

KIMBERLEY ABORIGINAL LAW AND CULTURE CENTRE

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Senator Nigel Scullion

Chair, Senate Inquiry in to Regional and Remote Indigenous Communities

14 September 2009

KALACC Submission to the Senate Inquiry – Governance, Leadership and Government engagement with Indigenous people in the Kimberley

Dear Senator Scullion

Many thanks to the Senate Committee for the opportunity of recently providing testimony to the Committee during the formal hearings being held in Fitzroy Crossing. In addition to the verbal testimony provided to the Committee on 24 August 2009, KALACC requests that the Committee consider the following four written submissions from KALACC :

- 11 September 2008 Written Submission regarding government engagement ; cultural heritage and repatriations ; and the West Australian Coroner's report;
- 30 July 3009 Written Submission regarding alcohol management issues;
- 14 September 2009 Written Submission regarding Cultural maintenance;
- 14 September 2009 Written Submission regarding Governance, Leadership and Government engagement with Indigenous people and organisations in the Kimberley.

Please find attached the submission from the Kimberley Aboriginal Law and Culture Centre in relation to Governance, Leadership and Government engagement with Indigenous people and organisations in the Kimberley.

Regards

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Executive Summary

The COAG National Indigenous Reform Agreement begins with these words:

“Despite the concerted efforts of successive Commonwealth, State and Territory governments to address Indigenous disadvantage, there have been only modest improvements in outcomes in some areas such as education and health, with other areas either remaining static or worsening. Even in those areas where there have been improvements, the outcomes for Indigenous Australians remain far short of the outcomes for non-Indigenous Australians. To Close the Gap in Indigenous disadvantage, COAG has committed to making significant reforms in order to address six specific targets... COAG recognises that strategies aimed at achieving improvements in any particular area will not work in isolation – the building blocks must fit together through the integration of policy ideas and an agreed approach to their implementation.”

At the 03 July 2009 COAG Meeting in Darwin the Prime Minister and most of the State Premiers expressed dismay at the intractability of Indigenous disadvantage. KALACC welcomes a concerted investment in to Closing the Gap and we note that the Reform Agreement commits to an “integration of policy ideas and an agreed approach to their implementation.”

But in Western Australia in February 2009 the State Government established an Indigenous Implementation Board and the initial Media Statement from that Board states as follows :

“This is a paradigm shift in the policy framework. We must listen to indigenous people and work with them to achieve our mutual goals.” The board has developed an action agenda for the first 100 days which includes:

- starting regional dialogues, commencing in the Kimberley in March 2009 and moving across the State;
- facilitating meetings of senior Aboriginal law men and women to advise the board;
- ensuring the development and empowerment of indigenous leaders;
- commencing the redesign of Government process and decision making in partnership with the Aboriginal Affairs Coordinating Committee and Aboriginal Affairs Advisory Committee.”

The COAG Indigenous Reform Agreement is structured around seven Building Blocks, one of which is Governance and Leadership. And the Reform Agreement is then funded and implemented through a number of National Partnership Agreements. The Building Block of Governance and Leadership is articulated through the National Partnership Agreement on Remote Service Delivery.

KALACC contends that it is exceedingly safe to say that the National Partnership Agreement on Remote Service Delivery does not in any way represent a paradigm shift in Indigenous Affairs of the kind called for by the Western Australian Implementation Board. We cannot identify in that document or in any other COAG planning document any specific mention of senior Aboriginal law men and women, much less any notion of placing law men and women at the centre of Government planning.

This is not due to any lack of repeated calls for culturally appropriate methods of Government engagement in Indigenous Affairs. Some of the reports espousing the need for culturally governed models of governance and empowerment include:

- Law Reform Commission of Western Australia *Final Report on Aboriginal Customary Laws* ;
- Western Australian Indigenous Implementation Board Media Statement February 2009;
- Western Australian Parliament Standing Committee on Health and Education Report - *Initiatives in the Remote Indigenous Communities of the Torres Strait Region Report No. 12 in the 37th Parliament 2008.*

In the last of these reports we find the following statements :

“At the same time the voice of governments has united around a self-perception of being focused on taking practical and urgent steps to tackle disadvantage, while eschewing any suggestion that a restructuring of the response mechanisms of government was necessary. The argument being that the restructuring process would take away the opportunity for urgently needed outcomes in the Indigenous area. The dominant prevailing view is easily caricaturised as government seeing itself as unable to “talk and walk” simultaneously. Missing again from the equation is any sense that “walking the walk” requires effective pathways, stripped of flawed policy and expensive program failure that act as road blocks.”

xi -

KALACC has existed for 24 years and acted in that time as the voice of the elders and the cultural leaders of the Kimberley. This can be referred to as ‘the Government of the Old People.’ It is our view that the Government of the Old People needs to be at the centre of the COAG Building Block of Leadership and Governance in the Kimberley. FAHCSIA and WA DIA need to urgently negotiate with KALACC to achieve this outcome.

Recommendations and Required Actions

1. Government COAG Planning Processes and a Culturally – Based Model of Indigenous Leadership and Governance

That the Commonwealth and Western Australian Governments:

- a. Reverse the absence of culture from their COAG planning processes;
- b. Follow the lead of the Queensland Government and find structures for embedding the recognition of culture in to COAG planning processes ;
- c. Accept and endorse the recommendations from the Western Australian Indigenous Implementation Board and develop Government Indigenous Affairs policies that place cultural considerations at the centre of Government Planning.
- d. Accept and endorse proposals to support culturally – appropriate and culturally – governed regional leadership and representative structures in the Kimberley.
- e. Accept and endorse comments by the Western Australian Coroner in which he calls for the support of Indigenous leadership and Governance at the local community level and to respond accordingly by developing effective Community By Law and Governance arrangements.

2. Government Funding of Indigenous Leadership and Governance.

That the Commonwealth and Western Australian Governments :

- a. Fund and appropriately support the development of Governance arrangements at the local community level ;
- b. Fund and appropriately support the involvement of elders, cultural bosses and traditional leaders in the COAG processes occurring in Halls Creek, Fitzroy Crossing and the Dampier Peninsular ;
- c. Recognise the Kimberley Aboriginal Law and Culture Centre as the voice of the cultural leaders of the Kimberley for 24 years and to accordingly invest appropriate resources in to the support of KALACC to play an appropriate governance role in the Kimberley.

1. Cultural Representation and Governance in the Kimberley – The Government of Old People

Document Extract/ Copy # 1:

Martin Preaud PhD, COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY

The government of old people

The philosophy of KALACC as a political organisation can be summed up in the phrase “old people are our government” (Wire Yard Report, 1995) : *[it] is based on empowerment and recognition of traditional leaders who, in turn, can increase the practice of traditional law and culture and educate the wider Australian community*” (Oscar, 1994:2)... its aim is to redefine and renew the elders’ formerly holistic role within a transformed social context where all social reproductive resources have been appropriated by the state. To put it differently, elders embody the “develop-man” project of Kimberley regional Indigenous organisations, the strengthening of “Law and Culture” people leading to the betterment of the social and political situation of Kimberley Indigenous people through a revitalisation of cultural practices.

KALACC Comment :

KALACC has existed for 24 years as the voice of the elders and cultural bosses of the Kimberley. The KALACC mission and purpose is to maintain culture and to represent the interests and needs of the elders. The elders have traditionally held a role as leaders and guides for their communities, but as Martin Preaud quite rightly notes this role is constantly under challenge and threat because “all social reproductive resources have been appropriated by the state.”

Even though the COAG processes seemingly have little or no cultural foundation to them, KALACC will continue to vigorously pursue the goal of culturally based governance, leadership and engagement with Government.

2. Guiding Principles for Reform – Ways in which Government Should be Working with Indigenous Communities.

Document Extract/ Copy # 2: Law Reform Commission of Western Australia, September 2006, *Final Report on Customary Laws, Chapter Two.*

The Law Reform Commission, provides the following **Guiding Principles for Reform**

PRINCIPLE ONE

Improve government service provision to Aboriginal people

PRINCIPLE TWO

Collaboration, cooperation and consultation

PRINCIPLE THREE

Voluntariness and consent

PRINCIPLE FOUR

Local focus and recognition of diversity

PRINCIPLE FIVE

Community-based and community-owned initiatives

PRINCIPLE SIX

Respect and empowerment of Aboriginal people

PRINCIPLE SEVEN

Balanced gender and family, social or skin group representation

PRINCIPLE EIGHT

Adequate and ongoing resourcing

PRINCIPLE NINE

Ongoing monitoring and evaluation

KALACC Comment :

Further in to this document, KALACC provides a critique of the COAG principles for Indigenous Engagement and a Critique of the State Government Submission to the Senate Inquiry. None of these documents specifically refer to the Guiding Principles for Reform developed by the Law Reform Commission of Western Australia. When one reads the submission from the State of Western Australia there is no sense of any articulation of a desire to empower Aboriginal people and to resource community based and community owned initiatives. These notions are somewhat more evident in the COAG documents but still fall a long way short of concepts of community empowerment.

3. Ways in which Government Should be Working with Indigenous Communities – the Western Australian Indigenous Implementation Board

Document Extract/ Copy # 3:

Speech by LIEUTENANT GENERAL JOHN SANDERSON, AC,
CHAIRMAN INDIGENOUS IMPLEMENTATION BOARD
CURTIN UNIVERSITY OF TECHNOLOGY PUBLIC POLICY
INSTITUTE PERTH HYATT FRIDAY 15TH MAY 2009 THE
INDIGENOUS IMPLEMENTATION BOARD

The Board has been very deliberate in getting its own purpose and strategy clear before proceeding to build these alliances. It had to have a strategic conversation with itself in order agree the framework for engagement. Out of the conversation came a strategic framework* that is based on the agreed understanding that:

Aboriginal people and their culture are critical to the future of our State. Their unique knowledge is the defining element in building a sustainable future for Western Australia.

On the basis of this belief and this understanding, the Indigenous Implementation Board will drive the empowerment of Aboriginal people to create their own future. This provides the foundations on which strong partnerships can be built to bring about positive outcomes for all of us.

To achieve these outcomes the Board will catalyse a fundamental rethink of Government policy. *It will move swiftly to:

- enable the Aboriginal design and delivery of services
- ensure the continuation of a vibrant living culture
- refocus regional governance to build sustainable communities, economies and environments
- engage all sectors

This is the Board's strategic vision. To begin the process, the Board has developed an action agenda for the first 100 days which includes*:

- starting regional dialogues, commencing in the Kimberley in March 2009 and moving across the State
- facilitating meetings of senior Aboriginal law men and women to advise the Board
- ensuring the development and empowerment of indigenous leaders
- commencing the redesign of Government process and decision making in partnership with the Aboriginal Affairs Coordinating Committee (AACC) and Aboriginal Affairs Advisory Committee (AAAC).

This process of empowerment can best be described as the fostering of Indigenous governance. I have to tell you that very few resources have been allocated to Indigenous governance in all the new initiatives that have been discussed in recent times – although much is being made of forming partnerships with Indigenous people in the places where COAG intends to create its new order. In fact, it is possible that the chosen locations earned their status by virtue of the fact that there have been some governance initiatives there due to past crisis management activities – place like Fitzroy Crossing, Halls Creek and Beagle Bay.

Importantly, from the Board's perspective, there is no money for regional governance initiatives, despite the fact that initiatives like royalties for the regions and the outcomes of the Browse Basin gas hub negotiations demand a regional engagement. The Board is committed to changing this, as you will have observed from its strategy. More to the point, the Board sees this as the best way to get at both the cultural and economic development requirements of its strategy.

KALACC Comment :

In August 2009 the Western Australian Indigenous Implementation Board presented a report to the Western Australian Minister for Indigenous Affairs, Kim Hames. The report called for the government to invert its Indigenous management practices and to replace the tried, tired and failed systems with new ways of doing business. The new ways of doing business would place cultural governance at the foreground of Indigenous Affairs Policy. The Government – not surprisingly – has not made the report public and has not to date endorsed the report. Clearly, they should accept and endorse the report.

The Chairman of the Western Australian Indigenous Implementation Board has written:

“I have to tell you that very few resources have been allocated to Indigenous governance in all the new initiatives that have been discussed in recent times – although much is being made of forming partnerships with Indigenous people in the places where COAG intends to create its new order. Importantly, from the Board's perspective, there is no money for regional governance initiatives, despite the fact that initiatives like royalties for the regions and the outcomes of the Browse Basin gas hub negotiations demand a regional engagement.”

It remains for the State and Commonwealth Governments to prove him wrong, because from the KALACC perspective at time of writing (mid September 2009) his comments seem entirely justified and accurate.

4. Western Australian Parliament Education and Health Standing Committee

Document Extract/ Copy # 4: INITIATIVES IN THE REMOTE INDIGENOUS COMMUNITIES OF THE TORRES STRAIT REGION Report No. 12 in the 37th Parliament 2008

Report No. 12 Presented by: **Hon T.G. Stephens, MLA** Laid on the Table of the Legislative Assembly on 4 February 2008

CHAIRMAN'S FOREWORD

What we have seen in the Torres Strait Region is the maintenance of institutional frameworks that have complemented existing Indigenous structures and institutions, allowing the citizens of the Torres Strait the opportunity to engage on their own terms with the wider Australian community and to hold out a place for themselves within our nation. The social and political networks of regional Australia's Indigenous communities are indeed critical to mobilising action within the lives of the individuals and families of these areas (Dillon & Westbury 2007). Despite systematic attempts to ignore these networks or break the inter-generational modelling that has persisted to the present, it still remains vitally important that governments support institutional governance structures that provide pattern and shape, respectful and responsive, to the contemporary Indigenous cultural and social world of the regions.

At the same time the voice of governments has united around a self-perception of being focused on taking practical and urgent steps to tackle disadvantage, while eschewing any suggestion that a restructuring of the response mechanisms of government was necessary. The argument being that the restructuring process would take away the opportunity for urgently needed outcomes in the Indigenous area. The dominant prevailing view is easily caricaturised as government seeing itself as unable to "talk and walk" simultaneously. Missing again from the equation is any sense that "walking the walk" requires effective pathways, stripped of flawed policy and expensive program failure that act as road blocks.

Page 48 **Recommendation 1**

The Committee recommends that the State government, in consultation with Indigenous communities in Western Australia, give consideration to the '*Torres Strait model*' for adaptation as a regional representative structure for Indigenous communities throughout Western Australia.

Page 49 **Recommendation 2**

The Committee recommends that the State explore the possibility of working in collaboration with the Commonwealth government in developing Indigenous regional representative structures based on the '*Torres Strait model*'.

Page 54 **Recommendation 3**

The Committee recommends that, should Indigenous regional representative structures be established in Western Australia, consideration be given to granting those representatives additional powers, including the provision of an annual report on the programs and outcomes of all Commonwealth, State and Local government agencies which provide services/programs to Indigenous persons living in the relevant region, so that these representatives can '*know what money is being spent ... what it is being spent for and what it has achieved*'.

KALACC Comment :

On 29 September, 30 September and 01 October 2009 there will be the combined Annual General Meetings of the Kimberley Land Council, the Kimberley Language Resource Centre and KALACC. On the program for the afternoon of 01 October is a Kimberley forum and the main discussion point is COAG and Governance. Governments, through COAG, are investing resources in to three Kimberley locations ie Halls Creek, Fitzroy Crossing and the Dampier Peninsular. And associated with the Remote Service Delivery processes Government is beginning to discuss leadership and governance structures. But the structures being discussed are place – based structures and they also lack cultural underpinnings.

Tom Stephens wrote the following words in a report tabled in State Parliament on 04 February 2008:

Missing again from the equation is any sense that “walking the walk” requires effective pathways, stripped of flawed policy and expensive program failure that act as road blocks.

The social and political networks of regional Australia’s Indigenous communities are indeed critical to mobilising action within the lives of the individuals and families of these areas (Dillon & Westbury 2007). Despite systematic attempts to ignore these networks or break the inter-generational modelling that has persisted to the present, it still remains vitally important that governments support institutional governance structures that provide pattern and shape, respectful and responsive, to the contemporary Indigenous cultural and social world of the regions.

These comments are equally applicable in September 2009 except that this time, courtesy of COAG investments, there are even larger financial investments that will be squandered through failure to implement policies as called for by the Indigenous people themselves.

The all – party Parliamentary report tabled in February 2008 found that regional governance and representative structures are beneficial and the report contains a number of recommendations pertaining to the implementation of such structures in Western Australia. These recommendations may have different levels of validity in different parts of the state. But in the Kimberley, the Aboriginal people have developed their representative and governance structures over 30 years and it is these structures that need to be invested in and supported by Government.

5. COAG, Closing the Gap and National Indigenous Reform Agreement – COAG Framework

Document Extract/ Copy # 5: The COAG National Indigenous Reform Agreement
PRELIMINARIES, COAG framework

1. Despite the concerted efforts of successive Commonwealth, State and Territory governments to address Indigenous disadvantage, there have been only modest improvements in outcomes in some areas such as education and health, with other areas either remaining static or worsening. Even in those areas where there have been improvements, the outcomes for Indigenous Australians remain far short of the outcomes for non-Indigenous Australians. To Close the Gap in Indigenous disadvantage, COAG has committed to making significant reforms in order to address six specific targets (see Objectives).

2. COAG recognises that overcoming Indigenous disadvantage will require a long-term, generational commitment that sees major effort directed across a range of strategic platforms or 'Building Blocks' which support the reforms aimed at Closing the Gap against the six specific targets. The Building Blocks endorsed by COAG are:

- (a) Early Childhood;
- (b) Schooling;
- (c) Health;
- (d) Economic Participation;
- (e) Healthy Homes;
- (f) Safe Communities; and
- (g) Governance and Leadership.

3. COAG recognises that strategies aimed at achieving improvements in any particular area will not work in isolation – the building blocks must fit together through the integration of policy ideas and an agreed approach to their implementation. Further information on the Building Blocks is at Box 1.

KALACC Comment :

KALACC would make the point that it is reasonably clear that there is investment in to initiatives such as remote housing and remote service delivery, and Senators would be aware of the recent meeting in Canberra of up to 150 persons representing 26 key COAG locations. Senators would also be aware that the three West Australian sites are all in the Kimberley, these being Halls Creek, Fitzroy Crossing and the Dampier Peninsular.

However, KALACC would also claim that we are on pretty safe ground when we claim that there has not to date been a similar level of progress and investment in relation to Safe Communities and Governance and Leadership. It is the Building Block of Governance and Leadership that needs to provide the integration and cohesion to the full range of Government strategies and actions. We also note again that the WA Indigenous Implementation Board calls for a cultural basis to governance and such notions are missing from COAG.

6. COAG, Closing the Gap and National Partnership Agreement Structures

Document Extract/ Copy # 6: The COAG National Partnership Agreement Building Block – Governance and Leadership

Governance and Leadership

Strong leadership is needed to champion and demonstrate ownership of reform. Effective governance arrangements in communities and organisations as well as strong engagement by governments at all levels are essential to long term sustainable outcomes. Indigenous people need to be engaged in the development of reforms that will impact on them. Improved access to capacity building in governance and leadership is needed in order for Indigenous people to play a greater role in exercising their rights and responsibilities as citizens.

B1 *Indigenous engagement principle:* Engagement with Indigenous men, women and children and communities should be central to the design and delivery of programs and services. In particular, attention is to be given to:

- (a) recognising that strong relationships/partnerships between government, community and service providers increase the capacity to achieve identified outcomes and work towards building these relationships;
- (b) engaging and empowering Indigenous people who use Government services, and the broader Indigenous community in the design and delivery of programs and services as appropriate;
- (c) recognising local circumstances;
- (d) ensuring Indigenous representation is appropriate, having regard to local representation as required;
- (e) being transparent regarding the role and level of Indigenous engagement along a continuum from information sharing to decision-making; and
- (f) recognising Indigenous culture, language and identity.

KALACC Comment :

If the Indigenous Engagement Principle is to be effective then, as per item (f), there needs to be a recognition of indigenous culture, language and identity. And in the Kimberley context this means recognising, respecting, resourcing and empowering the representative and governance structures which the Indigenous people themselves have established over the last 30 years.

7. COAG, Closing the Gap and National Partnership Agreement – Remote Service Delivery, Governance and Culture – Objectives and Outputs

Document Extract/ Copy # 7: The COAG National Partnership – Remote Service Delivery

Objectives

The Agreement, together with other relevant COAG agreements, will contribute to the following objectives:

improve the level of governance and leadership within Indigenous communities and Indigenous community organisations.

Outputs

4. The objectives and outcomes of this Agreement will be achieved by:

- (g) a new fully functional integrated service planning and delivery methodology and single government interface;
- (h) the completion of detailed baseline mapping of social and economic indicators, government investments, services and service gaps in each location;
- (i) detailed Local Implementation Plans developed and completed with State and Northern Territory governments and stakeholders in identified locations;
- (j) improvements in the design and delivery of services consistent with the Service Delivery Principles at Schedule C;
- (k) an agreed Bilateral Plan completed for each jurisdiction that is party to the Agreement;
- (l) reports as outlined in the Reporting section of this document, paragraphs 25-30;
- (m) the sharing of best practice;
- (n) the delivery of community leadership skills programs;
- (o) the identification of gaps in priority local infrastructure;
- (p) strengthened interpreting and translation services in response to local needs;
- (q) the delivery of cultural competence measures for all government employees involved with identified communities; and
- (r) changes to land tenure and administration to enable the development of commercial properties and service hubs.

KALACC Comment :

KALACC notes that the Western Australian Coroner has on more than one occasion called for the development of leadership and governance. We note that there have been provisions for Community By Laws since 1976. Department of Indigenous Affairs officers wrote to us in December 2008 and the issues were discussed with the Director General of D.I.A in December 2008 and April 2009. There seems to be little enthusiasm for developing By – Laws and they are not in any way a focus of the D.I.A submission to the Senate Inquiry.

8. COAG, Closing the Gap and National Partnership Agreement – Remote Service Delivery, Governance and Culture – The Role of the Commonwealth

Document Extract/ Copy # 8: The COAG National Partnership Agreement – Remote Service Delivery

Role of the Commonwealth

5. The Commonwealth will have responsibility for:
- (w) baseline mapping, building and maintaining the evidence base, and monitoring and evaluation in identified locations, including:
 - (i) current government expenditure/investment in each selected location, encompassing existing service delivery and supporting infrastructure;
 - (ii) existing community networks and decision making processes as the basis for establishing legitimate Indigenous community governance structures and decision-making processes; and
 - (iii) an evidence base to facilitate the measuring of performance against clearly defined targets and standards that cut across agencies and levels of government;
 - (x) a research capacity to provide advice to government on local and systemic issues associated with cultural accessibility, including cross-cultural training materials; and
 - (y) introducing a national framework, working with the States and the Northern Territory, for the effective supply and use of Indigenous language interpreters and translators (both technical and non-technical), including protocols for the use of interpreters and translators.

KALACC Comment :

KALACC is pleased that there will be a monitoring and evaluation of existing community networks and decision – making processes. As stated previously, this needs to commence with recognising the structures established by the Indigenous people of the Kimberley over the last 30 years.

9. COAG, Closing the Gap and National Partnership Agreement – Remote Service Delivery, Governance and Culture – Shared Responsibilities

Document Extract/ Copy # 9: The COAG National Partnership Agreement – Remote Service Delivery – Shared Responsibilities

The States, the Northern Territory and the Commonwealth share the following roles and responsibilities, working in partnership to:

- (e) establish programs in identified locations to develop community leadership skills for individuals around which communities and social groupings can organise, including capacity building opportunities (for example, training in leadership, financial management and administration for existing and potential members of governing bodies in remote communities);
- (f) provide translation services and cultural awareness training in the identified locations;
- (g) provide technical support and funding to establish and maintain appropriate structures and capacity for corporate governance, where appropriate.

Document Extract/ Copy # 10: Letter of 03 September 2009 from the WA Deputy Premier, Kim Hames.

“Work occurring between the State and Commonwealth Governments may also provide some opportunities for your organisation. The Council of Australian Governments (COAG) Remote Service Delivery National Partnership (RSDNP) presents an opportunity for funding of governance and leadership initiatives. The process is still being finalised between the State and Commonwealth Governments and will be rolled out at local level in partnership with local communities in Fitzroy Crossing, Halls Creek and the Dampier Peninsula.”

KALACC Comment :

KALACC is pleased to have written confirmation of possible support for KALACC’s role in relation to leadership and Governance within the COAG processes. We also recognise undertakings given by the ICC Kimberley Manager, Mr Aspinall, to meet with us in the period 16 – 18 September to discuss these same issues.

However, it needs to be noted that these place – based initiatives do not immediately align with the regional nature of the representative structures established by the Aboriginal people themselves over 30 years. And we are all too aware that no commitments or undertakings have been provided to us, despite correspondence on this issue to Premier Carpenter in September 2007 and again to Premier Barnett in October 2008.

10. The WA Government Submission to the Senate Inquiry

Document Extract/ Copy # 11: The WA Government Submission to the Senate Inquiry
“Please find enclosed a copy of the Department of Indigenous Affairs' submission to the Senate Select Committee's inquiry. The submission does not cover all matters that are important to Indigenous people living in regional and remote communities in Western Australia, nor does it attempt to include details of all areas of government activity aimed at improving the living conditions and health and wellbeing of community residents. In addressing the terms of reference, the submission draws on some of the themes and issues raised in the Committee's first report, as well as giving an overall sense of the strategies and initiatives the Western Australian Government is implementing to close the gap on Indigenous disadvantage in regional and remote communities.”

KALACC Comment :

KALACC has had the opportunity to examine the submission which the Department of Indigenous Affairs has submitted to this current Senate Inquiry. We have a number of concerns with that document, as follows:

- The State's submission refers to COAG and the National Partnerships Agreement but is not structured around the NPA Building Blocks. It is difficult to use the document to in any way benchmark progress being made against each of the COAG Building Blocks;
- Pages 20 – 22 refer to Justice issues and we note that there is a separate submission from the Department of the Attorney General. These documents acknowledge “WA has the highest rate of over- representation since at least 2001” but don't acknowledge the \$2.0 billion spent annually on police, prisons and courts and make almost no attempt to describe any justice diversion strategies;
- The State's submission – far from considering cultural maintenance to be the single most important factor for Governments to consider – is devoid of any cultural framework and seems to stand in total contrast from emphasis on culture expressed in the public statements of the West Australian Indigenous Implementation Board;
- The State's submission makes no reference to important reports such:
 - as the WA Parliament Education and Health Standing Committee 2008 *Report on Successful Initiatives in Remote Indigenous Communities*;
 - the 2001 *Working Together Report* of the Interagency Working Group on Indigenous Suicide;
 - the 2006 *Final Report on Aboriginal Customary Laws* by the Law Reform Commission of Western Australia.

Appendices

1. Appendix # One: Letter of 03 September 2009 from the WA Deputy Premier, Kim Hames.
2. Appendix # Two: KALACC Email to the Kimberley ICC Manager, Richard Aspinall, 02 September 2009
3. Appendix # Three: Martin Preaud PhD, COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY
4. Appendix # Four: Speech by LIEUTENANT GENERAL JOHN SANDERSON, AC, CHAIRMAN INDIGENOUS IMPLEMENTATION BOARD CURTIN UNIVERSITY OF TECHNOLOGY PUBLIC POLICY INSTITUTE PERTH HYATT FRIDAY 15TH MAY 2009 THE INDIGENOUS IMPLEMENTATION BOARD



**Deputy Premier of Western Australia
Minister for Health; Indigenous Affairs**

Our Ref: 25-05266

Mr Wes Morris
Centre Coordinator
Kimberley Aboriginal Law and Culture Centre
PO Box 110
FITZROY CROSSING WA 6765


Dear Mr Morris

Thank you for your email dated 6 May 2009 concerning your request for State Government assistance for Indigenous governance in the Kimberley. I sincerely apologise for the delay in responding.

The State Government is supporting Aboriginal cultural work through a number of initiatives such as the development of an Aboriginal Languages Policy for Western Australia and a Repatriation Funding Program to bring skeletal remains back to home country. I understand that you have had discussions with the Department of Indigenous Affairs (DIA) about funding for the repatriation of skeletal remains and that you plan to submit a grant application to the Department for consideration.

Work occurring between the State and Commonwealth Governments may also provide some opportunities for your organisation. The Council of Australian Governments (COAG) Remote Service Delivery National Partnership (RSDNP) presents an opportunity for funding of governance and leadership initiatives. This process is still being finalised between the State and Commonwealth Governments and will be rolled out at local level in partnership with local communities in Fitzroy Crossing, Halls Creek and the Dampier Peninsula.

In addition, DIA has been working in partnership with the Office of the Registrar of Indigenous Corporations and the Department of Commerce to provide governance training to Aboriginal organisations as part of a trial program in Western Australia. The initial trial has now ended and an evaluation is occurring. It is expected that further work will occur between the State and Commonwealth Governments to determine whether there is an opportunity to progress this program.

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Appendix # Two: KALACC Email to the Kimberley ICC Manager, Richard Aspinall, 02 September 2009

Hi Richard,

Thanks for the phone call yesterday.

Can't properly address both Governance and Youth issues in the one email so sending to you two separate emails today.

This one is on the issue of Governance and COAG.

Very encouraging to hear you say that you acknowledged the need for a culturally based Governance model of engagement between Government and the Aboriginal people of the Kimberley. From our experience, placing the elders at the centre of an engagement model is not a universally shared view amongst senior State or Commonwealth officers.

I didn't mention to you on the phone that our day yesterday began with a discussion regarding COAG. Joe Brown, Tommy May, Harry Yungabun, Neil Carter, Terry Murray, Peter Murray, Tom Lawford and myself were involved in the discussion. Harry reported back on his experiences in Canberra as part of the major COAG RSD processes. Harry told us that in Canberra he had made the following comments:

- **Language** – the need for discussions to occur in language that is accessible to the cultural bosses and not just be a white fella High English talk fest that alienates the most important people;
- **Direct Engagement with the Elders** – Harry recounted the pattern whereby Government officials drive straight past the elders and look for people that they think it will be easier for them to talk to ie younger, more educated people.

He was very clear that this cannot be allowed to continue to happen and that the COAG Kimberley processes need to have a proper, culturally based governance model that starts with the Elders.

As I have said to you a few times, including yesterday, KALACC supports the Fitzroy Futures Forum processes. However, the cultural bosses are nearly never directly involved in the discussions that occur in the forum room and even if they were present the language is foreign and alien to them. In that regard, I was pleased to hear you say that when you came to Fitzroy Crossing for the next Forum meeting on the 16th that you would then stay in Fitzroy for a few days specifically to discuss the issues of Governance and engagement. And following those discussions circa 17 – 19 September you would then attend the combined AGMs for KLC (29 Sept), KLRC (30 Sept) and KALACC (01 October). Whilst the discussions 17 – 19 September may have an initial focus on the Fitzroy Valley, the subsequent discussions would be in relation to Governance for the three Kimberley COAG sites (Halls Creek, Fitzroy Valley and Dampier Peninsular) and indeed the broader Kimberley region.

As advised yesterday, there is a phone hook up at 3.30 today of KLC, KLRC and KALACC for the purpose of discussing the logistics for the AGMs and also for finalizing the Agenda and the program across the week commencing 28 September. At this stage, as per the attached draft program, COAG is on the Agenda for Thursday afternoon and as previously advised we have declined the request from the Department of Housing because we wish to see issues such as Governance, Leadership and Safe Communities discussed and to avoid COAG being reduced to an RSD and Housing agenda.

So, if we can discuss a Governance and Engagement model circa 17 – 19 September and then again on 01 October then that will be a good start.

I am not entirely sure as to what role you see KALACC playing in relation to this issue of governance. Earlier this year Martin Preaud published a 600 page PhD largely on the role of KALACC. Assuming that you don't have time to read those 600 pages I have attached a four page excerpt – the Government of Old People, and those four pages commence with these words:

“The philosophy of KALACC as a political organisation can be summed up in the phrase “old people are our government” (Wire Yard Report, 1995) : [it] is based on empowerment and recognition of traditional leaders who, in turn, can increase the practice of traditional law and culture and educate the wider Australian community » (Oscar, 1994:2).”

Of course, the political challenge is that for 24 years the State Government has made no investment in to KALACC’s operations and still has not responded to letters sent to Premier Carpenter in September 2007 and to Premier Barnett in October 2008.

And in terms of the Commonwealth, under the days of ATSIC there was an implicit if not explicit support for KALACC to play a Governance role but under the ICC regime we are certainly not funded to do that but are instead funded by the Australia Council and by DEWHA to provide cultural (ie arts) outcomes. I know that I have previously said this to you but to spell it out again, here is what our main funding body (DEWHA) and what Minister Garrett are saying to us:

- “The ICS program will support operational or infrastructure costs only to the extent that they are demonstrated to be necessary for cultural projects that fulfil the objectives of the program... it can be difficult to support cultural centres seeking funding for infrastructure or recurrent operational costs” [ICS Program Guidelines];
- “The funding allocation was based on the assessment of KALACC’s application against the ICS program selection criteria. The reduction to the funding was approved on the basis that the activities supported are not competitive in relation to other ICS projects in the State. Unfortunately, the approved budget is less than the requested budget and this reduction reflects the competitiveness of other applications. I understand that KALACC also applied for triennial funding. While KALACC remains the highest funded organisation in the ICS program in WA, the application for triennial funding was unsuccessful on this occasion. The decision to decline triennial funding was approved on the basis that the overall level of funding for the organisation was subject to review.” Kate Gilbert , Director
Indigenous Culture and Content Section, Literature and Indigenous Culture Branch ; Department of the Environment, Water, Heritage and the Arts – letter to KALACC 21 July 2009, as attached;
- “the ICS Program has provided funding of \$7.024 million in 2008 – 2009 for over 135 projects across the country” Minister Garrett to KALACC, 10 July 2009.

So, in the post – ATSIC world KALACC continues to receive no operational support from the State Government and under ICC arrangements is funded only to provide cultural (arts) outcomes, is funded at ridiculously low levels because the entire national funding allocation is a fraction over \$7.0 million and we are certainly not funded for recurrent, operational or infrastructure costs and certainly not funded to provide any concept of regional cultural governance to the Kimberley.

As above, we do very much look forward to learning of:

- How State and Commonwealth Governments intend implementing the COAG Building Block of Leadership and Governance in the Kimberley as part of the current COAG initiatives;
- What role the elders and cultural bosses will have within that Governance and Indigenous Engagement model for COAG in the Kimberley;
- What role KALACC would play in relation to this governance and Indigenous Engagement model;
- How KALACC would be resourced to play such a role given that it is clearly not resourced to play such a role at present.

Regards

Wes Morris
Centre Coordinator
Kimberley Aboriginal Law & Culture Centre (KALACC)

Appendix # Three: Martin Preaud PhD, COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY (EXCERPT)

Martin Preaud PhD, COUNTRY, LAW AND CULTURE: ANTHROPOLOGY OF ABORIGINAL NETWORKS FROM THE KIMBERLEY

1. The government of old people

The philosophy of KALACC as a political organisation can be summed up in the phrase “old people are our government” (Wire Yard Report, 1995) : [it] *is based on empowerment and recognition of traditional leaders who, in turn, can increase the practice of traditional law and culture and educate the wider Australian community* » (Oscar, 1994:2).

Such a programme is a direct response to the marginalisation of ritual experience in the settlement of the Kimberley, which is manifested in the reduction of time and space devoted to ritual activities and the relocation of ritual in the domain of leisure subsequent to the secularisation of power (Kolig 1981) entailed by displacement and the rise of the politics of Indigeneity: its aim is to redefine and renew the elders’ formerly holistic role within a transformed social context where all social reproductive resources have been appropriated by the state. To put it differently, elders embody the “develop-man” project of Kimberley regional Indigenous organisations, the strengthening of “Law and Culture” people leading to the betterment of the social and political situation of Kimberley Indigenous people through a revitalisation of cultural practices.

The structure of the organisation reflects this philosophy. Executive power belongs to a committee of people ‘in the Law’, nominated by members of their respective communities. Each community thus nominates a male and a female member to KALACC’s executive committee every two years; these in turn elect chairpersons among themselves; usually a younger person, with more English skills, acts as proxy and translator to the older members of the committee. Through KALACC, KLC and KLRC, people move from one executive committee to another, sometimes achieving whole careers, as executive members, chairpersons or “special councillors”.

Members of Kimberley Indigenous Organisations' executive committees all belong to a generation born in institutional times, grown up by a generation elders who had lived as "their own citizens" (Skinner in Hawke and Gallagher, 1989), and which has gone through the radical transformations of the self-determination era. This experience has led them to pursue a political project premised on a two-way model, that of a partnership between Indigenous people and the state, both recognized as autonomous agents: "*We want to be recognized the bosses of the land and the government to listen that we part of it, people and the land, and we're not trying to be, you know take all the land, we just wanna be working together. Same way the government, you know, running the business, we want to be part of our business too. That's why we gotta work together and start to listening to us and we can sort of a, you know, talking together and sharing the country*" (KALACC Chairman, personal interview, 8 August 2006). The repeated demand - and failure to obtain - of a regional Indigenous Authority for the Kimberley (inspired by the TSRA model and the model of regional Indigenous governance in Canada) is typical of the organisation's approach and of the complexities and contradictions it faces.

The main difficulty faced by KALACC is that elders and governments, although they share some vocabulary, operate according to very different processes. The coordinator's role indeed is to frame the overall project and philosophy of the organisation into acceptable terms from the administrative point of view, which explains the centrality of the coordinator position in the organisation. The capacity of the coordinator to operate such a translation rests on the quality of the relationship he entertains with members of the executive committee, especially with the chairpersons and the special councillors. Due to former bad experiences with ill-chosen coordinators, the executive committee now exerts strong control over the coordinator, all the more so since he is most often a *Kartiya*. This control takes the form of close collaboration with key individuals who "grow him up" in order to enhance his capacity to understand executives' points of view and thus to translate them into concrete action. In the day-to-day running of the organisation affairs, the whole organisation rests on the cooperation and interpersonal relationship between the chairman and the coordinator who publicly represent the organisation.

2. Articulations of KALACC

The current coordinator explains the executive decision-making process among KALACC Executives as follows: « *the initial modality is that a decision be deferred, deferred to cultural bosses. Cultural bosses then meet at an unspecified later occasion and will then thrash out in a small forum the various issues and will then report back to me what are the decisions that they have made*” (KALACC Coordinator, personal interview, 7 October 2007); decisions which are then approved by the executive committee.

The governance model of KALACC and similar organisations is that of collegiality and consensus (itself a topos of Indigenous decision-making, see Williams 1985 for a significant contribution to the question). Collegiality is here premised on the principle that “no one can speak for another mob”, hence the consultation process following any serious issues - a lengthy process which is often constructed as bad-will by government representatives who usually demand rapid answers, or resistance by anthropologists, but which primarily rests on a specific practice of representation. Once the subject has been brought back to the base, another discussion takes place which might provide an answer to the question asked but not necessarily. However, as the coordinator’s quote indicates, it is in a smaller forum of key individuals (whether in terms of position or influence), often referred to as the “strategic level”, that actual decisions are made and taken. We are here faced with the paradox of the appearance of collegiality undermined by mimetic reproductions of the hierarchical order of the bureaucracy and the state.

There are many ways in which, however, this hierarchical differentiation is regulated. First, elders are not bureaucrats; as such they are embedded in a web of relationships that influences their range of possible actions, the principle “demand sharing” actually operating as a means to moderate the temptations of autonomy and authority (see Tamisari 2000, for an analysis of such moderation in public ritual contexts in Arnhem Land); this moderation of personal authority is an essential component of Indigenous politics which also explains its relative ineffectiveness in the sense that no single representative leader is able to emerge in any durable way. Another important means to correct the possible overstepping of authority by nominated representatives is to make oneself absent from a meeting, i.e. to manage one’s space to later contest a decision on the grounds that not everybody had been properly consulted.

The definition of a “good boss” in Indigenous terms rests on his ability to properly

look after his constituents (whether a group, an organisation, a country or a ceremony): he is not representing them as such but assuming responsibility for their sustainability. In this sense, representivity is always negotiated (Weaver 1985): it is the political resource through which Indigenous leaders are controlled by their constituents.

The KALACC executive committee confronts us then with the paradox of an authority which assumes simultaneously collegial and hierarchical aspects. This situation questions the very notion of representation, because of its being contextually negotiated, according to the issue at stake and the people in attendance. Similarly the intercultural model can be questioned in the light of such a situation. If the organisation rests on the separation of various sets of domains or areas of business – male/female or blackfella/whitefella -, these domains are in a pragmatic state of constant interpenetration. The close collaboration between coordinator and chairman also questions the notion of cultural translation and reframes it into the question of the capacity to speak one another's language. The emerging "intercultural field" (Merlan 1998, Hinckson and Smith 2005) in Australian Indigenous studies aims to overcome the division of specific domains (von Sturmer 1984, Trigger 1986) while at the same time recognising such divisions, be they cultural or ontological, as a given of the interactions taking place in the administrative realm in which Indigenous people are embedded. In arguing for the recognition and maintenance of cultural ambiguity, Sullivan (see also Martin 2003) aim to account for the reproduction of salient political differences between Indigenous and non-Indigenous while overcoming rigid essentialist distinctions of Indigenous and non-Indigenous domains. This inherent contradiction can only be surmounted if we acknowledge the performative, negotiated and contextual nature of such cultural divisions. These amount, I argue, to a conflict over regimes and modalities of representation and speech, which I explore further in the next section.

**Appendix # Four: Speech by LIEUTENANT GENERAL
JOHN SANDERSON, AC, CHAIRMAN INDIGENOUS
IMPLEMENTATION BOARD CURTIN UNIVERSITY OF
TECHNOLOGY PUBLIC POLICY INSTITUTE PERTH HYATT
FRIDAY 15TH MAY 2009 THE INDIGENOUS
IMPLEMENTATION BOARD**

CURTIN UNIVERSITY OF TECHNOLOGY
PUBLIC POLICY INSTITUTE
PERTH HYATT FRIDAY 15TH MAY 2009
THE INDIGENOUS IMPLEMENTATION BOARD

BY
LIEUTENANT GENERAL JOHN SANDERSON, AC
CHAIRMAN INDIGENOUS IMPLEMENTATION BOARD

First let me acknowledge the traditional owners of the land we meet on today, the Wodjuk people of the Noongyar Nation, whose ancestors hunted and dreamed here along the Derbalyeragun for thousands of years before the coming of the Europeans. In acknowledging our debt to them for their custodianship and nurturing of these lands, I want to also pay my respects to the elders whose wisdom has guided their people on that journey.

There is a resurgence of the pride associated with that culture and those of other Aboriginal people that is a vital part of the future of this state and this nation. That is a central part of the belief that drives the Indigenous Implementation Board in its strategy to change the way Government engages with the Aboriginal people in Western Australia.

Indigenous Implementation Board as a title is clearly a self inflicted wound. Why would anyone come to hear a presentation on something that sounded as mundane as an Implementation Board? We members of the Board all struggle with this title and would like something that sounded more dynamic in terms of radical change, which is our ambition, but, at the same time, one that did not frighten the horses and cause them to bolt before we can harness an effective team of live and creative ones together.

I recently gave a presentation to the Local Government Managers Conference on Sustainable Communities where I use the analogy of flogging dead horses in order to get a laugh and to highlight the fact that we keep doing the same things to Aboriginal people over and over again (under different names of course) despite the fact that things don't get better for the mass of them, and do get decidedly worse for many. I made the point that even six dead horses harnessed together and flogged still have a horsepower of zero, despite the fact that the flogger might be happy in his or her task.

In this regard, let me begin by confronting you with the fact that the Indigenous incarceration rate in Western Australia has trebled in the last two decades and is the worst in the world. I am reliably informed that the likelihood of an Aboriginal person being incarcerated in this State is 27 times that for a non Indigenous person.

This can't simply be due to the fact that our police have become more efficient in response to various law and order agendas over that time. Nor can it simply be due to an Aboriginal male predilection for child abuse- a fascist and racist assumption that has been heaped on hapless communities in the Northern Territory and in Western Australia.

It must have something to do with the fact that Aboriginal people have become more alienated from the governance framework, or lack of framework, in which they find themselves. This, I might add, has all been happening at the same time as this State has gone through a massive growth in personal wealth.

All the portents are that it will get decidedly worse, not simply in linear terms, but in a compounding, exponential way as all sorts of new multipliers, including demographics and dysfunction, come into play. Those who know this from intimate contact with the problems, including the State's judicial officers, exist in what I describe as a state of despair. What to do about it? If this is not a matter of great public policy concern I don't know what is.

You will all know that we live in interesting times – that is the great Chinese curse! Apart from the global economic downturn reflected in this week's federal budget, the shift in global power from the North Atlantic and the very real problems of climate change are massive and converging components that have to be addressed by public policy.

I have already hinted at the non linearity of the effects of these changes and others such as changing demographics, technology and social alienation. Without professing to any economic expertise, it seems logical that bond rates have to rise in response to orders of magnitude in the level of debt and in the perception of the increase of risk in the money markets. The inflationary effects of this and stagnation in investment due to the restricted availability of capital obviously haunts the corridors of power.

These are issues of both magnitude and tempo. They are occurring at such a rate that they offer a severe challenge to the forms and processes of governance that we employ. We are all getting the messages about all being in this together and, despite the benign dimensions of the recent budget, pulling in our belts. It brings into question the resilience of our society and the capacity to respond to unforeseen consequences – the strategic surprises, of which there are sure to be many.

We have long cherished the view that democracy in its western liberal form offers the greatest flexibility in bringing people together and using their creativity to divine a course to safer and more sustainable territory. From time to time there have been expressions of preference for more guided forms of governance such as those employed in places like the city state of Singapore but these have just as quickly been seen for the flawed and self serving structures that they are.

Right now there would be cause to view the relative success of the essentially technocrat driven Chinese economy as an example of the advantages a more guided form of economic and social governance. But it is clear that, alongside their traditional pride in both the enduring and growing pre-eminence of their nation, the Chinese people long for greater freedom of expression and more certainty in their personal lives than the whim of the technocratic elite can offer.

The western liberal and democratic alternative is based on many premises. These really amount to people having a stake in a society that ensures them a sense of personal wellbeing in a sustainable environment that meets both their spiritual and physical needs. It is widely recognised that you have to embrace all your people in such an approach so that everyone has a chance to contribute to the common wealth of the society, rather than some being left outside and made to feel they are a negative drag on those around them. Such a characteristic becomes even more imperative in times of crisis such as periods of economic, climate, health and security turmoil and strife characteristic of our times.

Much and all as we might like it to be otherwise, Aboriginal people occupy such an alienated position in Australian society. Their circumstances are widely regarded as a source of national shame and blight on the sort of image we want to impart to the wider world and the region in which we live in particular. That's why

we talk so much about overcoming disadvantage and closing the gap. In fact, it is why we have been talking about it for years without much success.

Relatively large sums of money have been committed to this cause and even larger sums are planned for the future through the COAG processes now in train. As with the Indigenous incarceration rates, the results speak for themselves. What seems to be missing from this approach is a philosophical framework which inspires and commits Aboriginal people to a relationship that works.

This is not all negative as many of you will realise. There are many committed people and truly positive developments that should inspire some optimism about the way ahead, as well as some negative trends.

First let's consider the positive developments:

*The Apology of February for one thing, must be considered as a positive development of immense power. For the first time an Australian leader confessed to the great injustice done to Aboriginal and Torres Strait Islander people, *acknowledging their prior occupancy of the continent and thereby beginning the process of national redemption that makes possible the sort of partnership that resides in the minds of Australia's first people. In the process of apologizing Prime Minister Kevin Rudd acknowledged that the ancient cultures were a profoundly important part of our national heritage, opening up the possibility of a partnership* founded on the preservation of those cultures rather than their demise.

*Secondly, all Australian governments have committed themselves to reinstating some form of Indigenous voice in the form of Advisory Councils. They do not exist at present, primarily because of the difficulty of establishing their legitimacy as grassroots representatives. Without such legitimacy, I think it is fair to say, the entire process would lack substance.

There has been extensive consultation with Indigenous people in the process of establishing acceptable solutions that represent diverse cultures as well as geographic regions. It is going to be very interesting to see what emerges from this process, but I think it is fairly safe to say that it will be dependent for its success on generating a voice in the places where people live, rather than simply a disembodied gathering of the usual suspects. The logistics of doing this could prove very challenging and it will call for innovative solutions at the regional and national level in which you will all be involved.

*Another positive development in this period has been the emergence of a regionally empowered Government in the state of Western Australia. What do I mean by that? The National Party sitting on the cross benches by virtue of an election platform of shifting power and resources back to the regions is quite a remarkable outcome – one that could clearly be short lived if it is not seen to be delivered in a constructive and sustainable way. Royalties for the Regions is welcomed with great optimism by those who live in rural Western Australia, and with some hope by Aboriginal people who have been persuaded that it is also in their long term interest.

In view of the fact that, prior to the 2008 Election, the regions were deliberately being disempowered in the interests of consolidating political power along the railway line from Joondalup to Mandurah, such an outcome must clearly be seen as a last roll of the dice. It is against the odds and fragile.

Despite that, it has to be seen as positive for both Aboriginal and Regional Western Australia and an opportunity to develop regional governance mechanisms that will consolidate the long term interests of the regions and the people who live in them. This is where the development of shared visions and regional partnerships that can be sustained becomes so important. Otherwise the risk continues of regional development, or lack of development, being imposed from outside by people, including foreigners, who have no commitment to those regions other than the exploitation of their natural resources to generate personal wealth and royalties.

*Another significant positive development in Western Australia is the advent of the Indigenous Implementation Board with its charter to change the way Government engages with and delivers services to

Aboriginal people in this state. As Chairman of that Board you would expect me to recognize it as a positive change – otherwise, why would I and other members of that Board have anything to do with it. We are all people who have called for fundamental changes in the way Aboriginal people are embraced by the State and all of us have made it clear that our commitment will only endure if those changes are made.

There remains much confusion about the role of the Board and its relationship to all the other instruments of Indigenous policy development and delivery, and it is therefore important that I should take the opportunity to tell you in detail about its terms of reference, membership and emerging strategy.

*Let me begin by emphasising what the IIB is not. Firstly, the IIB is not the Indigenous voice in Western Australia. The Indigenous voice will emerge through the Aboriginal Advisory Council and regional bodies connected to grassroots Aboriginal organizations.

*Secondly, the IIB is not established in statute having no statutory authority and therefore no financial delegations. These continue to reside in the Ministers of State and their departments.

So let me tell you what the IIB is. It is a Board* consisting of four non Indigenous people and five Indigenous people all of whom have vast experience with both the plight of Aboriginal people, the commercial world and the institutions and processes of government.

The IIB is what I describe as a conduit for the Aboriginal voices, facilitating their recognition and resonance within both the political and bureaucratic arms of government, and with business. The Board has considerable moral authority – the authority to express a view and to be heard.

Its Terms of Reference* are broad and expansive – open to interpretation on the basis of the nature of the information that emerges from its engagement with government agencies and Aboriginal people in the places where they live. The essence of the Terms of Reference is contained in these two paragraphs* four and five:

4. Driving fundamental policy shifts through stronger and more accountable Government governance, building trust through consistency and commitment.
5. Building effective participation of Indigenous people, and the broader WA leadership, supporting effective community.

Importantly, from the perspective of this conference, the IIB has included in its specific tasks*:

- Developing, with State agencies, clear overarching regional action plans to guide current and future activities linked to bilateral arrangements and State investment priorities.

You will see that this Terms of Reference demands that the Board develops a close relationship with those Departments that have the carriage of changing the lives and circumstances of Aboriginal Western Australians. In our view, that is every department. This is our interpretation of where it sits in the structures of governance in Western Australia. * Note the relationship to the two statutory bodies, the Aboriginal Advisory Council and the Aboriginal Affairs Coordinating Committee – the Directors General Group.

The object is to build alliances to this end and to ensure that the relationship is not adversarial in nature, but one that is based on shared vision and objectives. In a sense, the Board is about brokering a new relationship between Aboriginal people and those who have statutory responsibility for their wellbeing.

The Board has been very deliberate in getting its own purpose and strategy clear before proceeding to build these alliances. It had to have a strategic conversation with itself in order to agree the framework for engagement. Out of the conversation came a strategic framework* that is based on the agreed understanding that:

Aboriginal people and their culture are critical to the future of our State. Their unique knowledge is the defining element in building a sustainable future for Western Australia.

On the basis of this belief and this understanding, the Indigenous Implementation Board will drive the empowerment of Aboriginal people to create their own future. This provides the foundations on which strong partnerships can be built to bring about positive outcomes for all of us.

To achieve these outcomes the Board will catalyse a fundamental rethink of Government policy. *It will move swiftly to:

- enable the Aboriginal design and delivery of services
- ensure the continuation of a vibrant living culture
- refocus regional governance to build sustainable communities, economies and environments
- engage all sectors

This is the Board's strategic vision. To begin the process, the Board has developed an action agenda for the first 100 days which includes*:

- starting regional dialogues, commencing in the Kimberley in March 2009 and moving across the State
- facilitating meetings of senior Aboriginal law men and women to advise the Board
- ensuring the development and empowerment of indigenous leaders
- commencing the redesign of Government process and decision making in partnership with the Aboriginal Affairs Coordinating Committee (AACC) and Aboriginal Affairs Advisory Committee (AAAC).

The success of the Board depends on having a vibrant and capable Secretariat*, one that is designed with a deep interdependence with the Board, being both a way of amplifying and executing the will of the Board as well as being an important conduit for Aboriginal voices across the state to reach the Board.

This is where the Department of Indigenous Affairs comes into this equation. It becomes the Secretariat and changes its shape and nature to do so. The transformation of DIA into that Secretariat is the key to the Board's success.

The statutory role of the Director General of DIA as the Chairman of the Aboriginal Affairs Coordinating Committee - the Directors General Group with the responsibility for the delivery of services to Aboriginal people - is the most powerful sustained link in this process.

All these things are happening and three weeks ago, the Board began its dialogue with the Directors General to begin to get us all on the same sheet of music with the same strategic vision. In the near future we will workshop our approach to this so that we breakdown the silos and develop shared holistic objectives that can be translated into the regions for action.

At the same time we have begun to shape the conversations in the regions with our key dialogue partners – the Aboriginal people. Ultimately, those conversations have to embrace non Indigenous people, business and

government in those regions. We would want to move to a shared dialogue as early as possible. This is what shared vision and partnership is all about.

We began our conversation with the Kimberley people in March and have initiated such conversations with the Pilbara communities and with the Noongar Nation. The word is out and we are now beginning to receive approaches from other regions to initiate conversations there. The key issue in this is that Aboriginal people come together to discuss their needs, visions and governance requirements first before the IIB engages with them as a Board. With the Kimberley conversation for example, I and members of the Secretariat attended as observers, speaking when we were required, but not being part of the conversation itself.

The conversation was both high quality and philosophical, reaching heights of analysis that, from my experience, are missing from the conversations that take place in the centres of non Indigenous power. We shouldn't be surprised by this, because this is the voice of experience. It evokes a perspective that can't possibly be reached and enunciated in the bureaucratic centres where COAG policy is being formulated and media releases are being shaped on behalf of political leaders.

These conversations are the beginning of the Board's mission to engage Aboriginal people more effectively in the processes that will determine their destiny and the future of their children. Eventually we would hope to join Indigenous and non Indigenous communities together in sharing a vision for the future of the regions in which they live. Nevertheless, it is critical that the Indigenous voice is empowered first and that trust is built up within and between communities and with the Board. Without such trust it will be difficult to bring all these elements together.

This process of empowerment can best be described as the fostering of Indigenous governance. I have to tell you that very few resources have been allocated to Indigenous governance in all the new initiatives that have been discussed in recent times – although much is being made of forming partnerships with Indigenous people in the places where COAG intends to create its new order. In fact, it is possible that the chosen locations earned their status by virtue of the fact that there have been some governance initiatives there due to past crisis management activities – place like Fitzroy Crossing, Halls Creek and Beagle Bay.

Importantly, from the Board's perspective, there is no money for regional governance initiatives, despite the fact that initiatives like royalties for the regions and the outcomes of the Browse Basin gas hub negotiations demand a regional engagement. The Board is committed to changing this, as you will have observed from its strategy. More to the point, the Board sees this as the best way to get at both the cultural and economic development requirements of its strategy.

I am very conscious of the fact that what we are talking about here is fundamental change in the structure of governance in this state. Fortunately for all of us, we have arrived at a point where people are beginning to recognise that the old philosophies of one size fits all won't serve us well in the complex and non linear world we are confronting. People often think that that complexity is emerging from the rapid development of technology, social change, market forces and things like climate shifts. But that complexity has always existed for Aboriginal people who have found our values and activities confusing to say the least.

We need them now as we try to reconnect with the landscape in a way that will allow us to sustain an Australian way of life on this continent and not sacrifice it all to the market forces driven in the interests of other landscapes and other cultures. Like everyone else, I hope there is going to be four and a half percent growth in the out years of the federal budget too, but, just in case there isn't, I would like to see a more realistic, humanitarian, inclusive and resilient society that is creative and capable of generating the full potential of all its people.