Agreements (SRAs). SRAs can be used in both rural and urban contexts, either as a mechanism through which disadvantage can be tackled directly, or to complement and inform the delivery of an existing service. They are also a useful mechanism through which Government can respond to community identified needs by linking programs and closing gaps in current service delivery. There are already a number of examples or SRAs in urban areas.
>
> However, the Government recognises that Indigenous disadvantage will not be addressed through Indigenous-specific programs and services alone. It is important, particularly in an urban context where the majority of mainstream infrastructure is already present, to 'harness the mainstream'. In remote Indigenous communities' access to mainstream services can be inhibited by a lack of services and the long distance necessary to access those services that do exist. In urban and regional environments, where the majority of the Indigenous population lives, physical access to mainstream services is less likely to be the key issue. However, mainstream services have not performed as well as they should in meeting the needs of Indigenous people in urban areas. Therefore, the Australian Government is also working to harness mainstream services, to improve access to, take-up of and outcomes from these services for Indigenous Australians. This is also an issue being raised in various bilateral negotiations with the States.
>
> Australian Government agencies are increasingly applying targeted approaches to better harness their mainstream programs or resources to meet the needs of Indigenous people. For example, the Department of Health and Ageing is directing mainstream funding from the Medicare Benefits Schedule to an Indigenous-specific health check to deploy mainstream resources to address an Indigenous-specific issue without requiring major redesign of the mainstream program. The Department of Employment and Workplace Relations is enhancing its Indigenous Employment Policy – a toolkit of services to enable Indigenous jobseekers to draw on both mainstream and Indigenous-specific resources. This measure will have particular relevance in an urban context.[190]

The overview of SRAs in Appendix 3 shows that there are some SRAs in urban contexts. There are, however, very few in number. The SRA process has not, to date, been a significant tool in harnessing the mainstream.

My impression of SRAs to date is that the majority of funding does not come from mainstream funds, but instead from Indigenous specific expenditure. Ultimately, if this remains the case, then SRAs will remain a supplementary funding source and will play a similar role to that of ATSIC. SRAs have the potential to build linkages with mainstream services. This is a critical role of solution brokers in ICCs and so the government should expect much greater penetration of mainstream services through the SRA process.

My Office will continue to monitor the making of SRAs in urban contexts over the next year and will pay particular attention to the source of funding for these SRAs.

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190 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p5.

In light of the importance of improving the accessibility of mainstream services and the limited developments on achieving this to date, my Office will also focus attention on best practice examples for accessing the mainstream.

v) Improving coordination between mainstreams and Indigenous specific services – Reform to the CDEP scheme

Perhaps the most significant development over the past year in aligning Indigenous specific services with mainstream services was the reform process undertaken by the Department of Workplace Relations for the Community Development Employment Projects (CDEP) Scheme.

- *Background – CDEP*

The CDEP Scheme was established in 1977 as an alternative to passive welfare payments or 'sit down' money. The intent of the program was to offer work and skill development opportunities for those members of a community who wished to participate in activities, such as developing community infrastructure and the provision of basic services. Participants of the CDEP scheme forego unemployment benefits in exchange for a minimum wage, for part-time work - an early incarnation of mutual obligation.

The program has been variously described as:

> An employment program, a form of income and a form of welfare benefits, a source of training or skilling, community development, a transition to employment in the mainstream labour market, a substitute provider of essential services, a source of community cohesion and cultural maintenance, an Indigenous initiative and even a form of self-determination.[191]

The program has received a mix of praise and criticism over the years from both community and government alike. Praise, as it has provided in most of the communities it operates in, much needed community development as well as opportunities to participate in work activities and skills development. Criticism, for the lack of equality it actually achieves for Indigenous people, including concern over lack of access to long-services leave, superannuation, and union membership.

CDEP remains a major source of work and cultural activity in many Indigenous communities and has continued to respond to specific circumstances of the communities it operates in.

The program was administered by the Aboriginal and Torres Strait Islander Commission (ATSIC) and later Aboriginal and Torres Strait Islander Services (ATSIS). It was transferred to the Department of Employment and Workplace Relations (DEWR) in July 2004, as part of the Federal Government's transfer of programs to mainstream agencies, as part of the new arrangements.

At 30 June 2004, there were over 36,000 CDEP participants and 220 CDEP organisations.[192] In 2002 the CDEP scheme accounted for over one-quarter of the total employment of Indigenous Australians, with 13 per cent of the working-age population being employed in the CDEP scheme. Using the official definition

191 *Social Justice Report 2001*, Human Rights and Equal Opportunity Commission, Sydney 2001, p49.

192 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2005*, Productivity Commission, Canberra, 2005, p11.12.

of unemployment, the unemployment rate for Indigenous Australians is 23 per cent.[193]

The majority of CDEP participants (62%) were in very remote areas, 11 per cent were in remote areas, 11 per cent in outer regional areas, 9 per cent in major cities and 7 per cent in the inner regional areas.[194] The length of time that participants spend on the CDEP scheme varies across regions. In very remote areas, 40.6 per cent of participants had been on CDEP for five years or more and 21.8 per cent had been on the CDEP scheme for less than one year. Similarly, in remote areas, many participants had been on the scheme for a number of years, but the average duration was shorter. In non-remote areas only a minority (15.2%) of participants had been on the scheme for five years or more and 30.8 per cent had been on the scheme less that one year.[195]

- *CDEP reform process*

In February 2005 the Minister for Employment and Workplace Relations released the *Building on Success – CDEP Discussion Paper 2005* at the National CDEP/ Indigenous Employment Centre Achievement Awards in Alice Springs. The paper outlined the government's proposed changes to CDEP.

The first of the Department of Employment and Workplace Relations (DEWR) community consultations about the proposed changes to CDEP were held in Alice Springs the next morning. Over the next 3 days, 40 consultations were held nationally. Two hours were scheduled for each consultation.

The discussion paper also invited written feedback on a series of questions outlined in the discussion paper (see chronology), providing one month for submissions to be prepared and submitted. No prior consultation had been held with CDEPs or other relevant Indigenous groups before the discussion paper's release.

Jumbunna Indigenous House of Learning expressed concern that:

> decisions regarding the structure and function of the CDEP scheme were made and announced before any consultation with Aboriginal and Torres Strait Islander communities and CDEP organisations. We believe this indicates a lack of commitment to genuinely working with Indigenous communities to achieve the stated aim of the proposals set out in this Discussion Paper …[196] the consultation process outlined for these proposed changes to the CDEP is inadequate and disingenuous.[197]

193 Altman, J., Gray, M.C. & Levitus, R., *Policy Issues for the Community Development Employment Projects Scheme in Rural and Remote Australia*, CAEPR, Discussion paper 271/2005, p4.

194 *ibid.*

195 *ibid.*

196 Jumbunna Indigenous House of Learning, University of Technology Sydney, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005,* p5.

197 *ibid.* p7.

Similar concerns were expressed by the Barkley Region group of CDEPs claiming the government:

> should have undertaken more community discussion and consultation prior to the draft being launched. Particularly, more discussion should have been held with Communities/organisations that this discussion paper mostly impacts on…[198]

Ali Curung Council Association Inc also commented that:

> every time there are changes, the right people are never asked for input. The CDEP Managers and Coordinators are such people… the government would be surprised how much we would have been accommodating to change if it had been done in a more connecting way …[199]

DEWR in response to feedback has undertaken to:

> improve its communication with Indigenous people and communities so that they will know where and how to get help, especially with employment and business development.[200]

The discussion paper outlined the government's proposed changes to current CDEP frameworks with the aim to improve upon current funding arrangements and enhance employment outcomes for Indigenous people and communities. The paper proposed:

- CDEP organisations will work more closely with Indigenous communities to improve links between CDEP activities and local needs and goals, based on the three elements of employment, community activity and business development;
- A stronger focus on results in the three key areas of employment, community development and business development;
- Building better links between CDEP and other employment and business services; and
- Supporting CDEP organisations to improve the ability to achieve good results.[201]

The proposed changes to CDEP constitute part of DEWR's broader policy platform, the *Indigenous Employment Policy*, which reflects the government's commitment to practical reconciliation measures. The *Indigenous Employment Policy* specifically aims to improve the employment prospects, and hence economic status, of Indigenous Australians by:

- increasing the level of Indigenous Australians' participation in the private sector;
- improving outcomes for Indigenous job seekers through Job network;

198 Barkley Region of CDEP Organisations (NT), *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005*.

199 Ali Curung Council Association Inc, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005*.

200 Department of Employment and Workplace Relations, *Building on Success – CDEP Future Directions,* DEWR, Canberra, 2005, p3.

201 Department of Employment and Workplace Relations, *Building on Success – CDEP Discussion Paper 2005*, DEWR, Canberra, February 2005, p3.

- helping Community Development Employment Project (CDEP) sponsors to place their work ready participants in open (non-CDEP) employment; and
- supporting the development and expansion of Indigenous small business.[202]

The changes to CDEP therefore incorporate the broader DEWR policy and program aspirations. As Will Sanders has observed:

> as DEWR is the employment portfolio, it would not be surprising if it understood and focused more on employment outcomes than other aspects of the [CDEP] scheme.[203]

In April 2005, two months after the release of the discussion paper, the Minister for Employment and Workplace Relations released *Building on Success, CDEP – Future Directions*, a summary of the feedback received in response to the discussion paper and an outline of the government's policy directions for the CDEP.

The Minister's foreword stated:

> The process of change will begin immediately with the changes being negotiated into the CDEP schedule of the Programme Funding Agreements for 2005-06. CDEP participants and communities need to know that CDEP can provide a stepping stone to improved income and economic independence.[204]

Generally, submissions received by DEWR in response to the discussion paper *Building on Success* support the three proposed activity streams - community, employment and business as appropriate areas of activity for CDEP. The streams in themselves are uncontroversial, with most submissions agreeing that CDEP will benefit from improved links with the communities in which it operates including links to Shared Responsibility Agreements (SRAs).

DEWR is clear about its intentions for linking CDEP and SRAs:

> If the CDEP is in a community with a Shared Responsibility Agreement (SRA) the CDEP's activities should link to the SRA. If there is no SRA relevant to the CDEP organisation's activities then another arrangement for measuring community satisfaction with the CDEP organisation's activities will be negotiated with DEWR and included in the funding agreement.[205]

However some communities believe that community development and the provision of service has always been a focus of CDEP. Peedac Pty Limited, an Indigenous organisation from Perth, commented:

> Community activities will always be the predominant activity while CDEP seek to redress lack of government services and adequate responses to local Indigenous community needs.[206]

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202 Department of Employment and Workplace Relations, *Indigenous Employment Policy* (IEP), DEWR, Canberra, www.workplace.gov.au/workplace/category/SchemesInitiatives/IndigenousPrograms.

203 Sanders, W. *CDEP under DEWR: the flexibility challenge*, paper delivered at ACOSS Annual Congress, Alice Springs, October 2004 as cited in Altman, J. (2005) *CDEP 2005, A New Home and new Objectives for a Very Old Program?* CAEPR Seminar Series, 2 March 2005, p6.

204 Minister for Workplace Relations, *Building on Success, CDEP – Future Directions*, *op.cit.* Minister's Foreword, piii.

205 Department of Employment and Workplace Relations, *Building on Success CDEP – Future Directions*, *op.cit*., p4.

206 Peedac Pty Ltd, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005.*

Indeed the Secretary for Prime Minister and Cabinet commented earlier this year:

> CDEP is the classic shared responsibility program. The government puts in the money from welfare benefits and it foots capital on costs in return for the community doing certain things with the resources it receives—fundamentally, a shared responsibility agreement.[207]

CDEP schemes are ideally placed to link with SRA activities. In fact many activities currently performed by CDEP schemes could be the subject of a current or future SRA.

To ameliorate any concerns that CDEP will diminish in some communities if not tied to an SRA, DEWR states:

> The changes to CDEP will not reduce the availability of community services in remote communities. DEWR will start working with all levels of government to identify those CDEP activities that support government services and to ensure services are funded and delivered effectively, starting with Australian Government programmes and services. Through this process, potential business and contracting opportunities for CDEP organisations will be identified.[208]

Indeed the relationship between SRAs and CDEPs has the potential to strengthen employment and training opportunities while simultaneously addressing social and economic needs as identified by a community. However, outcomes of CDEP (and SRAs) will require careful monitoring and evaluation before any such claims can be made beyond asserting the potential.

■ *The phasing out of Remote Area Exemptions*

An additional strategy aimed at encouraging community participation, as well as to further embed the government's ideological position to mutual obligation, is the plan to lift Remote Area Exemptions (RAEs). This plan was not mentioned in the *Discussion Paper* or in the *Future Directions* paper, but will nevertheless impact on the daily activities of a CDEP scheme.

RAEs exempt those people in remote communities receiving social security benefits from activity testing which is normally required for receipt of Centrelink allowances. Lifting RAEs will mean that all able bodied community members, in receipt of social security benefits, will be compelled to participate in either a CDEP or SRA (where they exist), or other community activity, as negotiated with DEWR. This participation will effectively become a means of activity testing. It is expected however that negotiations between CDEP organisations and DEWR ICC staff will develop agreements that take into account the unique circumstances of each community.

RAEs were originally put in place in remote communities because opportunities for meeting the requirements of the activity test were limited. Signalled the lifting of RAEs, Community Participation Agreements (CPAs), an earlier incarnation of SRAs, were voluntary agreements in which community members agreed to participate in community development activities to meet the activity test. The

207 Dr Peter Shergold, Secretary Department of Prime Minister and Cabinet, *Senate – Hansard*, 8 February 2005, p11.

208 Department of Employment and Workplace Relations, *Building on Success CDEP – Future Directions*, *op.cit.*, p4.

government, in return, provided funds towards the community activity. A number of SRAs have involved the replacement of a previously negotiated CPA.[209]

Plans to phase out RAEs and CPAs with 'all in CDEPs' will compel people to meet the activity test no matter how small the prospect of finding employment. 'All in CDEPs' will not only supervise community members meeting the activity test requirements but also supervise the 'work for wages' component of CDEP. It is not clear at this stage how or if the two types of activities will be differentiated in communities.

However it is anticipated, because of the small financial benefit to be made, where possible people will opt for 'work for wages' CDEP rather than simply meeting the activity test. There is a concern that the phasing out of RAEs could potentially create a two-tiered workforce, with community members competing for the limited CDEP jobs.

In terms of negotiating SRAs (inclusive of CDEP work) it seems like many Indigenous communities have been down this road before. The *Social Justice Report 2001* in a discussion on the lifting of RAE in relation to compliance with Community Participation Agreements noted:

> … the customising of compliance measures to suit the culture and circumstances of individual Indigenous communities through the CPA initiative presents an opportunity for achieving improved outcomes in terms of participation and reduced breaching rates.[210]

In relation to the new arrangements the OIPC has stated that 'SRAs will not put additional conditions on Indigenous peoples' access to benefits or services available to all Australian….'[211] However there are clearly concerns that the lifting of RAEs and the accompanying agreements made by communities may have the potential for creating a more burdensome test for some.

The negotiations that will lead to the lifting of RAEs and the development of SRAs also raises concern as to the ability of community members on income support to give their free, prior and informed consent to such agreements, especially if they perceive that their income support depends on the making of the SRA, or the CDEP funding agreement.

These issues will require careful monitoring to ensure that community members are not being coerced or mislead into participating in activities that other Australians are not required to undertake in order to receive income support. Access to the range of CDEP activities will also require cautious observation.

- *Performance Indicators for CDEP*

Measuring outcomes of CDEP previously focussed on the number of participants and the completed activities undertaken in the community. Under the new funding regime there will be a key focus on outcomes under the three proposed streams.

209 See for example the Bidyadanga SRA.

210 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2001*, Human Rights and Equal Opportunity Commission, 2001, p89.

211 Office of Indigenous Policy Coordination, *What are Shared Responsibility Agreements (SRAs)? op.cit*.

The government has recognised the limitation of existing data and its inability to reveal detailed information on CDEP scheme outcomes. It has stated that it will attempt to develop better indicators by monitoring:

- *Employment Activities* – number of participants placed in non-CDEP jobs, links to Job Network, CDEP Placement Incentive payments;
- *Community* activities to SRAs and other identified community wants and needs; and
- *Business* – developing new and existing businesses to become commercially viable.[212]

Some submissions received by DEWR detail concerns as to how government would monitor outcomes such as community benefits which are more likely to be based on less tangible outcomes such as community well being. This raises an important question regarding evaluation methodology insofar as, how will community satisfaction and well-being be measured? DEWR will need to meaningfully engage with communities in order to reach agreement on a definition on this type of outcome.

Noting similar concern Jumbunna comment:

> It is also problematic that CDEP organisations may be assessed by performance indicators ultimately determined by government and that potentially do not reflect community or cultural considerations.[213]

Measuring cultural benefits aside, one of the main concerns raised by CDEP organisations was in regards to the emphasis placed on the number of people moving from CDEP to mainstream employment (non-CDEP) and the perceived lack of recognition given to CDEP as 'real' employment for some communities.

Tangentyere Council (Alice Springs) stated:

> many of the jobs carried out by the CDEP workers are in fact real jobs that would be funded through state/territory and commonwealth government departments in other areas. Such jobs include waste management, aged services, municipal services and administration. These services are ongoing and CDEP has been used as a way of funding their delivery whereas these same services elsewhere are funded through the relevant programs. The assumption that these services can be delivered through CDEP funded jobs takes responsibility away from the responsible areas and can be to the detriment of the service if these jobs are not seen as "real" jobs, with associated expectations.[214]

Altman observes:

> CDEP has become highly politicised in the 21st century, in part because as a form of active welfare it has not been sufficiently differentiated from passive welfare. As such, it is viewed as a part of the unreal economy, when in many situations it is actually the real economy.[215]

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212 Department of Employment and Workplace Relations, *Building on Success – CDEP Discussion Paper 2005*, *op.cit.*, p9-10.

213 Jumbunna Indigenous House of Learning, University of Technology Sydney *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005, op.cit.*, p11.

214 Tangentyere Council Incorporated, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005*.

215 Altman, J. (2005) *CDEP 2005 A New Home and New Objectives for a Very Old Program?* Centre for Aboriginal Economic Policy Research, CAEPR Seminar Series, 2 March 2005, p.3.

The Northern Territory Council for Social Services (NTCOSS) also warned:

> any reforms must not be too prescriptive and should be able to be responsive to a range of local needs and priorities. While it seems to be appropriate to recognise three streams, as such giving greater impetus to achieving pathways to real employment and economic opportunities, there needs to be flexibility.[216]

And the Tweed Aboriginal Cooperative Society Ltd asserts:

> CDEP is already helping local communities meet their needs and goals by employing local people to do work. By just being employed, everyone benefits because the participant is working. Don't try to measure this by trying to make it fit into a box of your making, when it already fits into a box of our making and is working just fine and has since 1977.[217]

Most CDEP organisations agreed that positive outcomes in regards to non-CDEP employment and business development were vital for the continuing viability of CDEP, but advised that performance monitoring or results based measures that relied solely on non-CDEP employment was unrealistic. Outcomes have to be flexible and take into account local labour markets (where they exist).

Western Desert Puntukurnaparna Aboriginal Corporation outlined in their submission:

> Outcomes for CDEP are important but flexibility is needed in their measuring. Remote communities such as the ones we administer have no mainstream employment opportunities so an indicator like "participants placed in non-CDEP jobs or businesses" has little relevance in the Western Desert … participation levels, safety and the completion of activities [are] the most important outcomes.[218]

Referring to the lack of opportunities in the local labour market, Cooramah Housing and Enterprise Aboriginal Corporation comment:

> …it is the experience of this organisation that no matter how much training and how many courses the participants attend, the opportunity for employment in Glen Innes and Tenterfield is negligible.[219]

Wirrimanu Aboriginal Corporation contends:

> Remote CDEP organisations struggle with the "outcome" based approach …. It's hard to move CDEP participant's attitudes about CDEP being a destination not a transition when not one job exists in your community for an Indigenous person.[220]

Reassuringly, DEWR has stated that it will take into account local circumstances and the CDEP schemes capacity to partner with Job Network agencies and non-CDEP employers when negotiating targets for performance. The DEWR *CDEP*

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216 Northern Territory Council for Social Services (NTCOSS), *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005.*

217 Tweed Aboriginal Cooperative Society Ltd, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005.*

218 Western Desert Puntukurnuparna Aboriginal Corporation, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005.*

219 Cooramah Housing and Enterprise Aboriginal Corporation, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005.*

220 Wirrimanu Aboriginal Corporation, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005.*

Guidelines 2005-06 state that targets will be individually negotiated with CDEP organisations and be 'realistic and based on local circumstances.'[221]

Nevertheless, one of the main thrusts of the changes to CDEP is the push for participants to seek mainstream employment opportunities and develop business enterprises. CDEP organisations will be expected to make links with a range of government programs aimed at supporting Indigenous people into mainstream employment or to develop business opportunities.

Some programs that CDEP can access are:

- Indigenous Employment Centres (IEC)
- Indigenous Employment Programme (IEP)
- Structured Training and Employment projects (STEP)
- Job Network (JN)
- Disability Open Employment services (DOE)
- Indigenous Business Development Programme (IBDP)
- New Enterprise Incentive Scheme (NEIS)
- Indigenous Youth Employment Consultants (IYEC)
- Pathway to Employment (PEP)
- Job Seeker Account
- Indigenous Self Employment Programme

These programs are able to be accessed by CDEP participants via an Indigenous Employment Centre (attached to some CDEPs) or through Job Network.

While a multi-pronged approach may benefit many Indigenous people and communities, for many others barriers remain impenetrable. Although remoteness and the associated absence of labour markets are an obvious obstacle in accessing the mainstream labour market there are other factors that can impede Indigenous people's participation in the labour market.

Issues such as systemic discrimination, poor literacy and numeracy, poor educational outcomes, English as a second language, lack of work experience, lack of driver's licence and having a criminal record, impact on some Indigenous people's ability to access mainstream employment.

For example, Wallaga Lake CDEP comments:

> In an outer urban labour market, holding a driver's licence is an essential pre-requisite. Out of 70 employees, we have 6 that have a current driver's licence. Why? Low numeracy and literacy, unwillingness or inability to pass a test because of bad experiences at school, lack of self-confidence, RTA sanctions imposed for non-payment of fines, cancellation of licence due to traffic infringements – the list goes on. These are not simple matters to address.[222]

In recent discussions with communities concerning issues faced by Indigenous women exiting prison, one of the concerns raised was the difficulties many Indigenous people faced in accessing employment after their release from prison. While some jurisdictions are providing employment programs in an attempt to address this issue, Indigenous people remain severely disadvantaged with regards to employment if they have a criminal record.

221 Department of Employment and Workplace Relations, *CDEP Guidelines 2005-06*, DEWR, Canberra 2005, p4.

222 Wallaga Lake Community Development Employment Program, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005*.

In its submission to HREOC's inquiry into *Discrimination into Employment on the Basis of Criminal Record*, DEWR acknowledges:

> The characteristics that put Indigenous Australians at high risk of offending are to a large extent the same characteristics that are barriers to employment: low levels of education, homelessness, mental health issues, addictions, poor health and inadequate housing. Other significant factors are social, community and family dysfunctions that occur in many communities. These dysfunctions can be attributed to a loss of traditional identity and a breaking down of social and cultural control mechanisms. These factors often become enmeshed forming a continuing cycle that contributes to a higher involvement with crime and an over-representation of Indigenous people as both perpetrators and victims of crime.[223]

Access to training and education will improve employment outcomes for some Indigenous people, and the efforts made to access non-CDEP employment should not rest purely with Indigenous individuals and communities. Mainstream employers also need to receive appropriate training with regards to Indigenous specific issues in relation to work and employment practices. There seems to be no weight given to this important issue in regard to the changes to CDEP.

The Productivity Commission noted similar concerns relating to barriers to Indigenous employment in its 2002 Review of the Job Network. It noted:

> Systems for referral to the Job Network should be culturally sensitive. There are high barriers to the involvement of Indigenous Australians in the Job Network, particularly in remote Australia. This reflects the acute disadvantages of Indigenous Australians in gaining employment, the disincentives for engagement with a system that is distrusted, and practical obstacles even to commencing in the system (such as lack of transport or even a fully functioning labour market). This suggests the need for a more targeted approach to this group, with changes to processes for referral to Job Network providers. The capacity for introducing outcome payments for shorter duration jobs under Intensive Assistance … may also help Indigenous job seekers, for some of whom full integration into the workforce may need to be a staged and gradual process.[224]

Reflecting this concern some CDEPs have expressed caution about working more closely with mainstream Job Network providers. Bingalie CDEP comments:

> the discussion paper on the one hand gives CDEP organisations the option of strengthening their current operations as they relate to job, community work and business development with the carrot that CDEP's have the possibility of moving onto the area of Job Network Providers, it equally offers the option to Job Network Providers to move into the area of CDEP management. With restrictions on funding and training … it is most likely that CDEP's will find it difficult to compete and therefore be vulnerable to a "management takeover" by them. In our dealings with Job Network providers we have found a distinct lack of appreciation or understanding of the Indigenous system, as well as the cultural and educational constraints in dealing with ATSI peoples and their adoption of employment norms.[225]

223 Department of Employment and Workplace Relations, Submission No.49 in response to HREOC Inquiry *Discrimination In Employment On The Basis Of Criminal Record,* February 2005.

224 Productivity Commission (2002) *Independent Review of the Job Network, Inquiry Report*, Report No. 21, AusInfo, Canberra, pxxxvii.

225 Bingalie CDEP,), *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005.*

Cooramah Housing and Enterprise Aboriginal Corporation also state:

> Indigenous community members … won't go to mainstream offices, such as employment agencies or government departments, but they will approach the office of Cooramah to gain assistance. Cooramah has found great success in recent times by organising for the job link agency to conduct interviews through Cooramah's administration office. The participants will more readily attend a venue they are comfortable with, than down-town.[226]

■ *CDEP and a whole-of-government approach*

CDEP is an integral component to the government's whole-of-government approach to delivering Indigenous services, especially in relation to carrying out the nuts and bolts of its flagship – Shared Responsibility Agreements.

CDEPs will be responsible for performing many of the activities agreed under SRAs. These activities will range from essential service delivery activities such as garbage collection to community development activities such as building community halls and basketball courts.

Because CDEP activities are now closely tied to SRAs, and community has negotiated those SRAs with a range of stakeholders including federal, state/territory and local government, CDEP is unavoidably linked to a whole of government process.

Funding agreements will clearly articulate that CDEP schemes are now expected to engage more fully with government employment programs and other agencies like Job Network providers. This linking up with other agencies will provide CDEP participants with a web of information about employment and training opportunities outside of CDEP.

Peter Shergold in a speech discussing government partnerships explained:

> It is true that mainstream agencies have now been given responsibility for many of these programmes. That is for the purpose of ensuring that the Indigenous and general programmes are properly integrated: it is, for example, no use young Aboriginal job-seekers being supported by an Indigenous Employment Programme or finding part-time employment in a Community Development Employment Projects (CDEP) programme if they do not also have equal access to the Job Network array of labour market services.[227]

Not only will CDEP schemes now be encouraged and expected to connect with other employment and training programs, as well as manage its everyday activities, including those agreed to under an SRA, it is also responsible for a number of other programs such as the *Working for Families* initiative. Under the *Working for Families* initiative, DEWR provides funding for 1,000 CDEP placements to implement and expand the strategies designed to prevent and/or to assist victims of family violence and substance misuse in remote areas. Originally an ATSIC program it now falls under the DEWR program budget.

While the onus of undertaking and completing activities is the responsibility of the community generally, and the CDEP scheme more specifically, there is a concern that responsibility of government is being diminished, reduced to

226 Cooramah Housing and Enterprise Aboriginal Corporation, *Submission to Department of Employment and Workplace Relations Building on Success CDEP Discussion Paper 2005*.

227 Dr Peter Shergold, Secretary of the Prime Minister and Cabinet, *Speech delivered at Government and Communities in Partnership Conference,* Melbourne, 18 May 2005, downloaded 6 September http://www.pmc.gov.au/speeches/shergold/sharing_responsibility_2005-05-18.cfm.

being the provider of funds. There is concern that CDEP may become the catchall services provider, responsible for not only providing employment and training but also to take carriage of all activities agreed to under SRAs.

vi) Conclusions and follow up actions

Effective engagement of government with Indigenous communities is a fundamental factor that will determine the success or failure of the new arrangements. This section of the chapter has detailed some of the structures and processes currently being developed to achieve this.

Crucial to the implementation of the new arrangements is an informed and experienced workforce. An appropriately skilled public service is fundamental if the Government is to succeed with this ambitious undertaking.

A good first step has been the appointment of an Aboriginal and Torres Strait Islander Employment Coordinator with the Australian Public Service Commission and the development of the *Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees* and related activities. It is hoped that these steps will provide momentum for Indigenous peoples to participate and thrive in the public sector. I welcome opportunities to improve Indigenous recruitment and retention in the APS and will be following these initiatives closely.

However, I am concerned about the recruitment and training approaches of some agencies especially in relation to positions that will be working closely with Indigenous communities and the inconsistent use of Identified Criteria. Given that, in varying degrees, mainstream agencies are located in ICCs it is imperative that that appropriately experienced staff are selected for these positions as these are people who are in the front line of the new arrangements.

Related to this point are the teething problems in the coordination of service delivery, with reports that some departments are resisting the whole of government approach with local ICC staff expressing frustration at managers who are not familiar with local situation and issues. Also frustrating the process is the apparent mismatch between agencies and their level of understanding of the SRA process.

This illustrates the importance of suitably qualified and experienced staff and that ill coordinated programs not only impact on the morale of staff but also negatively impact on the communities they are meant to be serving.

The meta level of the new arrangements rely on Bilateral Agreements between State and Federal Government. At this stage, only one has been signed between the Northern Territory Government and the Commonwealth Government. The agreement sets out the ways in which governments will coordinate the whole of government approach including agreed accountability and outcome measurements. Further agreements are likely to be forthcoming in the next year.

Improving the accessibility of mainstream services is one of the main commitments of the federal government in establishing the new arrangements. Over the past 12 months the government has found this to be an extremely challenging task. Bilateral Agreements will play a role in coordinating programs across governments, and there have also been some positive developments with states and territories re-aligning their processes for service delivery. Harnessing the mainstream remains one of the key challenges for the new arrangements, as well as addressing the needs of urban Indigenous communities.

The reform to the CDEP Scheme highlights the potentiality of aligning Indigenous specific services with the mainstream. This is primarily focused on rural and remote areas. One of main principles of the new arrangements is the government's desire to see Indigenous people relying less on passive welfare and participating in mainstream employment. The changes to CDEP are aimed at addressing this issue. The lifting of remote area exemptions is another prong to this approach and one that will impact on the daily affairs of CDEP organisations.

The changes to CDEP will mean that CDEP activities must be tied to SRAs as well as the CDEP building better links with mainstream employment opportunities and developing business enterprises. The government has said that it will take into account local conditions and employment opportunities rather than being too prescriptive in their approach to outcomes. However, the lack of consultation during the development of the proposed changes as well as the perfunctory approach to community consultations after the release of discussion paper is not consistent with communities and governments being equal partners in this process. As CDEPs will be responsible for undertaking many of the activities agreed to under SRAs the lines of communication between governments and Indigenous peoples must be improved if individuals and communities are truly going to prosper under the new arrangements.

The focus on welfare reform also needs to be broadened to consider long-term challenges to the sustainability of Indigenous communities in rural and remote areas. This includes considering the relevance of educational opportunities available in such areas, the opportunities provided by the availability of new forms of technology, challenges for housing, economic development and employment. Debates about these issues to date are disjointed, often based on factual inaccuracies and do not look to the long term or sustainable outcomes.

In light of the issues raised in this section of the chapter, I identify the following activities that my Office will undertake in the coming twelve months to monitor issues of ongoing concern.

Follow up action by Social Justice Commissioner

4. The Social Justice Commissioner will examine approaches adopted by the government to improve the accessibility of mainstream services to Indigenous communities and individuals. This will include:

- conducting consultations and case studies with the participation of select urban, regional and remote Indigenous communities, to identify best practice as well as barriers to the accessibility of mainstream services;
- examining the role of solution brokers in Indigenous Coordination Centres and in the negotiation of Shared Responsibility Agreements (for example, by considering the percentage of funding allocated through SRAs from mainstream programs as opposed to Indigenous specific funding or the SRA flexible funding pool); and
- considering the impact of reforms to the CDEP Scheme, including changes to align the program more closely with mainstream employment programs.

6) The accountability and transparency of the new arrangements

The new arrangements for Indigenous affairs have been in place for over 12 months. It is now critical that steps be taken to ensure that the government's intended policy and program goals are properly monitored and outcomes appropriately evaluated. As the Office of Indigenous Policy Coordination has noted, 'improved monitoring and reporting are basic to devising good policy and measuring progress.'[228]

To date, progress has been slow in ensuring that the new arrangements are subject to rigorous and transparent monitoring processes. The absence of sufficient processes amounts to a failure of government accountability.

There are four main issues in relation to this:

- evaluating the COAG trials;
- improving performance information and data collection;
- ensuring monitoring and evaluation processes for the new arrangements; and
- linking the new arrangements to the *Overcoming Indigenous Disadvantage Framework*.[229]

i) Evaluation of the COAG trials

One of the main concerns outlined in the *Social Justice Report 2004* was the lack of evaluation of the COAG trial sites and publicly reported information about the trials. A particular concern was the reliance on the COAG trial model in implementing the new arrangements in the absence of evaluation of the workability of the approach.

In 2003, after the establishment of the trial sites, the Indigenous Communities Coordination Taskforce emphasised the importance of monitoring and evaluation. In the performance monitoring and evaluation framework for the trials, the taskforce stated:

> All governments and Indigenous stakeholders will want to know whether this approach has worked to improve outcomes for Indigenous people. The basic aim of evaluation will be to determine what has worked and why, what did not work and why, and whether the approach should be adopted more widely…[230]

In their report into capacity building and services delivery to Indigenous communities in 2004, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs also expressed concern at the lack of formal evaluations of the COAG trials. The report states:

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228 Office of Indigenous Policy Coordination, *Five principles – A Whole of Government Commitment and Changed Engagement*, OIPC, Canberra, online at: www.oipc.gov.au/About_OIPC/Indigenous_Affairs_Arrangements/2FivePrinciples.asp, accessed 5 October 2005.

229 My previous report identified ten 'follow up actions' that my Office would take during the subsequent year. This section of the chapter considers follow up actions 1 (evaluation of COAG trials) and 10 (adequacy of performance monitoring and evaluation processes, and links to the commitments of COAG).

230 Indigenous Communities Coordination Taskforce, *Shared Responsibility Shared Future, Indigenous whole of government initiative: The Australian Government performance monitoring and evaluation framework*, Australian Government, Canberra, October 2003, p5.

> The Committee is concerned that strong emphasis is being put on the COAG trials when they are yet to show tangible results, or to set or to achieve benchmarks in all Trial sites. The Trials are being promoted as a symbol of change, and as an indication of a Commonwealth commitment to both Indigenous communities and to whole of government coordination. However, the Committee has concerns regarding their experimental nature and that concrete indications of progress or publication of outcomes are yet to be produced, and believes that an effective reporting and accountability process needs to be implemented.[231]

- *Timetable and terms of reference for trial evaluations*

Twelve months on, there are still no formal evaluations of the trials that are publicly available. The OIPC have indicated that:

> An Australian Government monitoring and evaluation framework for the COAG trials was agreed in late 2003. This framework has been refined and is being progressively implemented.
>
> Each of the COAG trial sites is different, and there is not a single approach to evaluation that fits the circumstances of all sites. However, the Australian Government will be conducting independent evaluations for all trial sites in 2005, wherever practicable in collaboration with State or Territory Government agencies and the Indigenous community involved. Planning for these evaluations is well advanced in most sites; in the Murdi Paaki site the first evaluation report is nearing completion. The Office of Indigenous Policy Coordination (OIPC) will tender for an independent person to draw together and synthesise the findings from these individual trial site evaluations towards the end of 2005. OIPC is also looking to a subsequent round of site evaluations in 2007-08.
>
> A number of other mechanisms have also been used to allow feedback to be considered in future planning. These include 'lessons learned' papers provided by all governments to COAG, and workshops conducted for both governments and community members to allow the exchange of innovative ideas across the sites.
>
> All these activities are part of the Australian Government's commitment to the COAG principle of developing a learning framework for Indigenous service delivery. They will be used to share information and experience about what is working, what is not working and to strive for best practice in the delivery of services to Indigenous people, families and communities.[232]

The terms of reference for the independent evaluations to be conducted in 2005 has now been finalised. It is proposed that the evaluations will address issues including the following:

- A history and broad overview of the conditions and challenges at the start of the Trial.
- Any commitments made by governments and the community, including the extent of involvement of the community in setting the objectives and priorities for the Trial.
- What has and has not worked with the lead agency arrangements and why.

231 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Many Ways Forward – Report of the inquiry into capacity building and service delivery in Indigenous communities*, Parliament of Australia, Canberra 2004, p244.

232 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 19 September 2005, p1.

- The mechanisms in place to improve coordination between and within governments and what difference they have made.
- The kind of working relationships that have been built between the government and community partners and how this is affecting the operation of the Trial and community outcomes.
- What responsibilities have been shared. How these have worked.
- Whether governments and community have delivered on their respective commitments/undertakings.
- Who was involved when the Trial began, and who is involved now. Any changes that have occurred. Whether the work of the Trial is largely confined to governments and service providers.
- What the broader Indigenous community within the Trial site has done to demonstrate its support for and/or ownership of the Trial.
- The extent to which the community continues to support the objectives/priorities agreed at the start of the Trial. Whether they have changed, and if so why.
- What has worked and not worked from both the community's and the government's perspectives.
- Whether one part of the Trial is working better than others and why.
- Whether there is better coordination of government programs and services. Whether this has led to improved service delivery arrangements.
- What interim evidence exists of better outcomes and better ways of working together.
- Whether there have been any (good or bad) unintended consequences, outcomes or changes.
- Whether the Trial has progressed as far as hoped, and if not what the critical barriers were. What could be done about any barriers that exist.
- Whether the Trial should continue at all or continue in its current form. Whether there would be benefit in revisiting the agreed objectives, priorities or commitments for the Trial.
- Whether the Trial will be ready for evaluation in 2007-08.
- Whether agreements have measurable and achievable objectives and priorities. Whether there are baseline and/or ongoing performance monitoring reports.[233]

■ *Status of trial evaluations in each jurisdiction*

Various governments, and federal departments who are lead agencies for the trials, have also advised my Office as to the status of the evaluations of the trial sites. There appear to be differing views among governments on what evaluation activity is likely to be undertaken in 2005.

233 Office of Indigenous Policy Coordination, *A possible reporting framework for evaluating the COAG trials*, Correspondence dated 26 October 2005.

In relation to the **Tasmanian trial**, the Tasmanian government have advised that it is:

> currently in the process of developing a monitoring and evaluation framework for its COAG trial. At this stage, it is envisaged that the evaluation will consist of two main components. The first part will be a qualitative, independent review of the work of the project officer and the progress of the trial more generally, based on questions around outcomes and performance effectiveness. This will be coupled with an assessment of the extent to which progress has been made in each community within each trial site location. The second component of the evaluation will be an assessment of the shared responsibility agreements (SRAs) that monitors and assesses the extent to which progress has been made under each SRA. The evaluation will be based on established milestones and benchmarks.[234]

In relation to the **East Kimberley trial**, the Western Australian government has stated that:

> An evaluation of the WA COAG trial has not yet been undertaken, but is planned to commence in 2005. The Western Australian and Australian Governments have commenced planning for a formative evaluation in 2005, followed by a summative evaluation in 2008.[235]

The Department of Transport and Regional Services (DoTARS) has informed my Office that in relation to the same trial:

> The Office of Indigenous Policy Coordination is undertaking the evaluation of the COAG trial in the East Kimberley on behalf of DOTARS, with DOTARS input and oversight. Discussions with the Western Australian lead agency have commenced. The evaluation is expected to be completed by before the end of 2005.[236]

In relation to the COAG trial on the **Anangu Pitjantjatjara Yankunytjatjara (APY) Lands**, the South Australian government have advised there had been no progress in the trial up to June 2004. Since then, however:

> an historic meeting initiated by the (AP) Executive was held at Alice Springs (in April 2005). State, commonwealth and Anangu organisations were brought together with the intention of identifying an effective way for all organisations to work and plan together to achieve the Anangu objectives of providing better outcomes in law and order, health, education, employment and housing and to create better opportunities for young people.
>
> As a result of this meeting, a group that consists of senior APY and government representatives has been formed. (It) will oversee service delivery on the APY lands… The state government is currently developing a set of indicators to evaluate progress against the five year APY Lands strategic plan that will also provide a means for evaluating the effectiveness of the COAG trial.[237]

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234 Premier of Tasmania, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 22 August 2005, p1.

235 Premier of Western Australia, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

236 Department of Transport and Regional Services, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 14 July 2005, p4.

237 Minister for Aboriginal Affairs and Reconciliation (South Australia), *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 9 September 2005, p2.

In relation to the **Wadeye trial** in the Northern Territory, the NT government advise that:

> The terms of reference for the evaluation… have been provided to Thamurrurr. Once comments… are received, the evaluation will be able to proceed.[238]

In relation to the **Cape York COAG trial**, the Queensland government has indicated that they provided COAG with 'an evaluation which focuses on lessons derived from the COAG Trial over the last twelve months.'[239] They provided a copy of this 'lessons learned' paper to my Office. They also advise that a detailed evaluation of the *Meeting Challenges Making Choices* strategy is also underway.

The evaluation of the Cape York COAG trial site notes the importance of the Cape York Strategy Unit which 'provides communities with a single point of contact to discuss their issues with Commonwealth and Queensland government officials' as well as the Government Champions process (which sees Chief Executive Officers of Queensland government departments lead activities in communities). They also identify the success of the negotiation table process and the development of Community Action Plans as having 'improved the day to day outcomes of government-community interaction.' The evaluation also states that the COAG trial 'has also created a positive platform for greater government collaboration, including the formation of networks and identification of new ways to work together.'[240]

The Queensland evaluation also notes the following factors in relation to the COAG trial:

> **What doesn't work?**
>
> COAG has endorsed principles of aligning and re-engineering programs to deliver practical outcomes for Indigenous communities. These reform objectives would be better met through improving the allocation of resources to areas of acute need, and through increasing flexibility to respond to community priorities. The trial's focus on process is time-consuming and has the potential to delay outcomes, and it is tangible results that are needed to maintain stakeholder confidence.
>
> Government agencies need to engage with communities in a consistent and regular manner. While good conceptual ideas have been presented regarding red tape reduction, these have not always translated in action and communities continue to face significant bureaucratic procedures and excessive contractual obligations. The delivery of more effective responses to community needs may be facilitated by shorter timeframes for funding approvals and more coordination on the parts of government.
>
> The Queensland and Commonwealth governments are currently looking at mechanisms to reduce red tape, initially focusing (on) Lockhart River. While this issue presents challenge, both governments recognise the importance of reducing the bureaucratic load on communities and more coordination on the part of government.
>
> While overall engagement between the Queensland and Commonwealth Governments has been improved by the COAG trial, further work is required to set up joint government programs. Both Commonwealth and Queensland agencies

238 Chief Minister of Northern Territory, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

239 Premier of Queensland, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1 and Attachment 2: *Evaluation of the COAG Trial Site in Cape York*.

240 *ibid.*, pp1-2.

would benefit from clearer funding responsibilities and standards of services, and the identification of future priorities. Communities would also benefit from a government approach to information exchange and data sharing that forms a reliable evidence base for measuring outcomes and progress. One area that would benefit from increased coordination and information exchange is drug and alcohol rehabilitation, in which the Commonwealth Government's whole-of-health plans and the Queensland Government's alcohol management plans continue to operate discretely.

Strengthened participation of non-governmental organizations and private enterprise would also enhance coordination and improve outcomes for communities. Westpac Bank has provided financial and business-planning services within several Cape York communities. However, other businesses have been slow to take up this opportunity and economic investment in the trial site is still limited.

What can be applied more broadly to future activity and arrangements?

The trial provides models of collaboration that could be applied in a broader context without the need to expend financial and human resources on such a large scale.

The Negotiation Tables process is broadly applicable as a means for governments to engage with communities. It provides a forum for communities to communicate their interests and goals and for governments to provide information and state their priorities. Community Development Plans drawn from negotiation tables provide for immediate and tangible responses to the identified needs of communities.

Assigning a Queensland Government CEO to a community as a Government Champion can build community confidence in engaging with government. It can also draw attention to indigenous issues throughout mainstream government agencies.

Most importantly, governments must recognise the need for strong partnerships with communities. Through partnership and cooperation, governments and communities can take full advantage of opportunities to improve outcomes for Indigenous Australians.[241]

In relation to the evaluation of the **Murdi Paaki trial site**, the Department of Education, Science and Training (DEST) states:

> DEST is working closely with the NSW Government to using its data collection tools through the NSW *Two Ways Together Policy* to identify benchmarks to measure progress through the COAG trial.
>
> As part of the *Monitoring and Evaluation Framework,* a project commenced in March 2005, which evaluated the effectiveness of community governance structures, and identified issues that may either improve or hinder the development of effective partnerships between Indigenous communities, government and non-government agencies. … Six Indigenous communities participated in a series of focus group meetings in Bourke, Lightening Ridge, Goodooga, Gulargambone, Menindee and Broken Hill. The project is scheduled for completion in July 2005.
>
> The trial in Murdi Paaki is continuing to evolve. Working in a Whole of Government environment is a challenging task. It is resource intensive and building trust and effective working relationships takes time and commitment. While formal evaluation processes are still being finalised, some emerging lessons in Murdi Paaki include:

241 *ibid*, pp3-4.

- The importance of building strong relationships cannot be over-valued.
- Building governance and leadership capacity within government and community is essential to this process.
- Among those with a good understanding of the purpose of the COAG trial and the mission of the CWPs [Community Working Party], there is a good deal of optimism and support in most of these communities for the current arrangements.
- Organisational matters represent a problem for several CWPs, with a lack of skilled secretariat support being of concern in most communities.
- Work needs to be done on linking the key indicators of Indigenous disadvantage to the bottom up priorities emerging from communities.
- The ambition and expectations of working in a whole of government way need to be matched with a reality and rigour in the way they are articulated.
- Work needs to be done to ensure that all programs and services have the necessary flexibilities for joined up approaches and quick responses.[242]

The New South Wales government has expanded on this information in relation to the evaluation of the Murdi Paaki trial site. They note that:

Evaluation and monitoring to date has included:

- Development of a Murdi Paaki Indicators Framework based on the National Reporting Framework on Indigenous Disadvantage.
- Focus groups and interviews with 6 CWPs and broader community representation between March and April 2005. The focus groups and interviews examined levels of community governance, relationships with government agencies and knowledge and perspectives on the Community Working Parties.
- Monitoring the development and implementation of SRAs by the Murdi Paaki COAG Trial Steering Committee and Regional Group. The Murdi Paaki Regional Council (now Regional Assembly) is represented on both these groups.
- Evaluation by the Murdi Paaki COAG Trial Regional Group of improvements in the coordination of service delivery between and within government agencies.
- Community governance and COAG trial processes are evaluated twice a year through Community governance workshops. Three representatives from each of the 16 CWPs attend these workshops.
- Informal monitoring of the COAG trial processes through COAG Action Team representation at CWP meetings.[243]

Similarly, the draft evaluation report by URBIS – *Community governance in the Murdi Paaki region* – indicates that:

- Among those with a good understanding of the purpose of the COAG trial and the role of the Community Working Parties (CWPs), there is a good deal of optimism and support for the COAG Trial. It was agreed that the trial process, the CWPs and Community Action Plans are good mechanisms for seeking better coordination of government services based on community priorities.

242 Department of Education, Science and Training, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*,p5.

243 NSW Cabinet Office, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005,* 18 October 2005, pp2-3.

- Uncertainties exist among some CWP members about the roles and responsibilities of the CWP, and some varying views about its powers and the range of matters that it should deal with.
- Consideration could also be given to ways of achieving better ongoing communication between CWPs and their communities.
- Some CWPs continue to struggle with practical problems relating to organisation or administration. Improved support or resources would help ease the administrative load on Chairs and other CWP members, help in the task of communicating more effectively with the community, and hopefully lead to more efficient and effective CWP operations.
- Community feedback through Community governance workshops, CWP meetings and the focus group evaluation indicates strong community support for the community planning process.[244]

In relation to the **Shepparton trial**, the Victorian government have indicated that:

> The Trial is in the early stages of development, limiting benefit from comprehensive evaluation at this stage. Recent research indicates that the 'start up' phase of community capacity building initiatives can take two to three years and that limited value is gained from implementing evaluation strategies at this stage as initiatives that are focused on changing outcomes are usually still in the process of being developed…
>
> There has been work undertaken to collect baseline data for future reference… Development of the evaluation will be a joint effort across the community, State, Commonwealth and Local Government. This is intended to occur over the next 12 months.[245]

In the absence of any government evaluation, the community partners in the Shepparton COAG Trial commissioned an independent evaluation of the trial in 2004. The report of the evaluation *Take It Or Leave It* revealed why the COAG trial in that region was failing. One of the key findings of the report was:

> the lack of accountability of the government entities involved in the COAG pilot. Neither the Commonwealth nor the State Government publish any performance criteria by which their management of the Shepparton COAG project can be measured…
>
> If the COAG pilot is unable to function successfully in an innovative and tested Aboriginal community such as Shepparton, the question must be asked: Where can it succeed? The results of the unfolding COAG trial in Shepparton go straight to the heart of social justice for Aboriginal people. They also speak directly of a crisis in accountability from all three levels of Australian government.[246]

In 2005, Shepparton's Aboriginal community commissioned a follow up report titled *Measuring Success* which aims to 'focus on the detailed analysis of how the COAG pilot might be assisted to better deliver on its potential.'[247]

244 *ibid.*

245 Premier of Victoria, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

246 The Eureka Project, *Take It Or Leave It – How COAG is failing Shepparton's Aboriginal People*, The Eureka Project Pty Ltd, Melbourne, October 2004, p6.

247 The Eureka Project, *Measuring Success – Sharing power and accountability with Shepparton's Aboriginal people*, The Eureka Project Pty Ltd, Melbourne, September 2005, p9.

The report reiterates the earlier reports findings:

> After three years of interaction between COAG and the Shepparton Aboriginal community, the continued absence of baseline data means that there has been no development of milestones to be achieved by the pilot. There is a lack of rudimentary knowledge to the extent that there is still no reliable estimate of how many Aboriginal people live in the region. Consequently, there is no agreed understanding of what success might look like, were it ever achieved.[248]

The report recommends the establishment of a group of eminent Australians who would keep a 'scorecard' on the progress and outcomes of the COAG trials. The report recommends the 'scorecard' will:

> identify what success 'looks like' in plain English based on the aspirations of Aboriginal people, the wider Shepparton community and the governments and businesses involved in the region. Initially the scorecard will focus on the key areas of identity, health, employment, education and governance.
>
> The scorecard will not be a 'misery index'. It will focus on the activities that are tangibly contributing to success and will actively seek to propagate their characteristics across wider gamut of activities and partnerships. The flipside is that the scorecard will need to identify those areas of the partnerships that are not contributing to success and to analyse the reasons for blockages occurring. The scorecard will apply as rigorously to the Aboriginal community as it does to any other partner organisation or sector.[249]

In relation to the **Australian Capital Territory trial**, the ACT government advise that they are 'presently working with the Australian Government to develop an evaluation process for the... Trial.'[250] The Department of the Environment and Heritage notes:

> In conjunction with the ACT Government, the Office of Indigenous Policy and Coordination is engaging a consultant to conduct a 'formative' evaluation of the ACT COAG trial. The objectives of the evaluation are:
>
> - to ascertain what is working well and to make recommendations to improve the work of the trial; and
> - to suggest possible approaches to ensure that governments and the ACT Indigenous community are well placed for further evaluation of the trial site in 2008.[251]

■ *Concerns relating to the COAG evaluations*

Progress in advancing evaluation frameworks for the COAG trials is mixed. As reported in last year's *Social Justice Report,* preliminary evaluations of the COAG trials were due in 2004. They are now due in 2005, and some appear unlikely to be produced until 2006.

248 *ibid.*

249 *ibid.*, p10.

250 Deputy Chief Minister, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

251 Department of the Environment and Heritage, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, 13 July 2005, p4.

I am particularly disturbed by the statements of some governments and departments which tend to suggest that in some trials the baseline data for the evaluations still does not exist. This is illustrated by the inclusion in the OIPC evaluations terms of reference of an item to establish whether 'the Trial(s) will be ready for evaluation in 2007-08', 'have measurable and achievable objectives and priorities' and if 'there are baseline and/or ongoing performance monitoring reports.'[252]

It appears that the quality of evaluations will vary between trial sites, based on how advanced each site has been in putting into place the necessary steps to enable an evaluation to take place. I have doubts that each evaluation will be able to address the full range of matters identified by the OIPC in the evaluations terms of reference based on the information provided by governments above.

I am concerned also by the lack of independence in the conduct of some of the evaluations. Given the importance of the trials and their lessons for the implementation of a whole of government approach to Indigenous issues (across all layers of government, not just within one level of government) evaluations should be done at arms length and based on solid evidence. The statement that evaluations will be 'formative' also does not suggest that the evaluations will be based on solid, verifiable evidence.

The lack of progress and lack of transparency on this issue has the potential to undermine the credibility of the trials. This would be a great shame, given that there are positive lessons to learn from these major initiatives.

Concerns have also been raised with my Office that the focus in COAG trials in being lessened by some federal government lead agencies. This is particularly in the Murdi Paaki, Cape York and Shepparton trials.

My Office will continue to monitor progress in the conduct and evaluation of the trials over the next twelve months. Hopefully, during this time we will see the completion of the proposed evaluations and their results being made public and open to scrutiny.

ii) Improving performance information and data collection, and ensuring adequate monitoring and evaluation processes for the new arrangements

The change to a whole of government approach through the new arrangements necessitates rigorous monitoring and evaluation processes. It also creates a number of challenges for the collection of performance information and data to support decision-making and to measure both inputs and outcomes. This is particularly so given the commitments through the new arrangements to ensure improved accessibility of mainstream services and a holistic approach to service delivery.

At present, data collections and performance information systems do not provide information on a consistent or comparable basis. Furthermore, there is at present very little opportunity to identify the extent of usage of mainstream services by Indigenous peoples and consequently, very little information on which mainstream services Indigenous peoples experience the most barriers for access and use.

252 See above.

The absence of consistent and comparable data is problematic as it can result in inefficiencies, duplication and a lack of accountability. It does not provide appropriate support for policy development within a whole of government framework, nor assist in the monitoring of program performance in a holistic manner.

In relation to Indigenous specific services, the programs formerly managed by ATSIC (totalling $1billion) are now managed by 16 mainstream agencies through the ATSIC Grants Management System. The remaining Indigenous specific funding of $1.9 billion for 2004-05 is being managed through the separate and different financial systems of each mainstream agency.[253]

The Commonwealth Grants Commission *Report on Indigenous Funding 2001* identified a range of actions that governments should implement to improve performance monitoring and to be able to allocate funding based on relative need. These remain relevant for whole of government activity. The report states:

> Improving the availability of up-to date, accurate and comparable data is an essential investment for effective planning and resource allocation. If objective resource allocation is to be achieved, especially allocation on the basis of indexes of relative need, priority must be given to collecting comparable regional data for many variables. These include:
>
> (i) basic demographic data – such the number of Indigenous and non-Indigenous people, their age distribution, household size, income characteristics, employment status and where they live;
> (ii) the use of services by Indigenous and non-Indigenous people – such as primary health care, hospital inpatients, school and training enrolments, and participation in labour market programs;
> (iii) availability of facilities and access to them – including access to health facilities and schools, and the availability of housing;
> (iv) outcomes of services – such as literacy and numeracy achievements, indicators of health status, employment status, housing occupancy and housing conditions; and
> (v) funds available for services provided to both Indigenous and non-Indigenous people – for both mainstream and specific purpose programs provided by Commonwealth, State and other providers.
>
> To achieve good consistent data, we think that the Commonwealth, State and other services providers should, with urgency:
>
> (i) identify minimum data sets and define each data item using uniform methods so that the needs of Indigenous people in each functional area can be reliably measured;
> (ii) prepare measurable objectives so that defined performance outcomes can be measured and evaluated at a national, State and regional level;
> (iii) ensure data collection is effective, yet sensitive to the limited resources available in service delivery organisations to devote to data collection;
> (iv) negotiate agreements with community based service providers on the need to collect data, what data should be collected, who can use the data, the conditions on which the data will be provided to others and what they can use it for; and
> (v) encourage all service providers to give a higher priority to the collection, evaluation and publication of data.

253 Office of Indigenous Policy Coordination, *Australian Government Indigenous Management Information System (AGIMIS) Project Strategy – Stages 1 and 2, Overview*, OIPC Canberra 2005, p3.

> Without these steps, data will never be adequate to support detailed needs based resource allocation. Many of these principles are being followed in the work that is underway. However, it is likely to be a long time before the benefits are obtained in the form of more complete and comparable data that can be used to measure needs as part of resource allocation processes.[254]

■ *Developments in performance information systems and the budget process*

There have been some positive developments over the past year that are aimed at addressing a number of the issues that relate to performance information. In particular, OIPC have commenced a scoping project to introduce a new comprehensive federal government information management system and a single line budget approach has been introduced across all Indigenous funding as part of the Federal Budget 2004-05.

In relation to the government's performance information systems, the Office of Indigenous Policy Coordination has noted that there are a number of program and implementation issues raised by the transition to a whole of government approach and that this 'requires the development over the longer term of a comprehensive management information system.'[255] They state:

> the success of the new arrangements will partly rely on effective and timely information exchange between agencies and the reporting capabilities at all levels... Ideally, adequate and comparable information and data should be available in the agencies, in OIPC, and at all levels, from the Communities and ICCs to the Ministerial Taskforce…
>
> Improved provision of information across government will support better accountability, efficiency and reduction in duplication. An agreed reporting framework and improved monitoring arrangements will enhance the quality of the information to Government on where and how money is spent, on whom, and who benefits.[256]

The OIPC have commenced to develop such a coordinated information management system, to be called the Australian Government Indigenous Management Information System (AGIMIS).

Through the initial stage of the AGIMIS Project the following findings have been made:

- there are up to 196 separate programs that are Indigenous-specific or have a distinct Indigenous component;
- the degree of Indigenous access to mainstream programs cannot yet be identified on a whole of government basis;
- the reporting on many programs is driven primarily by annual reporting requirements at the agency level;
- few agencies use performance reporting frameworks for their Indigenous programs;
- there is inconsistent treatment of performance indicators and measures between agencies and sometimes within agencies;

254 Commonwealth Grants Commission, *Report on Indigenous Funding 2001*, CGC Canberra 2001, pp95-96.

255 Office of Indigenous Policy Coordination, *Australian Government Indigenous Management Information System (AGIMIS) Project Strategy – Stages 1 and 2, Overview*, *op.cit.*, p5.

256 *ibid.*, p4.

- there is little explicit articulated connection reported between program outputs/outcomes and government strategic Indigenous frameworks;
- the performance and service delivery data captured about Indigenous programs varies widely, with the most comprehensive data being based on budget, and less comprehensive data available on service providers, recipients, locations and expenditure; and
- the connectivity between data sets, and even data about the same program is often poor.[257]

While addressing these issues is likely to be a long term project, AGIMIS is being developed with the following objective:

> The main objective of the AGIMIS Project is to develop an Indigenous management information system to support the long term policy, program implementation and reporting requirements of the "joined up", whole of government approach to Indigenous funding, program performance monitoring and reporting. [258]

The AGIMIS Project will collect data and provide reports to monitor investment by Government, initially on Indigenous-specific activity and that at a later stage on mainstream services accessed by Indigenous people. The information will allow input to the measurement of overall outcomes and the assessment of effectiveness and efficiency of programs.

It will not operate by creating a new project management system for all government agencies to use. Instead, it will:

> *harvest* data collected by agencies – not… be a point of collection itself. In this way, AGIMIS minimises duplication of collection, and does not become an impediment to improvements in management of Indigenous programs.
>
> the coverage and depth of AGIMIS reporting will therefore be determined by the capacity of agencies and their systems to provide current data, collect new or different data, and to enhance their data collection systems… this is a major undertaking for the agencies concerned, including the OIPC.[259]

The OIPC note that the development of the AGIMIS database is a long term project and 'it's implementation is expected to take several years as agencies have not generally been geared to whole of government data provision and/or reporting.'[260] It is intended that the project will involve collection of a minimum data set (with collection and reporting during 2005-06); an extended data set will then be developed to provide service level data (to commence in 2006); and scoping of processes to collect mainstream data will also commence in 2006.

The prime challenge for this project is consistency and compatibility of data. Another significant challenge will be whether there is the ability for the data collected by AGIMIS to be related to data on Indigenous socio-economic outcomes.

257 Office of Indigenous Policy Coordination, *Initial Scoping Report – AGIMIS project unit*, Version 1.1, OIPC Canberra 2005, pii.

258 *ibid.*, p5.

259 *ibid.*, pi.

260 Office of Indigenous Policy Coordination, *AGIMIS – Implementation*, Website information, available at: www.oipc.gov.au/AGIMIS/Implementation/default.asp, accessed 15 September 2005.

AGIMIS is potentially a powerful tool for identifying the nature and scope of government activity on a local and regional level and supporting whole of government activity and reporting. It may have longer term benefits in improving the performance information available for government activity and could provide a useful tool for advancing the proposals first made by the ABS and the Commonwealth Grants Commission for identifying funding and matching it to Indigenous need on a regional basis.

My Office commends the OIPC for the preparatory work done in developing the AGIMIS system and will maintain an interest in developments in this system over the coming years.

Commencing with the federal budget in 2004-05, the government has also introduced a new process for the Indigenous budget. All Indigenous specific funding is allocated through a single line budget process. The Secretaries' Group explained this process as follows:

> Under the new arrangements:
>
> - all new policy proposals from Ministers for government investment in Indigenous-specific initiatives are now considered together in a single Indigenous Budget submission;
> - strategic decisions can be taken against government priorities for Indigenous-specific expenditure, including opportunities to maximise coordination and minimise duplication or overlap; and
> - proposals and decisions are informed by an assessment of the performance of existing Indigenous-specific programmes and services.[261]

The process for preparing the single line budget intends to improve coordination of government funding and programs, through the oversight of the Ministerial Taskforce and Secretaries' Group.[262] It constitutes a significant advance in streamlining government funding processes and aligning programs to the priority areas identified by the government.

■ *Data collection issues*

At present, there is limited data available to indicate progress on a variety of measures through the new arrangements.

Outcomes for the period since the new arrangements have been in place will not show up in data collections and analysis for at least another 2 to 4 years. This is because we are unlikely to see analysis of the 2006 Census until 2007 or 2008, and analysis of the next National Aboriginal and Torres Strait Islander Social Survey (NATSISS) until at least 2008. The latest report on Overcoming Indigenous Disadvantage by a Productivity Commission Steering Committee, released in July 2005, reflects on data that pre-dates the new arrangements on most indicators. Therefore, it will not be until 2007 that any data compiled in accordance with the commitments of COAG and reported in a holistic manner, will relate to the new arrangements.

261 Secretaries Group on Indigenous Affairs, *Bulletin (May 2005) – The Budget*, Available online at: www.apsc.gov.au/indigenousemployment/bulletin0505.pdf, accessed 15 September 2005.

262 For details of the review process see: *ibid*.

Similarly, it is not easy to manipulate current data to identify regional trends and variations. Given the reliance of the new arrangements on regional approaches and coordination through regional ICC offices, the proposed use of Regional Partnership Agreements for structuring regional representation and priority setting, and the continuation of COAG trials in select regions, being able to disaggregate to the regional level is very important to establish the success or otherwise of the new approach.

There also remains an ongoing need for improvement to data quality and collections to support policy. The *Overcoming Indigenous Disadvantage report* has identified the strengths and weaknesses of current data collection sources as follows:

- *Census data*: censuses takes place every 5 years, with the next planned for 2006. They are generally robust, rich in information and potential for disaggregation. Census tables showing population characteristics are not adjusted for undercount. In 2001, the undercount for the total Australian population was estimated to have been 1.8 per cent. The Indigenous population undercount in 2001 was estimated at 6.1 per cent.
- *Survey data*: such as the National Aboriginal and Torres Strait Islander Social Survey and the National Health Survey, provide a rich source of data at higher levels of aggregation, for example, national, State and Territory data, with non-remote ad remote area disaggregation available. The ABS has introduced a three year rolling program of specific Indigenous household surveys, the next being the 2004-05 National Aboriginal and Torres Strait Islander Health Survey, with results due in 2006. These surveys are designed to ensure that core data items are retained for each survey cycle to enable key data comparisons over time. Data are subject to sample error, especially when disaggregated to a level beyond that the survey sample was designed to accommodate.
- *Administrative data:* are frequent (often annual) but are prone to differential levels of coverage of Indigenous identification across jurisdictions. Furthermore, there may be disparities amongst jurisdictions in the definitions used within collections, which can render national comparisons problematic.[263]

Another weakness resulting from the demise of ATSIC is the lack of structures currently in place that provides a framework to consult with Indigenous peoples. Effective data collection includes consulting with Indigenous peoples. As previously mentioned the Aboriginal *and Torres Strait Islander Commission Act 1989 (Cth)* established requirements for various federal agencies (including the Australian Bureau of Statistics) to consult with ATSIC on specified issues. The provisions were repealed as part of the abolition of ATSIC and alternative provisions for consulting with Indigenous organisations or peoples were not substituted into the amended Act.

263 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: key Indicators 2005*, Productivity Commission, Canberra, Foreword, pp2.18-2.19.

What these factors indicate is that over the next few years it is not going to be easy to use existing data collections to establish the impact of the new arrangements on Indigenous socio-economic outcomes. This will particularly be so at the regional and sub-regional level.

■ *Monitoring and evaluation processes for the new arrangements*

One aspect of the new approach that has received limited attention from government to date is the establishment of processes to monitor and evaluate the new arrangements at a system wide level.

As already noted, there has been limited progress in evaluating the COAG trial sites, despite their significant influence in the design of the approach adopted through new arrangements.

There has also been limited attention paid to monitoring the Shared Responsibility Agreement process. As noted earlier, there are inconsistent provisions for measuring outcomes under these agreements (with confusion in the use of terms such as targets, outcomes, benchmarks etc) and unclear processes within agreements for monitoring and evaluation. OIPC have confirmed that SRAs will initially be evaluated on a limited basis by OIPC itself in the first half of 2006 – i.e. not through independent processes.

The OIPC has stated that programs and service delivery to Indigenous communities will be assessed in the new arrangements through:

> multiple layers of evaluation and performance monitoring. Collectively, these constitute the key accountability mechanisms for the new arrangements, and will also help to develop a learning framework to share knowledge about what is working, what isn't and why.[264]

They have identified the key streams of evaluation as:

- Evaluations by independent authorities, including:
  - the Office of Evaluation and Audit (Indigenous Programs) (OEA(IP));
  - the Australian National Audit Office; and
  - the Aboriginal and Torres Strait Islander Social Justice Commissioner;
- Departmental evaluations of Indigenous specific programs and services; and
- Cross portfolio and multi-agency evaluations – coordinated by OIPC.[265]

In addition, there are also the various projects being undertaken by the Australian Public Service Commission in accordance with the *Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees* that will include evaluative components on the new arrangements.

The OIPC note that the accountability framework for the new arrangements also links to a series of performance monitoring systems, which include:

- the Overcoming Indigenous Disadvantage Report (which is based on the National Reporting Framework on Indigenous Disadvantage);
- the annual Report on Government Services from the Steering Committee for the Review of Government Services;
- regular reports from the ABS and AIHW;

264 Office of Indigenous Policy Coordination, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p1.

265 *ibid.*

- performance information and reporting through Portfolio Budget Statements and Departmental Annual Reports; and
- a public annual report detailing the performance of Indigenous programs released by the Secretaries' Group on Indigenous Affairs.

These evaluations and performance reports will be augmented by public-sector, academic and independent research activities.[266]

The Office of Evaluation and Audit (Indigenous programs) (OEA(IP)) is the primary evaluation mechanism for government programs relating to Indigenous service delivery in the new arrangements. The OEA(IP) is located within the Commonwealth Department of Finance and Administration (DoFA).

Its role is to assist in improving the performance and public accountability of Indigenous-specific programs. This is achieved by conducting a regular program of independent, objective and systematic evaluations and audits of:

- relevant programs administered by an Australian Government body;
- related aspects of the operations of Australian Government bodies delivering those programs;
- particular activities of organisations or individuals funded under those programs when requested by the Minister; and
- organisations or individuals where funding or loan agreement provides for evaluation or audit by OEA(IP) and where the Minister consents to the evaluation or audit.[267]

DoFA have advised that the OEA(IP) will play a central role in measuring the performance of the Australian Government's Indigenous programs. The work program established by OEA(IP) for the next two years is set out in Text Box 9 below. It is ambitious and is likely to provide some much needed insight into the progress of the new arrangements.

Text Box 9: Office of Evaluation and Audit (Indigenous Programs) OEA(IP): Audit Program 2005-06, by agency[268]

Attorney-General's Department

- Family Violence Prevention Legal Services Program (in progress as at July 2005)
- Prevention, Diversion and Rehabilitation Program (to commence 2005-06)
- Evaluation of Indigenous Legal Services (reserve topic)

Communications, Information Technology and the Arts Portfolio

- TAPRIC – Community Phones Program (to commence 2005-06)
- Evaluation of Support for Indigenous Visual Arts (to commence 2006-07)
- Sporting Opportunities for Indigenous People Program (reserve topic)
- Indigenous Broadcasting Program (reserve topic)

Education Science and Training Portfolio

- Evaluation of Indigenous Strategic Initiative: Away-from-Base (in progress at 1 July 2005)

266 *ibid.*

267 Office of Evaluation and Audit (Indigenous Programs), *Evaluation and Audit Work Program July 2005-June 2007*, OEA(IP), Department of Finance and Administration, Canberra, 2005, p1.

268 *ibid.*

- Indigenous Education Strategic Initiatives Program (to commence 2005-06)
- National Report to Parliament on Indigenous Education and Training (to commence 2005-06)
- Tuition Assistance (to commence 2006-07)
- Evaluation of Supplementary Recurrent Assistance (to commence 2006-07)
- Homework Centres (reserve topic)
- Parent-School Partnership Initiative (reserve topic)

- ***Australian Institute of Aboriginal and Torres Strait Islander Studies***
  - Collection Development and Management (reserve topic)

Employment and Workplace Relations Portfolio

- Audit of CDEP organisations (in progress at 1 July 2005)
- CDEP Performance Information (to commence 2005-06)
- Indigenous Economic Development Strategy (to commence 2006-07)
- Indigenous Youth Employment Consultants Program (reserve topic)
- Indigenous Community Volunteers (reserve topic)

- ***Indigenous Business Australia***
  - Third Party Funding Arrangements – Follow-up audit (in progress at 1 July 2005)
  - Evaluation of Indigenous Business Australia (to commence 2005-06)
  - Business Development Program (to commence 2006-07)

Environment and Heritage Portfolio

- Maintenance and Protection of Indigenous Heritage (reserve topic)

Family and Community Services Portfolio

- Audit of Indigenous Housing Organisations (in progress at 1 July 2005)
- Third Party Funding Arrangements – Follow-up audit (in progress at 1 July 2005)
- Aboriginal Rental Housing Program (to commence 2005-06)
- Evaluation of Family Violence Prevention Program (to commence 2005-06)
- Healthy Indigenous Housing (to commence 2006-07)
- Indigenous Community Stores Project (reserve topic)
- Indigenous Child-Care Services (reserve topic)
- Evaluation of Social Support Programs for Indigenous People (reserve topic)

- ***Aboriginal Hostels Limited***
  - AHL Community Operated Hostels (to commence 2006-07)

Health and Ageing Portfolio

- Audit of Croc Festivals (in progress at 1 July 2005)
- Audit of Aboriginal Community Controlled Health Services (in progress at 1 July 2005)
- Primary Health Care Access Program (to commence 2005-06)
- National Aboriginal and Torres Strait Islander Health Performance Framework (to commence 2005-06)
- Implementation of the National Strategic Framework for Aboriginal and Torres Strait Islander Social and Emotional Wellbeing (to commence 2006-07)
- Aboriginal and Torres Strait Islander Substance Abuse Programs (to commence 2006-07)
- Aged Care Strategy for Aboriginal and Torres Strait Islander people – Residential Care (reserve topic)

- Australian Hearing Special Program for Indigenous Australians (reserve topic)
- Eye Health Program (reserve topic)

Human Services Portfolio

- Centrelink Agents (reserve topic)

Immigration and Multicultural and Indigenous Affairs Portfolio

- Audit of Native Title Representative Bodies (in progress at 1 July 2005)
- Audit of Indigenous Coordination Centres (to commence 2006-07)

Torres Strait Regional Authority

- Torres Strait Regional Authority Audit (in progress at 1 July 2005)
- Torres Strait Regional Authority CDEP (to commence 2006-07)
- Torres Strait Regional Authority – Housing and Environmental Health Infrastructure (reserve topic) Indigenous Land Corporation
- Assistance in the Acquisition and Management of Land (to commence 2006-07)
- Aboriginal Benefits Accounts (reserve topic)

The evaluations conducted by OEA(IP), as well as those by the Australian National Audit Office, relate to specific Indigenous programs. At this stage it is not planned that there be any independent evaluation of the system wide operation of key aspects of the new arrangements. For example, there are no evaluations planned of the effectiveness of whole of government coordination through the operation of Indigenous Coordination Centres or processes relating to Shared Responsibility Agreements. In light of the complexity of the new approach, it would be beneficial for there to be an independent review of the systemic issues relating to the new arrangements over the next two years.

- *Linking the new arrangements to the Overcoming Indigenous Disadvantage Framework*[269]

In July 2005, the Productivity Commission on behalf of the Steering Committee for the Review of Government Service Provision released the second report against the *Overcoming Indigenous Disadvantage Framework*. The report:

> documents outcomes for Indigenous people within a framework that has both a vision of what life should be for Indigenous people and a strategic focus on areas that need to be targeted if that longer-term vision is to be realised. It can therefore provide governments with information needed to assess whether their policy interventions are having the intended impacts.[270]

The *National Framework of Principles for Delivering Services to Indigenous Australians* endorsed by the Council of Australian Governments in June 2004 commits

269 Further detail on the issues discussed in this section can be found in the following documents: Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social justice and human rights – Utilising Indigenous socio-economic data in policy development*, Speech, *Indigenous Socioeconomic Outcomes:Assessing Recent Evidence conference,* Centre for Aboriginal Economic Policy Research, Australian National University, Canberra, 12 August 2005, available online at: www.anu.edu.au/caepr/conference2.php; and Aboriginal and Torres Strait Islander Social Justice Commissioner, *Overcoming Indigenous Disadvantage - Key Indicators Report 2005: A human rights perspective*, Speech, Overcoming Indigenous Disadvantage report workshop, HREOC, Sydney, 16 September 2005, available online at: www.humanrights.gov.au/social_justice/conference/oid/tom_calma.htm.

270 *Overcoming Indigenous Disadvantage, op.cit.,* piii-iv.

governments to 'continue to measure the effect of the COAG commitment through the jointly-agreed set of indicators' in this report.[271]

The *Overcoming Indigenous Disadvantage* report is significant because of:

> its endorsement by COAG as an ongoing vehicle for monitoring Indigenous disadvantage and the impact of policy. It has had a direct link to broad policy development and review which no other report has had. The second distinguishing feature of this reporting exercise is its strategic two-tier framework. At the top is a shared vision of what life should be for Indigenous people, with headline indicators that can tell us the extent to which it is being realised. That is not so unusual. If reporting stopped there it would be adding much to what is available elsewhere. But the Report does more than this. It contains a second tier of information that focuses on areas where things need to change if the vision is to be realised. And, again, it provides a selection of indicators within those 'strategic change areas' to help us assess whether that is happening.[272]

The reporting framework embodies a vision – committed to by all governments – that Indigenous people will one day enjoy the same overall standard of living as other Australians. They will be as healthy, live as long, and participate fully in the social and economic life of the nation.[273]

This vision is consistent with a human rights approach, which emphasises the importance of providing equality of opportunity. The human rights system:

- emphasises the accountability of governments for socio-economic outcomes by treating equalisation as a matter of legal obligation, to be assessed against the norms established through the human rights system; and
- requires governments, working in partnership with Indigenous peoples, to demonstrate that they are approaching these issues in a targeted manner, and are accountable to the achievement of defined goals within a defined timeframe.

This second element is known as the 'progressive realisation' principle. The content of this principle is set out in Chapter 2 of this report in relation to the right to health. It requires governments '*to take steps*,… to the maximum of its available resources, with a view to achieving *progressively* the full realization of (economic, social and cultural) rights… by all *appropriate* means.'[274] It is required that these steps should be deliberate, concrete and targeted as clearly as possible towards meeting human rights obligations including equalisation between racial groups.

The progressive realisation principle has two main strategic implications. It recognises that the full realisation of human rights may have to occur in a progressive manner over a period of time, reflecting the scarcity of resources or funds. And it allows for setting priorities among different rights at any point in time since the constraint of resources may not permit a strategy to pursue all rights simultaneously with equal vigour.

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271 Council of Australian Governments, *National Framework of Principles for Delivering Services to Indigenous Australians*, Attachment B, Communiqué, 25 June 2004.

272 Gary Banks, Chairman, Productivity Commission, *Indigenous Disadvantage: are we making progress?*, Address to the Committee for Economic Development in Australia (CEDA), Adelaide, 21 September 2005, p3.

273 *Overcoming Indigenous Disadvantage, op.cit.,* piii.

274 *International Covenant on Economic, Social and Cultural Rights*, Article 2.1.

This framework provides a very helpful basis from which to address these issues. It shows the inter-connections between issues, which is of assistance when we get down to this prioritisation of need. And it allows us to compare the situations of Indigenous peoples and non-Indigenous peoples over time.

It is beyond the scope of the framework to set as the goal of policy the achievement of equality. However, the Framework enables us to see how well we are progressing in closing the gaps between Indigenous and non-Indigenous people.

There are commitments from the Ministerial Task Force on Indigenous Affairs, on behalf of the federal government, to the 3 priority areas of the *Overcoming Indigenous Disadvantage Framework*.

However, at present there is a disconnection between many programs and activities under the new arrangements and the Key Indicators within the framework.

A number of federal departments have modified their information management systems so they are more consistent with this framework.[275] However, I do not consider that sufficient steps have been taken by the government to link its activities to the indicators in this framework.

As noted earlier in the report, the government is developing guidelines on the design of Shared Responsibility Agreement performance indicators that will mirror the Strategic Change Indicators in the framework. SRAs to date are not strong on addressing data limitations or ensuring rigorous, sustainable links to this reporting framework. My Office will monitor whether there are improvements in the linkages between SRAs and this reporting framework over the coming year.

The *Overcoming Indigenous Disadvantage Framework* also needs to be supplemented by appropriate targets or benchmarks, that are negotiated between governments and Indigenous peoples.

For example, the report tells us what the rate of progress is on particular issues and where there is no progress. Taking this to the next level by incorporating a human rights approach means that governments then need to justify:

- why there is no advancement on some indicators – after all, the progressive realisation principle requires that there be an ongoing improvement and ongoing reduction of inequality; and
- in relation to where there are improvements, to explain or justify whether the rate of progress achieved is a *sufficient* rate of progress given the resources available and the urgency and priority of the issues.

275 For example, the Department of Communications, Information Technology and the Arts have informed my Office that they have modified the Indigenous Program Performance measures by aligning them with the *Key Strategic Priority Areas* identified in the report in order to enhance their ability to monitor and evaluate service delivery to Aboriginal and Torres Strait Islander people and ensuring the alignment of funded programs with government priorities; and the Department of Transport and Regional Services have also advised that the Joint Lead Agency Action Plan for the COAG WA trial site project in the East Kimberley is structured along the lines of the National Reporting Framework on Indigenous Disadvantage, with all activities and outcomes at the COAG trial site placed within this framework to ensure that they can be monitored, evaluated and compared effectively.

Put differently, benchmarks would provide a level of accountability for government to explain the adequacy of progress under the new arrangements and through whole of government coordination at the inter-governmental level (in accordance with the COAG commitments).

Following on from the setting of equality targets, to be measured by the Key Indicators, benchmarks should also be set so that the rate of progress can be monitored and, if progress is slow, corrective action taken. Setting benchmarks enables government and other parties to reach agreement about what rate of progress would be adequate. Such benchmarks should be:

- Specific, time bound and verifiable;
- Set with the participation of the people whose rights are affected, to agree on what is an adequate rate of progress and to prevent the target from being set too low; and
- Reassessed independently at their target date, with accountability for performance.[276]

The absence of such indicators leaves no way to tell whether policy and program initiatives are having the intended impact.

The need for benchmarks linked to this framework was also identified by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs in their 2004 report, *Many Ways Forward*.[277] The inquiry examined capacity building and service delivery in Indigenous communities and recommended improvements to data collection, monitoring and evaluation of government service delivery to Indigenous peoples. It recommends that:

- basic data collection is nationally consistent and comparable, and focussed on outcomes;
- the Government institute a coordinated annual report to Parliament on its progress in achieving agreed outcomes and benchmarks;
- a comprehensive evaluation is made of the COAG trials, and a regular report on progress is made to Parliament; and
- improved integration, coordination and cooperation within and between levels of government in consultation with Indigenous Australians occurs.[278]

■ *State and Territory developments in implementing the Overcoming Indigenous Disadvantage Framework*

There have been some positive developments in the states and territories to reconfigure policies so that they are consistent with the *Overcoming Indigenous Disadvantage Framework*. This is necessary to affect a nationally consistent approach to policy and program aspiration.

276 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice Report 2000*, HREOC Sydney 2000, p97, quoting the United Nations Development Programme, *Human Development Report 2000*.

277 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Many Ways Forward – Report of the inquiry into capacity building and service delivery in Indigenous communities*, Parliament, Canberra, June 2004.

278 *ibid*, pp249-250.

The South Australian Government state that:

> The *Overcoming Indigenous Disadvantage* strategic indicators are being used as a reference in the development of the intermediate indicators for South Australia's Strategic Planning reporting. The inaugural report for Cabinet using the two tiers of indicators was presented in April 2005. Subsequent to the first report to Cabinet, the Department for Aboriginal Affairs and Reconciliation will explore with agencies the opportunities it provides for policy review and strategy development and improving existing data recording and reporting systems, the future directions and data identified in the *Overcoming Indigenous Disadvantage* report will be used as a reference in this work.[279]

The Western Australian Government has gone a step further in adopting the reporting framework. They have:

> used the National Overcoming Indigenous Disadvantage framework as the basis for preparation of a WA-specific report to provide a finer level of data to reflect the diversity of the Indigenous population in WA. The Overcoming Indigenous Disadvantage Western Australia Report provides the basis from which to improve targeting of services delivery and to monitor Government services and program outcomes over time.[280]

The report includes baseline data that 'more fully reflects the diversity of Western Australia's Indigenous population' as well as including examples of program initiatives addressing the strategic areas for action. The inclusion of these examples is to facilitate:

> the sharing of information across regions about the less well know initiatives or projects that may be pushing the traditional boundaries of service delivery; or those that highlight best practice; or creative responses to seemingly intractable problems.[281]

For example under the headline indicator 'Early child development and growth' the strategic area for action highlights several initiatives (some having completed evaluations) such as:

- *Community Swimming Pools* – where the provision of swimming pools and a pool canteen providing an avenue for nutritious food, has the potential to impact directly and cumulatively on almost the full range of indicators, from Hearing impediments, Preschool and school attendance, Retention at year 9, participation in organised sport, arts or community group activities, Transition from school to work (opportunities for training and employment as swimming instructors, pool maintenance, canteen operation and management), Alcohol and tobacco consumption (the pool environment may assist in combating boredom), Drug and other substance use, Repeat offending, labour force participation and unemployment, to Accredited training in leadership , finance or management.

279 Minister for Aboriginal Affairs and Reconciliation (South Australia), *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p4.

280 Premier of Western Australia, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, p2.

281 Department of Indigenous Affairs, *Overcoming Indigenous Disadvantage in Western Australia Report 2005*, Department of Indigenous Affairs, Western Australian Government, Perth, 2005, p8.

- *Schools Based Healthy Eating Program* – This is a Telethon Institute Child Health Research proposal, and is similar to projects trialled in Indigenous communities which have resulted in significant improvements in birthweight, decreases in hospitalisation for nutritional or gastroenteritis conditions, increases in regular school attendance, decreases in truancy and improvements in mental health outcomes. This strategy comprises:
  - The provision of a properly nutritious breakfast and lunch for children attending school;
  - Educational sessions for mothers and pregnant women regarding nutrition and child development, including a focus on 'weaning' foods;
  - The setting up of a grandmothers/mothers' group to oversee the program and to coordinate the delivery of informal training to community members in healthy shopping, cooking skills and related areas;
  - A program of regular visits to local health clinics for children aged 0-12 years; and
  - A partnership with local stores to promote supply and access to foods with high nutritional value.[282]

Although not as comprehensive as the Western Australian report, the Queensland government advise that:

> Partnerships Queensland is the new performance reporting framework for reporting on Indigenous outcomes resulting from programs and service delivery to Indigenous communities … Partnerships Queensland is being implemented as the State equivalent performance reporting mechanism to the Productivity Commission's *Overcoming Indigenous Disadvantage* reporting framework. The framework aims to monitor the efficiency and effectiveness of whole-of-government performance in improving the social and economic outcomes of Queensland's Aboriginal and Torres Strait Islander population. The performance framework consists of a range of performance indicators that will form the basis of future government performance monitoring.[283]

Similarly the *Victorian Indigenous Affairs Framework* also reflects the indicator framework established by the *OID* report. For example, they advise that monitoring and evaluation frameworks being developed for the oversight of the Victorian Aboriginal Justice Agreement:

> are consistent with the criminal justice system-related indicators in the National Reporting Framework on Indigenous Disadvantage, although will provide data that is much more specific to criminal justice issues.

The *Overarching Agreement on Indigenous Affairs between the Commonwealth and the Northern Territory* (the only bilateral agreement signed thus far) sets out accountability arrangements including:

282 Department of Indigenous Affairs, *Overcoming Indigenous Disadvantage in Western Australia Report 2005*, *op.cit.*, pp106-07.

283 Premier of Queensland, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*, Attachment 1.

> joint ministerial oversight and reporting on progress at annual meetings between relevant Australian and Northern Territory Ministers It is anticipated that these reports will link to the Overcoming Indigenous Disadvantage Framework.
>
> The Government is currently examining implementation of a more systemic approach to identifying key areas of program intervention, prior to developing cross agency policy responses to issues. In addition, where possible, all new policies will use the framework as an important part of the accountability mechanism.[284]

New South Wales submit that through the *Two Ways Together* Framework, they have established a framework that provides a basis for coordinating whole of government action covering the key national strategic change areas. The government states:

> Cluster groups of key government agencies and Aboriginal peak bodies have been formed for the seven priority areas under *Two Ways Together* (Health; Justice; Families and Young people; Culture and Heritage; Economic Development; Education; Housing and Infrastructure). These cluster groups have set goals, targets and action plans consistent with the national strategic action areas and report biannually against indicators that are consistent with the national key indicators. The first report to the premier has been released and presents state-wide key indicator data to the regional level.[285]

iii) Conclusions and follow up actions

The development of processes to monitor and evaluate the new arrangements is not as advanced as it should be at this point in time. While the Office of Evaluation and Audit was retained and has a significant program of audits of Indigenous related programs over the coming two years, there is limited opportunity for independent evaluation of key elements of the new arrangements. Such evaluation is necessary given the complexity of whole of government approaches, particularly in relation to Indigenous issues.

Of equal concern is the slow rate of progress in evaluating the COAG trials and apparent limitations in establishing the baseline data from which this will occur. First round evaluations are, however, due for completion in the coming year.

Significant challenges remain to monitor the new arrangements from a whole of government and holistic perspective. Important and innovative work has commenced to coordinate performance information reporting and grant management systems through the AGIMIS project. The government has also made significant progress in developing streamlined and coordinated budget processes, ie the single Indigenous Budget process.

Significant concerns about data quality remain. There will be a lag time of at least another two years before data collections begin to reflect the period during which the new arrangements have operated. This places additional reliance on performance information reporting and evaluation processes.

The *Overcoming Indigenous Disadvantage Framework* is now entrenched at the inter-governmental level and provides a powerful tool for measuring the interventions of governments at a whole of government level. This Framework needs to be supplemented with activity from each government to align policy

284 Chief Minister of Northern Territory, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op. cit.*, p5.

285 NSW Cabinet Office, *Correspondence with Aboriginal and Torres Strait Islander Social Justice Commissioner – Request for information in preparation of Social Justice Report 2005*, *op.cit.*

and program approaches to the strategic indicators in this framework. There have been some significant developments in the states and territories to achieve this, with the Western Australian reporting framework being best practice. There remains, however, an absence of benchmarks and targets to measure the adequacy of progress against the indicators in the Framework.

Overall, monitoring and evaluation processes for the new arrangements are not sufficiently transparent. They do not provide sufficient accountability of government. Such transparency is an integral element of ensuring the effective participation of Indigenous peoples in decision making that affects them. This undermines the intent of the new arrangements and has the potential to limit their effectiveness.

Follow up action by Social Justice Commissioner

5. The Social Justice Commissioner will continue to consider the adequacy of monitoring and evaluation processes for the new arrangements. This will include considering efforts by all governments to integrate the Overcoming Indigenous Disadvantage Framework into policy and review processes, including through the establishment of benchmarks and targets; as well as monitoring progress in the COAG whole of government trials and the outcomes of the formative evaluations of these currently underway.

7) Conclusion and recommendations

There has been extraordinary activity impacting on Indigenous communities and individuals during the first twelve months of the new arrangements for the administration of Indigenous affairs. This chapter details a significant number of these impacts. It identifies a range of the positive developments over this twelve month period, as well as a number of concerns and challenges for the coming years.

As indicated in chapter 3 of the *Social Justice Report 2004*, the lack of information Indigenous people and communities have about the new arrangements has caused great upheaval and uncertainty. The challenge to government is to ensure that this upheaval is as minimal as possible and short term in its impact, and does not result in Indigenous people feeling further disempowered by government.

Twelve months on, this challenge has not been met. It remains for the Government to develop clear and unambiguous information about the new arrangements generally and shared responsibility agreements specifically. It is becoming more evident that the rationale and objectives of the new arrangements needs to be reinforced with the Indigenous communities and individuals to ensure full and effective engagement can commence in a sustainable manner.

A large focus of this past year has been on organising the internal processes of government to ensure that their activities can meet the challenges of whole of government service delivery. There remains a way to go to ensure that this is the case. The absence of rigorous monitoring processes and a general lack of transparency remains of great concern in this regard.

The consequence of this focus, combined with the abolition of ATSIC, is an absence of processes for Indigenous engagement. Current arrangements are not sufficient to ensure the full and effective participation of Indigenous peoples in decision making that affects them at any level – international, national or regional.

I note that there are significant commitments from government to address this. It is critical that we begin to see outcomes emerge during the forthcoming twelve month period (i.e. the 2005-06 financial year).

This chapter, along with Chapter 3 in the *Social Justice Report 2004*, identify a range of challenges for the government in administering the new arrangements. They both indicate how my Office will continue to monitor this situation to ensure that Aboriginal and Torres Strait Islander peoples do not have their human rights breached. I conclude this chapter by reproducing the recommendations and follow up actions identified throughout this chapter.

Recommendations

4. That the federal government, in partnership with state and territory governments, prioritise the negotiation with Indigenous peoples of regional representative arrangements. Representative bodies should be finalised and operational by 30 June 2006 in all Indigenous Coordination Centre regions.

5. That the Office of Indigenous Policy Coordination, in consultation with the Aboriginal and Torres Strait Islander Social Justice Commissioner, agree to *Guidelines to ensure that Shared Responsibility Agreements comply with human rights standards* relating to the process of negotiating SRAs and the content of such agreements.

Follow Up Actions by Social Justice Commissioner

1. The Social Justice Commissioner will consider the adequacy of processes undertaken by all governments to consult and negotiate with Indigenous peoples and communities on policy development, program delivery and monitoring and evaluation processes. This will include:

- identifying best practice examples for engaging with Indigenous peoples on a national, state-wide and regional basis;
- identifying existing protocols or principles for engaging with Indigenous peoples;
- identify existing processes for engaging with Torres Strait Islander communities on the mainland; and
- developing a best practice guide to negotiating with Indigenous communities from a human rights perspective.

2. The Social Justice Commissioner will work in partnership with non-government organisations and Indigenous community organisations to promote understanding of the rights of Indigenous peoples in the making of Shared Responsibility Agreements. This will include:

- disseminating information about relevant human rights standards for engaging with Indigenous communities and to guide the content of SRAs; and
- consulting with Indigenous people, organisations and communities about their experiences in negotiating SRAs.

3. The Social Justice Commissioner will monitor the Shared Responsibility Agreements process. This will include:

- considering the process for negotiation and implementation of SRAs;
- considering whether the obligations contained in agreements are consistent with human rights standards or place restrictions on the accessibility of basic entitlements or essential services; and

- establishing whether the government has fulfilled its commitments in SRAs, including through providing appropriate support to communities to ensure that the proposed benefit in an SRA is realised in the community.

4. The Social Justice Commissioner will examine approaches adopted by the government to improve the accessibility of mainstream services to Indigenous communities and individuals. This will include:

- conducting consultations and case studies with the participation of select urban, regional and remote Indigenous communities, to identify best practice as well as barriers to the accessibility of mainstream services;
- examining the role of solution brokers in Indigenous Coordination Centres and in the negotiation of Shared Responsibility Agreements (for example, by considering the percentage of funding allocated through SRAs from mainstream programs as opposed to Indigenous specific funding or the SRA flexible funding pool); and
- considering the impact of reforms to the CDEP Scheme, including changes to align the program more closely with mainstream employment programs.

5. The Social Justice Commissioner will continue to consider the adequacy of monitoring and evaluation processes for the new arrangements. This will include considering efforts by all governments to integrate the Overcoming Indigenous Disadvantage Framework into policy and review processes, including through the establishment of benchmarks and targets; as well as monitoring progress in the COAG whole of government trials and the outcomes of the formative evaluations of these currently underway.

Appendices

Appendix 1

Chronology of events relating to the new arrangements for the administration of Indigenous affairs, 1 July 2004-30 June 2005

This Appendix provides an overview of main events since the introduction of the new arrangements for the administration of Indigenous affairs on 1 July 2004. It commences with a summary table and is followed by a detailed description of each event.

Date	Event/summary of issue
1 July 2004 *New arrangements for the administration of Indigenous affairs begin*	The new arrangements for the administration of Indigenous affairs at the federal level commence. Under the new arrangements more than $1 billion of former ATSIC-ATSIS programs are transferred to mainstream departments. These departments are now required to accept responsibility for Indigenous services and be held accountable for outcomes.
31 August 2004 *Senate Select Committee on the Administration of Indigenous Affairs released interim report on the provisions of the ATSIC Amendment Bill 2004.*	The Senate Select Committee on the Administration of Indigenous Affairs releases interim report on the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 (ATSIC Amendment Bill). It states that due to the federal election it will be unable to complete the inquiry. The Government Members of the Senate Committee release a dissenting report. It notes 'little support [was] expressed for ATSIC'[1] in submissions received. The Senate Committee is then reconvened on 17 November 2004 and reports in March 2005.

1 Select Committee on the Administration on Indigenous Affairs, Government Senators' Dissenting Report, 31 August 2004 – for full text of the report see <http://www.aph.gov.au/Senate/committee/indigenousaffairs_ctte/report/interim/govt_senators%20_dissent.pdf> (25 August 2005).

6 November 2004 *The National Indigenous Council is appointed*	The Minister for Immigration and Multi-cultural and Indigenous Affairs announces the membership of the Government-appointed advisory body, the National Indigenous Council (NIC). Dr. Sue Gordon is appointed as the Chairperson of the NIC. The Minister advises that the NIC is not intended to be a representative body or to replace ATSIC: The Council will act as an advisory body to Government through the Ministerial Taskforce on Indigenous Affairs, and will support the work of the Taskforce in developing strategies to improve delivery of services to Indigenous Australians.[2] Members of the NIC are appointed based on their 'expertise and experience.'[3] The NIC will meet four times per year and advise the Ministerial Taskforce on Indigenous Affairs.
8-9 December 2004 *Inaugural National Indigenous Council meeting*	The inaugural meeting of the National Indigenous Council (NIC) is held in Canberra. The Council meet with the Prime Minister, the Minister for Immigration and Multicultural and Indigenous Affairs and the Ministerial Taskforce on Indigenous Affairs. The Terms of Reference for the NIC are agreed. The NIC identify its three priority areas as: • early childhood intervention and improving primary health and early education outcomes; • safer communities; and • overcoming passive welfare with improvements in employment outcomes and economic development for Indigenous Australians.[4]
14 February 2005 *Indigenous Australian Public Service (APS) jobs at lowest in ten years*	The Australian Public Service Commission releases the State of the Service Report 2003-4. It raises concerns that a long term trend of declining representation of Indigenous Australians is starting to emerge within the Australian Public Service (APS). The report confirms that both the numbers and proportion of Indigenous employees in the APS has declined since the previous year's report.

2 Minister for Immigration and Multicultural and Indigenous Affairs, *National Indigenous Council Appointed,* Media Release, 6 November 2004.

3 *ibid.*

4 Gordon, S., *First meeting of the National Indigenous Council: A very good beginning,* Media Statement, 9 December 2004.

21 February 2005 *CDEP Discussion Paper is released*	The Minister for Employment and Workplace Relations launches *Building on Success – CDEP Discussion Paper 2005*.[5] The discussion paper outlines proposed reforms to the Community Develop-ment Employment Projects (CDEP) scheme. The discussion paper proposes: • Linking CDEP to local community needs; • A stronger focus on results in three key activity streams – employment, community activities and business development; • Developing links with other programs and services; including Job Network, employer and business enterprise; and • DEWR and ICCs to provide support to CDEP organisations to improve outcomes. DEWR undertakes a series of 40 community consultations over three days nationally as well as inviting written feedback on the proposals. The written submissions are due on 24 March 2005.
8 March 2005 *Select Committee on the Administration of Indigenous Affairs releases final report on the abolition of ATSIC*	The Select Committee on the Administration of Indigenous Affairs releases *After ATSIC Life in the Mainstream*. The Committee makes 13 recommendations to the Government. Among the recommendations the Committee: 5.1 recommends that the Government immediately establishes a mechanism to thoroughly and impartially assess the new mainstreaming arrangements as they are implemented, including those already in place. The Committee also recommends that the resultant report is made public; and

5 Department of Employment and Workplace Relations, *Building on Success – CDEP Discussion Paper 2005*, DEWR, Canberra, February 2005.

8 March 2005 *(continued)*	5.3 recommends the establishment of a Senate Standing Committee on Indigenous Affairs, tasked with examination of: • The implementation of the mainstreaming policy; • The coordination of Commonwealth, state and territory agencies; • The formation of representative arrangements; and • The equity of Shared Responsibility Agreements.[6]
10 March 2005 *Government response to the Senate Committee Inquiry Into Recruitment and Training in the APS is released*	On 21 March 2002, the bi-partisan Finance and Public Administration References Committee (the Committee) was convened to inquire into recruitment and training in the Australia Public Service and report by 12 December 2002. The final report was tabled in the Senate on 19 September 2003. The purpose of the Inquiry was 'to examine whether current recruitment and training practices and policies in the Australian Public service are adequate to meet the challenges the APS faces'.[7] The Minister for Employment and Workplace Relations tables the Govern-ment's response to the Committee Report into Recruitment and Training in the Australian Public Service (APS).
10 March 2005 *United Nations CERD Committee concluding observations on Australia released*	The United Nations Committee on the Elimination of Racial Discrimination (CERD) issues its concluding observations on Australia following consideration of Australia's 13th and 14th periodic reports. The Committee acknowledges that significant progress has been achieved in the enjoyment of economic, social and cultural rights of Indigenous peoples, through the COAG framework and the national strategy on Indigenous violence; the diversionary and preventative programs aimed at reducing the over representation of young people in the criminal justice system; and the abrogation of mandatory sentencing in the Northern Territory.

6 Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC – Life in the Mainstream*, The Senate, 8 March 2005, Summary of Recommendations.

7 Government response to the Senate Finance and Public Administration References Committee Report on Recruitment and Training in the Australian Public Service.

10 March 2005 *(continued)*	The Committee notes its concerns in the findings which include the abolition of ATSIC; the continuing gap between Indigenous peoples and others in the areas of housing, employment, health and income; the continued existence of mandatory sentencing in Western Australia; the over representation of Indigenous peoples in prison, continued deaths in custody, Aboriginal women as the fastest growing prison population; and the Government's rejection of most of the recommendations adopted by the Council for Aboriginal Reconciliation in 2000.[8]
16 March 2005 *Legislation to abolish ATSIC passed*	Commonwealth Parliament passes the *Aboriginal and Torres Strait Islander Commission Amendment Act (2005)* which abolishes ATSIC. Regional Councils will continue to operate until 30 June 2005. The Torres Strait Regional Authority (TSRA) continues to operate under the Act.
24 March 2005 *Aboriginal and Torres Strait Islander Employment Coordinator appointed*	The Australian Public Service Commission appoints Pat Turner as Aboriginal and Torres Strait Islander Employment Co-ordinator to oversee the Commission's work on the Indigenous Employment Strategy, leadership and skills development programs for Indigenous staff, and a new Indigenous research program. On 12 August 2005, the Prime Minister launches the *APS Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees* and announces $6.8 million in additional funding to the APSC to implement the strategy, under the leadership of the Aboriginal and Torres Strait Islander Employment Coordinator.
1 April 2005 *Initial Bulletin from the Secretaries' Group meeting on Indigenous Affairs*	The Secretaries' Group on Indigenous Affairs releases a bulletin providing an overview of the whole of government approach to Indigenous Affairs. At their meeting on March 1, it was agreed that Bulletins would be issued regularly. This first bulletin focuses on Shared Responsibility Agreement's (SRA's) as a new concept and a new way of doing business with Indigenous Communities.

8 For full text on the CERD Committees Concluding Observations on Australia see <www.humanrights.gov.au/cerd/report.html> (4 October 2005).

1 April 2005 *Victorian Aboriginal Legal Service wins tender to provide legal services to Indigenous peoples across Victoria*	The Commonwealth Attorney-General announces the Victorian Aboriginal Legal Service (VALS) is the first organisation to be awarded a tender to provide legal services for Indigenous peoples under the new arrangements. The Attorney-General's Department has since released requests for tenders progressively in each State and Territory. The tendering process commenced in Victoria and Western Australia in November 2004 and in Queensland in March 2005. All services granted contracts in this round of tendering will commence service delivery under contract on 1 July 2005.
6 April 2005 *Bilateral agreement between Commonwealth and Northern Territory governments signed*	The Prime Minister and the Chief Minister of the Northern Territory sign the *Overarching Agreement on Indigenous Affairs Between the Commonwealth of Australia and the Northern Territory of Australia*. This is the first bilateral agreement to come out of the June 2004 Council of Australian Governments' (COAG) commitment to improve services to Indigenous Australians. The Agreement sets out five priority areas: • improving outcomes for young Indigenous Territorians; • building safer communities; • strengthening governance and developing community capacity; • building Indigenous wealth, employment and entrepreneurial culture; and • improving service delivery and infrastructure.
6 April 2005 *Prime Minister opens discussion on private land ownership in Indigenous communities*	The Prime Minister visits Wadeye, Northern Territory and announces there is a case for reviewing the issue of Aboriginal land title, with a focus on private recognition of land. The Prime Minister states that Aboriginal people should be able to aspire to own their own homes.
8 April 2005 *Social Justice Report 2004 and Native Title Report 2004 tabled in Parliament*	The Federal Attorney-General tables the *Social Justice Report 2004* and the *Native Title Report 2004* in Parliament. The *Social Justice Report 2004* outlines the key challenges raised by the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) and Aboriginal and Torres Strait Islander Services (ATSIS) and the transfer of all Indigenous specific programs to mainstream government departments and the movement to new arrangements for administering Indigenous programs. The Report also examines the issues for Indigenous women exiting prison.

8 April 2005 *(continued)*	The *Native Title Report 2004* considers options for promoting economic and social development through the native title system. The report examines a set of principles for promoting economic and social development through Native Title. The principles are based on strategies for sustainable development and capacity building and have been developed in consultation with NTRB's and other native title stakeholders.
22 April 2005 *Community Development Employment Project (CDEP)- Future Directions Announced*	The Minister for Employment and Workplace Relations releases the government's response to the review of the Community Development Employment Project (CDEP) Scheme – *Building on Success: CDEP – Future Directions.*[9] In 2005-06 the CDEP program will: • Remain flexible with emphasis on a unique mix of employment community activities and business development, • Have a stronger emphasis on results, • Use a new funding model with an emphasis on funding going to activities, and • Involve a partnership between Department of Employment and Workplace Relations (DEWR) and CDEP organisations to improve results and meet community needs. DEWR announce a series of feedback sessions to commence April 26 to provide information to communities on the changes to CDEP.[10]
2 May 2005 *New Family Violence Prevention Legal Services Announced*	The Attorney-General announces four new services will be funded under the Indigenous Family Violence Legal Services Program. The new service providers are: • Wirraka Maya Health Service Aboriginal Corporation (Port Headland, Western Australia); • Weena Mooga Gu Gudba Inc. (Ceduna, South Australia);

9 Department of Workplace Relations, *Building on Success: CDEP Future Directions*, DEWR, Canberra, April 2005.

10 Minister for Employment and Workplace Relations, *CDEP Future Directions Announced*, Media Release, 22 April 2005.

2 May 2005 *(continued)*	• Cape York Family Violence Prevention Legal Service Unit (North Queensland); and • Coalition on Criminal Assault in the Home (North Queensland) Inc. (Palm Island, Hughenden, Richmond, Charters Towers, Queensland). The Department also invites applications to deliver services in nine other areas.
10 May 2005 *Federal Budget 2005*	The Minister for Immigration and Multicultural and Indigenous Affairs announces funding in the 2005-2006 Budget allocation to Indigenous affairs will total $3.114 billion. Consideration of Indigenous expenditure across government is guided by the Ministerial Taskforce on Indigenous Affairs and consists of a single Indigenous Budget submission. The key Budget measures within the Indigenous Affairs portfolio are Shared Responsibility Agreements; Healthy Indigenous Housing; Indigenous Health programs including Healthy for Life, Combating Petrol Sniffing, the Hearing Services Program and additional funding to the Primary Health Care Access Program.
May 2005 *Secretaries' Group on Indigenous Affairs release Second Bulletin*	Secretaries' Group on Indigenous Affairs issues second bulletin which focuses on the new whole of government approach to the budget.
10 May 2005 *Minister announces changes to CDEP funding*	The Minister for Employment and Workplace Relations announces changes to the Community Development Employment Project (CDEP) are to take effect immediately.
24 May 2005 *Minister announces 15 new Indigenous Employment Centres*	The Minister for Employment and Workplace Relations announces the establishment of fifteen new Indigenous Employments Centres (IECs) throughout regional Australia. The establishment of the additional centres is part of the Government's response to the feedback it received on the Community Development Employment Projects (CDEP) Discussion Paper *Building on Success* earlier this year.

25 & 26 May 2005 *Second Indigenous Economic Development Forum held in Darwin*	The second Indigenous Economic Development Forum is held in Darwin.[11] The Chief Minister of the Northern Territory launches the Northern Territory Government's new Indigenous Economic Development Strategy at the forum. The Strategy covers 13 industry sectors and identifies specific opportunities for development in construction, tourism, community services, mining and production, retail and services, pastoral, horticultural, natural resources management, government, forestry and agri-business, arts, knowledge and culture, and aquaculture and fisheries.
27 May 2005 *Minister announces 52 Shared Responsibility Agreements signed*	The Minister for Immigration and Multicultural and Indigenous Affairs releases details of the first round of Shared Responsibility Agreements (SRA's) to be finalised. The 52 Shared Responsibility Agreements involve 43 separate Indigenous communities.
30 May 2005 *National Recognition for Good Indigenous Government*	The patrons of Reconciliation Australia name eight organisations as finalists in the inaugural Indigenous Governance Awards. The scheme has been developed by Reconciliation Australia in conjunction with BHP Billiton to recognise and promote good practice across Indigenous Australia.
3 June 2005 *The Council of Australian Governments' (COAG) meet in Canberra*	The Council of Australian Governments (COAG) holds its 15th meeting in Canberra. The Council discuss significant areas of national interest including Indigenous issues. The Council receive reports on the Indigenous Communities Coordination Trials and the National Framework for Reconciliation. COAG reaffirm their commitment to work together in an ongoing partnership to improve outcomes for Aboriginal and Torres Strait Islander people. In particular, COAG note the importance of governments working together with local Indigenous communities on the basis of shared responsibility.

11 Clare Martin Chief Minister, Minister for Indigenous Affairs, *Strategy for More Jobs For Indigenous Territorians*, Media Release, 25 May 2005.

3 June 2005 *National Indigenous council release draft working document on possible Indigenous land tenure principles*	The National Indigenous Council (NIC) meets with both Land Councils and Native Title Representative Bodies (NTRBs) to discuss possible Indigenous land tenure principles that the Council has developed.[12] The NTRBs and Land Councils almost unanimously reject the NIC's draft principles.[13]
10 June 2005 *Victoria to establish a new representative body for the state's Aboriginal communities*	The Victorian Aboriginal Affairs Minister announces a series of consultation sessions have been planned for regional Victoria with a view to establishing a new representative body for the State's Indigenous communities. This is in response to the disbanding of the Aboriginal and Torres Straits Islander Commission.
15-16 June 2005 *Third NIC meeting and second joint meeting with the Ministerial Taskforce (MTF) on Indigenous Affairs*	The third National Indigenous Council (NIC) meeting and second joint meeting with the Ministerial Taskforce (MTF) on Indigenous Affairs is held. The primary areas of discussion at this meeting are land tenure and economic development.
17 June 2005 *Minister launches the Indigenous Employment Strategy for Industry*	The Minister for Employment and Workplace Relations launches the Australian Chamber of Commerce and Industry's Indigenous Employment Strategy for Industry, *Employing Indigenous Australians.*
22 June 2005 *Senator Aden Ridgeway makes valedictory speech*	Senator Ridgeway makes his valedictory speech in the Senate in the lead up to his final days in Parliament. Senator Ridgeway states his continued commitment to National Reconciliation and his reliance on truth, universality and human dignity as guiding principles during his time as Senator.
23 June 2005 *Minister announces the Corporations (Aboriginal and Torres Strait Islander) Bill 2005*	The Minister for Immigration and Multicultural and Indigenous Affairs announces the details of the *Corporations (Aboriginal and Torres Strait Islander) Bill 2005.* The Bill aims to overhaul incorporation legislation for Aboriginal and Torres Strait Islander corporations. The implementation of the new legislation will commence on 1 July 2006, this is to allow existing corporations to make the transition to the new regime. The Bill is intended to replace the *Aboriginal Councils and Associations Act 1976.*

12 National Indigenous Council, *Indigenous Land Tenure Principles*, Media Release, 3 July 2005.

13 National Indigenous Times, *Confusion reigns*, Thursday, 4 August 2005.

30 June 2005 *ATSIC Regional Councils close and cease to exist*	ATSIC Regional Councils cease to exist, as those provisions of the *ATSIC Amendment Bill* come into effect. The Aboriginal and Torres Strait Islander Social Justice Commissioner urges the Commonwealth and State/Territory governments to work together to facilitate and fund alternative regional representative structures.

Further information on events relating to the introduction of new arrangements for the administration of Indigenous affairs, 1 July 2004-30 June 2005

1 July 2004 *New arrangements for the administration of Indigenous affairs begin*	The new arrangements for the administration of Indigenous affairs at the federal level commence. Under the new arrangements more than $1 billion of former ATSIC-ATSIS programs are transferred to mainstream departments. These departments are now required to accept responsibility for Indigenous services and be held accountable for outcomes.

On the 30 June 2004, the Minister Immigration and Multicultural and Indigenous Affairs advises that as of 1 July 2004:

> More than $1 billion of former ATSIC-ATSIS programmes have been transferred to mainstream Australian Government agencies and some 1,300 staff commence work in the new Departments as of tomorrow.
>
> We want more of the money to hit the ground. We are stripping away layers of bureaucracy to make sure that local families and communities have a real say in how money is spent.
>
> Mainstream departments will be required to accept responsibility for Indigenous services and will be held accountable for outcomes. In future they will work in a coordinated way so that the old programme silos of the past are broken down.
>
> Guiding whole-of-government service delivery with Indigenous representatives will be partnership Agreements developed at the regional level and shared responsibility agreements at the local and community level. The new approach will require communities to offer commitments such as improved school attendance in return for Government funding initiatives.[14]

14 Minister for Immigration and Multicultural and Indigenous Affairs, *Australian Government Changes to Indigenous Affairs Services Commence Tomorrow*, Press Release, 30 June 2004.

Table 1: Transfer of ATSIS-ATSIC functions from 1 July 2004[15]

Program	Portfolio
Community Development and Employment Scheme; business development and assistance; home ownership	Employment and Workplace Relations
Community Housing and Infrastructure; Indigenous women	Family and Community Services
Art, culture and language; broadcasting services; sport and recreation; maintenance and protection of Indigenous heritage	Communication, Information Technology and the Arts
Legal and preventative; family violence prevention; legal services	Attorney-General
Access to effective family tracing and reunion services	Health and Ageing
Indigenous rights; international issues; native title and land rights; repatriation; Indigenous Land Fund; Community Participation Agreements; Torres Strait Islanders on the mainland; planning and partnership development; public information	Immigration, Multicultural and Indigenous Affairs

Table 2: Transfer of agencies to new portfolios

Agency	Portfolio
Aboriginal and Torres Strait Islander Services	Disbanded: programs taken over by mainstream agencies; coordination functions taken over by Office of Indigenous Policy Coordination within Department of Immigration, Multicultural and Indigenous Affairs
Australian Institute of Aboriginal and Torres Strait Islander Studies	Education, Science and Training
Aboriginal Hostels Ltd	Family and Community Services
Indigenous Business Australia	Employment and Workplace Relations
Indigenous Land Corporation; Torres Strait Regional Authority; Registrar of Aboriginal Corporations	Immigration, Multicultural and Indigenous Affairs
Office of Evaluation and Audit	Finance

15 *ibid.*

31 August 2004 *Senate Select Committee on the Administration of Indigenous Affairs released interim report on the provisions of the ATSIC Amendment Bill 2004.*	The Senate Select Committee on the Administration of Indigenous Affairs releases interim report on the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 (ATSIC Amendment Bill). It states that due to the federal election it will be unable to complete the inquiry. The Government Members of the Senate Committee release a dissenting report. It notes 'little support [was] expressed for ATSIC'[16] in submissions received. The Senate Committee is then reconvened on 17 November 2004 and reports in March 2005.

The Senate Select Committee on the Administration of Indigenous Affairs releases an interim report for its inquiry into the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 (ATSIC Amendment Bill) and related matters. The interim report notes the number of submissions received and states that due to the prorogation of parliament for the conduct of the federal election, the committee is unable to complete the final report.[17]

In response to the absence of any preliminary findings, the Government Senators of the Committee release a dissenting report. This report notes that, 'in the submissions and hearings there has been little support expressed for ATSIC'.[18]

The Senate Select Committee on the Administration of Indigenous Affairs is reconvened on 17 November 2004 and releases its final report in March 2005.[19]

16 Select Committee on the Administration on Indigenous Affairs, *Government Senators' Dissenting Report*, 31 August 2004 – for full text of the report see <http://www.aph.gov.au/Senate/committee/indigenousaffairs_ctte/report/interim/govt_senators%20_dissent.pdf> (25 August 2005).

17 Select Committee on the Administration of Indigenous Affairs, *Interim Report*, 31 August 2004.

18 Select Committee on the Administration of Indigenous Affairs, *Government Senators' Dissenting Report*, *op.cit.*

19 Senate Select Committee on Indigenous Affairs, *Appointment and Terms of Reference*, The Senate Parliament of Australia website, for full text of the terms of reference see http://www.aph.gov.au/Senate/committee/indigenousaffairs_ctte/tor.htm (11 August 2005).

6 November 2004 *The National Indigenous Council is appointed*	The Minister for Immigration and Multi-cultural and Indigenous Affairs announces the membership of the Government-appointed advisory body, the National Indigenous Council (NIC). Dr. Sue Gordon is appointed as the Chairperson of the NIC. The Minister advises that the NIC is not intended to be a representative body or to replace ATSIC: The Council will act as an advisory body to Government through the Ministerial Taskforce on Indigenous Affairs, and will support the work of the Taskforce in developing strategies to improve delivery of services to Indigenous Australians.[20] Members of the NIC are appointed based on their 'expertise and experience.'[21] The NIC will meet four times per year and advise the Ministerial Taskforce on Indigenous Affairs.

The Minister for Immigration and Multicultural and Indigenous Affairs announces the membership of the Government-appointed advisory body, the National Indigenous Council (NIC). It is composed of Government appointed Indigenous Advisers (which comprises both Torres Strait Islander and Aboriginal members). The Government advises that the NIC has been:

> appointed based on members' expertise and experience in particular policy areas. Members of the Council will provide advice on policy and service delivery to the Ministerial Taskforce.
>
> The NIC will meet at least four times a year and directly with the Ministerial Taskforce at least twice a year. The Council or its members may also meet with the Secretaries' Group and individual departments on issues in their areas of expertise.
>
> The NIC will advise on priority areas for funding, and alert the Government to emerging issues. It will also promote constructive dialogue and engagement between government and Indigenous people and organisations.[22]

Members of the NIC are:

Dr Sue Gordon AM (Chair), Wesley Aird, Dr Archie Barton, Professor Mary Ann Bin-Sallik, Miriam Rose Baumann OAM, Joseph Elu, Robert Lee, Adam Goodes, Dr Sally Goold OAM, Dr John Moriarty AM, Warren Mundine, Joe Procter, Michael White and Tammy Williams.

The members are appointed for an initial term of 2 years. They are not paid for their role, though will receive sitting fees for meetings.[23]

20 Minister for Immigration and Multicultural and Indigenous Affairs, *National Indigenous Council Appointed*, Media Release, 6 November 2004.

21 *ibid.*

22 *ibid.*

23 *ibid.*

8-9 December 2004 *Inaugural National Indigenous Council meeting*	The inaugural meeting of the National Indigenous Council (NIC) is held in Canberra. The Council meet with the Prime Minister, the Minister for Immigration and Multicultural and Indigenous Affairs and the Ministerial Taskforce on Indigenous Affairs. The Terms of Reference for the NIC are agreed. The NIC identify its three priority areas as: • early childhood intervention and improving primary health and early education outcomes; • safer communities; and • overcoming passive welfare with improvements in employment outcomes and economic development for Indigenous Australians.[24]

The NIC meet in Canberra for inaugural meeting from 8-9 December 2004. During this meeting the NIC's Terms of Reference are agreed upon as follows:

1. Provide expert advice to the Government on how to improve outcomes for Indigenous Australians in the development and implementation of policy affecting Aboriginal and Torres Strait Islander people;
2. Provide expert advice to government on how to improve program and service delivery outcomes for Aboriginal and Torres Strait Islander people including maximising the effective interaction of mainstream and indigenous-specific programs and services;
3. Provide advice on Indigenous Australians' views on the acceptance and effectiveness of Commonwealth and State and Territory Government programs;
4. Provide advice on the appropriateness of policy and program options being considered to address identified needs;
5. Provide advice to government on national funding priorities;
6. Alert government to current and emerging policy, program and service delivery issues;
7. Promote constructive dialogue and engagement between government and Aboriginal and Torres Strait Islander people, communities and organisations;
8. Provide advice on specific matters referred to it by the Minister; and
9. Report to the Minister as appropriate on the NIC's activities and achievements.[25]

The Terms of Reference also state that the NIC will not provide advice on specific funding proposals.

24 Gordon, S., *First meeting of the National Indigenous Council: A very good beginning*, Media Statement, 9 December 2004.

25 *ibid.*

In addition to the Terms of Reference, the NIC and Ministerial Taskforce identify three priority areas to be addressed. These are:

- early childhood intervention;
- safer communities; and
- overcoming passive welfare with improvements in employment outcomes and economic development for Indigenous Australians'.[26]

14 February 2005 *Indigenous Australian Public Service (APS) jobs at lowest in ten years*	The Australian Public Service Commission releases the State of the Service Report 2003-4. It raises concerns that a long term trend of declining representation of Indigenous Australians is starting to emerge within the Australian Public Service (APS). The report confirms that both the numbers and proportion of Indigenous employees in the APS has declined since the previous year's report.

The Australian Public Service Commission releases its annual State of the Service Report for the 2003/04 financial year. The report finds the number of Indigenous employees in the APS fell during 2003-2004, both in actual numbers and as a proportion of total ongoing employees. The number fell by 98, down from 2,937 to 2,839, and the actual representation rate fell 0.1% to 2.3%. The highest rate of Indigenous employment in the APS was 2.7% in 1999.[27]

Those agencies that deliver services to, or work within Indigenous communities had overall, a higher proportion of Indigenous employees than other APS departments.

17-18 February 2005 *The second National Indigenous Council (NIC) meeting is held*	The National Indigenous Council holds its second meeting in Canberra. The NIC considers a paper on how Indigenous land might be used to further the economic development of Indigenous people.

Feedback is provided to the Ministerial Task Force on the previously identified priority areas of early childhood intervention, primary health and early education, safer communities and land use and economic development.

The NIC considers a paper tabled by one of their members, focussing on the issue of communally owned Indigenous land being used to further the economic development of Indigenous people. The NIC discusses the potential consequences and possible benefits of adjustments to the forms of land tenure held under the various existing Land Rights legislation and Native Title legislation.

26 *ibid.*

27 Australian Public Service Commission, *State of the Service Report 2003-2004*, Commonwealth of Australia, 5 November 2004 – for full report see <http://www.apsc.gov.au/stateoftheservice/0304/report.pdf> (11 August 2005).

A representative from the Department of Employment and Workplace Relations briefs the Council on the proposed reforms of the Community Development Employment Projects (CDEP). The Council is also briefed on a key initiative which underpins the new arrangements in Indigenous Affairs, Shared Responsibility Agreements (SRA's).[28]

21 February 2005 *CDEP Discussion Paper is released*	The Minister for Employment and Workplace Relations launches *Building on Success – CDEP Discussion Paper 2005.*[29] The discussion paper outlines proposed reforms to the Community Development Employment Projects (CDEP) scheme. The discussion paper proposes: • Linking CDEP to local community needs; • A stronger focus on results in three key activity streams – employment, community activities and business development; • Developing links with other programs and services; including Job Network, employer and business enterprise; and • DEWR and ICCs to provide support to CDEP organisations to improve outcomes. DEWR undertakes a series of 40 community consultations over three days nationally as well as inviting written feedback on the proposals. The written submissions are due on 24 March 2005.

Building on Success sets out proposed changes to the CDEP scheme. The paper invites submissions on the various proposals, due on 24 March, as well as conducting 40 consultations across Australia from February 22 to February 25.

The proposals are:

- Linking CDEP to local community needs – CDEP organisations will be required to work more closely with Indigenous communities to improve links between CDEP activities and local needs based on the three streams of employment, community activity and business development. CDEP activities can and should directly link to SRAs where they exist.
- Three key areas: employment, community activities and business development – CDEP organisations will be asked to identify where their activities fit into the three key areas of employment, community activity and/or business development. The activities will match the needs of the community. In places where there are good job opportunities, the CDEP may concentrate on finding non-CDEP jobs for participants. In regions where local jobs are limited, CDEP might focus more on community activity.

28 National Indigenous Council, *Second meeting of the National Indigenous Council: a chance to consolidate*, Media Statement, 18 February 2005.

29 Department of Employment and Workplace Relations, *Building on Success – CDEP Discussion Paper 2005*, DEWR, Canberra, February 2005.

- Links with other programmes and services – There is scope for improved links between CDEP organisations and Job Network services particularly in areas with good job opportunities. There is potential for more Indigenous Employment Centres and improved links with Job Network whereby Indigenous Employment Centres might eventually become specialist Indigenous Job Network providers.
- Support CDEP organisations – Indigenous Coordination Centre staff will provide CDEP organisations with information, support and staff training. DEWR will provide job market information and CDEP organisations will have easier access to the CDEP Placement Incentive. Opportunities may arise for CDEP organisations to become Indigenous Employment Centres.

8 March 2005 *Select Committee on the Administration of Indigenous Affairs releases final report on the abolition of ATSIC*	The Select Committee on the Administration of Indigenous Affairs releases *After ATSIC Life in the Mainstream*. The Committee makes 13 recommendations to the Government. Among the recommendations the Committee: 5.1 recommends that the Government immediately establishes a mechanism to thoroughly and impartially assess the new mainstreaming arrangements as they are implemented, including those already in place. The Committee also recommends that the resultant report is made public; and 5.3 recommends the establishment of a Senate Standing Committee on Indigenous Affairs, tasked with examination of: • The implementation of the mainstreaming policy; • The coordination of Commonwealth, state and territory agencies; • The formation of representative arrangements; and • The equity of Shared Responsibility Agreements.[30]

The Senate Select Committee on the Administration of Indigenous Affairs releases its report on the abolition of ATSIC and new arrangements: After ATSIC – Life in the Mainstream. The Committee makes thirteen recommendations to the Government:

Recommendation 1.1

1.27 The Committee accordingly recommends that the government affirms formally that ATSIC's powers remain in force until the date of proclamation of the relevant legislation, and that decisions taken in accordance with the law up to that date are recognised and implemented.

30 Senate Select Committee on the Administration of Indigenous Affairs, *After ATSIC – Life in the Mainstream*, The Senate, 8 March 2005, Summary of Recommendations.

Recommendation 3.1

3.11 The Committee recommends that all assets controlled by ATSIC continue to be applied to the benefit of Indigenous Australians, and that Indigenous people retain custody of Indigenous artworks and artefacts.

Recommendation 3.2

3.27 The Committee recommends that ILC's capacity to manage its portfolio of properties be monitored by the Parliamentary Joint Committee on Native Title as part of its statutory scrutiny role of the ILC. In the event that ATSIC and its regional councils are abolished, the ordinary members of the ILC Board include an Indigenous representative nominated by a relevant Indigenous organisation.

Recommendation 3.3

3.42 The Committee recommends that the Bill be amended to provide appeals to the Administrative Appeals Tribunal in cases where IBA refuses a business loan. The Committee also recommends that the Government examine all new requirements that the Bill and related administrative changes impose on the IBA to ensure that these do not have a negative impact on its operation.

Recommendation 3.4

3.46 The Committee recommends that the Parliamentary Joint Committee on Native Title carefully examine the issue of conflict of interest in the funding of Native Title Representative Bodies as part of its current inquiry into Native Title Representative Bodies.

Recommendation 3.5

3.53 The Committee recommends that consultation clauses in the Acts modified by the ATSIC Amendment Bill be amended to insert a requirement to consult relevant Indigenous organisations.

Recommendation 4.1

4.37 The Committee recommends that the Government allocate funds to expand opportunities for Indigenous leadership, governance and administration training and development. These funds could be allocated out of money saved from ATSIC's running costs.

Recommendation 4.2

4.43 The Committee recommends that the Government give active support and funding to the formation of a national Indigenous elected representative body, and provide it with ongoing funding. The Committee also recommends that the Government publicly commit to acknowledging that body as the primary source of advice on Indigenous advocacy and views. The Committee recommends the elected body should include a representative of Torres Strait Islander people living on the mainland.

Recommendation 4.3

4.63 The Committee recommends that the government defer plans to abolish the Regional Councils, and continue with consultation processes on developing new regional representative arrangements, recognising that in some areas, the preferred outcome may be to have organisations similar to TSRA and existing Regional Councils.

Recommendation 4.4

4.72 The Committee recommends that the NIC be a temporary body, to exist only until a proper national, elected representative body is in place.

Recommendation 5.1

5.76 The Committee recommends that the Government immediately establishes a mechanism to thoroughly and impartially assess the new mainstreaming arrangements as they are implemented, including those already in place. The Committee also recommends that the resultant report is made public.

Recommendation 5.2

5.97 The Committee recommends that ICC Managers have the delegated authority necessary to make direct funding decisions, within their agreed budget, on local Indigenous programs.

Recommendation 5.3

5.167 The Committee recommends the establishment of a Senate Standing Committee on Indigenous Affairs, tasked with examination of:

- the implementation of the mainstreaming policy;
- the coordination of Commonwealth, state and territory agencies;
- the formation of representative arrangements; and
- the equity of Shared Responsibility Agreements.[31]

The Committee found that at a national level, the institutions, the policies and programs that are in place have failed Indigenous Australians. While the Committee acknowledged slow and gradual improvements across many of the key indicators, relative to the general population Indigenous people still lagged behind in many areas.[32] This failure cannot be solely attributed to a "failure" of ATSIC, nor does it indicate that the policy of self-determination is a failure. The problems faced by Indigenous Australians are far reaching and the disadvantage that they suffer is severe. The reasons for this disadvantage are complex in their origins and cannot be attributed simply to the "failure" of ATSIC or any other individual or agency.

The Committee advise that international evidence suggests that the recognition and empowerment of Indigenous peoples are fundamental to addressing material disadvantage. The Committee recommends that national performance in Indigenous affairs be subjected to careful, continuous and transparent monitoring and notes that it is the Government as a whole who must be held accountable for the current state of affairs.

31 *ibid.*

32 *ibid.,* p42.

10 March 2005 *Government response to the Senate Committee Inquiry Into Recruitment and Training in the APS is released*	On 21 March 2002, the bi-partisan Finance and Public Administration References Committee (the Committee) was convened to inquire into recruitment and training in the Australia Public Service and report by 12 December 2002. The final report was tabled in the Senate on 19 September 2003. The purpose of the Inquiry was 'to examine whether current recruitment and training practices and policies in the Australian Public service are adequate to meet the challenges the APS faces'.[33] The Minister for Employment and Workplace Relations tables the Govern-ment's response to the Committee Report into Recruitment and Training in the Australian Public Service (APS).

The Government responds to the report of the Senate Finance and Public Administration References Committee on Recruitment and Training in the Australian Public Service (APS). The report had been tabled in the Senate on 18 September 2003. The report supported APS Commission initiatives, such as establishing an Indigenous employment working group to assist development of recruitment and retention strategies.

The Indigenous Employment Strategy, a whole-of-government project initiated by the APS Commission in 2003, is an example of such a strategy. The Government indicates its support in its response.[34] Following a report recommendation that dedicated funds be provided for such strategies, the Government provides $400,000 to support the Indigenous Employment Strategy with further funding to be provided pending review.[35]

33 Government response to the Senate Finance and Public Administration References Committee Report on Recruitment and Training in the Australian Public Service.

34 Senate Hansard, 10 March 2005, p86.

35 *ibid.,* p91.

10 March 2005 *United Nations CERD Committee concluding observations on Australia released*	The United Nations Committee on the Elimination of Racial Discrimination (CERD) issues its concluding observations on Australia following consideration of Australia's 13th and 14th periodic reports. The Committee acknowledges that significant progress has been achieved in the enjoyment of economic, social and cultural rights of Indigenous peoples, through the COAG framework and the national strategy on Indigenous violence; the diversionary and preventative programs aimed at reducing the over representation of young people in the criminal justice system; and the abrogation of mandatory sentencing in the Northern Territory. The Committee notes its concerns in the findings which include the abolition of ATSIC; the continuing gap between Indigenous peoples and others in the areas of housing, employment, health and income; the continued existence of mandatory sentencing in Western Australia; the over representation of Indigenous peoples in prison, continued deaths in custody, Aboriginal women as the fastest growing prison population; and the Government's rejection of most of the recommendations adopted by the Council for Aboriginal Reconciliation in 2000.[36]

The Committee considered the 13th and 14th periodic reports of Australia at its 1685th and 1686th meetings held on 1 and 2 March 2005. The Committee issues it Concluding Observations on 10 March 2005. They include the following matters relating to Aboriginal and Torres Strait Islander issues.

Positive aspects

4. The Committee notes with satisfaction that significant progress has been achieved in the enjoyment of economic, social and cultural rights by the indigenous peoples. It welcomes the commitment of all Australian governments to work together on this issue through the Council of Australian Governments, as well as the adoption of a national strategy on indigenous family violence.

5. The Committee notes with great interest the diversionary and preventative programmes aimed at reducing the number of indigenous juveniles entering the criminal justice system, as well as the development of culturally sensitive procedures and practices among the police and the judiciary.

6. The Committee welcomes the abrogation of mandatory sentencing provisions in the Northern Territory.

7. The Committee welcomes the adoption of a Charter of Public Service in a Culturally Diverse Society to ensure that government services are provided in a way that is sensitive to the language and cultural needs of all Australians.

8. The Commission welcomes the numerous human rights education programmes developed by the Human Rights and Equal Opportunity Commission (HREOC).

36 For full text on the CERD Committees Concluding Observations on Australia see <www.humanrights.gov.au/cerd/report.html> (4 October 2005).

Concerns and recommendations

9. The Committee, while noting the explanations provided by the delegation, reiterates its concern about the absence of any entrenched guarantee against racial discrimination that would override the law of the Commonwealth. (article 2)

> The Committee recommends to the State party that it work towards the inclusion of an entrenched guarantee against racial discrimination in its domestic law.

10. The Committee notes that the Australian Human Rights Commission Legislation Bill 2003 reforming the HREOC has lapsed in Parliament, but that the State party remains committed to pursue the reform of the Commission. It notes the concerns expressed by the HREOC that some aspects of the reform could significantly undermine its integrity, independence and efficiency. (article 2)

> The Committee notes the importance given by the State party to the HREOC in monitoring Australia's compliance with the provisions of the Convention and recommends that it take fully into account the comments expressed by the HREOC on the proposed reform, and that the integrity, independence and efficiency of the Commission be fully preserved and respected.

11. The Committee is concerned by the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC), the main policy-making body in Aboriginal affairs consisting of elected indigenous representatives. It is concerned that the establishment of a board of appointed experts to advise the Government on indigenous peoples issues, as well as the transfer of most programmes previously provided by ATSIC and Aboriginal and Torres Strait Islander Service to government departments, will reduce participation of indigenous peoples in decision making and thus alter the State party's capacity to address the full range of issues relating to indigenous peoples. (articles 2 and 5)

> The Committee recommends that the State party take decisions directly relating to the rights and interests of indigenous peoples with their informed consent, as stated in its General Recommendation 23 (1997). The Committee recommends that the State party may reconsider the withdrawal of existing guarantees for the effective representative participation of indigenous peoples in the conduct of public affairs as well as in decision and policy-making relating to their rights and interests.

15. The Committee notes with concern that it has proved difficult for complainants, under the Racial Discrimination Act, to establish racial discrimination in the absence of direct evidence, and that no cases of racial discrimination, as distinct from racial hatred, have been successfully litigated in the Federal courts since 2001. (articles 4 and 6)

> The Committee, having taken note of the explanations provided by the delegation, invites the State party to envisage regulating the burden of proof in civil proceedings involving racial discrimination so that once an alleged victim has established a prima facie case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for differential treatment.

16. The Committee notes with concern the persistence of diverging perceptions between governmental authorities and indigenous peoples and others on the compatibility of the 1998 amendments to the Native Title Act with the Convention. The Committee reiterates its view that the Mabo case and the 1993 Native Title Act constituted a significant development in the recognition of indigenous peoples' rights, but that the 1998 amendments wind back some of the protections previously offered to indigenous peoples, and provide legal certainty for government and third parties at the expense of indigenous title. The Committee stresses in this regard that the use by the State party of a margin of appreciation

in order to strike a balance between existing interests is limited by its obligations under the Convention. (article 5)

> The Committee recommends that the State party should not adopt measures withdrawing existing guarantees of indigenous rights and that it should make all efforts to seek the informed consent of indigenous peoples before adopting decisions relating to their rights to land. It further recommends that the State party reopen discussions with indigenous peoples with a view to discussing possible amendments to the Native Title Act and finding solutions acceptable to all.

17. The Committee is concerned about information according to which proof of continuous observance and acknowledgement of the laws and customs of indigenous peoples since the British acquisition of sovereignty over Australia is required to establish elements in the statutory definition of native title under the Native Title Act. The high standard of proof required is reported to have the consequence that many indigenous peoples are unable to obtain recognition of their relationship with their traditional lands. (article 5)

> The Committee wishes to receive more information on this issue, including on the number of claims that have been rejected because of the requirement of this high standard of proof. It recommends that the State party review the requirement of such a high standard of proof, bearing in mind the nature of the relationship of indigenous peoples to their land.

18. The Committee notes that 51 determinations of Native Title have been made since 1998, and that 37 of them have confirmed the existence of Native Title. It also acknowledges the provisions introduced by the 1998 amendments to the Native Title Act regarding Indigenous Land Use Agreements, as well as the creation of the Indigenous Land Fund in 1995 to purchase land for indigenous Australians unable to benefit from recognition of native title. (article 5)

> The Committee wishes to receive more detailed information, including statistical data, on the extent to which such arrangements respond to indigenous claims over land. Information on achievements at State and Territories level may also be provided.

19. While noting the improvement in the enjoyment, by the indigenous peoples, of their economic, social and cultural rights, the Committee is concerned over the wide gap that still exists between the indigenous peoples and others, in particular in the area of employment, housing, health, education and income. (article 5)

> The Committee recommends that the State party intensify its efforts in order to achieve equality in the enjoyment of rights and allocate adequate resources to programmes aimed at the eradication of disparities. It recommends in particular that decisive steps be taken in order to ensure that a sufficient number of health professionals provide services to indigenous peoples, and that the State party set up benchmarks for monitoring progress in key areas of indigenous disadvantage.

20. The Committee, having taken note of the explanations provided by the State party, reiterates its concern about provisions for mandatory sentencing in the Criminal Code of Western Australia. The Committee is concerned by reports of the disparate impact of this law on indigenous groups, and reminds the State party that the Convention prohibits direct as well as indirect discrimination. (article 5)

> The Committee recommends that the State party take appropriate measures to achieve abrogation of such legislation, following the example of the Northern Territory. The Committee further stresses the role and responsibility of the Federal government in this regard under the Convention.

21. The Committee remains concerned about the striking over-representation of indigenous people in prisons as well as the percentage of indigenous deaths in

custody. It has also been reported that indigenous women constitute the fastest growing prison population. (article 5)

> The Committee recommends that the State party increase its efforts to remedy this situation. It wishes to receive more information about the implementation of the recommendations of the Royal Commission on Aboriginal Deaths in Custody.

25. The Committee, while acknowledging the efforts undertaken by the State party to achieve reconciliation, and having taken note of the 1999 Motion of Reconciliation, is concerned about reports that the State party has rejected most of the recommendations adopted by the Council for Aboriginal Reconciliation in 2000. (article 6)

> The Committee encourages the State party to increase its efforts with a view to ensuring that a meaningful reconciliation is achieved and accepted by the indigenous peoples and the population at large. It reiterates its recommendation that the State party consider the need to address appropriately the harm inflicted by the forced removal of indigenous children.

27. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized. It suggests that consultation of non governmental organisations and indigenous peoples be organized during the compilation of the next periodic report.

28. The State party should within one year provide information on the way it has followed-up upon the Committee's recommendations contained in paragraphs 10, 11, 16 and 17 (paragraph 1 of rule 65 of the rules of procedure). The Committee recommends that the State party submit its 15th, 16th and 17th periodic reports in a single report, due on 30 October 2008.[37]

The government is due to submit further information, as requested in paragraph 28, before the March 2006 session of the Committee. This information will be dealt with by a member of the Committee appointed to the role of CERD Follow Up Coordinator. Terms of reference for this role were adopted in March 2005 and state:

> 2. The Committee may ask the State party to submit information at a specified time before the next reporting session of the State concerned. The coordinator will be responsible for monitoring respect by the State party for deadlines set by the Committee…
>
> 3. The coordinator will analyse and assess the information received from the State party pursuant to a request by the Committee for further information. This task should be shared with the country rapporteur. If the coordinator finds that further information is needed, the coordinator will take the matter up with the State party.
>
> 4. The coordinator may make recommendations for appropriate action to the Committee when information as mentioned in para. 2 is received and in the case of non-receipt of such information. The coordinator may, inter alia, recommend that the Committee take note of the information, request further information in the next periodic report or remind the State Party of recommendations included in the last concluding observations of the Committee and their obligations as parties to the ICERD. The meeting is held in private.

37 United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations – Australia*, UN Doc: CERD/C/AUS/CO, 14 April 2005.

5. The coordinator shall submit a succinct progress report to the Committee at each session. The Committee should set aside sufficient time for discussion of the coordinator's findings and the adoption of formal recommendations, if any, including, where appropriate, reconsideration of the date on which the next periodic report of the State party is due. The meeting is held in private.

6. The coordinator's findings will be included in the chapter of the annual report on follow-up activities. If no information is received in spite of reminders, this will be recorded in the Committee's subsequent report to the General Assembly.[38]

16 March 2005 *Legislation to abolish ATSIC passed*	Commonwealth Parliament passes the *Aboriginal and Torres Strait Islander Commission Amendment Act (2005)* which abolishes ATSIC. Regional Councils will continue to operate until 30 June 2005. The Torres Strait Regional Authority (TSRA) continues to operate under the Act.

The purpose of the *Aboriginal and Torres Strait Islander Commission Amendment Act* (2005) is to abolish the Aboriginal and Torres Strait Islander Commission.

The Torres Strait Regional Authority (TSRA), Indigenous Land Corporation and Indigenous Business Australia will continue to operate under the Act.

Most of the provisions contained in the Act are consequential to the abolition of ATSIC or put into place transitional provisions that arise from the abolition of ATSIC. The transfer of the Regional Land Fund to the Indigenous Land Corporation and the transfer of ATSIC's Housing Fund and Business Development Programme to Indigenous Business Australia are included in the provisions. Other land and property assets will be divested to Indigenous interests before ATSIC is abolished or will be transferred over to the Indigenous Land Corporation or Indigenous Business Australia to be divested for the benefit of Indigenous people.[39]

The Act maintains the original objects of the ATSIC Act in section 3. Namely:

> The objects of this Act are, in recognition of the past dispossession and dispersal of the Aboriginal and Torres Strait Islander peoples and their present disadvantaged position in Australian society:
>
> (a) to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of government policies that affect them;
>
> (b) to promote the development of self-management and self-sufficiency among Aboriginal persons and Torres Strait Islanders;
>
> (c) to further the economic, social and cultural development of Aboriginal persons and Torres Strait Islanders; and
>
> (d) to ensure co-ordination in the formulation and implementation of policies affecting Aboriginal persons and Torres Strait Islanders by the Commonwealth, State, Territory and local governments, without detracting from the responsibilities

38 United Nations Committee on the Elimination of Racial Discrimination, *Terms of reference for the work of the CERD follow up coordinator*, UN Doc: CERD/C/66/Misc. 11/Rev.2, 10 March 2005, pp1-2.

39 Minister for Immigration and Multicultural and Indigenous Affairs, *Second Reading Speech*, Commonwealth of Australia, Parliamentary Debates, Senate Official Hansard No. 2, 2004 Wednesday, 1 December 2004, pp1-3.

of State, Territory and local governments to provide services to their Aboriginal and Torres Strait Islander residents.

The Minister for Immigration and Multicultural and Indigenous Affairs announces following the passage of the Bill:

> The passage of the Bill tonight ends the period of uncertainty… The Government's reforms are based on empowering local people by getting rid of bureaucratic Government imposed "gate keepers" like ATSIC. With this Bill now through Parliament, we can get on with the business of producing better outcomes for Indigenous Australians.
>
> While there have been gains the results are not good enough. Indigenous Australians are not getting good value for money. ATSIC was a big part of the problem, but we do not lay all the blame at the feet of ATSIC. That is why we are going beyond abolishing ATSIC to completely overhaul the approach to program and service delivery for Indigenous Australians.[40]

24 March 2005 *Aboriginal and Torres Strait Islander Employment Coordinator appointed*	The Australian Public Service Commission appoints Pat Turner as Aboriginal and Torres Strait Islander Employment Co-ordinator to oversee the Commission's work on the Indigenous Employment Strategy, leadership and skills development programs for Indigenous staff, and a new Indigenous research program. On 12 August 2005, the Prime Minister launches the *APS Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees* and announces $6.8 million in additional funding to the APSC to implement the strategy, under the leadership of the Aboriginal and Torres Strait Islander Employment Coordinator.

Pat Turner is appointed as Aboriginal and Torres Strait Islander Employment Coordinator at the Australian Public Service Commission.

The coordinator's responsibilities will focus on fostering Aboriginal and Torres Strait Islander employment in the Australian Public Service by developing and implementing strategies to attract, recruit, develop and retain Indigenous employees. It will also oversee the Commission's work on the Indigenous Employment Strategy, leadership and skills development programs for Indigenous staff, and a new Indigenous research program.[41]

On 12 August 2005, the Prime Minister launched the *APS Employment and Capability Strategy for Aboriginal and Torres Strait Islander Employees* and announced $6.8million in additional funding to the APSC to implement the strategy, under the leadership of the Aboriginal and Torres Strait Islander Employment Coordinator.[42]

40 Minister for Immigration and Multicultural and Indigenous Affairs, *ATSIC Bill*, Media Release, 16 March 2005.

41 Australian Public Service Commissioner, *Public Service Increases It's Commitment to Indigenous Employment*, Media Release, 24 March 2005.

42 Prime Minister, *New Indigenous employment strategy for the Australian Public Service*, Press Release, 12 August 2005.

The Strategy aims to:

- stabilise numbers over the next two years, then increase Aboriginal and Torres Strait Islander employment in the mainstream Australian Public Service;
- contribute to increased social equity by improving Indigenous peoples income levels and employment opportunities in the wider Australian employment market;
- increase the extent to which government agencies are able to use the existing and potential skills and capacity of Aboriginal and Torres Strait Islander employees in order to meet their business needs for skilled employees, including in areas of specific skill shortage and recruitment difficulty; and
- build the capacity of the APS generally to provide more effective service delivery to Indigenous people.

It also seeks to address these concerns through initiatives directed at:

- assisting agencies to address key barriers to the employment of Aboriginal and Torres Strait Islander employees, by identifying pathways to employment that allow Indigenous people to develop the required skills and capacity to work within the APS;
- supporting Indigenous employees to develop relevant skills that allow them to contribute to business goals and build successful long-term careers within the APS;
- supporting agencies to align strategies that promote Aboriginal and Torres Strait Islander employment with their broader strategies for achieving business outcomes through workforce planning and capability development;
- encouraging partnerships with other jurisdictions and organisations (including Job Network members) to develop innovative employment solutions that meet agency skill requirements; and
- ensuring that employees working in whole-of-government service delivery to Indigenous Australians have the skills they need to deliver effective outcomes.[43]

1 April 2005 *Initial Bulletin from the Secretaries' Group meeting on Indigenous Affairs*	The Secretaries' Group on Indigenous Affairs releases a bulletin providing an overview of the whole of government approach to Indigenous Affairs. At their meeting on March 1, it was agreed that Bulletins would be issued regularly. This first bulletin focuses on Shared Responsibility Agreement's (SRA's) as a new concept and a new way of doing business with Indigenous Communities.

43 See further: www.apsc.gov.au/indigenousemployment/index.html.

This first bulletin provides an overview of the whole of government approach to Indigenous affairs and focuses on Shared Responsibility Agreements (SRAs) as a new way of doing business with Indigenous Communities.[44]

The Secretaries' Group seeks to improve communication of decisions to ensure a common and consistent understanding of the implementation of government policy and whole of government arrangements.

1 April 2005 *Victorian Aboriginal Legal Service wins tender to provide legal services to Indigenous peoples across Victoria*	The Commonwealth Attorney-General announces the Victorian Aboriginal Legal Service (VALS) is the first organisation to be awarded a tender to provide legal services for Indigenous peoples under the new arrangements. The Attorney-General's Department has since released requests for tenders progressively in each State and Territory. The tendering process commenced in Victoria and Western Australia in November 2004 and in Queensland in March 2005. All services granted contracts in this round of tendering will commence service delivery under contract on 1 July 2005.

Under the new arrangements, the Commonwealth Attorney-General's Department is responsible for administering law and justice programs previously administered by ATSIS/ATSIC. The Commonwealth Attorney-General's Department has sought tenders for the delivery of legal aid services to Indigenous Australians throughout Australia.

The Government has introduced 'competitive tendering' for Indigenous-specific legal services, which to date have been delivered by a network of specially set up Aboriginal legal services (ALSs). The ALSs have Indigenous and non Indigenous staff able to provide culturally appropriate services and maintain close links with local communities.

Competitive tendering involves opening the delivery of Indigenous legal services to tender, including to non-Indigenous law firms. The Government argument is that efficiency and improving access to legal services are the main priorities in the provision of legal services to Indigenous communities.

The following tenders have been finalised:

- Victorian Aboriginal Legal Service (coverage: whole of Victoria);
- Aboriginal Legal Service of Western Australia (coverage: whole of Western Australia), announced 14 April 2005;
- The Aboriginal and Torres Strait Islander Corporation (QEA) for Legal Services (Southern zone of Queensland, comprising Brisbane, Rockhampton and Roma regions), announced 10 June 2005;
- The Aboriginal and Torres Strait Islander Community Legal Service (Townsville and Surrounding Districts) Ltd (Northern zone covering

44 Australian Public Service Commission, Secretaries' *Group on Indigenous Affairs Bulletin*, 1 April 2005.

Townsville, Cairns, Cooktown and Mt Isa regions of the State of Queensland), announced 10 June 2005.

Requests for tender for the Northern Territory and South Australia are to be released on 2 August 2005 with contracts commencing on 1 February 2006. New South Wales and Tasmania will go to tender on 28 January 2006, with contracts commencing on 1 July 2006. The tenders will be subject to three yearly funding cycles.[45]

6 April 2005 *Bilateral agreement between Commonwealth and Northern Territory governments signed*	The Prime Minister and the Chief Minister of the Northern Territory sign the *Overarching Agreement on Indigenous Affairs Between the Commonwealth of Australia and the Northern Territory of Australia.* This is the first bilateral agreement to come out of the June 2004 Council of Australian Governments' (COAG) commitment to improve services to Indigenous Australians. The Agreement sets out five priority areas: • improving outcomes for young Indigenous Territorians; • building safer communities; • strengthening governance and developing community capacity; • building Indigenous wealth, employment and entrepreneurial culture; and • improving service delivery and infrastructure.

The five-year Agreement commits both parties' to achieving better outcomes for Indigenous people in the Northern Territory. It provides 'an overarching framework for the Governments to work together in a spirit of close cooperation'.[46]

The five priority areas agreed to by Governments are:

- Improving outcomes for young Indigenous Territorians, including through early childhood intervention – a key focus of which will be improved mental and physical health, and in particular primary health, and early educational outcomes;
- Safer communities which includes issues of authority, law and order;
- Strengthening governance and developing community capacity to ensure that communities are functional and effective;

45 Attorney-General, *First Indigenous Legal Service Announced for Victoria*, Media Release, 1 April 2005.

46 *Overarching Agreement on Indigenous Affairs Between the Commonwealth of Australia and the Northern Territory of Australia 2005-2010*, para 2 – for full text of the Agreement see http://www.nt.gov.au/dcm/indigenous_policy/pdf/20050406/OverarchingAgreement.pdf, (23 August 2005). See also: Prime Minister, Better Indigenous service delivery, 5 year bilateral agreement with the Northern Territory, Press Release, 6 April 2005, online at: www.pm.gov.au/news/media_releases/media_Release1304.html.

- Building Indigenous wealth, employment and entrepreneurial culture, as these are integral to boosting economic development and reducing poverty and dependence on passive welfare; and
- Improving service delivery and infrastructure that recognises demographic change and the need to lift the performance of the Governments.

The agreement also sets out agreed positions on:

- priority areas for bilateral action, including the streamlining of existing programs and minimising administrative costs of programs;
- principles underpinning bilateral agreements;
- future arrangements for Indigenous representation at the regional level and consultation with Indigenous people across the Northern Territory;
- core principles for Shared Responsibility Agreements; and
- whole of government machinery required.

The agreement sets out commitments dealing with Sustainable Indigenous Housing, Strengthening and Sustaining the Indigenous Arts Sector, and Regional Authorities – A Mechanism for Engaging with Indigenous Interest in the Northern Territory.

Mechanisms are in place for evaluating the outcomes of the Agreement and the Agreement will be jointly reviewed after three years. It may be amended by agreement between the parties.[47]

6 April 2005 *Prime Minister opens discussion on private land ownership in Indigenous communities*	The Prime Minister visits Wadeye, Northern Territory and announces there is a case for reviewing the issue of Aboriginal land title, with a focus on private recognition of land. The Prime Minister states that Aboriginal people should be able to aspire to own their own homes.

Visiting Wadeye in the Northern Territory, the Prime Minister said:

> I believe there is a case for reviewing the whole issue of Aboriginal land title in the sense of looking more towards private recognition… I certainly believe that all Australians should be able to aspire to owning their own home and having their own business: having title to something is the key to your sense of individuality; it's the key to your capacity to achieve and to care for your family and I don't believe that Indigenous Australians should be treated differently in this respect…
>
> I am not talking here about reducing the opportunities for Indigenous people. I am talking about giving them the same opportunities as the rest of their fellow Australians.[48]

While the Prime Minister will not commit to whether he wants changes to the Native Title Act 1993, he said there is a case for private land ownership in Indigenous communities.

47 *ibid.,* para 22.

48 Prime Minister, *Doorstop Interview – Wadeye, Northern Territory*, 6 April 2005, pp1-3.

In Wadeye, the Northern Land Council had already discussed with the community ways of introducing leasing arrangements. Following the Prime Minister's statement, Wadeye traditional owners issue a statement calling for a "public and private housing scheme" without amending The Aboriginal Land Rights Act (Northern Territory) 1976.[49]

The Aboriginal and Torres Strait Islander Social Justice Commissioner expresses concern that the debate regarding shifting ownership of Indigenous land from community to individual control has been over-simplified and that existing land rights legislation 'already provides a range of options which allow Indigenous people to lease their land to third parties.' He also cautions that the debate is failing to address other important issues, such as opportunities for generating economic development on traditional lands and the spiritual and cultural importance of land to the traditional owners.[50]

8 April 2005 *Social Justice Report 2004 and Native Title Report 2004 tabled in Parliament*	The Federal Attorney-General tables the *Social Justice Report 2004* and the *Native Title Report 2004* in Parliament. The *Social Justice Report 2004* outlines the key challenges raised by the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) and Aboriginal and Torres Strait Islander Services (ATSIS) and the transfer of all Indigenous specific programs to mainstream government departments and the movement to new arrangements for administering Indigenous programs. The Report also examines the issues for Indigenous women exiting prison. The *Native Title Report 2004* considers options for promoting economic and social development through the native title system. The report examines a set of principles for promoting economic and social development through Native Title. The principles are based on strategies for sustainable development and capacity building and have been developed in consultation with NTRB's and other native title stakeholders.[51]

The *Social Justice Report 2004* provides an overview of the main events leading up to the introduction of the new arrangements for the administration of Indigenous affairs on 1 July 2004, as well as the key events which have occurred since that time to implement the new arrangements.

In early 2004, the federal Government announced that it was introducing significant changes to the way it delivers services to Indigenous communities and engages with Indigenous peoples. The changes have become known as 'the

49 ANTaR's national website, Issues. *Land rights under threat*. < http://www.antar.org.au/land_rights_nt.html> (23 August 2005).

50 Aboriginal and Torres Strait Islander Commissioner, *Land Rights Debate has been simplistic*. National Indigenous Times, 12 May 2005.

51 Minister for Immigration and Multicultural and Indigenous Affairs, *Social Justice Report 2004 and Native Title Report 2004 tabled in Parliament*, Joint media release with the Attorney-General, 8 April 2005.

new arrangements for the administration of Indigenous affairs'. Chapter three of the Social Justice Report 2004 considers the preliminary implications of the new arrangements.

The report also provides the results of research and consultations during 2003-04 to identify what support programs are available to Indigenous women upon their release from prison. This included accommodation options, counselling and other programs which may assist in reconnecting Indigenous women with their families and communities.

The report includes 5 recommendations – 2 in relation to the needs of Indigenous women exiting prison and 3 relating to the new arrangements for the administration of Indigenous affairs. The report also contains 10 follow up actions that the Social Justice Commissioner's office will undertake over the next 12 to 18 months in relation to the new arrangements.[52]

The Native Title Report 2004 sets out guidelines for agreement making that aim to direct agreements towards meeting traditional owner goals as well as the legal requirements for the Native Title Act.

The report presents an approach that is consistent with and could contribute to the objectives of the federal Government's new arrangements and demonstrates how a synergy between the goals, concepts and processes of the new arrangements and native title policy could be established to achieve sustainable outcomes.

22 April 2005 *Community Development Employment Project (CDEP)- Future Directions Announced*	The Minister for Employment and Workplace Relations releases the government's response to the review of the Community Development Employment Project (CDEP) Scheme – *Building on Success: CDEP – Future Directions.*[53] In 2005-06 the CDEP program will: • Remain flexible with emphasis on a unique mix of employment community activities and business development, • Have a stronger emphasis on results, • Use a new funding model with an emphasis on funding going to activities, and

52 For details on recommendations and follow up actions from the *Social Justice Report 2004* see: http://www.humanrights.gov.au/social_justice/sjreport04/RecommendationsAndFollowupActions.html.

53 Department of Workplace Relations, *Building on Success: CDEP Future Directions*, DEWR, Canberra, April 2005.

22 April 2005 *(continued)*	• Involve a partnership between Department of Employment and Workplace Relations (DEWR) and CDEP organisations to improve results and meet community needs. DEWR announce a series of feedback sessions to commence April 26 to provide information to communities on the changes to CDEP.[54]

In response to the proposed changes to CDEP, the government receives over 100 submissions and estimates over 2,100 people attend the community consultations held in February 2005. Submissions are received from CDEP organisations, state/territory and local government agencies, Job Network members, ATSIC Regional Councils and individuals from the Indigenous and non-Indigenous community.[55]

Many submissions agree that CDEP would benefit from reform. However, there is also concern expressed that by focusing on the three key areas of employment, community activities and business development the role of CDEP in supporting cultural activities is not being recognised.

The feedback raises a number of other issues, including: participation by young people who leave school to join CDEP; the involvement of non-Indigenous people in CDEP; CDEP participants' entitlements; and how CDEP can best encourage people to move into non-CDEP jobs.

There are concerns that the changes to CDEP will mean that the operation of CDEP would be taken out of the hands of Indigenous people. Other submissions raise concern that CDEP participants are treated as employees rather than unemployed people. Questions are asked about entitlements to leave, long service leave and superannuation under CDEP and also whether treating CDEP participants as employees provides disincentives for non-CDEP jobs.

The negotiation of contracts for 2005-06 will allow each CDEP organisation to consider and discuss how it can implement these changes in its own local circumstances. DEWR will be carefully monitoring the changes made to CDEP in 2005-06.

2 May 2005 *New Family Violence Prevention Legal Services Announced*	The Attorney-General announces four new services will be funded under the Indigenous Family Violence Legal Services Program. The new service providers are: • Wirraka Maya Health Service Aboriginal Corporation (Port Headland, Western Australia); • Weena Mooga Gu Gudba Inc. (Ceduna, South Australia);

54 Minister for Employment and Workplace Relations, *CDEP Future Directions Announced*, Media Release, 22 April 2005.

55 To view submissions to the CDEP Discussion paper see: http://www.workplace.gov.au/workplace/Category/SchemesInitiatives/IndigenousProgs/SubmissionsontheBuildingonSuccessCDEPDiscussionPaper2005.htm.

2 May 2005 *(continued)*	• Cape York Family Violence Prevention Legal Service Unit (North Queensland); and • Coalition on Criminal Assault in the Home (North Queensland) Inc. (Palm Island, Hughenden, Richmond, Charters Towers, Queensland). The Department also invites applications to deliver services in nine other areas.

The Attorney-General's Department (AGD) provides funding for the Family Violence Prevention Legal Services (FVPLS) to assist Aboriginal and Torres Strait Islander adults and children who are victims of family violence, including sexual abuse, or who are at immediate risk of such violence.

FVPLS units are expected to provide services that are accessible and culturally appropriate to Aboriginal and Torres Strait Islander people.

The new service providers are:

- Wirraka Maya Health Service Aboriginal Corporation (Port Headland, Western Australia);
- Weena Mooga Gu Gudba Inc. (Ceduna, South Australia);
- Cape York Family Violence Prevention Legal Service Unit (North Queensland); and
- Coalition on Criminal Assault in the Home (North Queensland) Inc. (Palm Island, Hughenden, Richmond, Charters Towers, Queensland).[56]

The Department also invites applications for new Family Violence Prevention Legal Services units to deliver services in the following nine areas:

- Bourke/Brewarrina (NSW)
- Cunnamulla, Quilpie, Charleville, Goondiwindi, Murgon, Cherbourg (Qld)
- Rockhampton Local Government Area (Qld)
- Kununurra, Halls Creek, Kalumburu, Wyndham, Oombulgurri (WA)
- Anangu Pitjantjatjara Lands (NT/WA/SA)
- Dubbo Local Government Area or Binaal Billa Region (NSW)
- Mildura Local Government Area/Wentworth (Vic/NSW)
- Melville Island, Bathurst Island, Nhulunbuy (NT)
- Carnarvon, Meekatharra, Mount Magnet, Cue, Wiluna, Burringurrah (WA)

56 Attorney-General, *New Family Violence Prevention Legal Services,* Media Release, 2 May 2005.

10 May 2005 *Federal Budget 2005*	The Minister for Immigration and Multicultural and Indigenous Affairs announces funding in the 2005-2006 Budget allocation to Indigenous affairs will total $3.114 billion. Consideration of Indigenous expenditure across government is guided by the Ministerial Taskforce on Indigenous Affairs and consists of a single Indigenous Budget submission. The key Budget measures within the Indigenous Affairs portfolio are Shared Responsibility Agreements; Healthy Indigenous Housing; Indigenous Health programs including Healthy for Life, Combating Petrol Sniffing, the Hearing Services Program and additional funding to the Primary Health Care Access Program.

The key Budget measures and resources within the Indigenous Affairs portfolio are:

- the provision of $85.9 million over 4 years to develop Shared Responsibility Agreements (SRA's) with Indigenous communities.
- $24.9 million over this financial year for the continuation of the Healthy Indigenous Housing program;
- $24.5 million in this financial year to health and ageing programs including Indigenous Health – Healthy for Life; Combating Petrol Sniffing; extending the eligibility for the Hearing Services Program; to increase capacity building in Indigenous communities through the National Illicit Drugs Strategy and additional funding to the Primary Heath Care Access program;
- $17.8 million as an extension of funding for this financial year to the Native Title System;
- $14.5 million as an extension of funding for this financial year to the Fringe Benefits Tax supplementation for Aboriginal and Torres Strait Islander organisations;
- $13 million to the Australian Institute of Aboriginal and Torres Strait Islander Studies to enable the cultural resource collection to be digitalised;
- $8.7 million over 4 years to the Remote Indigenous Students project, which provides tutorial support for students leaving their communities;
- $5.2 million funding in 2005-6 for the continuation of the Aboriginal Employment Strategy;
- $5 million to continue the program to provide pools for remote communities through a "No School, No Pool" policy to encourage school attendance;
- $2 million over 4 years as an extension of funding to the Indigenous Communities/Mining Industry working in Partnership program;
- $2 million over 2 years to fund six new art works at Reconciliation Place in Canberra; and

- $1.1 million extension in funding for this financial year for the Northern Territory Indigenous Interpreter Service.[57]

May 2005 *Secretaries' Group on Indigenous Affairs release Second Bulletin*	Secretaries' Group on Indigenous Affairs issues second bulletin which focuses on the new whole of government approach to the budget.

Consideration of Indigenous expenditure across government is guided by the Ministerial Taskforce on Indigenous Affairs for the first time in this Budget. The key features of the new approach are as follows:

1. The Ministerial Taskforce sets out priorities informed by the National Indigenous Council and the Secretaries' Group on Indigenous Affairs.
2. A range of initiatives are developed to meet the priority needs under the guidance of the Secretaries' Group.
3. The Office of Indigenous Policy Coordination (OIPC) coordinates the provision of performance information on existing programs and services.
4. The Secretaries' Group considers all the initiatives and the performance indicators then develops a range of options to present to the Ministerial Taskforce for consideration.
5. The Ministerial Taskforce then submits an analysis of the various initiatives to the Senior Ministers' Review (SMR) for consideration.
6. Once the fiscal objectives of the Budget are known, the Ministerial Taskforce finalises its position on Indigenous expenditure and a single Indigenous Budget submission is made to the Expenditure Review Committee of Cabinet.[58]

10 May 2005 *Minister announces changes to CDEP funding*	The Minister for Employment and Workplace Relations announces changes to the Community Development Employment Project (CDEP) are to take effect immediately.

The Minister for Employment and Workplace Relations announces changes to the Community Development Employment Projects (CDEP) Program will begin immediately, following the community consultation process undertaken earlier in the year.

57 Minister for Immigration and Multicultural and Indigenous Affairs, *Budget 2005 Indigenous Affairs,* Media Statement, 10 May 2005.

58 Secretaries' Group on Indigenous Affairs, *Bulletin Number 2,* May 2005.

The new directions for CDEP include:

- Building on the flexibility of CDEP with an emphasis on a unique mix of employment, community activities and business development;
- A stronger emphasis on performance and results – meeting the needs of communities;
- A new funding model, which sets a fair management fee, puts an emphasis on funding into activities and achieves an effective rate of utilisation of allocated CDEP places;
- A stronger partnership being built between Department of Employment and Workplace Relations (DEWR), CDEP organisations and other service providers to improve results; and
- Achieving better outcomes for CDEP participants, particularly ensuring that 15 to 17 year old participants complete an accredited course to improve their employability skills.[59]

The additional centres established at a cost of $9.2 million, will be run by organisations that deliver CDEP programs. Currently, 22 IECs operate across Australia and to date they have assisted over 5,000 participants and placed over 1,600 people into non-CDEP employment.

The 15 new IECs will operate in areas with good labour markets. IECs cooperate with other employment providers, such as Job Network members, to ensure people access a comprehensive and coordinated package of assistance.

25 & 26 May 2005 *Second Indigenous Economic Development Forum held in Darwin*	The second Indigenous Economic Development Forum is held in Darwin.[60] The Chief Minister of the Northern Territory launches the Northern Territory Government's new Indigenous Economic Development Strategy at the forum. The Strategy covers 13 industry sectors and identifies specific opportunities for development in construction, tourism, community services, mining and production, retail and services, pastoral, horticultural, natural resources management, government, forestry and agri-business, arts, knowledge and culture, and aquaculture and fisheries.

The Indigenous Economic Development Forum, Seizing Our Economic Future focuses on four themes: Employment, Education and Training; Financial Capacity and Governance; Sustainable Economic Use of Country; and Indigenous Arts and Tourism Strategies.

The centrepiece of the forum is the launch of the NT Government's new Indigenous Economic Development Strategy. The Strategy was produced with the guidance and assistance of the Indigenous Economic Development Taskforce.

59 Minister for Employment and Workplace Relations, *CDEP Future Directions,* Media Release, 10 May 2005.

60 Clare Martin Chief Minister, Minister for Indigenous Affairs, *Strategy for More Jobs For Indigenous Territorians*, Media Release, 25 May 2005.

The Taskforce comprises members from Indigenous organisations, the private sector and the Australian and Northern Territory Governments.

The plan covers 13 industry sectors and identifies specific opportunities for development in construction, tourism, community services, mining and production, retail and services, pastoral, horticultural, natural resources management, government, forestry and agri-business, arts, knowledge and culture, and aquaculture and fisheries. The speakers at the forum reflected these 13 areas of interest.[61]

27 May 2005 *Minister announces 52 Shared Responsibility Agreements signed*	The Minister for Immigration and Multicultural and Indigenous Affairs releases details of the first round of Shared Responsibility Agreements (SRA's) to be finalised. The 52 Shared Responsibility Agreements involve 43 separate Indigenous communities.

The Minister announces that the agreements represent an investment of $9.5 million, shared across a number of government agencies. The agreements include initiatives which address nutrition, community safety, business support, skills development and a range of other community requirements. Communities have made various commitments in return, such as controlling substance abuse and being involved in youth recreation activities.

The Minister states:

> The voluntary agreements between Indigenous communities, the Australian Government and in some cases State/Territory Governments are the outcome of a quiet revolution in Indigenous affairs.[62]

Summaries of the first 52 agreements and information about the SRA process are available online at: www.indigenous.gov.au/sra.html#kitcontents

30 May 2005 *National Recognition for Good Indigenous Government*	The patrons of Reconciliation Australia name eight organisations as finalists in the inaugural Indigenous Governance Awards. The scheme has been developed by Reconciliation Australia in conjunction with BHP Billiton to recognise and promote good practice across Indigenous Australia.

The finalists in the 2005 Indigenous Governance Awards are announced by the Patrons of Reconciliation during the National Reconciliation Planning Workshop. There has been an overwhelming response to the awards scheme in its first year, with 57 applications received from a diverse range of organisations across the country.

The 8 finalists are the Central Australian Aboriginal Congress in Alice Springs; Goldfields Land and Sea Council in Kalgoorlie; the Institute for Aboriginal

61 Northern Territory Chief Minister, Strategy for more jobs for Indigenous Territorians, Media Release, 25 May 2005.

62 Minister for Immigration and Multicultural and Indigenous Affairs, *Sharing Responsibility: Agreements Target Exceeded,* Ministerial Statement, 27 May 2005.

Development in Alice Springs; North Coast Aboriginal Corporation for Community Health in Maroochydor; Koorie Heritage Trust in Melbourne; Sunrise Health Service in Katherine; Maari Ma Health Aboriginal Corporation in Broken Hill; and Tiwi Islands Local Government in the Northern Territory.

The finalists will each receive site visits from members of the judging panel before the winners are announced at a special presentation event in August 2005.[63]

The winner is announced in August 2005 – Koori Heritage Trust.

30-31 May 2005 *National Reconciliation Planning Workshop*	The National Reconciliation Planning Workshop organised by Reconciliation Australia is held in Canberra. The Workshop goals has three main aims: • to clarify any major areas that need to be addressed, so as to advance reconciliation; • to foster the building of relationships, understanding, commitment and the capacity to work together between the various participants of the workshop and members of the broader community; and • to establish a path forward for the reconciliation process. Two hundred invited people attend the workshop, 45% of whom are Indigenous. Representation is spread across all levels of government, non-government organisations, education, business, the media and faith groups.

The National Reconciliation Planning Workshop takes place on 30-31 May 2005 at Old Parliament House in Canberra. Two hundred invited people attended the workshop, 45% of whom are Indigenous. There are representatives across all levels of government, non-government organisations, education, business, the media and faith groups.[64]

The Prime Minister stated:

> Reconciliation is about rights as well as responsibilities. It is about symbols as well as practical achievement. It is about the past as well as being about the present and the future. But what can we agree on undeniably? We can agree in the special status of the Aboriginal and Torres Strait Islander as the first people of our nation. We can recognise and acknowledge the past injustices and I've frequently said in my time as Prime Minister that the treatment of Indigenous Australians represents the most blemished chapter in the history of this country."
>
> "The rest of the community has to reach out and meet the proper and enduring aspirations of Indigenous people. To recognise, as I do and I believe the overwhelming majority of your fellow Australians do, that there is no section of our community which is more disadvantaged that the Indigenous people of this

63 Reconciliation Australia, *Indigenous Governance Awards – Recognising Excellence – Finalists,* <http://www.reconciliationaustralia.org/igawards/finalists.html> (30 August 2005).

64 Reconciliation Australia, Proceedings Report of the National Reconciliation Planning Workshop 30/31 May 2005, full text of the report can be seen at <http://www.reconciliationaustralia.org/docs/planning_workshop/proceedings_report.pdf> (30 August 2005).

> country… And that in recognising that a new spirit of responsibility is needed on an individual basis by indigenous communities and that passive welfare is a poison for Indigenous communities, as it is for the rest of the Australian community, I say in the name of Government that we will reach out. We will meet the Indigenous people of this country more than half way if necessary because at the end of the day we need together to achieve the very fine goals (of reconciliation).[65]

The Minister for Immigration and Multicultural and Indigenous Affairs in her speech made reference to a new conversation taking place in Australia and stated:

> Aboriginal and Torres Strait Islander people, their families and communities must be at the centre of the new conversation. They must be given a voice. The conversation must be with them, not about them.
>
> And having been asked to contemplate their future, we must listen and follow through with actions and outcomes.[66]

There were three workshop goals:

1. To clarify the major areas that need to be addressed to advance reconciliation;
2. To build relationships, understanding, commitment and capacity to work together; and
3. To establish a path forward for the reconciliation process.

Four themes emerge from the workshop:

1. Indigenous disadvantage, with a strong focus on education and the importance of children;
2. Making progress on the rights agenda, this includes constitutional reform and formal recognition of past wrongs;
3. The need for an Indigenous representative body at the national level; and
4. The importance of having many networks of reconciliation efforts working together effectively.

Small group discussions focus on the draft work-plan developed by Reconciliation Australia which is divided into five topics: Community engagement and education; confronting and improving race relations; leadership in the reconciliation process; partnerships for success; and shaping policy.[67]

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65 Prime Minister, *Address at the National Reconciliation Planning Workshop,* Transcript, 30 May 2005, online at: www.pm.gov.au/news/speeches/speech1406.html.

66 Minister for Immigration and Multicultural and Indigenous Affairs, *Speech to Reconciliation Australia Conference,* Old Parliament House, 31 May 2005.

67 The workshop report, and all papers delivered, is available online at: www.reconciliation.org.au/reconaction/planning_workshop.html. Each government also provided an overview of their progress in implementing reconciliation. This is available online at: www.reconciliation.org.au/docs/planning_workshop/backgroud/7_government_contributions.pdf.

3 June 2005 *The Council of Australian Governments' (COAG) meet in Canberra*	The Council of Australian Governments (COAG) holds its 15th meeting in Canberra. The Council discuss significant areas of national interest including Indigenous issues. The Council receive reports on the Indigenous Communities Coordination Trials and the National Framework for Reconciliation. COAG reaffirm their commitment to work together in an ongoing partnership to improve outcomes for Aboriginal and Torres Strait Islander people. In particular, COAG note the importance of governments working together with local Indigenous communities on the basis of shared responsibility.

In receiving reports on the Indigenous Communities Coordination Trials and the National Framework for Reconciliation, members of COAG reaffirmed their commitment to work together in an ongoing partnership to improve outcomes for Aboriginal and Torres Strait Islander Australians.

In particular, COAG note the importance of governments working together with local Indigenous communities on the basis of shared responsibility.[68]

3 June 2005 *National Indigenous council release draft working document on possible Indigenous land tenure principles*	The National Indigenous Council (NIC) meets with both Land Councils and Native Title Representative Bodies (NTRBs) to discuss possible Indigenous land tenure principles that the Council has developed. The NTRBs and Land Councils almost unanimously reject the NIC's draft principles.[69]

The Indigenous Land Tenure Principles proposed by the NIC are:

1. The principle of underlying communal interests in land is fundamental to Indigenous culture.
2. Traditional lands should also be preserved in ultimately inalienable form for the use and enjoyment of future generations.
3. These two principles should be enshrined in legislation, however, in such a form as to maximize the opportunity for individuals and families to acquire and exercise a personal interest in those lands, whether for the purposes of home ownership or business development.
    - An effective way of reconciling traditional and contemporary Indigenous interests in land – as well as the interests of both the group and the individual – is a mixed system of freehold and leasehold interests.
    - The underlying freehold interest in traditional land should be held in perpetuity according to traditional custom, and the individual should be entitled to a transferable leasehold interest consistent with individual home ownership and entrepreneurship.

68 Council of Australian Governments, *Council of Australian Governments' Meeting 3 June 2005,* 3 June 2005.

69 National Indigenous Times, *Confusion reigns*, *op.cit.*

4. Effective implementation of these principles requires that:
   - the consent of the traditional owners should not be unreasonably withheld for requests for individual leasehold interests for contemporary purposes;
   - involuntary measures should not be used except as a last resort and in the event of any compulsory acquisition, strictly on the existing basis of just terms compensation and, preferably, of subsequent return of the affected land to the original owners on a leaseback system basis, as with many national parks.
5. Governments should review and, as necessary, redesign their existing Aboriginal land rights policies and legislation to give effect to these principles.[70]

10 June 2005 *Victoria to establish a new representative body for the state's Aboriginal communities*	The Victorian Aboriginal Affairs Minister announces a series of consultation sessions have been planned for regional Victoria with a view to establishing a new representative body for the State's Indigenous communities. This is in response to the disbanding of the Aboriginal and Torres Straits Islander Commission.

Victoria is to establish a new representative body for the State's Aboriginal communities in response to the disbanding of the Aboriginal and Torres Strait Islander Commission (ATSIC) which will leave Indigenous people with no elected, cultural representation at the national level.

The Aboriginal Affairs Minister announces a series of consultation sessions have been planned for regional Victoria. Meetings in the State's west to begin establishing the new body will be held in Mildura, Robinvale, Swan Hill, Horsham, Kerang and Halls Gap.[71]

15-16 June 2005 *Third NIC meeting and second joint meeting with the Ministerial Taskforce (MTF) on Indigenous Affairs*	The third National Indigenous Council (NIC) meeting and second joint meeting with the Ministerial Taskforce (MTF) on Indigenous Affairs is held. The primary areas of discussion at this meeting are land tenure and economic development.

A key discussion area with the MTF focuses on land tenure and economic development issues. The NIC states its support for using the Indigenous land base to enable individual home ownership and business development.

Another significant area of discussion with the MTF concerns ways to support better education outcomes for Aboriginal and Torres Strait Islander peoples.

The NIC states its support for the recently announced initiative that will establish projects to support suicide prevention and a Kids Helpline targeted specifically at Indigenous communities.[72]

70 Sue Gordon, *Indigenous Land Tenure Principles,* National Indigenous Council, Media Release, 3 June 2005.

71 ABC News Online website, *Regions to be consulted about new Indigenous body*. <http://www.abc.net.au/news/newsitems/200506/s1388504.htm> (1 September 2005).

72 National Indigenous Council, *Third Meeting of the National Indigenous Council 15-16 June 2005*. Media Release, 16 June 2005.

17 June 2005 *Minister launches the Indigenous Employment Strategy for Industry*	The Minister for Employment and Workplace Relations launches the Australian Chamber of Commerce and Industry's Indigenous Employment Strategy for Industry, *Employing Indigenous Australians.*

The Australian Chamber of Commerce and Industry has developed, with the financial assistance of the Department of Employment and Workplace Relations (DEWR), a strategy to provide Indigenous peoples with more opportunities to enter the workforce.

This is one of a number of ACCI initiatives to promote the benefits of employing Indigenous Australians. The Indigenous Employment and Training Project (IETP) provides a starting point for all ACCI member associations to successfully implement an Indigenous Employment Strategy in their respective industries and businesses.[73]

The main objective of the project is to develop a strategic approach to Indigenous employment and training, through:

- the development of an industry specific approach to Indigenous Employment;
- establishing and maintaining stronger partnerships between Industry and Indigenous jobseekers;
- the provision of quality advice to stakeholders on Indigenous issues within the private sector.

The IETP priorities include:

- assisting in the development of employment and training strategies;
- supporting Indigenous Employment Centres that have been established to help CDEP participants take up ongoing employment outside of CDEP;
- promoting private sector employment opportunities to Indigenous communities and organisations; and
- promoting the Indigenous Employment and Training Program including Wage Assistance and other Indigenous employment initiatives to employers, Indigenous communities, Indigenous students and jobseekers.[74]

73 Australian Chamber of Commerce and Industry, *Minister launches ACCI's Indigenous Employment Strategy.* Media Release, 17 June 2005.

74 Australian Chamber of Commerce and Industry website, *Employing Indigenous Australians, Indigenous Employment Strategy Framework for Industry* http://www.acci.asn.au/text_files/Discussion%20Papers/Employing%20Indigenous%20Australians%20Strategy.pdf> (1 September 2005).

22 June 2005 *Senator Aden Ridgeway makes valedictory speech*	Senator Ridgeway makes his valedictory speech in the Senate in the lead up to his final days in Parliament. Senator Ridgeway states his continued commitment to National Reconciliation and his reliance on truth, universality and human dignity as guiding principles during his time as Senator.

Senator Ridgeway makes his valedictory speech in the Senate in the lead up to his last days in Parliament. He draws attention to his continued commitment to National Reconciliation and his reliance on truth, universality and human dignity as his guiding principles during his time as a Senator.[75] Senator Ridgeway entered the Senate as only Australia's second Indigenous Federal politician in July 1999.

23 June 2005 *Minister announces the Corporations (Aboriginal and Torres Strait Islander) Bill 2005*	The Minister for Immigration and Multicultural and Indigenous Affairs announces the details of the *Corporations (Aboriginal and Torres Strait Islander) Bill 2005*. The Bill aims to overhaul incorporation legislation for Aboriginal and Torres Strait Islander corporations. The implementation of the new legislation will commence on 1 July 2006, this is to allow existing corporations to make the transition to the new regime. The Bill is intended to replace the *Aboriginal Councils and Associations Act 1976.*

The Minister for Immigration and Multicultural and Indigenous Affairs announces the beginning of a major overhaul of the legislation governing Aboriginal and Torres Strait Islander corporations.[76]

The Corporations (Aboriginal and Torres Strait Islander) Bill 2005 is intended to replace the Aboriginal Councils and Associations Act 1976. This Act was developed during the 1970's to cater for the small number of land-holding corporations that were linked to the first lands right legislation. Currently about 3,000 Indigenous organisations are registered under the Aboriginal Councils and Associations Act 1976.

These organisations are involved in delivering a wide range of services which include essential services provision to Indigenous communities. The range of organisations varies from very small organisations to some which handle millions of dollars of revenue. Most of these organisations are in remote areas.

The Aboriginal Councils and Associations Act is no longer deemed as adequate to deal with the large numbers of Indigenous corporations, the diversity of services which they provide, and the developments that have taken place in corporate law and native title law since the 1970's.

The Corporations (Aboriginal and Torres Strait Islander) Bill 2005 responds to the current difficulties experienced by Indigenous corporations. It is intended to align corporate governance requirements with the modern standards of corporate

75 Senator Ridgeway, *Hansard – Senate,* 22 June 2005, pp98-103.

76 Minister for Immigration and Multicultural and Indigenous Affairs, *New bill to benefit thousands of Aboriginal corporations.* Media Release, 23 June 2005.

accountability, while allowing some flexibility for Indigenous corporations to structure their own arrangements to suit their particular and specific needs. The Bill includes a means for the Registrar to assist with the protection of members' rights, this is consistent with the Corporations Act, and provides opportunities and avenues for members to protect their own interests.

The government states that the Bill is broadly in line with the recommendations which arose out of the independent review of the Aboriginal Councils and Associations Act commissioned by the Registrar in 2001.[77] Implementation of the new legislation is intended to commence on 1 July 2006, to allow the existing 3,000 organisations time to make the transition to the new regime.

For further information relating to these changes and the current rules and procedures refer to the Australian Government Office of the Registrar of Aboriginal Corporations.[78]

30 June 2005 *ATSIC Regional Councils close and cease to exist*	ATSIC Regional Councils cease to exist, as those provisions of the *ATSIC Amendment Bill* come into effect. The Aboriginal and Torres Strait Islander Social Justice Commissioner urges the Commonwealth and State/Territory governments to work together to facilitate and fund alternative regional representative structures.

Commissioner Calma urges the Commonwealth and State/Territory governments to work together to facilitate and fund alternative regional representative structures. He states:

> I acknowledge the value in governments working directly with individual Indigenous communities through the Shared Responsibility Agreement making process; however, there is still a need for Indigenous regional and state-wide apparatus to inform planning about the needs of Indigenous people on a regional and state basis.
>
> Indigenous Australia must have a national voice in order to influence and inform policy-making at the federal level. The demise of ATSIC, along with its international advocacy program, will also diminish the degree of representation by Indigenous Australians at various United Nations forums. The absence of both national and international representation on Indigenous rights will reduce the level of scrutiny and accountability of governments on their endeavours to improve the lives of Indigenous Australians.[79]

77 *Corporations (Aboriginal and Torres Strait Islander) Bill 2005,* Second Reading. Hansard – House of Representatives, 23 June 2005, pp12-15.

78 Australian Government Office of the Registrar of Aboriginal Corporations http://www.orac.gov.au/whats_new.aspx#7 (10 October 2005).

79 Aboriginal and Torres Strait Islander Social Justice Commissioner, *Closure of ATSIC Regional Councils Statement,* Media Release, 30 June 2005.

Appendix 2

Summary of each ATSIC Regional Plan

The Aboriginal and Torres Strait Islander Commission (ATSIC) was established in 1990 by the *Aboriginal and Torres Strait Islander Commission Act 1989* (Cth) (ATSIC Act). The Act made provisions for the establishment of 35 representative Regional Councils on behalf of Aboriginal and Torres Strait Islander communities in Australia.

Under Section 94 of the *ATSIC Act 1989*, each Regional Council was required to develop a Regional Plan which aimed at 'improving the economic, social, and cultural status of Aboriginal and Torres Strait Islander residents of the region.'[1] The Plans, developed in consultation with communities, aimed to identify funding priorities in each region, which ensured Councils a direct input into the ATSI C budget process.

This appendix is a summary of the most recent and current Regional Plans developed by each Regional Council prior to the abolishment of ATSIC. Many of the Councils refer to these Plans as legacy plans or documents. Most Plans present statistical and demographic data pertaining to Aboriginal and Torres Strait Islander people residing in the region. This data assists in informing the identified priority policy areas. The Regional Plans seek to address inequities and disadvantage within the Aboriginal and Torres Strait Islander community, as well as to record, promote and build upon achievements.

This appendix presents the priority areas identified in each Regional Plan (variously called goals, aims, outcomes etc) as well as a selection of the strategies (outputs) proposed to address the issues. Common themes among the Plans include health, education, capacity development and governance, economic/ employment participation, land and heritage, law and justice, housing and infrastructure, essential services delivery and family violence.

Many of the Plans are detailed and broad reaching in their scope. This appendix provides a short summary of each Plan. It also identifies whether the Plan has aligned its priority areas with the COAG Priority Indicators.

A summary of each Plan was prepared to demonstrate to governments that ATSIC Regional Councils had consulted widely with their constituents to develop priorities and actions that would guide their efforts to addressing the poverty, dysfunction and despair experience by Indigenous Australians nationally. The Plans generally aim to empower Indigenous Australians to take control of their

1 ATSIC Agency Budget Statement: Overview, http://www.atsic.gov.au/About_ATSIC/Budget /1999_2000/budget_c_1_1.asp (accessed 30/08/05).

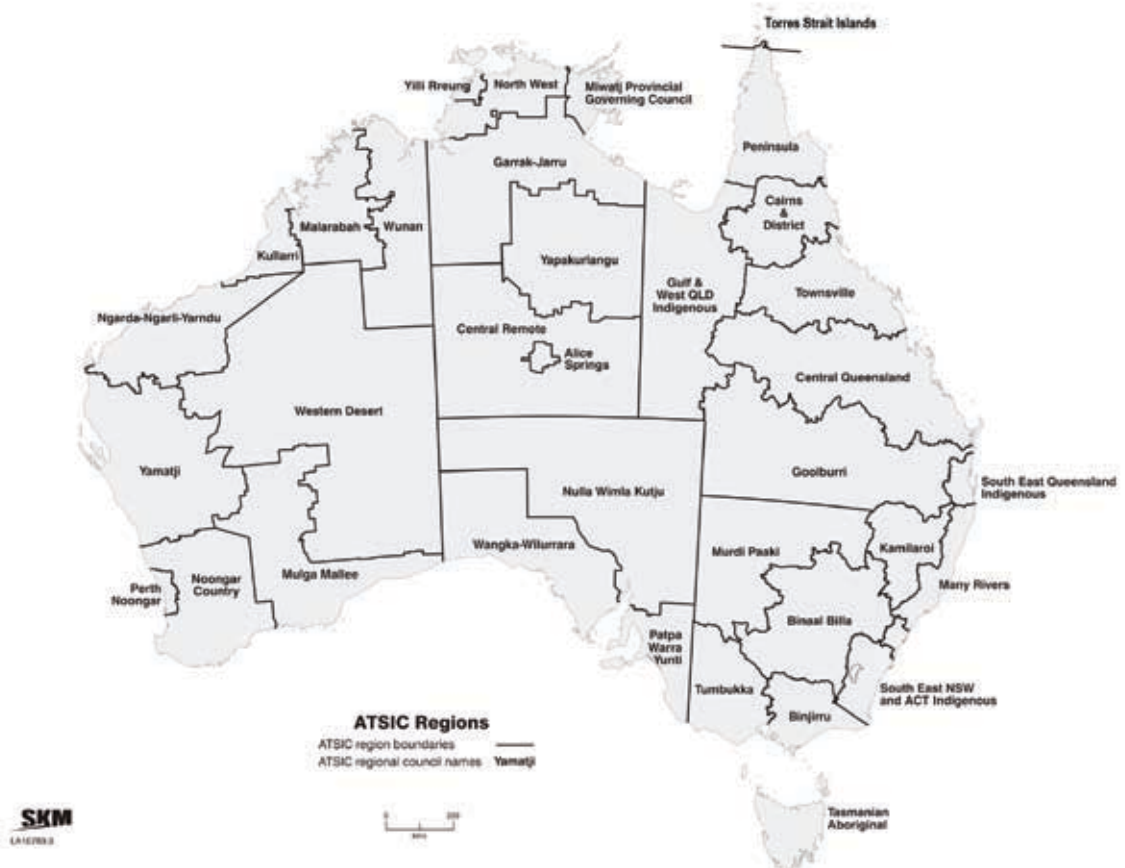
futures and to improve their socio-economic status in a responsible way within a self determination or human rights context. The summaries have been produced because significant numbers of Indigenous peoples have expressed that *they do not want government* to again ask them 'what are your priorities?' when they have in recent times expressed their priorities to Regional Councils and government officials and they are tired of being asked the same questions and giving the same answers.

The summaries in this appendix can, and should, inform Indigenous Coordination Centre (ICC) Managers of the priorities that must be addressed, or should form the backbone of community consultations in the formation of SRAs and RPAs in each ICC region. Indigenous community representatives will also find them informative to stimulate their thinking on what strategies might be applicable to their community.

While the Regional Plans are public documents, they are not easily obtainable. Requests for Regional Council Plans should be made to the Indigenous Coordination Centre that exists in each of the former ATSIC Regions or through the Office of Indigenous Policy Coordination in Canberra.

The Plans are summarised by state or territory.

Regional Map



Victoria

Binjirru: Regional Plan 2004-2006

Family/Community Environment

a) **Health:** Advance health outcomes of Indigenous and Torres Strait Islander communities, including substance abuse issues.

Strategies: Convene regional forum bringing together health service providers; provide information to mainstream health providers to develop culturally appropriate programs; build capacity of local communities to meet community health needs; ensure RCIADIC recommendations are implemented.

b) **Family Well-being**

Elders, women, men and youth: Improve social, physical and emotional well-being for Elders; women; men and youth.

Strategies: Establish a range of agreement and initiatives to address the needs of the community such as: role model programs; fitness programs; family violence and sexual assault programs; parenting programs, assist youth to rediscover culture, programs for youth in juvenile justice system, convene youth forum.

Sport and Recreation: Indigenous people having access to and participate in sporting and recreational activities.

Strategies: Ensure adequate funding of programs; assess community sport and recreational needs; promote benefits of sports and recreational activity.

Family Violence: To have a community where people feel safe and are able to live free of family violence.

Strategies: Develop regional family violence plan; develop professional skills of workers engaged in the area of family violence and sexual assault; develop family violence awareness programs; ensure services are available for children.

c) **Housing and Infrastructure**: To provide housing services that meets the needs of Indigenous people living in the region.

Strategies: Collect data against objectives of 'Building a Better Future Policy'; adopt Regional Housing Infrastructure Plan; seek removal of land taxes from CHIP housing.

d) **Community Capacity**

i. **Planning and Coordination:** Ensure communities have capacity to engage in and conduct effective and culturally specific planning processes.

Strategies: Develop reporting processes; monitor and evaluate implementation of the Regional Plan; hold regular community meetings.

ii. **Governance:** Increased ability for communities to be self-determining and self-governing.

Strategies: Develop strategies with funding bodies to meet governance needs; access training and professional development programs; ensure effective service delivery by mainstream organisations.

iii. **Community Consultation:** Effective culturally specific community consultation models that deliver best practice and real outcomes.

Strategies: Develop community consultation strategy that supports effective consultation with all areas of the community.

iv. **Media:** Develop comprehensive media strategy that delivers up to date culturally relevant information to community.

Strategies: Ensure Indigenous media is supported; ensure a diverse range of media is used.

Human Development and Safety

e) **Law and Justice:** To reduce the over-representation of Indigenous peoples at all levels of the justice system.

Strategies: Ensure Family Violence Prevention and legal Service is actively supported; review Aboriginal Justice Agreement and RCIADIC recommendations; Advocate Community Justice Panels; support advocacy role for Elders; continue to provide diversion programs; support post-release programs.

f) **Education:** All Aboriginal and Torres Strait Islander people participating in education and training that improves their opportunities for gainful employment, and that improves their quality of life, as is the right of all people.

Strategies: Introduce Indigenous studies into the curriculum for all schools; facilitate forum on Indigenous education; work with schools to introduce Indigenous cultural programs; address education needs of people in justice system.

g) **Wealth Generation and Economic Development**

i. **Economic Development:** Increase community involvement in sustainable economic initiatives and business enterprise.

Strategies: Identify data to demonstrate where change is occurring; investigate opportunities for cultural/eco tourism; support the development of Indigenous business and CDEP; provide support through mentoring and training programs.

ii. **Employment:** To improve Indigenous and Torres Strait Islander employment opportunities across the region.

Strategies: Form partnerships with employers; promote the employment of Indigenous people in a wide range of roles by local and state government.

iii. **CDEP:** Improve well-being of Indigenous people through provision of training and access to long term employment.

Strategies: Ensure community is aware of benefits/successes of CDEP programs; ensure adequate support is given to CEP participants; provide quality training.

h) Land, Sea, Culture and Heritage:

i. Land Rights: Reinforce unique status of Victorian Indigenous peoples as the original owners/custodians and decision makers of traditional land and waters.

Strategies: Promote awareness of the social and cultural significance of community owned land; support acquisitions of land by individuals and communities.

ii. Native Title: Reinforce unique status of Victorian Indigenous peoples as the original owners/custodians and decision makers of traditional land and waters and support Native Title and land acquisitions.

Strategies: Lobby for legislative change; engage in high levels discussion on Native Title; reinvigorate Native Title Agreement Framework; Strengthen services offered by ILC.

iii. Culture and Heritage: Recognise and respect the distinct and diverse Victorian Indigenous peoples and Torres Strait Islander cultures, histories, languages and environments and promote their preservation.

Strategies: Ensure keeping places are adequately resourced and that these facilities continue to grow in the community; provide support to artists in relation to copyright and intellectual property issues; recognise value of cultural programs as diversionary programs for youth.

Tumbukka: Regional Plan 2004-2006

Health: Self determination in the provision of health services ensuring Aboriginal and Torres Strait Islander people have access to Aboriginal owned and operated health services.

Strategies: Establish agreements to strengthen partnerships; data collection; increase knowledge of health issues; develop programs and build capacity; monitor/review health services.

Economic Participation

a) Economic Development: Actively encourage and support economic development opportunities in Indigenous communities in region.

Strategies: Data collection; provide support to new and existing businesses; develop regional approach to the development of cultural/eco tourism; identify interstate and international strategies; improve governance of Indigenous businesses and organisations.

b) Employment: Increasing number, range and availability of employment opportunities to Indigenous people in region.

Strategies: Develop capacity of community organisations to increase the range of programs they are able to run, enhancing local employment opportunities; convene summit to develop community based employ-

ment; establish exchange program between public sector and Indigenous organisations to share work experience.

c) **CDEP:** CDEPs to develop meaningful employment, training and enterprise development.

Strategies: Review CDEP performance; highlight success of CDEP; develop clear direction and purpose for CDEP; establish mentor program.

Land, Sea, Culture and Heritage

a) **Confirmation of Aboriginality:** Ensure that confirmation of Aboriginality occurs under just and fair circumstances and only to those of Aboriginal descent.

Strategies: Establish a position on the process of confirmation.

b) **Heritage and Culture:** To preserve, maintain, protect and enhance the rights of Aboriginal people.

Strategies: Support activities that create opportunities for Indigenous people to participate in cultural activities that raise awareness of Indigenous arts; establish arts program in schools; seek repatriation of ancestral remains and cultural objects.

c) **Native Title:** To have traditional lands returned to the traditional owners and to acquire/regain land in order to improve the economic, cultural and social status of Aboriginal communities in the region.

Strategies: Develop MOU between traditional owners and communities that will allow input into management of lands and sites; source resources for traditional owners to pursue native title claims; recommend review of ATSI Heritage Protection Act.

d) **Reconciliation:** Achieve levels of reconciliation to meet the needs of local communities.

Strategies: Undertake activities that will raise awareness of reconciliation.

e) **Land and Water Management:** Increasing Indigenous involvement in land and water management.

Strategies: Support active participation of Indigenous people in the design, development and implementation of land, water and environmental programs.

f) **Border Issues:** Actively engage with other agencies in NSW, Vic and SA to address border issues.

Strategies: Ensure that Indigenous people living in border areas are not being prevented from accessing services because a border lies between them and the service they need; hold annual border conference meetings between state/federal representatives.

Family Well-being

a) **Women:** Improve the social, physical and emotional well-being of Aboriginal women in region.

Strategies: Monitor and evaluate the quality of delivery of women's services; develop innovative projects that support women; identify gaps in delivery.

b) **Men:** Improve the social, physical and emotional well-being of Aboriginal men.

Strategies: Hold information forums to provide support, advice, referral to men; support the provision of anger management programs; identify innovative projects that will provide space and services for men.

c) **Youth:** To support the aspirations of, and continued resourcing of youth.

Strategies: Develop overarching strategy for the development and support of youth; ensure appropriate range of services are available; assist young people to develop parenting strategies.

d) **Sport and Recreation:** Improve Aboriginal people's access to, and participation in, sporting and recreational activities.

Strategies: Establish, support and promote regional games; assist mainstream sporting programs to provide culturally appropriate environmental for Indigenous people.

e) **Family Violence:** To promote the health and viability of families by developing policies which support families in our community.

Strategies: Develop policies and actions that identify major initiatives to address issues of family violence; develop regional family violence action place; develop professional skills of workers and community members engaged in family violence and sexual assault work; ensure service providers are able to provide culturally appropriate services to Indigenous people.

f) **Children**: Ensuring our children are in a safe, secure and healthy environment where their cultural identity can be developed and strengthened.

Strategies: Map services; identify gaps in delivery; develop strategies that address the needs of children and support their development.

Law and Justice: Address the ongoing issue of over-representation of Aboriginal and Torres Strait Islander peoples within all levels of the criminal justice system.

Strategies: Develop programs that provide support to offenders to assist them in returning to their communities; review cross-cultural training to workers in the justice system; support and promote diversionary and early intervention programs; support RAJAC regional plan and play active role in the review of the Victorian Justice Plan.

Education: Work towards educational and training outcomes that are above that of all other Australians.

Strategies: Data collection; introduce Indigenous studies in schools; address retention and completion rates; work with peak agencies to ensure culturally appropriate education.

Housing and Infrastructure: Provide appropriate, affordable housing to Aboriginal people in region.

Strategies: Data collection; support/encourage participation in Home Purchasing Incentive Scheme; adopt regional Housing Infrastructure plan.

Community Capacity

a) **Planning and Coordination:** Ensure communities have the capacity to engage in/conduct planning processes.

Strategies: Ensure performance indicators have relevance to community; ensure regional plans reflect community needs and ambitions.

b) **Networking:** Encourage and ensure appropriate networking opportunities.

Strategies: Develop opportunities that support networking community and all levels of government, service providers and local/regional communities.

c) **Communication:** Increasing communications opportunities between community and government agencies, service providers, community representatives and other communities.

Strategies: Establish protocols within the community; liaison protocols; utilising a media strategy.

New South Wales

Binaal Billa Regional Council: Strategic Plan 2004-2007

Education

1) Early School Engagement
2) Higher Education
3) Attainment at all levels
4) Job Readiness

Strategies: Family and community responsibility; school readiness – pre-school and nutrition; regular health checks – hearing and eyesight; student mentoring and support; identifying and addressing racism and discrimination in education systems; access – transport; good accommodation that support educational attainment i.e.: hostel accommodation; family income support linked to education so that poverty is not a barrier.

Employment and Self-Generated Income

1) Meaningful work
2) Strengthen Economy
3) Build assets

Strategies: Build model of the Aboriginal economy in the region; identify human resources and skills, community assets and opportunities; develop strategies based on those resources ad assets.

Healthy Housing and Infrastructure

1) Affordable Housing
2) Emergency Housing
3) Safe Infrastructure
4) Best Management

Strategies: Work closely with Aboriginal Housing Office; seek to build on the good home base and good habits of home ownership; improve private rental standards; ensure adequate hostel and emergency accommodation; develop exemplary management of community housing in the region.

Good Health

1) Early childhood health
2) Access to health services
3) Health education
4) Mental health

Strategies: Education of parents and community; culturally accessible health services; improved transport to medical services; education and training in health and nutrition for adults; access to mental health counselling provide education.

Living Culture and Heritage

1) Aboriginal culture
2) Sites of significance

Strategies: Aboriginal culture and heritage studies to be included in education curricula; Preserve, protect and reinforce Aboriginal culture; ensure protection of access to significant sites and environments.

Land and Water Rights: Positively contribute to focusing on resource management, restoration and environment protection.

Strategies: Increase ownership and sustainable environment management levels; preserve fishing rights in regional rivers/waterways; increase involvement in native biodiversity preservation; develop partnership agreements.

Strong Families: Develop strong, educated, healthy, harmonious families.

Strategies: Support parents to look after their children using COAG indicators; strengthen extended families; support parents to become good household managers; develop and promote positive male roles in family and community life; prevent family violence; limit impact of alcohol, drugs and gambling.

Justice, Prevention and Rehabilitation: Reduce negative involvement of Indigenous people with the criminal justice system.

Strategies: Ensure access to culturally appropriate legal aid services; provide effective restorative justice, prevention and rehabilitation services with special emphasis on youth; provide community education services on rights/responsibilities; removing discriminatory laws and practices that negatively impact Aboriginal people in the region.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Kamilaroi Regional Council: Regional Plan 2004-2007

Family Violence: Significantly reduce incidence of family violence in region by empowering and strengthening families and communities.

Strategies: Participatory formulation of linked, appropriate and culturally sensitive Regional Family Violence awareness, intervention an education strategies; proactive intervention through direct support for victims; counselling perpetrators, support discipline of offenders; support culture/heritage regeneration programs that nurture pride, self-confidence and self-esteem; identify economic causes through capacity building.

Capacity Building: Facilitate self-determination and self-sufficiency develop community capacity to engage agencies effectively on needs and service delivery and enhance capacity and governance in community organisations.

Strategies: Establish community group/service provider partnerships; promote regional forum of community groups; develop regional agreement; convene Regional Youth Forum; facilitate development of community level service agreements committing agencies to design and delivery of services that meet specific local needs.

Culture and Heritage: Advocate cultural heritage through re-engagement with Elders, reinvigorating Aboriginal and Torres Strait Islander identity; promote art, language maintenance and cultural preservation.

Strategies: Encourage local communities/community-based organisations to develop unified vision of local heritage, culture, language and tribal rights; develop partnerships to benefit culture and heritage maintenance/promotion; canvass TAFE/ universities to provide site officer training programs.

Economic Development and Employment: Advocacy of economic development in employment and training and business development and support.

Strategies: Facilitate transition in CDEP employment and training practices; identify information on employment and training benchmarks; lobby for more CDEP numbers; conduct audits of local business skills identify small business opportunities; explore creation of regional revolving fund/Grameen bank microfinance facility; negotiate with local businesses for traineeships and work experience.

Education and Training: Advocacy focus on education, retention, completion, incentives to higher education, career awareness, employment preparedness, cultural awareness and improved support for Aboriginal and Torres Strait Islander students.

Strategies: Enhancing numeracy and literacy; enhancing retention through greater family and community involvement in schools; increase numbers of ATSI teachers; encourage AECGs to implement Aboriginal Education Policy; establish homework centres; encourage mature age study.

Health and Well-being: Appropriate and adequate health service delivery, with a specific emphasis on primary health care and linking heal-related issues.

Strategies: Enhance general health standard with attention to nutrition, hygiene, minimising substance abuse; attention given to environmental health issues such as water, waste disposal, power etc; better access to appropriate housing; improved access to medical transport.

Sport and recreation: Target young people and families – focussing on participation in sports, after school activities and skills development.

Strategies: Audit of sporting/recreation activities, organisations, associations, venues, contact details; disseminate sports strategy; investigate sport traineeships; advocate potential partnerships.

Law and Justice: Focus on law and justice activities especially in relation to prevention and diversion programs, access to legal services and the operation of the Aboriginal Legal Service.

Strategies: Develop regional prevention/diversion strategy; advocate prevention and diversion programs that target the underlying priority areas; advocate establishment of cautioning; advocate establishment of post-release and family support; increased operational funding for Kamilaroi ALS.

Transport: Improve isolated communities' access to appropriate transport, including medical transport, and travel for education, sports and employment.

Strategies: Facilitate implementation of community health transport initiative by Area Health Service; advocate community's transport needs with relevant agencies.

Housing and Infrastructure: Focus on access, supply, appropriateness, housing-related environmental health; and governance and management of housing organisations.

Strategies: Influence the allocation of NAHS funding for region based on overcrowding/ lack of infrastructure; lobby DoH for greater access to mainstream housing, support for ATSI housing; advocate increased/equitable allocations of community housing; work with Dept Fair Trading to eliminate discriminatory behaviour of Real Estate/ Property Managers.

Many Rivers Regional Council: Strategic Regional Plan 2005-2010

Economic Development: CDEP to provide effective training and employment placement service; growing Aboriginal and Torres Strait Islander enterprises; increase proportion of ATSI people with qualifications and more ATSI people working in the private sector.

Strategies: Identify and pursue benchmark-setting for employment and training objectives; continued to support vocational educational and training via the funding of CDEP; for business development and support target service delivery, coordination and capacity building; coordinate agencies involved in economic development; influence Chamber of Commerce; negotiate with regional chain stores for job placement and training.

Culture and Heritage: Aboriginal and Torres Strait Islander language, culture, heritage and art maintained and preserved.

Strategies: Develop partnerships with relevant agencies; lobby other State agencies in relation to heritage protection and the environment.

Health: Partnerships should focus on appropriate and adequate health service delivery, with a specific emphasis on primary health care.

Strategies: Give priority to aged/disability care and men, women, child and youth health issues; enhance awareness of nutrition, hygiene and substance abuse; awareness of environmental health issues such as water, waste disposal and power; establish regional health "benchmark" data bank; participate in Mid North Coast Area Health Service and other stakeholder in relation to medical transport.

Family Violence: Significantly reduce and cease incidence of Family Violence throughout the region by empowering and strengthening families and communities.

Strategies: Develop regional Family Violence strategy; support culturally expressive and creative art initiatives targeting Family Violence; establish capacity development and regeneration programs; monitor and review local and regional programs; Many Rivers Family Violence Unit to meet regularly with government stakeholders to gain support for local initiatives.

Housing and Infrastructure: Partnerships should focus on housing and infrastructure activities that enable access, supply, appropriateness, hosing related environmental health and governance and management of the housing organisations.

Strategies: Work with AHO/stakeholders to adjust available resources based on population demands/lack of alternative housing options; lobby DoH for greater access to mainstream housing and to support ATSI housing construction, repair and maintenance companies; work with Dept Fair Trading to eliminate discriminatory behaviour of real estate agents and property managers.

Education: Enhanced literacy and numeracy, and retention and completion of ATSI children in schools.

Strategies: Enhance numeracy and literacy, retention and completion through greater family and ATSI presence in schools; increase numbers of ATSI teachers; establish homework centre; encouraging mature age study.

Law and Justice: Partnerships must focus activities and programs on prevention and diversion, the operations of the legal services in the region and access to services.

Strategies: Map available services; develop regional prevention and diversion strategy; support closer collaboration between ALS and Legal Aid; advocate policy change relaxing the 'trigger' by JJ support as per Taree pilot.

Sport: Increased participation in sports and skills development targeting young people and families.

Strategies: Liaise and advocate other potential partners, enabling greater access to various academies of sport within the region; investigate sports traineeships.

Capacity Building: Partnerships should focus on capacity building activities especially the community's capacity to engage agencies effectively about its needs and service delivery; and, improving capacity and governance in community organisations.

Strategies: Canvass CHICC/other agencies for delivery of training that enhances operation capacity of organisations; work in partnership towards developing SRAs and RPAs requiring agencies to develop partnerships with local representatives groups for design/delivery of services.

Transport: Partnerships should focus on community access to appropriate transport, particularly for the more isolated communities and for improved medical transport.

Strategies: making sure that Departments are aware of the community's transport needs; ensure that where communities have their own transport, restrictions on access are sensible, and access is equitable.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Murdi Paaki Regional Council of ATSIC: Regional Plan 2003-2005

Governance and Rights

a) **Regional Council Autonomy:** Securing political and administrative autonomy for the ATSI people of the region.

Strategies: Lobby Commonwealth government for legislative and funding modifications to allow implementation of Regional Autonomy Model; Lobby for the establishment of the Regional Assembly; participate in organisations (such as the Barwon-Darling Alliance) that will advance the ATSI people of the region; support and promote Community Working Parties (CWPs) as the peak community governance structure.

b) **Regional Planning and Partnerships:** To plan strategically and effectively for the advancement of the ATSI people of the region.

Strategies: Evaluate progress in achieving/implementing regional agreements and/or Memoranda of Understanding with state/federal agencies; support the CWPs in implementing the COAG trials across all the communities of the region.

Economic

a) **CDEPs:** Recognise and develop capacity of CDEPs to improve social and economic outcomes for Indigenous people.

Strategies: Finalise establishment of regional CDEP to provide support to existing CDEPs; encourage and support participants to move through CDEP to full time employment; undertake skills audit; investigate other CDEP around country to get new ideas; maintain and support regional CDEP meetings.

b) **Training:** To expand training opportunities for ATSI people of the region.

Strategies: Establish locally based jobs related training and apprenticeships relevant to local employment opportunities; negotiate with employment agencies to provide ATSI people with interview and resume writing skills; establish a register of accredited Indigenous trainers in region; communities to identify/provide alternative training opportunities for young people.

c) **Business Development:** Support and advance current business enterprises, and to encourage the development of future business enterprises.

Strategies: Establish Business Development and Support Unit; establish Regional Indigenous Business Enterprise Development Agreement with State/ Federal/private sector.

c) **Employment:** Expand employment opportunities for ATSI people in the region.

Strategies: Establish Regional Indigenous Employee Hire Service to provide links to existing employment service providers; encourage employers to improve ability for on-the-job rather than solely on interview skills; actively lobby government to promote the inclusion of at least one ATSI employee in all employment agencies within the region.

Social Portfolio

a) **Youth Issues:** Nurture and educate, develop, and respect role of youth in communities.

Strategies: Establish regional youth group and in the development of a Regional Youth Plan; train youth for community leadership roles/responsibilities; establish local job training and apprenticeships.

b) **Family Support:** Recognise central importance of family to ATSI community, support family values, and promote maintenance of family as core unit.

Strategies: Develop Regional Family Support Memoranda of Understanding with relevant state/commonwealth agencies; develop register of organisations and agencies and their programs; support/promote counselling/mediation services; encourage CDEP placements in community based counselling services.

c) **Law and Justice:** Improve the justice system for ATSI people in the region.

Strategies: Establish Regional Law and Justice Agreement; monitor and evaluate delivery of legal services in region; raise awareness of mental illness issues; lobby for increased ATSI police and correctional services officers; evaluate post-release programs.

d) **Women's Issues:** Improve status/rights of ATSI women in region and recognise role of women in community.

Strategies: Review current Women's Strategic Plan; support women taking leadership roles; support eh development of women's groups; organise cultural camps; support and develop provision of refuges and safe houses; address issues that prevent access to childcare, preschool and after school care for children to allow women to participate in the workforce.

e) **Men's Issues:** Improve status/rights of ATSI men in the region.

Strategies: Implement men's group; promote the leadership role of men in families, community and in governance; recognise role of male Elders; organise culture camps; develop programs to support men convicted of domestic violence; develop crisis accommodation for men to allow time away and provide counselling services on health, finance, drug and alcohol issues.

f) **Health:** Improve health standards of ATSI people in the region.

Strategies: Develop regional ATSI health plan; lobby mainstream services to undertake cultural awareness training; improve mainstream health and well-being services to make them more accessible for ATSI people; assist older people in obtaining access to a range of health care services; continue to support ATSI community controlled and focussed primary health, allied health and rehabilitation services.

g) **Sport and Recreation:** To support access to and participation in sporting and recreational activities for all groups within ATSI communities in the region.

Strategies: Lobby government agencies to secure funding for regular sporting events; implement regional sporting and recreational strategy; develop employment and training opportunities in sport and recreation for ATSI people.

h) **Housing and Infrastructure:** Improve living standards, accessing appropriate housing and infrastructure services for ATSI people in region.

Strategies: Establish Regional Housing Committee within Regional Assembly; support/promote home ownership; lobby relevant government agencies and services providers to provide adequate funding for housing and infrastructure needs; lobby for the provision of housing for special needs groups; use ATSI housing programs to maximise employment and training opportunities.

i) **Education:** Recognise the importance of education to employment and lifestyle opportunities and to continue to encourage participation in the educations systems for ATSI people of the region.

Strategies: Investigate appropriate models for improving ATSI access to education i.e. Koori Open Door project; continue to work with school authorities; negotiate with education authorities to develop culturally appropriate curriculum; encourage paid employment of Aboriginal people in schools.

Cultural

a) **Language and Education:** Reinforce value of Indigenous language, heritage and culture.

Strategies: Develop Regional Language Agreements and Policy to promote Aboriginal language; establish register of physical and human resources in each community in relation to the provision of language skills; lobby government for funding to maintain and develop Aboriginal language programs; encourage CDEP placements to provide training and job creation in the development of community based language services.

b) **Preservation of Heritage and Culture:** Promote greater appreciation and protection of Aboriginal heritage and culture in region.

Strategies: Develop Regional Heritage and Sites Protection Agreement with relevant government agencies; develop regional Aboriginal heritage and Culture Policy; recognise statutory role of Aboriginal Lands Council; involve local Aboriginal people to managing sites of heritage under local Land Use Agreements; promote genuine Aboriginal arts, crafts and cultural activities.

c) **Environment:** Maximise participation of Aboriginal people in managing and rejuvenating the environment and to promote wide recognition that land and natural resource issues are central to the social welfare of Aboriginal people.

Strategies: Develop Regional Environmental Agreement with relevant government agencies; develop Regional Environmental Policy; establish and maintain register of environmental management agencies working in region; establish Aboriginal Resource Committee; establish a register of Aboriginal owned land and its use in the region.

d) **Media:** To participate actively with the media to promote positive and sensitive coverage of Aboriginal people.

Strategies: Develop regional media policy; establish media relations unit; actively promote positive Aboriginal news; encourage employment opportunities for Indigenous people; establish regional newsletter.

Queanbeyan Regional Council: Regional Plan 2004-2007 Executive Summary

Governance: Improve governance capacity of Aboriginal and Torres Strait Islander organisations within the region.

Strategies: Develop capacity for community development including professional development supporting self-determination and self-management through access to resources; annual data collections to monitor 'governance'.

Substance Use: Improve support services for Aboriginal and Torres Strait Islander people with substance use issues.

Strategies: Develop agreements with governments, identifying specific programs; representation on substance use committees and meetings ensuring Indigenous interests are considered; updated data collection process.

Health: Improve levels of health of Aboriginal and Torres Strait Islander people in region.

Strategies: Promote, advocate and support Aboriginal and Torres Strait Islander health services through bilateral and agency agreements; establish data collection process for health issues updated annually.

Employment: Improving level of employment opportunities for Aboriginal and Torres Strait Islander people in the region.

Strategies: Advocate and promote self-employment and enterprise development; monitor number of business loans; establish data collection process for employment issues to be updated annually.

Housing: Improve level of appropriate housing levels for Aboriginal and Torres Strait Islander people in region.

Strategies: Ensure adequate funding to build, maintain and replenish appropriate housing stock; promote home ownership scheme; monitor loan application numbers; stakeholder meetings with family/community services and relevant housing authorities; establish and annually update data collection process.

Law and Justice: Reduce number of Aboriginal and Torres Strait Islander people negatively involved in the legal system.

Strategies: Support culturally appropriate, independently managed ATSI legal services; review RCIADIC recommendations; undertake review of current alternative sentencing mechanisms and identify gaps in services; adopt alternative sentencing mechanisms.

Education, Training and Capacity Building: Improve levels of education, training and meet the capacity building needs of Aboriginal and Torres Strait Islander people in region.

Strategies: Interact with and seek representation on relevant educational committees; undertake a needs analysis, cross reference with ATSIC Education Policy.

Sydney Regional Council: Regional Plan 2004-2007

Housing: For Aboriginal people to be accommodated in an environment comparable to wider community and culturally suitable.

Strategies: Facilitate community input and feedback on housing/infrastructure; identify unmet housing needs; ongoing relationship with housing authorities; increased home ownership.

Health: The health and well-being of Aboriginal people in the region improves to a level comparable to the wider community.

Strategies: Establish relationships with key stakeholders; conduct cultural awareness programs with mainstream health providers; monitor health outcomes; monitor and report on number and classification level of Aboriginal people employed in the health sector.

Education: Access to equitable, culturally appropriate, responsive, relevant and effective educational services which enable full participation in Australian society.

Strategies: Increase number of Aboriginal teachers; develop pathways in education, training and employment; identify key strategies and negotiate with DEST and other stakeholders.

Law and Justice: Access to acceptable representation, advocacy rights and support and development services for Aboriginal peoples.

Strategies: Increase numbers of culturally appropriate diversionary programs, including circles sentencing, mediation, drug courts; delivery of prevention programs; culturally appropriate legal services are delivered in the Sydney region; delivery of culturally appropriate support services to Aboriginal prisoners and their families.

Family and Community Support: In recognition of the importance of families of Indigenous people, it is vital that respect be shown to all aspects of these traditional value systems to ensure that they are protected and enhanced to espouse our community aspirations.

Strategies: Improve employment opportunities, increase CDEP places, develop domestic violence kit, community workshops for victims and perpetrators of violence, mentoring and peer support programs, role of Elders acknowledged, Roll of Honour established, more services to provide support for Stolen Generations; Aboriginal children's services delivered by Aboriginal community controlled organisations; increased resources for early intervention programs; needs analysis mapping of family needs in the area.

Sport and Recreation: Bring communities together through competition, friendship and culture sharing with sports and recreation.

Strategies: Seek contributions from partnership agencies and sporting authorities; develop memoranda of understanding agreements with mainstream service providers; provision of small grants/scholarships to Aboriginal families/young people to have opportunity to participate in sports.

Economic Independence: Achieve economic independence for all Aboriginal people.

Strategies: Establish Economic Forum in partnership with NSW and Federal governments; provide economic independence through land acquisition; increase employment opportunities and Aboriginal owned and operated businesses; address barriers to acquiring driver's licence; concessional transport for CDEP participants; Indigenous Business Incubator established; investigate Aboriginal specific small business training package through TAFE; maintain training and employment networks.

Cultural Integrity and Heritage Protection: Ensure care, protection and maintenance of cultural integrity, past, present and future.

Strategies: Aboriginal radio broadcasting station that is high quality providing comprehensive coverage over whole of Sydney region; community controlled art gallery; Aboriginal heritage recognised and respected throughout all learning centres; all student to undertake Aboriginal studies; great Aboriginal decision making in natural resource and environmental matters; establish Sydney region language centre; scholarships for Aboriginal linguists.

Women's business: Ensure, promote restoration, protection and preservation of Aboriginal ways of life for all Aboriginal women across the region.

Strategies: Encourage women's participation in appointed and elected offices; conduct women's forums; increase women's rights and responsibilities in mainstream policies to promote safety and well-being.

Land: Land is the essence of cultural identity and should be recognised in all its inherent forms including native title and land, water and natural resources.

Strategies: Facilitate forums on awareness of Native Title; increase the number of Aboriginal people registering as traditional owners; implement Regional Land Fund policy; advocate for increased Aboriginal participation in environmental and natural resource management; acquire land for the establishment of viable commercial enterprise and ventures.

Compensation: Recognition as owners.

Strategies: Land acquired under Native Title Act, NSW Aboriginal Land Rights Act, and through the Indigenous Land Corporation.

Recognition and empowerment: To have Australia as a whole give recognition and empowerment to Aboriginal people to enable us to manage, control and sustain identity.

Strategies: Fund Aboriginal community controlled services; practice good governance; community forums on human rights, compulsory Aboriginal studies in schools; local knowledge holders are acknowledged and respected.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Cairns and District Regional Council: Regional Strategic Plan 2005 > onwards

Cultural Integrity: Cultural integrity is maintained and developed.

Strategies: Sites of cultural and spiritual significance be protected; items of cultural significance tat have been stolen are found and placed at the direction of the rightful owners; Multi-functional Cultural and Arts Centre established; Aboriginal and Torres Strait Islander arts authenticity labelling system in all retail outlets; regional support service/arts marketing plan.

Land, Native Title and Natural Resources: Land and Native Title issues are resolved throughout the region and our people are managing their own natural resources.

Strategies: Indigenous Land Use Agreements (ILUAs) follow best practice processes and guidelines; sites of environmental significance protected from inappropriate development; Aboriginal and Torres Strait Islander people managing their natural resources.

Health and Quality of life: We have achieved healthy, happy communities. This is reflected in the holistic health status of our people.

Strategies: Best practice health practices followed; targeted indicators for measuring health and well-being outcomes are identified and reported quarterly; adequately resourced health services.

Family Unity and Stronger Communities: Stronger communities built through stronger families and stronger individual.

Strategies: Family support services and programs regionally coordinated; access to counselling; services operate in holistic, integrated manner.

Law and Justice: Our people treated with justice, fairness, equality and respect before the law.

Strategies: Aboriginal and Torres Strait Islander Legal Service meeting the legal needs of people throughout the region; youth/school children have increased awareness and understanding of the legal system, their rights and responsibilities; justice system recognises, respects and uses customary law as substitute; effective Community Justice Groups/alternative Indigenous influenced justice systems operating throughout the region.

Healthy Accommodation: To have sufficient, healthy and safe housing for all Indigenous people in the region.

Strategies: Regional annual housing needs survey is completed; maximised home ownership; complete regional annual housing needs survey; sufficient housing for visiting Aboriginal and Torres Strait Islander people; tenure to be used as collateral.

Financial and Sustainable Economic development: Improved financial and economic well-being that enhances and supports our lifestyles and development.

Strategies: Maximise business ownership and joint ventures; develop formal relationships with private sector; access to direct and personal support in developing business ventures.

Employment: Increased opportunity for our people as individuals to have meaningful work and improved financial and economic well-being.

Strategies: Maximised full time employment in public/private sector; endorse Regional CDEP programs/Indigenous Employment Centres as key development agents; maximise Indigenous employment conditions into community contracts and service agreements.

Holistic Education: Our children have attained equity in academic achievement with the wider community, enriched by strong cultural values and beliefs.

Strategies: Improve educational outcomes and training outcomes for youth and adults; Regional Indigenous Holistic Education Centre focused on providing holistic cultural as well as 'western' education; advocating Indigenous Education Forum (IEF) as effective vehicle for reforming/improving education; encourage Aboriginal and Torres Strait Islander Community school committee as reference point for curriculum advice.

Reconciliation: A reconciled and harmonious community.

Strategies: Reconciliation to be achieved through cooperation and cohesion of positive interaction with the wider community and all levels of government departments and the private sector under a formally acknowledged reconciliation agreements process, as fundamental to improving life and well-being of Indigenous people.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Central Queensland Regional Council: Annual Report 2004/2005

Housing: Increased access to safe, healthy, affordable and culturally-appropriated housing options by Aboriginal and Torres Strait Islander people in the region.

Strategies: Local Indigenous housing organisations sign Head Lease Agreements; increase new/upgrade housing stock; education and training provided to boards and tenants.

Health: Health services are sensitive to meeting the diverse needs of Aboriginal and Torres Strait Islander health in the Central Queensland region.

Strategies: Health services to be delivered in a culturally sensitive manner; establishment of a health brokerage model; establishment of a steering committee; liaise with respective health agencies to develop implementation plan to employ/ retain Indigenous employees.

Family Issues: Strengthened family structures that nurture the qualities of respect, responsibility and relationships and pride for each other.

Strategies: Develop partnerships with government and non-government agencies; development of a youth regional council; seek funds to hold family fun days.

Law and Justice (Legal Services): Equitable access to Aboriginal and Torres Strait Islander community-controlled and other Legal Services that protect and enhance our individual cultural, legal and human rights.

Strategies: Involvement in the Indigenous Community Police Consultative Group to address community policing issues; establishment of a prison Aid program providing support for inmates in the Rockhampton and Maryborough Correctional Centres;

Law and Justice (Family Violence): A break in the cycle of family violence leading to the decreased incidence of family violence in Aboriginal and Torres Strait Islander communities.

Strategies: CDEP participants trained to assist Family Support Workers; expand the Indigenous Family Violence legal Prevention Program to provide essential legal and support assistance to Indigenous people, particularly women and children.

Community Development and Relationship Building: Community capacity and partnerships developed to meet the needs and aspirations of communities in the region.

Strategies: Establishment of community forums for the development of Community Engagement Maps and a future Regional Indigenous Representation structure; enhanced community capacity through provision of information and advocacy activities.

Sport and Recreation: Increased participation of Aboriginal and Torres Strait Islander people in sport and recreation activities across the region and additional support networks to encourage the further development of Aboriginal and Torres Strait Islander sporting careers.

Strategies: Support CDEP to deliver sporting grants; additional Sport and Recreation Officers to work in conjunction with CDEPs

Art and Culture: Increased maintenance or revival of Aboriginal and Torres Strait Islander cultures through stories, spiritual involvement, art, dance and the observance of NAIDOC.

Strategies: Continued promotion of cultural activities and events.

Heritage and Language: The revitalisation of Aboriginal and Torres Strait Islander heritages and languages in the region through education awareness, recordings, books and stories.

Strategies: Increase the number of ATSI people employed/utilised to educate the wider society about cultural heritage issues; promote, maintain, reclaim, revive and record ATSI languages in region.

Education: Education environments that proactively support and nurture Aboriginal cultures and Torres Strait Islander cultures.

Strategies: ATSI history and cultural awareness to be incorporated in local education curriculum; liaise with Education Queensland's learning and Engagement Centre in relation to implementation of the partners for Success priority Action Areas – attendance, retention, attainment (particularly literacy and numeracy) and workforce capacity; establish networks to address the social and economic issues surrounding ATSI youth not completing school.

Broadcasting and Media: Increased and/or expansion of broadcasting services providing the community with broadcasting and information sharing of Aboriginal and Torres Strait Islander issues.

Strategies: Increase range of broadcasting services in region; production of culturally relevant programs and services.

Native Title: Recognition of traditional ownership of land and on-shore/off-shore waters of cultural significance and rights of access to hunting/fishing in traditional country and waters in the region.

Strategies: Develop and implement strategies to recognise ATSI rights in relation to land and off-shore waters.

Community Development and Employment Program: Increased employment and training opportunities, business enterprise development and social well-being across the region.

Strategies: Establish additional 500 CDEP places to better meet the needs of the region; advocate for the establishment of Far West CDEP; support linkages between CDEP and family Violence initiative.

Employment and Training: Development and implementation of culturally-appropriate employment and training initiatives and enhanced capacity for Aboriginal and Torres Strait Islander people in region.

Strategies: Liaise with DEWR and TAFE re: employment and training opportunities.

Business/Economic Development: Ann increased number of viable enterprise developments that create employment opportunities and economic independence for Aboriginal and Torres Strait Islander people with the region.

Strategies: Establish joint ventures with State and Federal agencies and existing businesses in region; promotion of enterprise opportunities.

Goolburri Regional Council ATSIC Roma: Regional Plan 2004-07

Family Well-being: Empower and inspire young people to reach their full potential; reduce destructive behaviour and provide life knowledge and skills that foster stable happy families.

Strategies: Implement Regional Council Family Violence Strategy; Develop/enhance community infrastructure; establish network of mentors; ensure adequate safe houses, review adequacy of emergency accommodation; establish awards system for students performing well; establish 'Expo' during NADOC Week to highlight sports and activities and to provide health, life skills and careers information; identify review and monitor mechanisms for education in family budgeting, parenting, pre and post natal care, sexual health etc; consult with Dept of Families to develop better trust and engagement with communities and to increase the numbers of ATSI child care workers.

Community and Capacity: Improve and spread capacity to manage professionally, efficiently and effectively; increase representation in mainstream community organisations; improve community awareness and use of programs and information; achieve more effective programs and services; build bridges to facilitate reconciliation; and increase the capacity of parents and Elders to nurture community.

Strategies: Develop focus groups to address priority areas identifies in this plan; establish regional youth council; establish professional resources available to communities; establish regional ATSI radio network; attract resources to develop after school and weekend activities for young people; develop action plan to identify/ target mainstream organisations and groups across the region on which to gain ATSI representation/membership; develop hostel accommodation in Toowoomba and Roma; ensure professional cross-cultural training to be provided to all non-Indigenous staff of service provider; initiate discussions with ABS on collection of census data.

Housing and Infrastructure: Achieve ready access to culturally appropriate, climatically suitable rental housing; increase levels of home ownership; maximise community benefits flowing from building and maintenance; and achieve infrastructure levels that meet community, operational, health, social, sporting and cultural needs.

Strategies: Implement CHIP; review Goolburri Regional Housing Company business plan; undertake feasibility study to establish building and maintenance contracting enterprise; review sporting infrastructure needs; review transport needs; undertake feasibility study into the development of a retirement village.

Education: Build a network of incentives, support and rewards that facilitates good education for children and young people; influence the education system to fully meet the needs of Aboriginal and Torres Strait Islander students; and achieve greater levels of numeracy, literacy and life skills.

Strategies: Develop initiatives that target parents and community in the importance of breakfast before school; provide adequate numbers of ATSI community education counsellors and teachers aids at all schools with significant numbers of ATSI students; undertake feasibility study on the establishment of an ATSI Unit at the regional TAFE; increase academic scholarships available to ATSI students.

Economic Participation: Establish and maintain access to rewarding, satisfying jobs; improve the effectiveness of training and skills development in producing job and career outcomes; and increase viable industry and business development opportunities.

Strategies: Initiate discussions with LGAs, DATSIP and DSD on employment opportunities for ATSI people in the region; eliminate barriers to employment with Job Network agencies; consider the establishment of an indigenous Jobs network employment agency; create business and marketing network for regional artists; facilitate establishment and ongoing operation of viable small businesses.

Health: Increase life expectancy and reduce the incidence and impact of disease.

Strategies: Provide two additional dental vans to service region; build attractive incentives and scholarships to attract local students into dentistry; analyse health transport needs of the region; examine the lessons of the health brokerage model developed by the Cooloola Aboriginal Medical Service; Queensland Health to meet the needs of renal patients and maternal facilities in the region.

Law and Justice: Reduce criminal offences and custodial sentences; increase and improve appropriate rehabilitation, policing and prevention measures; support victims of criminal acts; and improve the Justice System's level of understanding

and service in meeting the special needs of Aboriginal and Torres Strait Islander people.

Strategies: Additional Police Liaison Officers, with gender balance; attract additional ATSI people to Police Service; establish rehabilitation programs and support networks; initiate discussions with Justice System stakeholders on adopting a policy of community banishment for perpetrators of family violence; ensure continuation of Aboriginal legal Service; conduct regional conference on family violence; conduct workshop with key government agencies in the desirability of establishing Murri Curt and Community conferencing.

Land, Sea, Culture and Heritage: Preserve and record culture and heritage; generate wider awareness, understanding and pride in culture and heritage; and acquire, manage and care for our land.

Strategies: Develop relationship with National Archives; sponsor project to bring together and record local stories; advocate the inclusion of ATSI history and culture subject in schools; encourage and support communities in their NAIDOC celebrations; advocate for appropriate exemptions from land claims for all DOGIT lands and assets of ATSI organisation.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Gulf and West Queensland Region: Regional Plan 2004-2006

Education, Employment and Economic Development

a) **School Performance:** Increased participation/achievement in school system by Indigenous children and youth.

Strategies: Promote two-way learning; advocate for increased access to secondary schooling for Indigenous students including development of innovative ways of delivery; increase amount of Indigenous teachers; funding assistance, in partnership with other agencies, to establish appropriate transport system; additional funding/programs for parents of students in transition to boarding schools.

b) **Vocational Education and Training (VET) and Higher Education:** Indigenous people to have opportunity to participate in post-school education and training which is relevant and appropriate to regional employment outcomes.

Strategies: Improve access to higher education and VET; work with mainstream employers for the provision of apprenticeships; encourage CDEP to establish linkages with training providers to develop job readiness.

c) **Employment:** Increased number of Indigenous people in skilled and meaningful work.

Strategies: Advocate the development of an Aboriginal controlled building and program management organisation as a means to increase Aboriginal employment in the building industry; advocate for additional IEC in the region; advocate extension of Indigenous Employment Policy to other communities.

d) **Opportunities in Mineral Province for Indigenous People:** Sustainable economic development, training, employment opportunity in mineral provinces; increased equity outcomes; increased cultural awareness between mining companies/Indigenous people.

Strategies: Increase Indigenous people's awareness of opportunities arising from mining; research mining royalties and returns to infrastructure/social programs; convene mining company forum with Indigenous groups to develop opportunity, policy and programs.

e) **Enterprise Development:** Increased number of sustainable, Indigenous-owned businesses and beneficial joint ventures with non-Indigenous businesses.

Strategies: Encourage enterprise development workshops/courses; advocate for Indigenous access to commercial fishing licenses and resources; advocate for handover of government owned community stores to Indigenous people.

f) **Community Development Employment Project (CDEP):** Unemployed Indigenous people engage in skilled, meaningful work, enhancing ability to gain unsubsidised employment of measurable benefit to the community.

Strategies: Foster CDEP activities which will provide job satisfaction, a challenging environment, accredited training, award wages, contracts for service and life skill development; regular assessment of CDEP performance.

Health and Well-being

a) **Health:** Healthier Indigenous community, supported by regional health services and agencies working together in effective coordinated way.

Strategies: Establish ongoing Regional Health Forum between all health service providers/agencies to better coordinate service delivery, identify needs, fill gaps, assess performance; encourage progressive upgrading of Indigenous Health Workers and Environmental Health Workers skills to increase number of permanent indigenous health positions.

b) **Sport and Recreation:** Increased participation in sport/recreation as vehicle for asserting cultural identity and pride, improve health, foster personal development, particularly amongst children and young people.

Strategies: Develop MOU with Dept Sport and Recreation to link ATSIS funding with ICDP funding for better coordination in service provision; collect and spread funding source information to all Indigenous people in compiling sport/recreation directory.

Families

a) **Strong Families:** Building strong, cohesive family units, resolving conflict through non-violent means; appropriate support services that can improve the life and well-being of Indigenous men; and service providers for youth to express their perspectives on self-affecting issues.

Strategies: Monitor Family Violence Action Plan, ensure implementation with 12 month reviews; encourage service providers to follow up outcomes of Regional Women's Forum, 2002; organise men's forums in north, central and south zones; establish on-going Youth Forum/Council.

Development and Management of Infrastructure

a) **Housing:** Improved living conditions with adequate, appropriate housing needs and services; increased Indigenous training and involvement in building industry; increased control, participation, program management by Indigenous people.

Strategies: Appoint consultant to develop different models for Regional Housing Authority with collated information; increase Indigenous participation in construction by including contractual requirement to employ/train Indigenous people, etc.

b) **Homelands:** Indigenous people are supported in quest to return to country and secure homelands.

Strategies: Advocate for secure land tenure on behalf of Indigenous people; monitor progress of 'Bushlight' needs assessment for alternative energy provision to small communities.

c) **Transport and Communications:** Integrated and reliable transport and communications network which supports and connects all Indigenous people in region.

Strategies: Advocate transport feasibility study/research on existing service provision/service gaps; seek funding for improved telecommunications infrastructure in remote communities, under community control.

Leadership, Capacity Building and Justice

a) **Community Capacity Building:** Indigenous people control and self-manage their own organisations and communities.

Strategies: Seek joint funding arrangement to establish community support unit to provide corporate governance training, management and leadership skills development; develop information packages for individuals and communities detailing rights/responsibilities, economic opportunities available, provided programs/services, etc.

b) **Community Advocacy:** Indigenous people are better able to access resources for community development, monitoring service delivery and removing discriminatory behaviour.

Strategies: Establish/advocate strong relationship with local governments to promote better Indigenous deals; seek employment of research officer to provide data needed to advocate effectively.

c) **Increasing Political Influence:** Indigenous people have an increased positive profile and political influence in effectively using the media and voter awareness to promote contribution of Indigenous people to development.

Strategies: Negotiate MOU with DATSIP at regional level to ensure political legitimacy of governing Indigenous body is recognised; advocate establishment of Indigenous Advisory Committees in insufficient Indigenous represented areas.

d) **Justice:** Level of contact Indigenous people have with criminal justice system is reduced, and culturally appropriate justice systems are developed.

Strategies: Review Aboriginal Police Liaison Officer system regarding terms of reference, recruitment processes, role of community in management; work with justice system to improve rehabilitative, diversionary, preventative programs; advocate better support services.

Culture and Heritage

a) **Cultural Heritage and Identity:** Indigenous people better able to record, preserve, protect, promote, express and manage cultural heritage/identity.

Strategies: Develop with Dept of Education/Arts to ensure all schools include education about Indigenous culture, language and heritage with elders; establish MOUs with stakeholders to monitor/protect culture and heritage.

b) **Ownership, Control of Land and Sea:** Indigenous people have management and access to land and sea.

Strategies: Monitor progress in achieving recognition of native title through quarterly reports to properly allocate resources to NT representative bodies; negotiate with National Parks and Environmental Protection Agency to contract Indigenous rangers to monitor unauthorised activities in national parks and nature reserves.

Peninsula Regional Council: Regional Plan 2005-2010

Governance: Aboriginal and Torres Strait Islander people of Cape York Peninsula, freely exercise legal, economic, social, cultural and political rights to achieve independence and self-reliance, through a freely elected and representative body.

Strategies: Investigate possible models for regional autonomy; ensure regional organisations are controlled by, and accountable to, Cape York people; regular meetings of local councils, land trusts and corporations to exchange information and develop strategic responses to regional issues; support opportunities for effective negotiation between Indigenous communities and mainstream agencies, industries and organisations.

Culture: The recovery, protection, strengthening and promotion of culture is a foundation for community well-being.

Strategies: Develop protocols for consultations; support recovery, protection and promotion of traditional languages; record, protect and teach cultural heritage and history; produce cultural education materials; secure repatriation of cultural resources that have been removed; statutory recognition and community acceptance of Aboriginal law, and its application in conjunction to mainstream legal processes.

Our Land and Sea: Land and sea are indivisible form culture, and it is vital that our people recover, retain and strengthen our traditional connections. This has spiritual, social and economic importance.

Strategies: Negotiate for the purchase of pastoral leases in the western and central areas of Cape York; support development of land management skills and capacity; security and control of fisheries and marine resources by traditional owners;

incorporation of traditional land and sea management practices into mainstream land management regimes.

Social Well-Being: The people on Cape York Peninsula have a right to a safe, healthy fulfilling life. Members should contribute positively to family and community life. Social well-being is achieved when there are positive indicators in metal, physical and social health and family well-being.

Strategies: Continued support and commitment to Peninsula Regional Council Family Violence statement; training of Indigenous health workers; community control over health services; establishment of quality birthing centres; acceptance, knowledge and use of traditional healing practices in conjunction with mainstream health services; review transport provisions for health service clients; establish Cape York Sporting Institute; production of parenting material; establishment of substance abuse treatment and rehabilitation services.

Education and Training: The people on Cape York Peninsula have a right to access a standard of educational and personal development services, equitable to that experienced by those living outside of Cape York Peninsula.

Strategies: Community involvement in school curricula; community based language and cultural programs in schools, advised by Elders; develop leadership and management skills among Indigenous communities.

Environmental Health, Housing and Infrastructure: Housing and infrastructure development must consider environmental health implications, as this will greatly contribute to the general health and well-being of the community.

Strategies: On site training for CY people in the housing and construction industry; all building contractors to employ Indigenous people for the purpose of skills development; extend telecommunications and broadcasting capacity; maintain regional network of airstrips; support the sealing of roads; pursue home ownership.

Economic Development: Cape York Peninsula has the potential for sustainable economic development.

Strategies: Ensure regional organisations provide training opportunities for Cape York people; enable development of Indigenous tourism enterprises; Indigenous access to commercial fishing licences; increase participation in aquaculture training and production; promote participation in agri-forestry, ecotourism etc; review CDEP policy.

Homelands: Access to homelands is significant to people of Cape York Peninsula. Access and return to homelands is an essential way of recovering culture, providing a means for self reliance and promoting well-being.

Strategies: Support the development of healthy homelands; promote homelands projects and programs which will assist economic sustainability; extend the scope of the CDEP so as to provide development and services on homelands.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

South East Queensland Indigenous Regional Council: Regional Policies – Regional Plan 2004-2007

Community Capacity Building: To empower all Aboriginal and Torres Strait Islander peoples to have control of their own destiny.

Prevention, Diversion and Rehabilitation: For young Aboriginal and Torres Strait Islander people to freely exercise and enjoy their human, citizenship and inherent rights and to realise their full potential and Aboriginality as the First Peoples of this Nation.

Family Violence: To have sharing and caring communities with healthy and functional families

Advancement of Aboriginal and Torres Strait Islander Women: For Aboriginal and Torres Strait Islander women to be strong united, recognised and respected for their diversity and strengths within their individual roles in society and their contributions and achievements within the family and wider community.

Sport and Recreation: For all Aboriginal and Torres Strait Islander people to have equal access to and full participation in sports and recreational opportunities in the SEQ region.

Preservation and Promotion of Indigenous art and culture: For Aboriginal and Torres Strait Islander art and culture to be fully recognised and respected as the first and paramount art and culture within Australian society.

Economic Participation and Development: Aboriginal and Torres Strait Islander people determining their own financial stability through meaningful employment and sound economic ventures resulting in successful Aboriginal and Torres Strait Islander businesses.

Land, Sea and Heritage: All Aboriginal and Torres Strait Islanders living in SEQ are able to express their heritage, culture and rights freely, including the return to the rightful owners of all cultural property and skeletal remains held overseas and within Australia and that all intellectual property rights be protected and managed by the Indigenous custodians.

Torres Strait Islanders living on the Mainland: For all Torres Strait Islander people to be recognised and respected for their diverse and distinct cultural needs and issues and to have equal access to all appropriate services.

Strategies: A whole of government approach must be implemented to ensure that the underlying issues, not just the symptoms, are recognised and fully addressed in order that meaningful partnership agreements are developed and entered into. That policy positions in this document be adopted by all stakeholders when developing their policies and programs. All legislation to be non-racist and to adhere to social justice principles.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Townsville Regional Council: Regional Plan (adopted December 2001)

Bread winner in every household: To raise self confidence and break the cycle of welfare dependence, resulting in community empowerment and a sharing of resources.

Strategies: Conduct skills audit and establish a register of skilled people; facilitate formation of joint ventures; provide regional marketing support for Indigenous goods and services; support, evaluate and monitor the development and implementation of appropriate business education and training courses.

One Mob, Healthy Families: To strengthen family unity, values and health within the Aboriginal and Torres Strait Islander communities of the region.

Strategies: Promote respect fro traditional family values and systems of authority through formal recognition; support and resource forums, camps and activities that address social well-being for youth, men and women; identify demographic needs at the regional and local level, establish targets and performance standards and revisit State based policies; monitor effectiveness of parenting programs; ensure that information about existing government assistance programs and services is made available to all communities, organisations and individuals.

Transport and Communications: To support an affordable and reliable transport and information network that connects our people with one another and with essential services.

Strategies: Negotiate with Queensland Transport for development of a Regional Transport Strategy; Advocate for an audit of information technology access by communities to identify cost effective ways of upgrading and interconnecting community transport and telecommunications infrastructure.

Rights and Recognition: To promote the inherent rights of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia.

Strategies: Fund Aboriginal legal services to provide accessible and affordable protection of individual and community rights within the criminal justice system; advocate for further innovations in community justice programs including the expansion of diversionary programs; advocate and monitor peer support, pre and post release, prison art, train the trainer, vocational training and work experience, as well as other culturally appropriate rehabilitation programs within the correctional system; encourage CDEPs to participate in post-release programs.

Achieving Greater Regional Autonomy: To achieve better governance structures and processes for our people.

Strategies: Establish a community reporting system that can assist in implementing the regional plan; support the preparation of community plans that can articulate regional planning issues at the local level; facilitate development of community consultation protocols that all levels of government and non-government agencies should follow; develop and disseminate an options paper on regional autonomy that can assist communities in the region develop appropriate autonomy models; advocate the Torres Strait Regional Authority to establish links with Torres Strait Islander people of the region.

Safe Shelter: To ensure all our people have access to safe and secure shelter.

Strategies: Strengthen role of Regional Housing Authority in efficient use of housing resources and improving management of stock; conduct a housing needs assessment; develop a policy and criteria that will support the Incentives for Home ownership program; advocate for funding for the provision of housing options for elderly and disabled.

Caring for Spirit: To maintain and nurture Aboriginal and Torres Strait Islander culture, promoting recognition and respect for the diverse cultures and traditions in the region.

Strategies: Provide support for participation in cultural events; promote the teaching of Indigenous languages, song and dance; support the development and publication of histories and cultures of the peoples of the region; advocate curricula changes in Queensland schools and other educational institutions; advocate for legal advice be provided to communities confronted by issues of ownership relating to cultural remains.

Caring for Country: To recover and maintain the source of culture through strengthening links to land and sea.

Strategies: Develop policies and programs aimed at the recognition of land and sea rights; encourage education to the wider community about the recognition of land and sea rights; liaise with government to ensure that there is Aboriginal and Torres Strait Islander representation on all boards and advisory committees involved in land and sea management; develop land acquisition strategy; support Palm Island and other groups to prepare local Homelands Plan.

Northern Territory

Alice Springs Regional Council: Policy Statements

Equitable Access to Resources

Providing Adequate Housing: Ensure there is an adequate supply of housing for Aboriginal people in the region, with Aboriginal control and management of the whole of the system of housing provision and management.

Strategies: Achieve adequate funding; seek delegated funding under Aboriginal control; ensure housing needs are met; provide special housing for chronically ill and elderly people; achieve appropriate housing design; include essential fittings in housing design; ensure housing is maintained; strengthen housing management capacity; promote Aboriginal home ownership.

Achieving Good Health: To shift the provision of health resources into localities where people are living, placing much more emphasis on preventative health measures and achieving a good quality of life.

Strategies: Decentralise health services to where people are living; target funding to where people are living.

Putting Appropriate Infrastructure in Place: Ensure that people in the region receive resources to meet essential requirements for water, power, sewage, transport and communications.

Strategies: Plan for infrastructure provision in priority areas; ensure appropriate standards for infrastructure provision; evaluate the impact of billing arrangements; document inequitable service provision; increase community capacity for maintaining infrastructure; improve transport services.

Promoting Social and Cultural Well-being: Ensure program resources are directed to promoting social and cultural well-being, reinforcing culture as a source of strength.

Strategies: Promote provision of community based recreation facilities; improve management of major sporting events; promote provision of appropriate cultural facilities; provide services which will improve social support for young people; improve management of substance abuse; provide facilities and services for families visiting Alice Springs; improve access to legal aid services; improve support for people detained in custody; provide improved rehabilitation for Aboriginal prisoners.

Building a Strong Indigenous Economy

Promoting Aboriginal Management of the Indigenous Economy: Increase the benefit to Aboriginal people arising from economic activities in the region.

Strategies: *Identify regional economic opportunities; provide greater Aboriginal input to design and funding of mainstream employment and training programs.*

Controlling the Flow of Money: Keep money in local and regional circulation, and to replace imported goods and employees with locally produced goods and Aboriginal workers.

Strategies: Identify the way that the regional economy works; improve economic benefits for the regions Aboriginal community; make effective use of purchasing power.

Creating a Sustainable Investment Framework: Direct Aboriginal investment funds into projects which will deliver sustainable ongoing benefits.

Strategies: Increase sustainable land investment; encourage investment in resources which have sustainable value over time.

Encouraging Mainstream Employment: To increase the proportion of Aboriginal employees within the public and private sectors.

Strategies: *Increase government recruitment of Aboriginal staff; assist Aboriginal people make the transition to employment.*

Developing Aboriginal Businesses: Providing support for growth of viable and sustainable enterprises.

Strategies: Assist CDEPs to launch enterprises; provide support for Aboriginal tourism ventures; support Aboriginal arts and crafts; promote viable rural industries; increase Aboriginal participation in the construction industry; improve access by Aboriginal business to funding assistance; provide business incubation facilities.

Making Use of Indigenous Skills: Encourage appropriate employment of those people with existing skills, and ensure that Aboriginal people receiving training are able to put their new skills to good use.

Strategies: making use of skills; linking training and employment.

Building the Capacity of our People

Community Access to Appropriate Training: Ensure that training provision is well geared to the need for skill development in local communities.

Strategies: Improve the delivery of primary and secondary school education; Assess local adult training needs; improve bus services for people attending school and training course.

Effective Staffing of Community Organisations: Increase the performance of community organisations through a process of taking action against poorly performing staff, recruiting high performing staff and increasing the recruitment and promotion of skilled Aboriginal people.

Strategies: Take action against poorly performing staff; recruit and retain high performing staff; replace non-Aboriginal staff with Aboriginal staff over time; encourage community organisations to seek peer support.

Promoting Effective Management: To encourage the adoption of culturally based best management practices in community based organisations.

Strategies: Promote management skills amongst staff and Board members; share management experience.

Local Government Structures: To ensure that local governments can provide for needs of clients, and that they can benefit from equitable access to resources.

Strategies: Promote more effective funding of community councils; ensure that communities are not forced into inappropriate local government arrangement.

Representation within the Public Service: Increase Aboriginal employment at all levels within public services.

Strategies: Support Aboriginal people obtaining and retaining public service jobs.

Community Based Data Collection: Place an improved and coordinated system for data collections in the control of local communities, and to ensure that the data collected addresses issues of importance to Aboriginal people.

Strategies: Design a framework that supports the development of a coordinated data collection framework; develop local data collection skills; devolve responsibilities – hand over control of local data collection to local communities.

Strategic Planning at the Local Level: To set clear priorities for planning activities that will deliver benefits for Aboriginal clients.

Strategies: *Fund the preparation of specific community plans.*

Moving Towards a Regional Agreement

Representation in Decision Making: To increase the level and effectiveness of Aboriginal participation in decision making or advisory bodies.

Strategies: Ensure that there are potential recruits to boards and committees; select capable people as members; assist the election of capable people to decision making bodies; increase Aboriginal representation on agencies of strategic significance to the region.

Multi-Regional Funding: To identify those agencies which provide services across regional boundaries and to collaborate with other regional councils to provide appropriate funding.

Strategies: Identify potential recipients of multi-regional funding.

Developing Common Zone Strategies: Develop a common approach to meeting community needs across regional boundaries within the zone.

Strategies: Develop a framework for collaboration; identify priorities for adopting a common zone approach; implement shared strategies.

Moving towards Regional Control: To take incremental steps towards greater regional autonomy through development of regional agreements.

Strategies: Develop regional services agreement; increase delegations to the region; establish the basis for the agreement.

Garrak-Jarru Regional Council: Strategic Plan – Katherine Region 2003 & Beyond

Cultural Maintenance

Culture: To foster the practice and knowledge of our culture within the Aboriginal and Torres Strait Islander community, in order to preserve our cultural heritage for future generations, and strengthen the social fabric of Aboriginal and Torres Strait Islander communities.

Strategies: Encourage Elders to teach younger generation about culture in homes, schools and community; encourage younger generation to participate in customary lore practices; design and implement programs through Men's/Women's advisory committees to run courses in cultural heritage.

Homeland Movements: To support continuing development of Homelands in region.

Strategies: Design training courses to enable Homelands residents to be self sufficient in maintaining equipment, buildings and infrastructure; survey existing Homelands to identify facilities in sub-standard conditions.

Language Maintenance: Support the maintenance, retrieval and revival of Aboriginal and Torres Strait Islander languages; promote the use and development of Aboriginal and Torres Strait Islander languages; improve awareness and appreciation of languages among wider community and government agencies involved in language and literacy issues; and support development of an Interpreter Service for the region.

Strategies: Develop regional policy on maintenance of languages; provide support to existing language services; prepare language information and place onto electronic media to enable it to be kept posterity in National Archives; promoting language maintenance in schools and educational departments.

Art: To improve the development, promotion and preservation of Aboriginal and Torres Strait Islander art.

Strategies: Establish Regional Arts Industry Development Officer (RAIDO) position; support the role of art centres; improve wholesale and retail opportunities; seek funding to establish Indigenous owned/governed regional wholesale organisations; encourage Elder teachings; improving intellectual property rights.

Broadcasting: Start local Indigenous programming radio station.

Strategies: Identify language broadcasts/Indigenous broadcasters; identify and approach broadcasting services to secure airtime for Indigenous broadcasts.

Self Management and Independence

Resource Centres: Raise level of services provided by Resource Centres to the main communities and homelands.

Strategies: Provide financial/management support to communities to provide adequate services; convene planing workshops of representatives of Resource Centres to plan improvements and review progress in achieving objectives specified.

Health: Ensure that our people have adequate access to health care services to children to be fully immunised; to promote and encourage the use of bush medicines as an alternative to western medicine; to educate and promote the awareness of health and hygiene; improve diversionary programs and reduce marijuana use and related domestic violence.

Strategies: promote closer relationship between health centres and community centres; identify major hygiene issues in each community, designing processes to address the issues; liaise with health departments to ensure than an appropriate education and training scheme is established to increase number of Indigenous health workers; diversionary programs to include certificate level training; establish marijuana programs.

Urban and Community Housing: Gain appropriately designed houses for our people; encourage the establishment of employment and training opportunities within the housing industry; promote home ownership.

Strategies: Encourage active Indigenous involvement in designing community housing; liaise with government to establish training and employment opportunities; prepare model housing management program for communities; map short-term housing needs; prepare long-term plan to cover anticipated housing needs and requirements.

Employment and Training Opportunities: Increase employment and training opportunities for Aboriginal and Torres Strait Islander people; assist communities in the development of pre-vocational training; ensure communities have access to information in relation to training that is comprehensive and accurate.

Strategies: Implement mentoring programs; establish training programs that will qualify Indigenous people in key positions within communities; implement school program to identify those interested in training and/or apprenticeships.

Education: Increase participation of students in schools; improve educational outcomes at all schooling levels; and ensure appropriate and adequate access to education.

Strategies: Increased supervised accommodation for students to be close to schools; include work experience/career programs in curriculum; implement excellence recognition program for youth with publicly presented Regional awards in wide range of fields, not just sports.

Economic Development: Support and encourage establishment of business ventures; support increased economic activity in region especially those associated with Land and Sea Rights and Native Title.

Strategies: prepare blueprint on the types of ventures where ATSI people have a sustainable competitive advantage; establish formal business plans; Implement program of employing independent consultants to assist in bringing programs to successful conclusion.

Community Policing: Reduce the incidence of anti-social behaviour; increase numbers of Police Aides and Community/Night Patrols with increased powers; establish Indigenous Police force within regional wards based on traditional law; discuss possibility of Aboriginal run detention centre.

Strategies: Design prevention program for implementation within education system as well as communities; consult with Territory and Commonwealth Correctional Services Officers to improve effectiveness of Indigenous Police Aides and Night Patrol workers.

Community Management: To have effective, efficient and responsible management within communities and organisations.

Strategies: Identify and support appropriate leadership training resources; implement leadership course for young people; prepare Community Plan assisting in self-determination with a model community plan; increase Indigenous employment in professional, specialised areas; design cross-cultural training programs.

Homeland Energy Systems Infrastructure: Increased involvement of local Indigenous people in research, installation and maintenance of renewable energy systems.

Strategies: to seek available funding opportunities to support energy services for homelands region.

Social Advancement

Women's and Youth's Issues: Increasing services available to women and youth as well as their involvement in the community.

Strategies: Encourage specific educational courses like young mothers programs covering issues like hygiene, nutrition, cooking, etc; establish Women's Advisory Committee and Youth Forum; explore whether programs such as Outward Bound or Duke of Edinburgh's award can be utilised as a means of interesting youth.

Men's Issues: Ensuring Indigenous men have equal opportunities and access to adequate services.

Strategies: Encourage men to become actively involved in lobbying government; expand services provided by men's hostel in Katherine to include counselling/ rehabilitation for drugs, alcohol and gambling; encourage male Elders to teach laws and customs to young people; formulate policy to deal with hard-core elements in communities who do not respond to counselling.

Family Violence: Develop, implement and monitor Family Violence Actions Plans.

Strategies: Mobilise/promote action at local level; coordinate and broker assistance from other agencies; establish local role model project with emphasis on positive role models; increase community's awareness of services available to address family violence issues such as internet information and counselling; support Stolen Generation strategies aimed at dealing with family violence.

Miwatj Provincial Governing Council: Miwatj Strategic Plan 2003-2005

Regional Governance: To create a governing council which will strategically manage the east Arnhemland area.

Strategies: Complete consultations to decide on governance and model; develop agreements/partnerships with all government levels, service providers, land councils, commercial sector to improve services and develop opportunities; maintain high level advocacy government ensuring clear goals; utilise public media to articulate government aims.

Homelands and Infrastructure: Full implementation of Miwatj homelands policy and plan.

Strategies: Develop Memorandum of Understanding with homelands resource agencies; establish the 'Cluster Model' for homelands settlements; develop strategic partnership with NT government and Lands Council to improve services to homeland settlements; advocate to COAG to recognise the homelands movement and allocate adequate funding for homelands development.

Economic Development: Development of economic opportunities which are Yolnu owned, operated and sustainable.

Strategies: Establish Miwatj Yolnu Business Development Organisation/Company; develop marketing strategies (imports/exports); develop partnerships with relevant groups.

Health and Housing: Improvement of Yolnu health and well-being to the standard of the wider Australian community.

Strategies: Advocate expansion of existing services, including environmental health, to include regular homeland clinics and visits; establish renal dialysis unit at Galiwin'ku and Groote Eylandt; build stronger relationships with key service agencies through regular meetings and workshops.

Women and Family: Ensure that the needs of women are taken fully into account in the development and administration of all community and homeland issues.

Strategies: Advocate full implementation of 31 recommendations from Miwatj Women's conference; maintain traditional women's business; support initiatives which promote healthy, happy and harmonious families; support maintenance of traditional customary family practices.

Law and Justice: Recognition and introduction of Customary Law in NT justice system.

Strategies: Continue development of Customary Law Policy; support the ALS; support NT Customary Law Review Committee; support reference group of Yolnu people involvement in sentencing.

Education, Training and Employment: Yolnu educated and trained to a standard which enables a meaningful occupation while respect is given to cultural matters.

Strategies: Continue to advocate for improvement to education outcomes at all levels; implementation of MOU between stakeholders; continue advocating for high levels of CDEP participation in learning/training initiatives; build regional partnerships with major employers in region.

Youth and Sport: Healthy, active and strong Yolnu encouraged to reach their full potential.

Strategies: Support and fund the establishment of Miwatj Yolnu controlled Sports program and Development Unit; support and fund cultural activities including music, dance and theatre; support major sporting, cultural carnivals; develop partnerships with key sports agencies to include regional agreements on activity programs.

North West Regional Governing Council: Regional Plan 2004-2009

Strong People, Customary Law, Culture and Language: To protect, maintain and strengthen our customary law, cultures and languages.

Strategies: Service providers integrate customary activities into the curriculum and community planning processes; encourage and support community activities which recognise the importance of law, culture and language; support intellectual property rights; Indigenous languages be included as core curriculum in schools and

universities; advocate government support for the collection of cultural information and material from institutions.

Governance: That Indigenous people in the region are consulted about alternative Indigenous governance structure following the abolition of ATSIC; service providers operating in community will regularly consult and negotiate with community to ensure the needs, aspirations and customary law are represented in decision making.

Strategies: Advocate to all levels of government to increase community capacity in governance; advocate language, skin groups, and clan estates as the basis for representative structures; develop alternative roles for Indigenous representation (youth, traditional owners, women, recognised leaders).

Education: To ensure that the resources allocated to education are used to effectively meet the needs and priorities of the people.

Strategies: Promote alternative models of education delivery; support the implementation of recommendations of 'Learning Lessons' review of Indigenous Education; assist homeland residents in lobbying for support for the establishment of community controlled and staffed schools; upgrade the qualifications and skills of Indigenous education workers to nationally recognised standards; provision of early governance training in curriculum; community authority and control of performance management.

Communication Protocols: Each community to determine communication protocols to be followed by any agency, business, and organisation dealing with community.

Strategies: Promote importance of interpreters to all agencies; encourage community elected individuals to represent and maintain protocols.

Evidence: Ensure that decisions regarding service delivery are based on reliable information with benchmarks based on – draft COAG framework for reporting on Indigenous disadvantage.

Strategies: Seeking commitment from Australian Bureau of Statistics to ensure full participation at community level in conducting 2006 Census; dialog with appropriate stakeholders to ensure all data is community controlled and owned.

Community Enterprise Development: For Aboriginal and Torres Strait Islander people of the region to participate fully in the mainstream economy.

Strategies: Integrated business and education planning process/partnerships with government and non-government sectors; identify training and opportunities based on harnessing people's assets in cohesion with on-the-job training.

Partnerships: To include all stakeholders in the decision-making process.

Strategies: Advocate government and service providers to develop partnership agreements with stakeholders regarding specific areas of development and service delivery; promote importance of government organisations engaging with elected Indigenous voices for the region.

Papunya: Regional Plan (formerly ATSIC Central Remote Regional Council)

Part A – Building Sustainable Local Communities

Looking after Culture

This priority includes the following areas:

1) Recognition of Traditional Law (*Strategies: Develop comprehensive regional agreement with Customary Law as basis, encourage cross-cultural training.)*
2) Protecting Access to Traditional Lands (*Strategies: Support Central Land Council.)*
3) Protecting Cultural Resources (*Strategies: Ensure continued protection of all traditional sacred sites by Aboriginal Areas Protection Authority/ Central Land Council; adequate funding for maintenance/protection.)*
4) Cultural Maintenance (*Strategies: Support groups of men/women travelling to partake in ceremony/other cultural business; identify funding for operation/management of cultural centres.)*
5) Cultural Education (*Strategies: Support Elders teaching culture to young people.)*

Creating a Healthy Physical Environment

1) Housing Supply (*Strategies: Adequate, appropriate housing construction supply for local people and visitors via Commonwealth funding agreements based on the need of the community.)*
2) Water Supply (*Strategies: Survey community water needs/availability for adequate provisions of clean, running water; advise available options of potable water supplies.)*
3) Sewerage (*Strategies: Survey current systems to identify flaws; ensure contractual arrangements that all contractor/consultant work is to acceptable standards)*
4) Power Supply (*Strategies: Survey community needs; ensure all new houses have power supply systems/gas connections)*
5) Roads (*Strategies: Determine road conditions that need maintenance; seek user contributions to road maintenance costs from organisers of events such as Finke Desert Race)*
6) Airstrips (*Strategies: 24-hour optimum operating airstrips in larger communities; establish facilities, toilets, shelter, water, emergency services for all airstrips.)*
7) Repairs and Maintenance (*Strategies: Maintained housing and infrastructure repairs with training resources provided to Indigenous communities.)*

8) Landscaping (*Strategies: Support development of CDEP based landscaping projects)*
9) Rubbish Collection (*Strategies: Access in all communities to sanitary rubbish disposal and collection services.)*
10) Provision of White Goods (*Strategies: Providing white goods in communal washing machine facilities; encourage individual household refrigerator ownership.)*

Creating a Positive Social Environment

1) Child Care (*Strategies: Ensure additional sources of funding; ensure support for programs dealing with early childhood health and support for young mothers.)*
2) Primary Schooling (*Strategies: Examine appropriate educational models such as "two-way" schooling, culturally based activities as vehicle for numeracy/literacy development; community member involvement.)*
3) Secondary Schooling (*Strategies: Establish secondary school network with homework centres and distance education in major communities; improve resources for access to telecommunications, travelling tutorial support, student travel.)*
4) Adult Education (*Strategies: Conduct skills audit with CDEP/community councils, provide appropriate support facilities.)*
5) Women's Activities (*Strategies: Promote greater involvement of women in community development, management and on representative bodies; supporting women's centres/multi-purpose centres.)*
6) Men's Activities (*Strategies: Ensure funding for provision of single men's accommodation in all communities and men's traditional cultural business.)*
7) Recreation Facilities (*Strategies: Ensure all major communities plan/design appropriate community based sporting and recreation facilities; ensure school activities are available to all school children.)*
8) Preventing Violence (*Strategies: Supporting local community responses; increase number and status of ACPOs.)*
9) Legal Aid (*Strategies: Establish effective interpreter services; provide paralegal training to night patrol workers; ensure cross-cultural training for legal aid workers.)*
10) Correctional Services (*Strategies: Support communities to develop own community based custody options; negotiate 24 hour access to custodial areas to provide support/advocacy to prisoners.)*
11) Aged Care (*Strategies: Establish in-home/community care services with CDEP/non-CDEP participation; ensure specialist services; adequate accommodation provision for families of older people, preventing overcrowding.)*
12) Communications (*Strategies: Ensure appropriate, affordable, and advanced telecommunications infrastructure that utilises CDEP resources in training programs.)*

Achieving Good Health

1) Health Care (*Strategies: Health care services being available to all with health awareness and screenings throughout the region on a regular basis; increase available doctors.)*
2) Local Food Supplies (*Strategies: Involve region's health service providers in assisting community stores to stock healthy food; support best practice management in community stores.)*
3) Home Food Production (*Strategies: Encouraging home food production through gardens and recycled water; support CDEP organisations/ community groups in developing sustainable agricultural systems for domestic/community based food production.)*
4) Dog Health (*Strategies: develop dog health programs for those who see dogs having spiritual significance.)*
5) Substance Abuse Programs (*Strategies: Support communities to develop own solutions with adequate funding; control alcohol licensees in remote communities through limiting agreements.)*
6) Mental Health Services (*Strategies: Establish/support community based mental health services and solutions; ensure services operate in culturally appropriate manner that involves local people in development/delivery.)*

Providing opportunities for Productive Work

1) Employment Programs (*Strategies: Provide resources to CDEP, community and other organisations to conduct skills audits, identify training needs, develop plans; negotiate with external service providers/ other organisations to identify opportunities for work placements for CDEP participants, including training provision, wage top-ups and potential contracting arrangements.)*
2) Local Government, Mainstream Employment (*Strategies: Require establishment of understudy/assistant positions for remote community staff positions with two-year training/mentoring program; negotiate with private industry to develop local employment opportunities.)*
3) Contracting Services (*Strategies: Examine opportunities for greater involvement in contracting for road maintenance; ensure adequate funding support, training programs and negotiations for organisations involved in road contracting.)*
4) Local Enterprise Development (*Strategies: Ensure all communities have access to training in arts/crafts production, businesses practices and management; develop copyright and protection strategies for Aboriginal artists; provide support for local area economic planning.)*
5) Valuing Unpaid Work (*Strategies: Provide resources to support families while encouraging development of appropriate community based models; recognises value of voluntary work in community development, community services and local economy.)*

Strategic Placement of Resources

1) Distribution of Resources in Different Subregions (*Strategies: Fund necessary fieldwork to establish decision making framework, providing involvement opportunities for Councillors/local community members.)*
2) Catchment Areas for Services (*Strategies: Conduct fieldwork within different subregions to identify current resources and patterns of resource use.)*
3) Placement of Resources for Accessibility (*Strategies: Establish clear priorities for placement of resources that will place resources for maximum local access.)*
4) Community Based Data Collection (*Strategies: Develop/establish co-ordinated data collection system to provide quality information on community needs; develop skills of local communities to provide contracting opportunities in local data collection.)*

Developing Regional Infrastructure

1) Regional Transport Strategy (*Strategies: Fund development of Regional Transport Strategy to safeguard transport infrastructure, improve transport services.)*
2) Telecommunications Infrastructure (*Strategies: Document Telstra failure to meet statutory obligations, take appropriate action; review findings of Region's telecommunications Strategy to seek funding for new telecommunications infrastructure.)*
3) Equity and Access in Service Distribution (*Strategies: Encourage all agencies to assist in funding/collaboration in using community based data collection; establish clear accountable principles for equitable access to resources to be respected by all.)*

Building a Regional Economy

1) Land Acquisition (*Strategies: Develop proposals for strategic land acquisition by Indigenous Land Corporation* that pools resources, expertise and training initiatives*; support initiatives to increase Aboriginal control/ownership of land.)*
2) Rural Industries Support (*Strategies: Establish Rural Industries Association for Central Australia; establish appropriate system for Aboriginal developers/joint venturers to gain access to Aboriginal lands held in trust, including lease arrangements/enterprise licenses that did not compromise traditional owner interests.)*
3) Tourism (*Strategies: Establish Central Australian Aboriginal Business Development Association to support beginning Aboriginal tourism enterprises; encourage mainstream tourism operators to employ Aboriginal people.)*

4) Promotion, marketing and Distribution of Arts and Crafts (*Strategies: Advise artists on requirements for effective internet marketing, in terms of "export readiness"; support provision of reliable promotion, marketing and distribution services.)*

5) Housing and Infrastructure Construction Industry (*Strategies: Identify future possibilities for contract outsourcing from government, and assist communities to take advantage of opportunities; examine opportunities for Aboriginal involvement in production/supply of good quality building materials; support development of uniquely Central Australian housing industry.)*

Building Self Reliance

1) Access to appropriate training (*Strategies: Conduct training needs analysis, linked with CDEP, at local level; establish appropriate resources for training in remote communities including communications, tutorial support, computer access, etc.)*

2) Staffing and Recruitment (*Strategies: Ensure that all non-Aboriginal staff have cross-cultural experience, police checks have been carried out and appropriate procedures are in place; encourage, as a condition of employment of all non-Aboriginal staff, a requirement that replacement Aboriginal Staff be trained/mentored over two-year period.)*

3) Providing Effective Management (*Strategies: Ensure access to effective leadership training by Aboriginal managers of community organisations; encourage pooling of expertise/training resources between organisations to develop locally appropriate best management practices.)*

4) Local Government Structures (*Strategies: Conduct comparative review into effectiveness of local government funding arrangements and impact on Aboriginal communities; renegotiate appropriate level of funding for Aboriginal community government in meeting essential client needs.)*

5) Community Planning (*Strategies: Provide model guidelines for community planning initiatives, including those from other agencies; establish priorities for funding community planning initiatives, responding to community demands/regional needs.)*

The Road to Self Determination

1) Aboriginal Self Governance and Regional Autonomy (*Strategies: Negotiate with Cth government to upgrade status of Central Land Council to lead negotiations in creation of Aboriginal self government; document traditional Aboriginal structures, how they work, how they can be applied to modern government; ensure that in all negotiations, the following principles are entrenched a)recognition of prior Aboriginal land ownership, b)recognition of Aboriginal people as distinct/right to remain distinct, c)right of Aboriginal self government with equal status to other governments.)*

2) Working Towards a Comprehensive Regional Agreement (*Strategies: Negotiate with Cth government for Regional Agreement, backed by legislation similar to Torres Strait Region.)*
3) Representation on Decision Making Bodies (*Strategies: Achieve proportional Aboriginal representation at senior levels on all decision making bodies; identify list of people/skills, potentially willing/able to serve on decision making bodies and to provide list to recruiting organisations.)*
4) Promoting Inter-agency Collaboration (*Strategies: Work towards existing co-ordination bodies in putting priority issues on agenda for discussion; work towards implementation of regional services agreements to promote collaboration of shared strategies.)*
5) Multi-regional Funding (*Strategies: In considering multi-regional funding possibilities, give consideration to regional arts/crafts infrastructure, legal services, NPY, Waltja, Imparja and CAAMA.)*
6) Developing Zone Strategies (*Strategies: Develop projects on zone basis to address broad issues such as transport, telecommunications and economic development.)*

Yapakurlangu Regional Council: Regional Plan 2003-2005 "belonging to the people"

Governance and Policy: Establishing policy that reflects the Indigenous community maintains service level agreements and increases capacity governance building for both the community and individual.

Strategies: allocation of resources accuracy reflect priorities and addresses competing priorities fairly and transparency; implementing performance measurements; government to demonstrate how they are providing value for money.

Families, Well-being and Health: Improving lives, health and well-being of individuals and families.

Strategies: Women's issues committee to advance women's issues in region; establish a men's group; build capacity of young people; establish Youth Crisis Centre; establish community owned solutions to domestic violence and incarceration; increase ownership of Night Patrols; advocate for a regional sports and recreational framework to establish health programs which build the capacity of individuals and communities.

Homelands: Homelands developed as a priority to enhance and improve lives and country.

Strategies: Establish a co-ordinated, planned approach via policy and community driven support plans for those wanting to return to country.

Housing, Infrastructure and Telecommunications: All our people are properly housed in healthy housing.

Strategies: Pro-active participation on the IHANT Board and engagement with NAHS program managers and Mainstream Housing Service Providers; establish priority housing issues for the region; ensure communities have access to affordable, equitable, community managed telecommunications.

Education: Giving Indigenous people the same equitable education opportunities and outcomes as mainstream Australia, seeking improved numeracy and literacy, create supportive environments with relevant curriculum of accurate Aboriginal history, developed YRC policy and education statements, accessible primary and secondary education and increased numbers of Indigenous teachers.

Economic Development, Employment and Training: Increasing Indigenous individual and community pride and confidence through greater economic participation with relevant training for organisational governance, youth employment opportunities, supportive mentoring for Indigenous employees with service providers, maximising CDEP benefits and increasing social capital.

Land and Natural Resources: Giving land rights to Indigenous people to sustain management via maximised ownership and access, economic bases and proper management of land and natural resources.

Cultural: Maintaining cultural ties by strengthening language use and protection and effective communication with community in their own language.

Law and Justice: The application of Aboriginal Customary law as the dominant framework in structuring social, cultural and economic life for Indigenous people along with adequate and rightful legal representation, court interpreters, diversionary programs and Community law and justice programs that will reduce incarceration rates of Indigenous people.

Yilli Rreung Regional Council: Regional Strategic Plan 2005

Self-Determination: Indigenous people will fully participate in decision making in relation to the improvement of social, economic and cultura outcomes for the people in the region through self-management and self-determination.

Good Governance and Service Delivery: For Indigenous programs and services to be delivered by Indigenous people and organisations with clear responsibilities in collaborative endeavours with community and council in governance via strategies such as resource investment in relevant government training and capacity development for Indigenous people and supporting Regional Partnership Agreements at all government levels.

Culture: Promoting importance of cultural, ceremonial and contemporary activities in the practice of Indigenous culture and tradition via strategies such as establishing a Cultural Centre that reflects the broader Indigenous community through activities and exhibitions, and supporting the growth, self-management and protection of the Indigenous art industry.

Family Safety: Empowering Indigenous people to develop and support local initiatives advancing the social, cultural, and economic well-being of Indigenous families in combating violence and enhancing family cohesion via strategies like Indigenous controlled family support centres and increased recruiting, training, career development and retention of Indigenous employees in Child Protection Units in the Northern Territory.

Land and Homelands: Gaining increased access to country and homelands to improve social lifestyles, health and well-being and recognising the Indigenous relationship with the land through legislative or other initiatives such as traditional owner joint management schemes and for the Native Title Representative Body to become accountable to the constituents through transparency of its operations and governance.

Services: Greater Indigenous participation in decisions affecting services, policies and programs through management, with succession planning to establish a monitored housing and infrastructure system that can facilitate initiatives of increasing home ownership and access to home loans as well as providing safe, environmentally healthy essential services throughout the region.

Health and Well-being: Maintaining Indigenous health through Indigenous controlled health organisations and mobile services requiring government and non-government recognition as peak service providers via resourced services providing gender appropriate, holistic services in areas such as domestic violence and clinical health along with effective accessible Link up services for the Stolen Generation coordinated with Social and Emotional Well-being Centres that are inclusion with health policy and program development.

Education: Seeking a broadened range of strategies to meet educational requirements of Indigenous children with more Indigenous teachers' cross-culturally trained and increasing higher education participation via strategies that provide opportunities and alternative pathways in sports and scholastic academies while applying a holistic approach to reviews of conditions, roles, responsibilities for strategic direction and culturally appropriate, engaging environments for Indigenous people.

Law and Justice: Decreasing negative involvement of Indigenous people in Justice Systems, via establishing a Territory Justice Forum to develop, implement and direct an Indigenous Justice Agreement, culturally appropriate legal services that are recognised as having a specialist role and information resourced by the Indigenous community and community initiatives that provide an Indigenous perspective representing the community.

Economic Development: For Indigenous people to access fair wages, home ownership, economically benefit from land and resource use and to achieve strong growth in small business and self-employment in building personal wealth. Strategies in achieving this objective include initiatives in place to ensure Indigenous people are proportionately represented in Full Time employment in public and private sectors across all industries with cadetships, apprenticeships, small-business, and CDEP placements.

Strategies: Coordination of government; monitoring outcomes; policy development; advocacy.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Western Australia

Kullarri Regional Council: Regional Strategic Plan – Part 2

Regional Autonomy: Authority devolved from the centre/s to Aboriginal people within the region to make and implement policies that affect Aboriginal people at the local level.

Strategies: Develop the ward; MOU with 3 tiers of government.

Governance: Effective and efficient Aboriginal controlled bodies making informed and responsible decisions.

Strategies: MOU with Aboriginal service providers reviews quarterly.

Lore and culture: Universal respect for traditional and contemporary Aboriginal cultures in all their diversity; and lore and culture is alive and strong including languages and protection of material, intellectual and cultural heritage.

Strategies: Advocate for resourcing cultural activities and development of ward based cultural plans and centres.

Family: Aboriginal families enjoy their well-being.

Strategies: Development of families plan, men's, women's, youth and elders support groups.

Land, water and energy management: Regional land, water and energy management follows best practice sustainable management principles and recognises Aboriginal ownership of land and natural and cultural resource values.

Strategies: Development of natural resources, water and energy plans and implementation agreements.

Economic: Regional and local economic growth supporting long term Aboriginal Community Development.

Strategies: Development of regional economic plan; placement of Economic Development Officer; hosing becomes collateral assets; engagement with main-stream private sector.

Health: Improved well-being of Aboriginal people in the region.

Strategies: Refinement of health priorities and implementation agreements.

Education: Improved educational outcomes for Aboriginal people in the region.

Strategies: Input into education planning and curriculum and implementation agreements.

Communications: Reliable 'state of the art' communications, equitable to mainstream Australia, for Aboriginal people throughout the region.

Strategies: Input into communications service providers planning and implementation agreements.

Transport: Good access to transport system/s for the discrete Aboriginal communities and outstations.

Strategies: Input into transport planning and implementation agreements.

Law and social justice: To support and assist with the development of safe and secure communities including reducing the amount of Aboriginal people in the criminal justice system in each ward.

Strategies: Advocate for review of justice system, development of justice plan and implantation agreement.

Housing and infrastructure: Aboriginal people enjoy healthy housing infrastructure that meets their needs towards sustainable Aboriginal societies, communities, families and individuals, the environment and economic viability.

Strategies: Refinement of housing and infrastructure priorities and implantation agreements.

CDEP and Employment: Individuals and communities are developed and improved with an increase in meaningful employment and community capacity building.

Strategies: Development of Aboriginal economic development plan, priorities and implantation agreements with all sectors.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Malarabah Regional Council: Regional Plan 2001-2005

Health: To improve access to health services by Aboriginal people resulting in overall improvement in living conditions.

Strategies: Review current situation to identify gaps and opportunities for improvement; identify responsible government organisations to ensure coordination of culturally appropriate health services; support Aboriginal Health Services; support preventative programs; lobby for the procurement of a dialysis machine for communities where demand exists.

Housing: To provide adequate, appropriate, affordable housing for Aboriginal people in the region.

Strategies: Review current situation and determine shortfalls and identify opportunities for improvement; identify needs of community; established bi-lateral agreements with the Aboriginal Housing Board; promote community responsibility for having and maintaining housing and support for home ownership.

Land: To return ownership of land to traditional owners in the region.

Strategies: Support the ILC and Aboriginal Lands Trust; support Native Title claims; support mutually beneficial co-existence between Aboriginal people and pastoralists; promote co-management of national parks.

Education: To improve the level, quality and participation of Aboriginal people receiving education in the region.

Strategies: Review current situation to identify gaps and opportunities for improvement; adequately resource independent schools; identify training opportunities with other providers such as TAFE; encourage Aboriginal history being taught in schools; encourage sex education among young Aboriginal people; support and encourage scholarships.

Essential Services: To improve of environmental health of communities in region.

Strategies: Review current situation; coordinate essential services providers investigate new and improved technologies.

Employment: To increase the level of employment as one means to raising self-esteem, reducing poverty and encouraging self-sufficiency and empowerment for Indigenous people of the region.

Strategies: Review current situation and identify gaps and opportunities; coordinate the development of specific employment and training opportunities focussing on women and youth; encourage business enterprises; encourage work experience; coordinate other organisations to support community based employment.

Culture: To protect, strengthen and promote cultural resources in the region.

Strategies: Review current situation and identify opportunities; ensure adequate support is provided to organisations whose services are aimed at caring for traditional Elders and Aboriginal culture and language; encourage leaders to take and active role in developing social and cultural respect.

Transport: To improve access to transport in and around communities within the region.

Strategies: Lobby relevant government agencies to improve transport linkages; investigate feasibility in establishing Aboriginal road building and maintenance enterprise; coordinate with government to develop educational based community road safety awareness program.

Regional Autonomy: To develop and maintain greater control and direction of Aboriginal affairs in the region.

Strategies: Support the concept of regional autonomy developed by ATSIC.

Communications: To ensure that effective communication systems are accessible to Aboriginal people, particularly in remote areas.

Strategies: Support the use of 2-way radios in Aboriginal communities; investigate the provision of new technologies; ensure responsible authorities are providing services are being delivered; encourage government to use radio for community education, health awareness and emergency situations.

Women and Youth: To recognise and encourage the empowerment of women through identifying needs, fostering awareness of women's issues, supporting and encouraging activities for women and youth.

Strategies: Support initiatives aimed at women and youth; ensure women and youth are employed under CEEP; encourage women to stand for elections; ensure that funding is allocated to women's groups in the region.

Mulga Mallee Regional Council: Strategic Plan 2004-2009

Economic Participation and Development

Employment

a) Mainstream Employment: Increased labour force participation and Indigenous household/individual income.

Strategies: facilitate mentor/role model programs; rewarding affirmative Indigenous employment practices; ensure Indigenous Employment Centre actively works with employers to develop fulltime/part time employment opportunities.

b) Mining Industry Employment: Increasing number of local Indigenous mining workers and reduce FIFO (fly in/fly out) Indigenous workers in mining industry.

Strategies: Establish flexible work agreements in work mining industry; increase apprentice numbers; provide system to ensure mining companies/contractors honour commitments to Indigenous employment/training.

Enterprise Opportunities: Increased rates of indigenous owned and/or controlled enterprises.

Strategies: Business planning/financial training and mentoring programs; promote joint ventures.

CDEP: Maximise effectiveness of CDEP.

Strategies: expanding Indigenous employment database providing information on people seeking employment; training consistent with CDEP worker's personal work goal; Indigenous Employment Centre to identify employment opportunities, etc.

Property Ownership: Increasing Indigenous property ownership, in Mulga Mallee.

Strategies: Facilitating accelerated transfer of State held property to private ownerships; promoting Indigenous Home Ownership Schemes.

Customary and Traditional Intellectual Property: Recognising value of customary and traditional Intellectual property.

Strategies: Acknowledgement and reward by external parties seeking to utilise for profit; encouraging training and knowledge in copyright.

Customer Protection: Delivering equal customer protection to Indigenous people against exploitation.

Strategies: *Ensure agreements between Aboriginal Corporations and funding agencies for adequate monitoring and reporting; improve community legal/economic awareness.*

Early Child Development

Prenatal to age 3: Developing healthy, happy, self-confident pre-school children.

Strategies: Supporting the establishment of Indigenous childcare centres; ensure improved access to Mother and Child Welfare Services.

Early School Engagement (Pre-school to year 3): Attaining equity in academic achievement for Indigenous school children, developing strong cultural values and beliefs.

Strategies: Ensure availability of positive Indigenous parenting programs to equip them with life skills, recognising the value of education; cross-cultural trained teachers; establish a mentoring program with well educated indigenous Australians.

Positive Childhood and Transition to Adulthood: Increasing Indigenous retention rates and percentage that go onto tertiary education with reduced school leaver rates.

Strategies: Ensure curriculum options for Indigenous interests (art, music, dance, practical courses); facilitated career counselling available including potential employer visits; promote school leavers when starting job being mentored by Indigenous co-worker.

Serving Our Youths: Youths with high self-esteem, self-respect, community awareness and social responsibility.

Strategies: Memberships of Youth planning committees, holistic, multi-analytical 'bush school"; facilitating Indigenous Youth officers.

Substance use and Misuse: Reducing levels of substance abuse amongst adults and youth to promote high self-esteem, self-respect, community awareness and social responsibility.

Strategies: Increased involvement in sports; 'specific day' social security payments; promoting more community events.

Functional and Resilient Families and Community

a) **Housing:** Access to affordable, appropriate housing and infrastructure for Indigenous people that develops capacity and Indigenous business opportunity involvement in service delivery.

Strategies: Independent housing needs assessment; sufficient growth of new housing; establish one organisation with overarching responsibility for Indigenous housing.

b) **Transport:** Improved access to transport for Indigenous people.

Strategies: Increased utilisation of existing transports held by Aboriginal corporations; establishing transport services for visiting friends, relatives and medical transports.

c) **Land:** To settle 80% of claims within five years/balanced within seven; all Aboriginal Trust Land be handed back within three years; equitable access to Indigenous Land Council funds.

Strategies: Ensure Goldfield's Land and Sea Council adopts full disclosure/ accountability; promote investment of Native title financial benefits into long term commercial, community projects.

d) **Policing and Justice:** Create safe, sustainable communities that reduce the number of victims of crime and overrepresentation of Indigenous people in criminal justice system.

Strategies: Increased community patrols; equitable access to justice-related services; justice-education programs; increased focus on intervention, prevention and diversionary programs.

Effective Environmental Health: Regionally coordinated health services to provide efficient and effective service and optimise health resources for Indigenous people.

Strategies: Available, adequate transport to access health services; continuos cultural training; increased numbers of Indigenous health workers; advocate palliative care education for those wanting to care for terminally ill at home.

Keeping Children Healthy: Developing healthy children with healthy diet and exercise levels.

Strategies: *Establishing home and community fruit/vegetable gardens; healthy cooking classes; increased involvement of Indigenous children in sports.*

Developing Community Capacity: Building strong community spirit with firm belief of 'they-are-in-charge-of-own-destiny'.

Strategies: Community developed plans for governance; supporting people who want to represent Mulga Mallee people as leaders that will lead to positive self-image; a positive representation within the community and to local government authorities.

Organisation and Governance: Aboriginal organisations able to effectively/efficiently deliver services.

Strategies: Training in dispute resolution and negotiation skills to Indigenous leaders developing governance plans; set performance targets for competitive service delivery; Indigenous financial management training to coordinate effective financial governance.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Ngarda-Ngarli-Yarndu Regional Council: Strategic Plan 2004 & Beyond Policy Position Papers

This plan does not include strategies or activities to address the issues; rather it assesses the issues and indicates what the goals are for each issue.

Economics

1. High unemployment rate of Aboriginal people, especially the potential for this to increase with pending youth wave.
2. High number of people who are long term CD&EP participants or CD&EP participants where they could be (by choice) accessing mainstream employment.
3. Low average income of Indigenous people.
4. Lack of inclusion in regional strategic planning, at all levels, in relation to economic development of Aboriginal and Torres Strait Islander people.

Goals: Increase the employment rate of Aboriginal and Torres Strait Islander people; reduce the number of Aboriginal and Torres Strait Islander people who are long term CD&EP participants or CD&EP participants where there is access to mainstream

labour market; increase the average income of Aboriginal and Torres Strait Islander people within the NNYR and reduce the number of Aboriginal and Torres Strait Islander people living below the poverty line; safe and viably sustainable Indigenous communities, families and individuals (in terms off housing, infrastructure, essential services, employment, health, law, justice and education); identify the key stakeholders.

Housing, Infrastructure and Essential Services

1. The lack of a holistic approach (eg health, environmental health, education, employment and training) in relation to the identification, development and implementation of strategies and programs related to housing, infrastructure and essential services.
2. Funding restrictions impacting on supply of affordable an appropriate housing, infrastructure and essential services.
3. Lack of a regional coordinated approach to planning, development and maintenance of housing, infrastructure and essential services in the region (eg identifying needs, monitoring, evaluation and auditing of proposed and existing requirements).
4. Lack of appropriate, accessible and affordable housing and accommodation for itinerant and transient people.
5. The lack of Aboriginal and Torres Strait Islander people that own their own home or are purchasing their own homes.

Goals: Establishment of a centralised coordinating body to ensure a holistic approach (eg health, environmental health, education, employment, training) to the identification, development and implementation of strategies and programs relating to housing infrastructure and essential services by 2006; individuals families and communities have access to identified and prioritised housing, infrastructure and essential services that comply with Australian Building Standards and National Indigenous Housing Guidelines (as a minimum); The home ownership rate for Aboriginal and Torres Strait Islander people increase from 15% (2001) to 30% by 2010.

Law and Justice

1. High incidence of family and domestic violence and victims of crime in the Aboriginal community.
2. High incarceration rate of Aboriginal and Torres Strait Islander people in the prison system.
3. Over representation of Aboriginal and Torres Strait Islander children having contact with the justice system.
4. The lack of access by Aboriginal and Torres Strait Islander people to law and justice services and support such as licensing (cars, guns) legal aid, family law, mediation services, public phones, legal education, Aboriginal lore, support for community justice orders etc.

Goals: safe, secure and just communities throughout the NNYR; reduction in contact with the justice system; lowering the incarceration rate of Aboriginal and Torres Strait Islander people; increase access to law and justice services and educational support programs.

Family

1. Not being ale to determine the extent of the problem due to a lack of comprehensive regional data in relation to family issues.
2. High incidence of child neglect and child abuse.
3. Aboriginal and Torres Strait Islander children are not reaching their full potential due to low participation in early years and pre-primary programs.
4. High truancy rates for Aboriginal and Torres Strait Islander students.
5. High incidence of family violence, alcohol and substance abuse.

Goals: Formalise and rationalise the collection of data in the region; reduce by half the number of Aboriginal and Torres Strait Islander children on long-term care and protection orders by 2008; Achieve a target of 90% of Aboriginal and Torres Strait Islander children enrolled in pre-primary and kindergarten programs by 2008; reduction in truancy rates; achieve 20% increase in participation rates in sport and recreation; reduce number of alcohol related and drug related incidents in community.

Education

1. Retention and participation issues
2. The low completion rate of Aboriginal and Torres Strait Islander students at the primary and secondary school level compared to non-Aboriginal and Torres Strait Islander children.
3. Lack of awareness of the impact of accumulated missed school days (or awareness of how many days children actually have off over a school year).
4. The number of transient children not attending school when away from the school of origin and the inadequacies of tracking students throughout the region.
5. Access to education and training for children and families returning to Homelands.
6. High truancy rates of Aboriginal and Torres Strait Islander students in Years 8-12.
7. Low attainment of Year 10 and Year 12 certificates or equivalents by Aboriginal and Torres Strait Islander students.

Goals: Short term – current access (enrolments) and retention rates of Aboriginal and Torres Strait Islander children to increase by 20% by 2008 at all levels: Long term – Aboriginal and Torres Strait Islander children's access (enrolments) and retention rates are commensurate with mainstream access and retention rates; Increase in the number of Aboriginal and Torres Strait Islander students attaining year 10 and 12 certificates and/or equivalent.

Health and Well-being

1. Lack of up to date data available to schools relating to the number of and identification of Aboriginal students that have otitis media, conductive hearing loss and eye health problems within the region.

2. Lack of testing and screening for otitis media, conductive hearing loss and eye health within the region and related preventative and educational programs at the actual school location.

Goals: Reduction in the number of Aboriginal and Torres Strait Islander children with otitis media, conductive hearing loss and impaired vision based on the current data.

Teaching and Learning

1. Performance of Aboriginal and Torres Strait Islander students in all areas of literacy compared to the mainstream.
2. Performance of Aboriginal and Torres Strait Islander students in all areas of numeracy compared to the mainstream.
3. The lack of Aboriginal studies/programs and perspectives being delivered across the region and across the curriculum.
4. Lack of schools training staff in local cultural awareness programs.

Goals: Aboriginal and Torres Strait Islander student's literacy and numeracy levels to be commensurate with mainstream outcomes; development and delivery of appropriate Aboriginal and Torres Strait Islander studies, programs and perspectives in all areas of the curriculum at all schools.

Strategic Directions

1. Under representation of Aboriginal and Torres Strait Islander people employed in kindergarten, pre-schools, primary and secondary schools, TAFEs and district offices.
2. Under representation of Aboriginal and Torres Strait Islander people in upper management positions, eg. Teachers and principals.
3. Number of non Aboriginal and Torres Strait Islander people in employed in positions within schools that could be filled by Aboriginal and Torres Strait Islander people.
4. Lack of representation and participation of Aboriginal and Torres Strait Islander people on committees or on decision-making groups within schools and the district.

Goals: Increase in the number of Aboriginal and Torres Strait Islander people within the Department of Education and Training at all levels throughout the region; the ratio of Aboriginal people actively engaged in the education decision making processes reflects the number of Aboriginal and Torres Strait Islander students enrolled.

Noongar Country Regional Council: Regional Plan 2004-2006

Youth and Families: Strengthening of families and development of children.

Strategies: Promote positive role models; develop leaders through education; develop learning infrastructure; make available opportunities for people to meet, mix and celebrate.

Leadership and Governance: Advance Noongar governance and the idea of a Noongar Nation.

Strategies: Engage effectively with Governments; maintain and reinforce existing corporate governance and conflict of interest activities; develop the Noongar governance structure; seek out technical assistance; communicate to the wider community; spread understanding on the issues; meet and discuss ideas; coordinate efforts to achieve the best outcomes for all Indigenous people.

Social Issues and Service Provision: Improve access to, and the quality of, all government services and to reduce the effects of the social issues that lead to the reliance on these services.

Strategies: Determine community needs and establish Service Level Agreements; coordinate efforts to achieve the best outcomes for all Indigenous people; influence funding allocations; target agencies and organisations for specific partnerships; improve the health and well-being of individuals and families; enhance services with appropriate cultural content; spread understanding on how to access services.

Heritage and Culture: Preserve culture and promote status of Noongar people as traditional owners and custodians.

Strategies: Assemble and communicate foundations of Noongar culture; pursue traditional rights and interests; promote and share Noongar culture; develop cultural infrastructure.

Economic Independence: Improve the economic situation, as well as employment options for Noongar people to achieve an economic future where Indigenous people can access sustainable commercial wealth creation opportunities and not be bound to welfare and work for the dole schemes that offer no future.

Strategies: Support the identification of opportunities and the development if viable businesses; develop capital infrastructure.

Perth Noongar Regional Council: Regional Plan

Heritage and Culture: Preserve culture and promote status of Noongar people as traditional owners and custodians.

Strategies: Assemble and communicate foundations of Noongar culture; pursue traditional rights and interests; expand the Noongar understanding of their sacred sites; promote and share Noongar culture; develop cultural infrastructure.

Economic Independence: Improve the economic situation, as well as employment options for Noongar people to achieve an economic future where Indigenous

people can access sustainable commercial wealth creation opportunities and not be bound to welfare and work for the dole schemes that offer no future.

Strategies: Support the identification of opportunities and the development if viable businesses; develop capital infrastructure.

Youth and Families: Strengthening of families and development of children.

Strategies: Promote positive role models; develop leaders through education; develop learning infrastructure; make available opportunities for people to meet, mix and celebrate; make available opportunities for the expression of talent.

Leadership and Governance: Advance Noongar governance and the idea of a Noongar Nation.

Strategies: Engage effectively with Governments; maintain and reinforce existing corporate governance and conflict of interest activities; develop the Noongar governance structure; seek out technical assistance; communicate to the wider community; spread understanding on the issues; meet and discuss ideas; coordinate efforts to achieve the best outcomes for all Aboriginal and Torres Strait Islander people.

Social Issues and Service Provision: Improve access to, and the quality of, all government services and to reduce the effects of the social issues that lead to the reliance on these services.

Strategies: Determine community needs and establish Service Level Agreements; coordinate efforts t achieve the best outcomes for all Indigenous people; influence funding allocations; target agencies and organisations for specific partnerships; improve the health and well-being of individuals and families; enhance services with appropriate cultural content; spread understanding on how to access services.

Western Desert Regional Council: Strategic Plan – A new way of doing business

Economic Participation and Development: Economic sustainability and improved wealth creation for all communities.

Strategies: Integrated business planning and joint economic development between governments and community; mapping of all current business initiatives and potential opportunities; skills audit of CDEP participants; targeted accredited training and vocational education programs for school leavers and CDEP participants; community participation in design of work programs; pathways from prison to community; strengthened links between other work programs (CPAs), community projects and business enterprises.

Education: Education systems that provide Western Desert students with relevant life skills and qualifications to pursue their aspirations.

Strategies: Community controlled play groups and adult education programs in every community; Aboriginal education area councils and directors for each ward; employment of local language and culture specialists to develop curriculum; cross cultural induction training for all teachers coming to region; targeted support for year 9 students; tutoring, mentoring and support services for students; tele-communication on competency training; programs to provide incentives and assistance for retention.

Health: Working in partnerships to promote health and physical well-being of Western Desert people and ensure adequate and culturally appropriate service provision.

Strategies: Community participation in design and delivery of health services and facilities; integration of community health priorities community health priorities; targeted health awareness programs for Aboriginal men and women; mandatory provision of fresh food in community stores; development of market gardens; regional health planning forums; accredited training in nutrition for Aboriginal health workers.

Law and Justice: Fair and equal treatment and outcomes for Western Desert people within the criminal justice system and law enforcement agencies.

Strategies: Back to back police patrols in communities; permanent police facilities in selected communities; transport for released prisoners to return back home to community; training for community members in policing services; implementation of Regional Justice Agreement; community shaped and controlled diversionary programs.

Family: Healthy, non-violent family environments and strong, safe communities.

Strategies: Accredited training for employment in sport sand recreation industry; complementation of WA Indigenous Sports Agreement; community workshops/ programs with elite sports people; life skills and parenting skills for young men and women; community driven/shaped family violence awareness campaigns; develop programs of support and guidance for men convicted of domestic violence and abuse; trained Indigenous youth officers; increased support to Elders providing primary care to children.

Land: Indigenous ownership, control and management of land in the Western Desert Region. *Strategies: Joint development of land management training programs by non-government training and land management organisations; Indigenous Protected Areas as alternative mandatory leaseback arrangements; land management based CDEPs.*

Governance: Functional, strong and self-reliant communities governing their own affairs.

Strategies: Accredited training/mentoring in leadership, finance and management; joint collaboration to support implementation of existing community plans; targeted, culturally appropriate leadership and management training for local community councils.

Culture: To protect and preserving Western Desert law and culture and maintain people's right to practice their heritage.

Strategies: Incorporation and promotion of cultural traditions within economic development, education, health, employment programs; audio/video recording of languages, oral history and music; bilingual signage in communities; broadcasting programs in language; promote participation and role of Elders; cross-cultural awareness training for non-Indigenous people in communities.

Housing and Infrastructure: Reliable and adequate housing and efficient infrastructure in all communities.

Strategies: Implementation of commitments within bi-lateral agreement on essential services; community maintained database on housing management, repairs and maintenance; training of local people in construction projects; quality control on housing contracting; implementing homelands planning as per policy guidelines.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Wunan Regional Council: Regional Plan 2004-2007

Effective Governance: Governance improved; Monitoring, evaluation and review maintained; Policy and advocacy maintained; community capacity enhanced; and better service delivery.

Strategies Regional Council Strategic Plan; governance training implemented; COAG inter-agency coordination.

Strong and Safe Families: Families supported; provision for community youth resources; sport and recreation provided.

Strategies: Safe and Strong Families Plan; Gordon Inquiry Recommendations; youth services; alcohol education programs; women's centres.

Culture: Traditional culture promoted; culture centres established; cultural awareness promoted.

Strategies: Heritage and Culture Plan; art centres; language centres.

Country Outstations and Land Management: Outstations supported; access to land expanded; environmental management monitored; control of development; heritage sites protected; Native Title rights.

Strategies: Outstations policy; Aboriginal socio-economic impact study; improved coordination between relevant agencies.

Health: Aboriginal Health Services supported; environmental health initiatives; health awareness promoted.

Strategies: Aboriginal Medical Services accessible; Kimberley Regional Aboriginal Health Plan; Environmental health standards.

Law and Justice: Improved justice for Indigenous people; diversionary programs and services; Aboriginal run Communty Courts; Customary law initiatives; family Safety a priority.

Strategies: Kimberley Regional Justice plan; WA Aboriginal Justice Agreements 2003; Community Justice Agreements; Local Courts Night Patrol; Diversionary Centres available.

Education: Educational achievements for our children.

Strategies: Regional Education Strategy; Follow the Dream – Secondary students; Aspirations strategy.

Employment and Economic Development: Increased employment; economic development; work culture; enterprise culture; private property culture.

Strategies: Macro Regional Employment and Economic Development Strategy; Ongoing support for CDEP organisation; CDEP used to pursue development of

small business enterprises; Wunan Foundation; Kimberley Group Training; Tourism development.

Housing and Infrastructure: Housing and Infrastructure improved; safe and health housing available; Increased capacity of Indigenous Housing Organisations; Increased home ownership.

Strategies: Regional Housing and Infrastructure Plan; WA Aboriginal Housing and Infrastructure Council Strategic Plan (2004-07); Building a Better Future: Indigenous Housing to 2010; Establishment of a committee to develop effective strategies to achieve the outcomes of Council's macro RHIP.

Communications, Transport, Energy Management: Phone and internet services available in all communities; Two Way Radios or satellite where other communications are not available; safe and reliable power; mail services, access to roads; safe and well maintained roads; safe and well maintained airstrips.

Strategies: Develop active partnerships with service providers; Access Roads Plan; Environmental needs survey.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Yamatji Regional Council: Yamatji Regional Plan 2002-2003

Management of Community Organisations: Raise management capacity of community organisations via regional policy; linking funding to achievement of agreed outcomes; equip resource agencies to support management capacity; ensure community development employment projects are operating efficiently.

Strategies: Negotiate state government support for capacity building and draft policy; need to demonstrate achievement of agreed outcomes to secure on-going funding; encourage relevant government agencies to work with resource agencies in raising management capacity; formulate/implement common CDEP operational policies and procedures across region.

Youth and Related Family Issues: Enabling Indigenous youth to participate in the 'planning, delivery and management' of their own lives via policy, education, family and the law.

Strategies: Develop policy in Indigenous Youth Forums; education initiatives that see the Education Department of Western Australia and department of Family and Children's services reporting all Indigenous outcomes to Council; providing access to support services such as sport and recreational cultural activities and initiatives.

Land Acquisition and Native Title: Supporting Aboriginal efforts to own and access land for cultural, social and economic aspirations Native Title rights and purchasing land.

Strategies: Draft land strategy to be widely circulated; purchase information from regular advice given by the Indigenous Land Corporation; advocating recognition of Native Title rights under a single monitored body of authority (Land and Sea Council).

Economic Independence: Greater Indigenous participation with major employment and economic development initiatives, developing personal wealth and community economy.

Strategies: Facilitated access to commercial advice for native title holders negotiating land use agreements for economic opportunity; hold discussions with Department of Conservation about potential for Aboriginal participation in cultural tourism projects.

Communication: Providing effective communication to Indigenous people and organisations to ensure they are reliably informed about life affecting issues.

Strategies: Regular councillor consultations schedules; annual 'bush' meetings; effective media use to correct misinformation to provide accurate feedback to Indigenous communities.

Funding and Service Delivery Partnerships: Enabling Aboriginal community organisations to access mainstream services and additional funding.

Strategies: Development of partnerships with government and non-government agencies in negotiations; review effectiveness of Commonwealth-state bilateral Housing and Essential Services Agreement; negotiate pilot Regional Agreement clarifying role, responsibilities and funding obligations of service providers, establishes agreed benchmarks, targets, outcomes, accountability and evaluation processes.

Role of Regional Council and Regional Office: Enhance effectiveness of Regional Council through decision making and policy roles.

Strategies: Advocating responsibility of essential community programs for Indigenous people such as negotiating new partnership approaches to Aboriginal affairs funding and service provisions; supporting professional development by progressively orientating Regional councillors to their roles, responsibilities, budgetary processes and terminology on a continual basis in keeping up with changes in the communities.

Nulla Wimila Kutju Regional Council: Regional Partnership Plan 2004 & Beyond

Leadership: For the Nulla Wimila Kutju Council/Aboriginal Regional Authority to remain the leading Indigenous voice in the region.

Strategies: Promote regional plan; negotiate regional partnerships with government agencies; promote multi-agency coordination; convene an Evaluation Roundtable of key agencies.

Culture, Rights and Justice: Indigenous people recognised for their identity, spirituality, cultural practices and unique heritage; Indigenous people enjoying their human and citizenship rights. Their rights as Australia's First Peoples are built into agreements with governments.

Strategies: Strengthen channels of influence and media initiatives that promote and protect Indigenous culture and heritage; lobby governments for the protection of Indigenous culture, heritage and language; increase political efforts to have the rights of Indigenous peoples reflected in the legal and political institutions of governments; monitor the equity and the cultural appropriateness of services and publicise complaints mechanisms.

Access and Equity: Indigenous people living in well maintained, safe and healthy communities; additional housing for Indigenous people, with priority given to communities and homelands in greater need; Indigenous people, as individual citizens, benefiting from high quality essential services, housing, and municipal services; Indigenous people benefiting from preventative and diversionary programs that will lead to safer and confident communities; Indigenous people benefiting from efficient use of existing vehicles, transport infrastructure and schemes.

Strategies: Implementation of Homelands Policy; community participation in the design of houses and related infrastructure; lobby health authorities for better and more accessible treatment programs for renal and other serious health problems; encourage health education and disease prevention programs with local communities; ensure municipal services support Indigenous communities; ensure infrastructure and essential services are appropriate, well maintained and delivered by appropriately skilled services providers; encourage partnerships and joint funding for preventative and diversionary programs.

Self-Reliance: Indigenous people benefiting from acquiring land and managing it in a sustainable way to provide positive cultural, social, economic and environmental results; an increasing number of Indigenous people owning their own homes.

Strategies: Promote land management support programs; lobby governments to obtain restitution; promote home ownership.

Economic Independence: An increasing number of Indigenous organisations or individuals owning their own businesses and/or entering into joint ventures; Indigenous people benefiting from training and employment opportunities provided through CDEP and employment schemes; Indigenous people benefiting form the maintenance and promotion of heritage and culture through community owned enterprises.

Strategies: Promote Indigenous Business Development Program; promote benefits of CDEP; advocate greater commitment by other service providers to CDEP schemes; encourage CDEP to build capacity of Indigenous participants; advocate that Job Network agencies fulfil their responsibilities to Indigenous people; encourage activities that maintain Indigenous culture and heritage activities while generating income.

Community Capacity Building: Indigenous people in the region are better able to manage their affairs at community level and take the lead in solving community problems; Indigenous people benefiting from culturally appropriate education and conditions of employment.

Strategies: Promote collaboration on specific issues (such as health, mental health, youth, elderly, domestic violence) among diverse interest groups in communities; identify and publicise successful cases of community based solutions and positive management of social development; support community based advocacy of school curriculum and practices; boost mentoring, homework support and family support for Indigenous secondary and post- secondary students; negotiate with stakeholders to improve school to work transitions programs.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Patpa Warra Yunti Regional Council: Regional Plan 2004-2007

Family Violence: To reduce family violence through community education, participation and improved service provision.

Strategies: Increase community understanding of the impact and implications of family violence; development of community determined initiatives; provision of more appropriate and accountable services form government.

Health: To improve the health, quality of life and general well-being of Aboriginal people in the region.

Strategies: developing partnerships with key agencies, monitor implementation of the State Government 'Generational Health Review'; negotiate partnership to identify appropriate health resource provision and provide advice and direction.

Sport and Recreation: Improve physical health, esteem and general well-being of our people through increased sports and recreational opportunities.

Strategies: Work closely with SA Aboriginal Sports and Recreation Association to ensure the multipurpose Aboriginal sports complex is completed; advocate and provide advice to State and Commonwealth governments on policy and program development.

Education: Ensuring Aboriginal people achieve their aspirations and full potential through improved educational access, opportunity, services and outcomes.

Strategies: To ensure that DECS plan for Aboriginal Education in early Childhood and Schooling is implemented; advocating a national Standard Reporting Framework; ensuring that DECS review its structures, resources, management and curriculum practices and takes appropriate action to achieve optimum improvements in educational outcomes for Aboriginal students in the priority areas of – decision making, early childhood, literacy and numeracy, attendance and retention, employment of Aboriginal staff, Aboriginal languages, culturally appropriate curriculum.

Land, Sea, Culture and Heritage: Have cultural, heritage and language rights and our right to access land, sea and water recognised.

Strategies: development of management policy for land held by the Aboriginal lands Trust; negotiate access and economic rights to SA oceans, seas and waterways to support traditional and sustainable conservation and use practices; giving local Aboriginal heritage groups greater responsibility for heritage management; developing more appropriate ways to protect the authenticity, appropriation and misuse of Aboriginal art.

Language Rights: To preserve, maintain and revive traditional languages in the region.

Strategies: Lobby government for the allocation of financial resources; negotiate with DECS to recognise and teach Aboriginal languages; seek advice from intellectual property experts to ensure that traditional languages remain the copyright and ownership of Aboriginal people.

Economic Participation: Achieving effective economic development for Aboriginal people.

Strategies: Monitor, evaluate and report on the effectiveness of strategies undertaken by government and non-government agencies; pursue vocational training, employment initiatives; advocate for improvements to produce better outcomes from CDEP; encourage the establishment and development of tourism-related and other Aboriginal business enterprises.

Law and Justice: To advocate for justice and the provision of fair, equitable, culturally appropriate and accountable legal services.

Strategies: Review current funding levels for the provision of legal services; improvements to judicial education i.e. informing our people about judicial processes and their legal rights; monitor and evaluate and effectiveness of legal services.

Housing and Infrastructure: To maximise the provision of well-managed, affordable and quality housing and infrastructure for Aboriginal people.

Strategies: Improve provision of infrastructure and municipal services; increased availability of affordable rental housing; identification of options to increase the level of Aboriginal home ownership.

Community and Capacity Building: To build the capacity of out people to plan, develop, manage and deliver effective and efficient programs and services to our communities.

Strategies: Identify training opportunities and other initiatives to raise the skills level of our people and communities; service provision agencies adopt community capacity building initiatives as part of their program delivery.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Wangka-Willurrara Regional Council: Regional Plan

Land, Sea Culture and Heritage: Establishing broad community understanding and respect for Indigenous culture and heritage; protect cultural resources including language and land/sea connections.

Strategies: Protecting culturally significant sites with improved Indigenous staffing; increased public recognition and supporting land management practices in returning land to natural conditions (via the South Australian Natural Resource Management Act that ensures Indigenous participation).

Tjukurpa (Indigenous Law), Western Law and Justice: Ensuing fair, culturally appropriate treatment of Indigenous people.

Strategies: Ensure adequate standards of legal representation; recognising traditional law; implementing strategies from Aboriginal Deaths in Custody Royal Commission; coordinated presence of increased Indigenous employees in justice systems.

Economic Participation: Improving access to economic development opportunities for Indigenous people in areas of cultural tourism and land benefits.

Strategies: Establish permanent membership of bodies like Eyre Regional Development Board to ensure support for funding/activities of benefit; Native Title/land tenure associated plans for rural produce/tourism; increased Indigenous employment in Aquaculture; establish an Indigenous small business incubator with services for Indigenous/mainstream small businesses.

Education: Establishing culturally appropriate education at all levels of early life that encourages Indigenous achievements.

Strategies: *Establishing early learning in IT training; accessing cultural education from local elders; develop effective mentoring and case management programs; create opportunities for youths to develop leadership skills in the community.*

Health: Ensuring Indigenous people are healthy spiritually, physically, mentally in healthy communities.

Strategies: Promote holistic approaches to addressing health through training of all health professionals in Indigenous concepts of health; monitor delivery of services to ensure reporting on actual expenditures, achievements, consistency and program under-expenditure; advocate culturally appropriate access to services/programs; support increased employment of Indigenous health professionals; advocate culturally coordinated service delivery amongst various agencies.

Family Well-being: Implementing holistic approach to strengthening families and preventing family violence in Indigenous communities that adopt the WWRC Regional Policy.

Strategies: Establish local committees in each community to raise awareness about family violence issues; develop Family Violence Prevention component of CDEP to provide effective support; provide training/support for Indigenous people placed in position of reporting on abuse through professional/personal relationships with families; advocate appropriate, holistic regional rehabilitation services.

Housing and Infrastructure: Improving access to appropriate housing, accommodation, infrastructure, and essential services for Indigenous people.

Strategies: Maintain effective representation in Aboriginal Housing Authority; promote employment/business development opportunities through established Indigenous building companies to manage Indigenous efforts; encourage private home ownership by removing constraints to housing finance on Aboriginal land; promoting use of alternative energy and rain water harvesting; develop committed plans to replace asbestos within housing occupied by Indigenous people.

Community Capacity Building and Governance: Providing a strong voice on issues of concern to all indigenous people; empowering Indigenous people to govern themselves by addressing needs of the community and actively encouraging young people to participate in responsibility roles.

Strategies: Incorporating adjunct women's, youth and elders councils to collectively address community needs; seek Governmental Regional Agreement, with Regional Council being resourced to undertake an ongoing monitoring, review and annual reporting process.

Tasmania

Tasmanian Regional Aboriginal Council: Regional Legacy Plan June 2005

Housing: To increase Aboriginal home ownership and to raise the level of Aboriginal control of, and access to, quality affordable rental housing.

Strategies: Promote home ownership; ensure access to quality affordable rental housing; ensure representation on relevant government committees.

Law, Justice and Cultural Rights: Facilitate access to flora, fauna, land and sea for all Aboriginal communities and endure Aboriginal rights, increase awareness of and understand within the law and justice system and reduce incarceration rates for Aboriginal people.

Strategies: Negotiate with government agencies to secure royalties from natural resources and facilitate sharing/promotion of states resources; advocate on behalf of Aboriginal people regarding expansion of rights to access flora/fauna via Aboriginal Lands Act etc; increase employment of Aborigines in all government levels; ensure adequate funding to provide legal services; establish mentoring programs/pro-active alternatives with communities/families.

Health, Sport and Recreation: Ensure all Aboriginal people enjoy long, healthy lives enriched by a strong sense of culture, dignity and justice and be involved in the decision making processes that impact on the service delivery and health of Aboriginal people.

Strategies: Ensure Aboriginal participation in meetings that deliver health services; survey health services to benchmark performance; establish partnerships with relevant funding/service providers to work through community organisations.

Education, Training, Employment and Economic Development: Encourage Aboriginal economic development by accessing support services, finance and information from relevant providers; encourage equity in education; increase number of Aboriginal people in vocational education and training courses; achieve full levels of employment for Aboriginal people.

Strategies: Develop economic development partnerships with all government levels; foster increased take up of economic opportunities by communities, organisations and individuals; encourage and improve attendance, retention and academic achievement rates of Aboriginal students; ensure equitable literacy and numeracy levels; advocate for increased CDEP places; identify employment opportunities; and conduct community workshops promoting employment opportunities.

Culture and Heritage, Arts and Crafts: Maintain and support traditional and contemporary Aboriginal arts/crafts; recognise and protect Aboriginal cultural heritage values essential to well-being; facilitate Aboriginal access to flora, fauna, land and sea.

Strategies: Improve cultural and economic position of Aboriginal people through promoting arts and crafts activities; ensure local Tasmanian Aboriginal artists are employed/consulted when designing documents and reports; assist with the return of all provenance ancestral remains and cultural objects; ensure participation through joint management of marine (cultural) parks, crown land, state forests and national parks; intellectual copyrights; and secure rights to expanded access to flora and fauna.

Family Issues: Support and promote families/extended family as integral part of community; ensure importance of children's rights enabling individuals to reach full potential; ensure health, economic and social needs of elderly are improved; improve standing of Aboriginal youth and promote understanding of their issues; recognition, respect and support for Aboriginal women and men.

Strategies: Recommend funding for family orientated events like hunting gathering days; recommend funding for prevention of family violence; provide emergency housing; implement children's advocacy service; recommend and lobby safe havens to support children at risk; ensure partnerships are developed to deliver services to Aboriginal elderly, identify service gaps; support and fund attendance at youth conferences; ensure drug and alcohol programs are conducted; recruit/train youth in leadership and management skills; fund and advocate local service delivery wherever possible.

* Regional Plan aligned to COAG Overcoming Indigenous Disadvantage (OID) Indicators.

Appendix 3

Summary of obligations agreed in Shared Responsibility Agreements to 30 June 2005

This table summarises 67 SRAs completed prior to 30 June 2005, setting out the main commitments of the parties. It is based on the fact sheets produced by the OIPC to publicise SRAs.[1]

Community and activity	Government and other party commitments	Community commitments
Northern Territory		
1. Mungkarta SRA • To build a centre to record the community's language, culture, history and art and to enable the community to publish and distribute books and produce art work.	• The Australian Government will fund the centre, and provide materials for the publishing venture.	• The community will provide the labour to build the centre. • The community will record cultural and historical information. • The local school will help with printing and binding books and incorporate local art into its curriculum.
2. Tennant Creek SRA • To provide short-term accommodation and a program for young people affected by family breakdown.	• The Australian Government will fund the purchase of furniture, utilities and food as well as initial salaries for the four youth-support officers.	• The community council will provide two houses, a vehicle and related expenses. • The community will select four people to undergo youth-support training. • Families will work to address issues such as alcohol abuse and family violence.

1 Please find the summaries at www.indigenous.gov.au/sra.html. SRAs for the Australian Capital Territory, Shepparton, Lockhart River and Hopevale are not included as they do not include community, family or individual obligations (and are not technically SRAs).

3. Tennant Creek (2) SRA • To improve policing and reduce community members' contact with the criminal justice system.	• The Australian Government will fund the establishment of an Elders Council.	• Council members will work with the Indigenous and non-Indigenous community, and help with policing, in the justice system, in education and develop other activities that will contribute to community harmony and safety.
4. Hatches Creek SRA • To reduce dependence on welfare by establishing the infrastructure for a pastoral enterprise.	• The Australian Government will fund the building of cattle yards, fences, gates and water troughs to muster cattle.	• The community will provide labour to build cattle yards, fences, gates and water troughs and muster the cattle. • The community will follow the advice of Indigenous Pastoral Development Officers.
5. Bonya SRA • To replace a nearby store which is closing with a new community-owned and operated store that will sell only healthy food.	• The Australian Government will fund the building of the store.	• The community will ensure that any profits from the store are put back into the community. • Health clinic staff will advise the store on healthy food choices. • The community will participate in health and education programs through the store. • Community members have agreed not to seek credit or loans from the store. • The community council will ensure that visitors and new residents stick to the community's rules.

6. Emu Point SRA • To develop a stockyard and market garden, as well as maintaining traditional harvesting of bush tucker. To establish a new child-care facility.	• The Australian Government will fund the development of the stockyard and market garden; and the establishment of the child-care facility.	• The local land council will provide stock. • CDEP participants will learn how to run the stockyard and maintain the garden. • Community elders will work with young people to develop stock-handling skills. • Families will make sure children go to school.
7. Minjilang SRA • To replace the community store after a cyclone destroyed it and provide a community meeting place.	• The Australian Government and the Arnhemland Progress Association (an Aboriginal-owned company that manages a network of stores in the area) will fund the rebuilding the store. • The Australian Government will ensure there are enough CDEP places for the community to be part of the rebuilding. • The Australian Government will provide funds for a picnic and meeting area outside the store.	• The Arnhemland Progress Association will train and employ community members, with all store profits being returned to the community and provide 'Good Food' staff to advise on healthy food choices. • The community will provide labour to help with construction, keep the store free from vandalism, and not pressure staff for store credit.
8. Palmerston Indigenous Village SRA • To develop a community plan and provide more healthy activities for young people.	• The Australian Government will provide funds to: support a community development partnership with the local city council; upgrade a community hall for recreational activities; employ a Community Development Officer; and an Activities Officer; and purchase recreational equipment.	• The community will work with the Community Development Officer and the Council to develop a community plan. • Community members will provide labour to repair and upgrade the hall.

9. Gapuwiyak SRA • To improve community governance and provide activities for young people, including engaging them in CDEP.	• The Australian Government will fund the construction of a community centre; and the employment of a consultant for six months to work with the community council to help them build their governance capacity and plan for a sustainable CDEP Program.	• The community will provide labour. • Community members will stop the sale of take-away food to children during school hours. • The Community Council will work with the school to organise activities at the community centre for young people.
10. NPY Lands SRA • To encourage young women in the region to aspire to go to university.	• The Australian Government will provide funds for 12 young community women to travel to summer school at the University of Melbourne with a mentor.	• When they return, the young women will share their experiences.
11. Alpurrurlum SRA • To have a place to hold meetings, health education sessions and training in computers, community radio and the internet.	• The Australian Government will provide funds for a community centre with an internet café to provide a place for meetings, health education sessions and training in computers, community radio and the internet.	• The community will provide apprentices for the construction of the centre. • The community will be responsible for maintenance and operational costs of the centre. • The health clinic and school will hold training in the centre. • Local Centrelink recipients will help out in the centre.
12. Barrow Ck SRA • To help two small communities living on their ancestral lands ensure their children attend a school 15 kilometres away, establish an orchard for the communities and have community clean ups.	• The Australian Government will fund materials and equipment for community clean-ups; and to plant an orchard.	• Parents will develop a roster system to take the children to and from school. They will also ensure their children are properly prepared for the school day, starting with a good breakfast. • The school will keep records of students' participation and attendance.

13. Tara SRA • To ensure children go to school and parents are more involved in their children's education.	• The Australian Government will fund basic equipment and CDEP participants to act as drivers to get children to school.	• The community will assist in arranging sporting and recreational activities for children. • Men in the community will cement the community workshop floor and the verandas of the women's centre. • The school will keep records of students' participation and attendance.
14. Wilora SRA • To raise health standards in the area and give children a better education.	• The Australian Government will fund a new community meeting place and provide equipment and materials to set up programs to improve community health and education.	• The community will help with, and provide labour for, the construction of the new meeting place. • Community volunteers will establish a school lunch program; paint a mural at the school, and clean up the women's centre. • The school will keep records of students' participation and attendance.
15. Wadeye SRA • To provide for the construction of houses to overcome housing shortages and provide opportunities for training and local jobs.	• The Australian Government will fund the construction of the houses.	• The community will take part in a program to fix existing homes.
16. Kulaluk and Minmarama Park SRA • To develop a mud-crab business that provides jobs, training and work experience and develops the financial management and entrepreneurial skills of community business leaders.	• The Australian Government will help by providing for the upgrade of infrastructure and an existing hatchery, and providing specialist aquaculture support and a project officer.	• The communities will develop a profit-share scheme for workers and mentor young job seekers. • The communities will employ a consultant to develop a long-term business plan. • Community members will participate in community planning process.

Western Australia		
17. Kalumburu SRA (1) • To support their children at school by setting up a breakfast club and improving their nutrition.	• The Australian Government will provide equipment and provide Centrelink staff to help set up a direct debit scheme so that parents can contribute to the cost of the food.	• Parents will make sure their children attend the breakfast club and school, contribute to the costs each fortnight, and help run the club on a roster system. • The school will provide a home economics room and will monitor school attendance.
18. Kalumburu SRA (2) • To provide the Community Council with training in mentoring in governance and conflict resolution.	• The Australian Government will fund the training and mentoring, as well as wages and housing for a Community Development Officer.	• Council members and the community CEO will participate in training.
19. Ngumpan SRA • To redevelop a basketball court to provide sport and recreational opportunities for young people and to provide a venue for meetings and events.	• The Australian Government will fund the redevelopment.	• The community will volunteer their time to help with labour. • Parents will help organise competitions, coach and referee games, and get their children to participate in sporting activities.
20. Coonana SRA • To improve the water supply by providing trap yards to help cull feral animals, and provide troughs and fencing to control the movement of animals around dams from which the water supply is sourced.	• The Australian Government will fund the trap yards, troughs and fencing.	• The community will monitor stock movements, build the trap yards and fencing, and maintain the dams. • The community will establish a work team to supply labour to local pastoralists.

21. Marta Marta SRA • To set up a business selling sorghum to nearby cattle stations and native shrubs to a local mining company.	• The Australian Government will fund the purchase of grain and seedlings, tools, and help with training. • The Government will organise for power to be connected to the bore pump for irrigation.	• Indigenous Community Volunteers will provide advice and training on the venture. • The community will participate in agricultural training, maintain the crops and shrubs, and look after the infrastructure and equipment. • Income will be put back into the business and go towards providing community jobs.
22. Punju Njamal SRA • To start farming to supply the community with food and eventually sell produce.	• The Australian Government will provide funds for seedlings, tools and fencing and provide training in farming.	• Indigenous Community Volunteers will provide technical assistance and advice in sustainable farming techniques. • The community will start growing its own food, and maintain all equipment and pumping systems.
23. Youngaleena SRA • To provide a small but secure learning environment for community childrens' School of the Air program.	• The Australian Government will help purchase a transportable venue for the learning centre and buy equipment such as toys and books.	• The Gumula Aboriginal Corporation will help with installation of the learning centre. • Parents will make sure their children attend the School of the Air.
24. Wangkatjungka SRA • To redevelop a basketball court to provide sport and recreational opportunities for young people, construct shade cover for a playground, and renovate the Community Hall.	• The Australian Government will provide funds to upgrade the sporting facilities and restore the Community Hall.	• The community will help in redeveloping the sport and recreation facilities, and encourage young people to take part in healthy activities. • The community will relocate a structure used for cultural activities to the community's cultural grounds.

25. Ninga Mia SRA • To redevelop a basketball court to provide sport and recreational opportunities for young people.	• The Australian Government will fund the redevelopment of the basketball court and provide sporting and music equipment.	• The community will provide labour for the renovation, maintain the court and organise regular sporting competitions and youth activities. • Families will support a 'no school, no play' policy.
26. Mungullah SRA • To construct a Community Hall and redevelop a sporting oval.	• The Australian Government will fund planning and construction and provide ongoing funds for managing the hall.	• The community will provide labour through the local CDEP. • The community will also enforce a 'no school, no play' policy for activities at the oval and hall. • The community will undertake a range of activities to promote healthier lifestyles.
27. Billiluna (1) SRA • To provide a resource/ administration centre that will provide access to computing and other office resources, as well as a venue for meetings and gatherings. The centre will also be used by staff involved in the COAG trial.	• The Australian Government will fund the purchase and installation of most of the centre.	• A demountable building is being donated by traditional owners.
28. Billiluna (2) SRA • To improve sporting and recreational activities for young people.	• The Australian Government will contribute to the cost of sports equipment and other activities.	• The community will organise three or four regular sporting activities a week for young people after school and on weekends for a period of three months.

29. Mulan SRA • To provide fuel bowsers both for the convenience of the community and to cater for tourists.	• The Australian Government will fund the cost of the bowsers.	• Families will continue to ensure children shower and wash their faces on a daily basis and reduce rubbish around their homes. • The intended outcome is that children in the community have a lower incidence of trachoma, secondary skin infection and worms. This is to be addressed through the hygiene and cleaning program, and pest eradication. • The community corporation will work on ways to get rents paid on time, to fund better home maintenance and provide more regular waste removal and pest control.
30. Kundat Djaru (Ringers Soak) SRA • To provide more structured activities for young people and increase youth involvement in community activities and schooling.	• The Australian Government will fund the purchase of equipment and supplies for youth camps.	• The community will organise one activity per week for young people. • The community will purchase and contribute games and sporting equipment and maintain the equipment.
31. Balgo SRA • To keep young people safe and busy by organising healthy activities after school and on the weekend.	• The Australian Government will provide equipment and supplies for local youth camps, and will repair the basketball court lights.	• The community will organise three activities a week. • Families will ensure that young people in their care participate in the safe and healthy activities being organised.
32. Yungngora SRA • To provide an ablutions block and laundromat for community use.	• The Australian Government will fund construction of the facilities.	• The community will provide labour to build the facilities, maintain the facilities and use income from the laundromat to employ a manager.

33. Dampier Peninsula SRA • To build a bush museum to share the history of four communities' culture with visitors and to generate income.	• The Australian Government will provide funds to support the project.	• Each of the communities will create information displays for the museum and produce arts and crafts. • The community will provide camping facilities for tourists.
34. Kupartiya SRA • To redevelop a basketball court to provide sport and recreational opportunities for young people and to provide a venue for meetings and events.	• The Australian Government will provide funds to construct the basketball court and shade areas.	• The community will provide the labour to construct the court, and maintain and secure the facilities. • Parents will organise competitions and act as coaches and referees.
35. Bayulu SRA • To build a sense of community; and to help the women in the community by providing a child care facility and other programs.	• The Australian Government will fund the purchase of equipment and the renovation of premises for a day care facility, to provide a breakfast and lunch program, and for other women's programs. • The local TAFE will train all Bayulu community committee staff. The Australian Government will fund the some of these activities.	• The community will organise activities including breakfast and lunch programs and recreational and cultural activities that will involve everyone in the community. • The community will supervise activities and the use of community resources.
36. Derby (1) SRA • To improve community safety by providing awareness sessions on violence, practical workshops through TAFE, and a campaign on local Indigenous radio.	• The Australian Government will fund the some of these activities.	• The community has agreed to come up with new ideas for building family and community safety in a culturally appropriate way. • Families and individuals in the community have agreed to participate in activities.
37. Derby (2) SRA • To assist the men with their family responsibilities in part by providing a coordinator to improve relations between local men and government service providers, police and courts.	• The Australian Government will fund the coordinator's position.	• The men in the community have committed to use the services provided at the centre, observe the centre's code of behaviour, respect property and take part in counselling sessions.

38. Bidyadanga SRA • To redevelop a basketball court to provide sport and recreational opportunities for young people.	• The Australian Government will provide funds to upgrade the local basketball courts.	• The community will run sporting programs and competitions and convert an existing community house into a youth activity centre. • The community will also be responsible for the upgrade of the adjacent playground and will establish sheltered areas for community gatherings.
South Australia		
39. Yalata Anangu SRA (1) • To build the confidence and leadership skills of the community's children by setting up a new scout troop and upgrading school facilities.	• The Australian Government is providing money for scout uniforms, equipment and travel. • The South Australian Government is paying the scout leaders' salaries. • Governments will fund new equipment and shade areas, and the painting of the school.	• Trainee scout leaders will be CDEP participants who will undertake accredited training in mentoring and leadership. • Families and individuals will volunteer to run scout meetings and camping activities. • A 'no school, no scouts' policy will apply and children who attend school for at least 85 per cent of the year will get to go to the National Scouting Jamboree. • CDEP workers will assist with the refurbishment of the school and provide security. A community artist will help children to paint murals.
40. Yalata Anangu SRA (2) • To improve community safety by providing a night patrol; and to provide a bus service to reach medical, legal or similar services at Ceduna.	• The Australian Government will fund the night patrol and a six-month trial of a bus service to Ceduna. • SA police will train and support bus marshals.	• The community will provide CDEP workers and volunteers to staff a night patrol, bus drivers and marshals. • Families and individuals will attend training on safer communities. • The community will develop bus travel rules.

41. Aroona SRA • To operate a community bus to get children to nutrition, exercise and personal development programs.	• The Australian Government will fund the bus for a 7 month trial.	• The community will make sure children catch the bus to the activities and elders will mentor and work with them to pass on their traditional culture. • A project officer will work to update the community council's constitution and develop a community plan.
42. Coober Pedy SRA • To provide appropriate shoes or uniforms so community children can attend science classes and otherwise improve school attendance.	• The Australian Government is purchasing enclosed shoes and uniforms, so children can safely take part in laboratory work. • The South Australian Government is also working with the community to look at a different model for teaching science, to make it more interesting for the students.	• The community, families and individuals have agreed to a 'no school, no pool' policy. • CDEP workers and volunteers will supervise at the pool and provide swimming classes where necessary. • Parents will volunteer to be involved in the healthy eating programs and participate in school sporting activities such as swimming carnivals.
43. Pipalyatjara SRA • To provide a mechanic to the community.	• The Australian Government will fund the upgrade of an existing unused mechanics workshop, purchase tools, develop a business plan to ensure the sustainability of the business, and employ a qualified mechanic to set it up.	• The community will provide administrative support, oversee management of the garage and provide workshop assistance and trainee mechanics. • Community members will not pressure workshop staff to provide goods or services free of charge.

Queensland		
44. Sarina SRA • To help young people find employment.	• The Australian and Queensland Governments, the local council and local businesses will develop an Economic Participation Strategy for young people with the community.	• The community will work with the other partners on the strategy.
45. Mossman Gorge SRA • Providing a Business Manager to develop tourism opportunities for the community.	• The Australian and Queensland Governments will fund employment of the Business Manager and upgrade computer facilities in the community for financial management and administration.	• The community will work with the Business Manager to identify sustainable business opportunities and will undertake skills training.
46. K'Gari (Fraser Island) SRA • To design and run an education and cultural program involving camps for young people.	• The Australian Government will provide funds including transport and resources for camping; and provide funds for a youth services officer. • The Australian Government will upgrade the sewerage system.	• Elders will work with young people to teach them about their traditional lands and cultural practices. Cultural training will also be combined with career planning and mentoring.
47. Woorabinda SRA • To develop a vision for their community focused on increasing the community member's participation in community and school events.	• The Australian Government will provide funds for a range of sport and recreation activities and upgrade related facilities.	• The community will run a range of sport and recreation activities for residents and implement a 'no school, no pool' policy to improve school attendance. • Community members will also take part in developing a five-year plan and establish a management group to monitor and implement the plan.

48. Innisfail SRA • To provide jobs for the community and in particular for its young people in a local tourist venture.	• The Australian Government will fund the construction of a cover over a performance area, and an upgrade of the surrounding cultural and performance facilities, and the purchase of lighting and sound equipment at the tourist venture.	• The community will employ a project manager to manage administration issues for the performers and to develop a broader employment strategy for the community. • The community will identify young people to be performers, transport them to the venue, and provide cultural training.
49. Girringun Aboriginal Corporation (GAC) SRA The GAC represents the land and sea interests of nine traditional owner groups in north Queensland. • To enable GAC members to work more actively with governments to improve service delivery by building members personal capacity and establishing a Project Steering Committee and a Negotiating Table for engagement.	• The Australian and Queensland governments will provide representation on Negotiating Table and the Project Steering Committee; provide necessary support to capacity building needs of GAC and Government employees; and explore options for funding the needs identified by the GAC's planning processes.	• GAC to devise project ideas with Project Steering Committee and present these to the Negotiating Table. • GAC members to build capacity by attending training. • GAC to develop engagement strategy at clan group level; and develop an 'Indigenous Brokerage Model for SRAs.
50. Doomadgee SRA • To redevelop a community centre for women.	• The Australian Government will provide funds to complete and fit out the centre and provide CDEP places to help with the labour.	• Local Indigenous women will promote the centre as a community resource, and ensure it is treated with respect. • The community will provide labour to set up the centre and will work with local women to develop activities and business opportunities that can be run from the centre.

New South Wales		
51. Wreck Bay Aboriginal Community Council SRA • To improve the quality of the 42 houses it rents to local residents.	• The Australian Government will fund a survey of housing need, and do minor housing upgrades for tenants who agree to pay rents. • The Australian Government will fund the employment of a Community Development Officer to consult with tenants and develop a fair rental collection program.	• The Council will implement a Housing Management Plan. • The community will ensure tenancy agreements are in place for all rental houses and maintain houses in a good condition and report maintenance issues promptly.
52. Wellington SRA • To promote local family and youth services at a harmony day event. To develop a community plan with the help of a consultant.	• The Australian Government will fund the harmony day event and the employment of a consultant. • Government agencies at all levels will take part in the harmony day by promoting their services. • The Wellington Shire Council will support the harmony day event by providing free use of a venue.	• The Community Working Party will organise the concert and harmony day and employ the consultant. • Local people will take part in the concert and harmony day activities and help to develop a community plan.
53. Boggabilla/Toomelah SRA • To provide better access to health services and more recreational activities for their young people by providing a regular bus service between the two communities and the regional service centre across the Queensland border in Goondiwindi.	• The Australian Government will provide funds to start the bus service. It will also fund two Recreation Liaison Officers for each community to help young people connect with activities in Goondiwindi. • The New South Wales Government will provide administrative resources. It will also examine the viability of a public bus service on this route.	• The Winangali Aboriginal Corporation will provide the community bus, ensure it is serviced and maintained, and consult on a timetable, route and travel rules. • The community will establish bus fares and rules of conduct, and support the bus drivers' enforcement of these. • The local CDEP will provide the drivers.

54. Coledale SRA • To upgrade the Coledale Community Centre and employ a youth worker to develop activities for young people.	• The Australian Government will fund the upgrade of the Community Centre, provide wages for the youth worker, and provide an adviser to help with community planning.	• The community will provide labour for the upgrade of the centre. • Elders and adults will assist the youth worker. • Some community members will also undertake governance training to learn the skills to develop a Coledale Community Plan.
55. Malabugilmah SRA • To repair and upgrade the wastewater treatment system to allow the reuse of the community's waste water to irrigate a sporting oval and to prevent the pollution of a local river in which children swim and which is upstream from other communities.	• The Australian and New South Wales Governments will provide funds. • The Australian Government will fund necessary training and ensure enough CDEP positions are available. • The NSW Government will provide sporting equipment and a Sport and Recreation Coordinator. • Clarence Valley Council will help with maintenance of community facilities and develop a community asset management plan. • Southern Cross University will allow use of a water-sampling laboratory at reduced rates	• The community will provide labour and undertake training to help with the works. • The community will continue the clean up of community areas, and hold regular sporting and social activities on the oval.
56. Muswellbrook SRA • Hot Wheels is a venture being set up to provide young people with driver training and gaining drivers licences, and teach mechanical skills so they can fix up and use second-hand vehicles to get into local jobs.	• Australian Government will provide a youth services officer to link young people to mainstream employment services. • The Police Citizens Youth Club will contribute a part-time youth officer to support Hot Wheels. • The local TAFE will offer career counselling and mechanical training.	• The local community will nominate young people for Hot Wheels. • To get into Hot Wheels, the young people need to commit to 'no alcohol, no drugs' while they are participating and repay any traffic fines they might accrue. On completion, they could become mentors for new participants.

57. Barkuma SRA • To repair and upgrade the community meeting and services centre and help it to provide better services for families in distress and other programs.	• The Australian Government will fund the refurbishment and ensure a CDEP position is available for administrative support in the centre.	• The community will continue fund-raising to help with costs and develop more activities to help local families.
58. Moama SRA • To develop a community plan to improve family well-being and safety.	• The Australian Government will assist the community develop the plan and employ a families liaison officer.	• The community will hold events to help build stronger family relationships and promote responsible behaviour. Families and individuals will participate and be involved in directing the efforts of the family's liaison officer.
59. Narrandera SRA • To improve school retention rates, and give young people work-related skills by building a motor vehicle to participate in a local car race. Years 11 and 12 students will also get lessons on driving skills to help them obtain their driving licences and progress to advanced driving qualifications.	• The Australian Government will provide funding for the project and for a youth services officer to connect the participants to mainstream employment and training services. • NSW Police will coordinate the motor-vehicle building project and driver training. • The local TAFE will provide a mechanics teacher.	• The community will ensure school attendance through working with a home-school liaison officer. • The community will identify work opportunities and resources for young people. • To participate, young people must attend school and also commit to 'no drugs, no alcohol' and repaying their fines. They agree to use their new skills for community benefit such as driving a night patrol bus or taking other children to sport and recreational activities.

60. Tumut SRA • To provide a culture and heritage project to showcase the community's history and culture.	• The Australian Government will fund the completion of the project. • The NSW Government will provide training and employment programs for the community's young people, particularly in the local forest industry, and donate native trees to the project.	• The community will work with the local school to improve attendance rates. • CDEP activities will be changed to reflect the needs of the project. • The community will engage in cultural activities such as learning Wiradjuri language. • Community members will plant trees in the park and assist with its maintenance and security.
61. Bourke (1) SRA • To make education more relevant to children and to encourage better school attendance.	• The Australian and NSW Governments will work with the community to develop new ways of keeping children at school to improve educational outcomes.	• The community will mentor young people to stay in school and work with families to ensure attendance.
62. Bourke (2) SRA • To make the town a safer place at night by providing a night patrol.	• The NSW Government will provide accredited training for staff on the night patrol and, with the local council, will also help with operational costs.	• The community will provide staff to be trained and run the night patrol. • The local CDEP will also run a family violence workshop and liaise regularly with the police and courts.
63. Brewarrina SRA • To empower local Aboriginal women and improve the community's general safety and well-being, including through running the school canteen.	• The Australian and New South Wales Governments will provide capital and start up costs, funding equipment, providing training through TAFE, and providing free rent and electricity for three months for the school canteen.	• The community will rent premises for a women's centre where home wares, arts and crafts will be produced. • The women will also train to operate and run the school canteen, to provide healthy food to the children.

64. Enngonia SRA • The nearest secondary school to Enngonia is 200 kilometres away, requiring students to travel if they want further education. This SRA enables students in Years 7-10 to participate in a distance education program.	• The Australian Government will fund, among other things, an Aboriginal teacher's aide for the project and bus trips for joint school days with Bourke High School. • The NSW Government will provide wages and on costs for a casual teacher based in Enngonia for students in Years 7–10 as well as desks, sporting and electronic equipment, and monitor test results.	• The community will encourage school-aged children to participate in the program. • The local CDEP will maintain the premises and CDEP participants will also deliver cultural programs and other activities.
65. Murdi Paaki SRA • To install evaporative cooling units to houses in some communities.	• The Australian Government will provide funding for the units and, where applicable, arrange CDEP participants to assist in their fabrication, installation and maintenance. • The New South Wales Government will administer the funds and give technical support. It will also ensure regular maintenance of the units and arrange training for existing Healthy Housing Workers.	• Installation of the units will be dependant on some communities in the region developing their own SRA for the project. • The Murdi Paaki Regional Housing Corporation will employ a coordinator to oversee the program. It will also create tenancy agreements in communities where they do not exist, and renegotiate rents to cover maintenance costs. • Two or three members of each community will monitor the installation and maintenance of the units.
66. Murdi Paaki Regional Council SRA • To provide computers and secretariat support to the Community Working Parties during the COAG trial.	• The Australian Government is funding the purchase of the computers and equipment and the training of CDEP participants to provide admin support.	• The Council will give ownership of the computers and equipment to a suitable organisation and maintain the computers and other equipment when necessary.

Tasmania		
67. Cape Barren Island SRA • To enhance community cohesion and wellbeing by providing a Community Wellbeing Centre.	• The Australian Government will provide funds to build and fit out the centre and provide training for staff. • The Tasmanian Government will work with people on the island to establish guidelines around community safety.	• The community will contribute to the cost, amenities and building of the centre, and will develop, deliver, participate in and support the programs, including a meals program, children's program and men's and women's groups.

State/Territory	NT	WA	SA	QLD	NSW	TAS	VIC	TOTAL
No of SRAs	16	22	5	7	16	1	0	67

Appendix 4

An overview of the right to the highest attainable standard of health

This Appendix sets out the key characteristics of the right to health.

The most comprehensive statement of this right is Article 12 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).[1] Article 12 states:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
   (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
   (b) The improvement of all aspects of environmental and industrial hygiene;
   (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
   (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 24 of the International Convention on the Rights of the Child (CROC) also identifies specific aspects of the right to health as it applies to children and their development. It states:

1. States Parties recognize the right of the child to the enjoy-ment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
   (a) To diminish infant and child mortality;
   (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
   (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and

1 See also: Article 25 (1) of the Universal Declaration of Human Rights (UDHR); Article 24 of the Convention on the Rights of the Child (CRC); Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and Article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services…

What follows is an extract from General Comment 14 of the United Nations Committee on Economic, Social and Cultural Rights[2] on the right to health.

Extract – General Comment on the right to enjoyment of the highest attainable standard of health[3]

2. The International Covenant on Economic, Social and Cultural Rights provides the most comprehensive article on the right to health in international human rights law. In accordance with article 12.1 of the Covenant, States parties recognize "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health", while article 12.2 enumerates, by way of illustration, a number of "steps to be taken by the States parties ... to achieve the full realization of this right".

Part 1: Normative content of Article 12

8. The right to health is not to be understood as a right to be *healthy*. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. By contrast, the entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

2 The Committee on Economic, Social and Cultural Rights (CESCR) is the body of independent experts that monitors implementation of the ICESCR by its States parties. The Committee also publishes its interpretation of the provisions of the Covenant, known as general comments. Note also the following related general comments and recommendations of other human rights treaty committees: Committee on the Rights of the Child, *General Comment No. 3 on HIV/AIDS and the rights of the child*; Committee on the Rights of the Child, *General Comment No. 4 on adolescent health and development*; and Committee on the Elimination of Discrimination against Women, *General recommendation No. 24 (1999) on women and health.*

3 United Nations Committee on Economic, Social and Cultural Rights, *General comment 14 (2000): The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/C.12/2000/4, 11 August 2000. The full document, including references, is online at: http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument. The paragraph numbers in the extract reflect those in the General Comment.

9. The notion of "the highest attainable standard of health" in article 12.1 takes into account both the individual's biological and socio-economic preconditions and a State's available resources. There are a number of aspects which cannot be addressed solely within the relationship between States and individuals; in particular, good health cannot be ensured by a State, nor can States provide protection against every possible cause of human ill health... Consequently, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health.

11. The Committee interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.

12. The right to health in all its forms and at all levels contains the following interrelated and essential elements, the precise application of which will depend on the conditions prevailing in a particular State party:

(a) *Availability.* Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party.

(b) *Accessibility.* Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:

- *Non-discrimination:* health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.
- *Physical accessibility:* health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, such as indigenous populations. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas.
- *Economic accessibility (affordability):* health facilities, goods and services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups.
- *Information accessibility:* accessibility includes the right to seek, receive and impart information and ideas concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality.

(c) *Acceptability.* All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.

(d) *Quality.* As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality. This requires, *inter alia*, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation.

27… The Committee considers that indigenous peoples have the right to specific measures to improve their access to health services and care. These health services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines. States should provide resources for indigenous peoples to design, deliver and control such services so that they may enjoy the highest attainable standard of physical and mental health. The vital medicinal plants, animals and minerals necessary to the full enjoyment of health of indigenous peoples should also be protected. The Committee notes that, in indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension. In this respect, the Committee considers that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.

Part 2: States Parties' obligations

General legal obligations

30. States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2.2) and the obligation to take steps (art. 2.1) towards the full realization of article 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to health.

31. The progressive realization of the right to health over a period of time should not be interpreted as depriving States parties' obligations of all meaningful content. Rather, progressive realization means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 12.

Specific legal obligations

34. States are under the obligation to ***respect*** the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons… to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a State policy; and abstaining from imposing discriminatory practices relating to women's health status and needs.

35. Obligations to ***protect*** include, *inter alia*, the duties of States to adopt legislation or to take other measures ensuring equal access to health care and

health-related services provided by third parties; to ensure that privatization of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services; to control the marketing of medical equipment and medicines by third parties; and to ensure that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct. States are also obliged to ensure that harmful social or traditional practices do not interfere with access to pre- and post-natal care and family-planning; to prevent third parties from coercing women to undergo traditional practices; and to take measures to protect all vulnerable or marginalized groups of society, in particular women, children, adolescents and older persons, in the light of gender-based expressions of violence. States should also ensure that third parties do not limit people's access to health-related information and services.

36. The obligation to ***fulfil*** requires States parties, *inter alia*, to give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation, and to adopt a national health policy with a detailed plan for realizing the right to health. States must ensure provision of health care, including immunization programmes against the major infectious diseases, and ensure equal access for all to the underlying determinants of health, such as nutritiously safe food and potable drinking water, basic sanitation and adequate housing and living conditions. Public health infrastructures should provide for sexual and reproductive health services, including safe motherhood, particularly in rural areas. States have to ensure the appropriate training of doctors and other medical personnel, the provision of a sufficient number of hospitals, clinics and other health-related facilities, and the promotion and support of the establishment of institutions providing counselling and mental health services, with due regard to equitable distribution throughout the country. Further obligations include the provision of a public, private or mixed health insurance system which is affordable for all, the promotion of medical research and health education, as well as information campaigns, in particular with respect to HIV/AIDS, sexual and reproductive health, traditional practices, domestic violence, the abuse of alcohol and the use of cigarettes, drugs and other harmful substances. States are also required to adopt measures against environmental and occupational health hazards and against any other threat as demonstrated by epidemiological data...

37. The obligation to *fulfil (facilitate)* requires States *inter alia* to take positive measures that enable and assist individuals and communities to enjoy the right to health. States parties are also obliged to *fulfil (provide)* a specific right contained in the Covenant when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal. The obligation to *fulfil (promote)* the right to health requires States to undertake actions that create, maintain and restore the health of the population. Such obligations include: (i) fostering recognition of factors favouring positive health results, e.g. research and provision of information; (ii) ensuring that health services are culturally appropriate and that health care staff are trained to recognize and respond to the specific needs of vulnerable or marginalized groups; (iii) ensuring that the State meets its obligations in the dissemination of appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services; (iv) supporting people in making informed choices about their health.

Core obligations

43. States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant, including essential primary health care. (I)n the Committee's view, these core obligations include at least the following obligations:

(a) To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups;

(b) To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;

(c) To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;

(d) To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;

(e) To ensure equitable distribution of all health facilities, goods and services;

(f) To adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.

44. The Committee also confirms that the following are obligations of comparable priority:

(a) To ensure reproductive, maternal (pre-natal as well as post-natal) and child health care;

(b) To provide immunization against the major infectious diseases occurring in the community;

(c) To take measures to prevent, treat and control epidemic and endemic diseases;

(d) To provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them;

(e) To provide appropriate training for health personnel, including education on health and human rights.

Part 3: Violations

47. In determining which actions or omissions amount to a violation of the right to health, it is important to distinguish the inability from the unwillingness of a State party to comply with its obligations under article 12. This follows from article 12.1, which speaks of the highest attainable standard of health, as well as from article 2.1 of the Covenant, which obliges each State party to take the necessary

steps to the maximum of its available resources. A State which is unwilling to use the maximum of its available resources for the realization of the right to health is in violation of its obligations under article 12. If resource constraints render it impossible for a State to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above. It should be stressed, however, that a State party cannot, under any circumstances whatsoever, justify its non-compliance with the core obligations set out above, which are non-derogable.

48. Violations of the right to health can occur through the direct action of States or other entities insufficiently regulated by States. The adoption of any retrogressive measures incompatible with the core obligations under the right to health constitutes a violation of the right to health. Violations through *acts of commission* include the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to health or the adoption of legislation or policies which are manifestly incompatible with pre-existing domestic or international legal obligations in relation to the right to health.

49. Violations of the right to health can also occur through the omission or failure of States to take necessary measures arising from legal obligations. Violations through *acts of omission* include the failure to take appropriate steps towards the full realization of everyone's right to the enjoyment of the highest attainable standard of physical and mental health, the failure to have a national policy on occupational safety and health as well as occupational health services, and the failure to enforce relevant laws.

Violations of the obligation to respect

50. Violations of the obligation to respect are those State actions, policies or laws that contravene the standards set out in article 12 of the Covenant and are likely to result in bodily harm, unnecessary morbidity and preventable mortality. Examples include the denial of access to health facilities, goods and services to particular individuals or groups as a result of de jure or de facto discrimination; the deliberate withholding or misrepresentation of information vital to health protection or treatment; the suspension of legislation or the adoption of laws or policies that interfere with the enjoyment of any of the components of the right to health; and the failure of the State to take into account its legal obligations regarding the right to health when entering into bilateral or multilateral agreements with other States, international organizations and other entities, such as multinational corporations.

Violations of the obligation to protect

51. Violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties. This category includes such omissions as the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to health of others; the failure to protect consumers and workers from practices detrimental to health, e.g. by employers and manufacturers of medicines or food; the failure to discourage production, marketing and consumption of tobacco, narcotics and other harmful substances; the failure to protect women against violence or

to prosecute perpetrators; the failure to discourage the continued observance of harmful traditional medical or cultural practices; and the failure to enact or enforce laws to prevent the pollution of water, air and soil by extractive and manufacturing industries.

Violations of the obligation to fulfil

52. Violations of the obligation to fulfil occur through the failure of States parties to take all necessary steps to ensure the realization of the right to health. Examples include the failure to adopt or implement a national health policy designed to ensure the right to health for everyone; insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to health by individuals or groups, particularly the vulnerable or marginalized; the failure to monitor the realization of the right to health at the national level, for example by identifying right to health indicators and benchmarks; the failure to take measures to reduce the inequitable distribution of health facilities, goods and services; the failure to adopt a gender-sensitive approach to health; and the failure to reduce infant and maternal mortality rates.

Part 4: Implementation at the national level

Framework legislation

53. The most appropriate feasible measures to implement the right to health will vary significantly from one State to another. Every State has a margin of discretion in assessing which measures are most suitable to meet its specific circumstances. The Covenant, however, clearly imposes a duty on each State to take whatever steps are necessary to ensure that everyone has access to health facilities, goods and services so that they can enjoy, as soon as possible, the highest attainable standard of physical and mental health. This requires the adoption of a national strategy to ensure to all the enjoyment of the right to health, based on human rights principles which define the objectives of that strategy, and the formulation of policies and corresponding right to health indicators and benchmarks. The national health strategy should also identify the resources available to attain defined objectives, as well as the most cost-effective way of using those resources.

54. The formulation and implementation of national health strategies and plans of action should respect, *inter alia*, the principles of non-discrimination and people's participation. In particular, the right of individuals and groups to participate in decision-making processes, which may affect their development, must be an integral component of any policy, programme or strategy developed to discharge governmental obligations under article 12. Promoting health must involve effective community action in setting priorities, making decisions, planning, implementing and evaluating strategies to achieve better health. Effective provision of health services can only be assured if people's participation is secured by States.

55. The national health strategy and plan of action should also be based on the principles of accountability, transparency and independence of the judiciary, since good governance is essential to the effective implementation of all human rights, including the realization of the right to health.

56. States should consider adopting a framework law to operationalize their right to health national strategy. The framework law should establish national mechanisms for monitoring the implementation of national health strategies and plans of action. It should include provisions on the targets to be achieved and the time-frame for their achievement; the means by which right to health benchmarks could be achieved; the intended collaboration with civil society, including health experts, the private sector and international organizations; institutional responsibility for the implementation of the right to health national strategy and plan of action; and possible recourse procedures. In monitoring progress towards the realization of the right to health, States parties should identify the factors and difficulties affecting implementation of their obligations.

Right to health indicators and benchmarks

57. National health strategies should identify appropriate right to health indicators and benchmarks. The indicators should be designed to monitor, at the national and international levels, the State party's obligations under article 12.

58. Having identified appropriate right to health indicators, States parties are invited to set appropriate national benchmarks in relation to each indicator. During the periodic reporting procedure the Committee will engage in a process of scoping with the State party. Scoping involves the joint consideration by the State party and the Committee of the indicators and national benchmarks which will then provide the targets to be achieved during the next reporting period. In the following five years, the State party will use these national benchmarks to help monitor its implementation of article 12. Thereafter, in the subsequent reporting process, the State party and the Committee will consider whether or not the benchmarks have been achieved, and the reasons for any difficulties that may have been encountered.

Remedies and accountability

59. Any person or group victim of a violation of the right to health should have access to effective judicial or other appropriate remedies at both national and international levels. All victims of such violations should be entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, consumer forums, patients' rights associations or similar institutions should address violations of the right to health.

60. The incorporation in the domestic legal order of international instruments recognizing the right to health can significantly enhance the scope and effectiveness of remedial measures and should be encouraged in all cases. Incorporation enables courts to adjudicate violations of the right to health, or at least its core obligations, by direct reference to the Covenant.