



# TORRES STRAIT REGIONAL AUTHORITY

The Chairman  
House of Representatives Standing Committee on Economics, Finance and Public  
Administration  
Parliament House  
CANBERRA, ACT, 2601

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Dear Sir

## INQUIRY INTO LOCAL GOVERNMENT AND COST SHIFTING

Attached is a response from the Torres Strait Regional Authority to the committee's discussion paper "At the Crossroads." The response also incorporates a submission from the Bamaga Community Council, which supports the TSRA's response.

Yours sincerely

Mr Terry Waia  
Chairperson

7 April 2003

House of representatives Standing Committee on  
Economics, Finance and Public Administration

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Secretary: .....

## **“AT THE CROSSROADS”**

### **INQUIRY INTO LOCAL GOVERNMENT AND COST SHIFTING**

#### **SUBMISSION TO THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS, FINANCE AND PUBLIC ADMINISTRATION BY THE TORRES STRAIT REGIONAL AUTHORITY**

## **1. OVERVIEW**

### *Summary*

This submission responds to the discussion paper on local government and cost shifting prepared by the House of Representatives Standing Committee on Economics, Finance and Public Administration. In doing so it also takes into account the report of the *Review of The Operation of the Local Government (Financial Assistance) Act 1995* by the Commonwealth Grants Commission dated June 2001.

While many of our observations apply to local government in general, our primary focus is on that sector of local government incorporating 17 community councils under the *Queensland Community Services (Torres Strait) Act 1984*. Cost shifting in relation to mainstream local government where there are Indigenous people within local government boundaries and community government responsible for discrete Torres Strait Islander and Aboriginal communities raises different issues.

Section 45 (1) of the Community Services Act prescribes that:

“An Island council has and may discharge the functions of local government of its council area and is hereby charged with the good rule and government thereof in accordance with the customs and practices of the Islanders concerned and for that purpose may make by-laws and enforce the observance of all by-laws lawfully made by it.”

The submission aims to highlight:

- the central role of local government in providing community services for all its citizens;
- the important role of community councils constituted under the *Queensland Community Services (Torres Strait) Act 1984* as institutions of leadership, governance and self management for Torres Strait Islanders and Aboriginal people;
- the limited financial capacity of local government in general and community government, in particular, to meet the needs of Torres Strait Islanders and Aboriginal people;

- the functional relationship between the Torres Strait Regional Authority as a Commonwealth statutory authority and community councils to fill gaps in meeting service delivery responsibilities for Torres Strait Islanders and Aboriginal people in the Torres Strait region, as evidenced by the TSRA's funding priorities;
- the pivotal role of the Community Development Employment Projects Scheme in contributing to the provision of community services;
- the effect present funding arrangements have on what might be called reverse cost shifting and, as a consequence, on the capacity of the TSRA to meet its special responsibilities towards Indigenous people, particularly in the area of economic development;
- the supportive interplay of regional governance arrangements involving community councils, the Queensland Government and the TSRA as a regional body representative of Torres Strait Islanders and Aboriginal people and ensuring a Commonwealth funding interface at the regional level;
- the value of partnership arrangements, funding agreements and regional planning within a framework of shared responsibilities for the provision of services to Torres Strait Islanders and Aboriginal people by all spheres of government;
- the need within this framework to define individual roles and funding responsibilities, ensure effective coordination of all inputs to achieve improved outcomes for Torres Strait Islanders and Aboriginal people, and accountability for outcomes;
- the potential for new financial arrangements to build on this framework to overcome the higher levels of social and economic disadvantage experienced by Torres Strait Islanders and Aboriginal people, particularly in remote areas of Australia;
- the need to link local government and Indigenous development to improve the well being of Torres Strait Islanders and Aboriginal people through collective action where responsibility and capacity are joined.

### *Key Issues*

- community government is a legitimate order of local government for Indigenous people within the Australian constitutional framework and needs to be strengthened to fulfil its potential;
- there is a general downwards shift of responsibility from the Commonwealth and the State to local and community government without appropriate financial transfers;

- in turn the lack of capacity of community councils to meet their responsibilities puts increasing pressure on Indigenous-specific funding (reverse cost shifting);
- community councils constituted under the *Community Services (Torres Strait) Act* remain under-resourced for the range of functions they are required to perform. It has been independently estimated that day to day operations alone for the 17 Island councils require an addition \$2 million a year in grants from the State Government Financial Aid Program;
- the lack of capacity of community councils to raise revenue from rates is offset, to some extent, by State Government grants, but a proportion of operational grants, in turn, is regarded as revenue in the absence of rates;
- the way Commonwealth financial assistance is distributed to local and community government disadvantages Indigenous people;
- the TSRA is required to act as a supplementary funder to enhance the capacity and performance of community councils;
- the TSRA agrees with the committee's observation that strengthened and formalised regional cooperation is an important element in inter-governmental relations;
- mechanisms of regional governance, such as the TSRA, are able to assist in this process;
- regional agreements and the pooling of funds from all spheres of government can benefit Indigenous people through the more effective use of those funds;
- at the same time, we would see regional cooperation being strengthened by specific and, if necessary, new funding arrangements recognising respective responsibilities and the particular disadvantages faced by Indigenous people;
- a new "relative need" funding pool identified by the Commonwealth Grants Commission in its review of *the Local Government (Financial Assistance) Act 1995* has the potential to provide the necessary additional assistance to disadvantaged local governing bodies;
- among the mechanisms already in place to achieve better local government outcomes for Torres Strait Islanders and Aboriginal people is the national report required under the *Local Government (Financial Assistance) Act*. The reporting process would benefit by being strengthened to comment on the performance of local governing bodies in providing services to Indigenous people and to identify gaps in service delivery..

### *Context*

Our submission is framed within the context of:

- The Commonwealth Government's support for Indigenous control of, or strong influence over, service delivery expenditure and regional and local service delivery arrangements, involving opportunities for increased autonomy for local and regional Indigenous communities;
- the critical need to ensure that the responsibilities of the various levels of government are recognised, and articulated, and subject to appropriate accountability;
- the statutory requirement under the *Local Government (Financial Assistance) Act 1995* that financial assistance to local government shall be allocated to local governing bodies in a way that recognises the needs of Torres Strait Islanders and Aboriginal people within their boundaries; and
- present financial arrangements, where the TSRA provides "top up" funding for local government type services and on-going operational funding to supplement the resources of the region's 17 community councils.

### *The terms of reference*

The issues we raise are directly related to the terms of reference of the inquiry which require the committee to consider:

- the current roles and responsibilities of local government;
- the impact of cost shifting by other spheres of government onto local government;
- appropriate recognition of the roles and responsibilities of local government; and
- the long term financing of local government.

In making this submission, the TSRA reflects the discussion paper issued by the committee in that:

"the Committee is anxious to bring down a report that will make a positive contribution and help establish a broad strategic agenda for local government's ongoing development."

This involves a broad examination of the position of local government in Australia's federal system focussed on:

- its current roles, responsibilities and financial capacity (including the allocation of Commonwealth Financial Assistance Grants);
- its relations with State and Commonwealth governments, and the scope for rationalisation of roles and responsibilities in order to achieve more efficient and effective delivery of services to local communities; and
- the significant relationship between local government and Indigenous development within Australia's inter-governmental framework.

The committee's discussion paper observes that submissions to it make a strong case that there has been cost shifting from the States and the Commonwealth to local government and that overall, the level of State grants to local government has failed to keep pace with changing responsibilities and cost increases.

An important aspect of this cost shifting is the way local government increasingly relies on financial assistance from Commonwealth instrumentalities with special responsibilities for Torres Strait Islanders and Aboriginal people, including Indigenous specific programs funded through the TSRA.

This submission seeks to elevate the focus on achieving outcomes for Torres Strait Islanders and Aboriginal people through local government and to ensure local government is adequately resourced to achieve these ends.

## 2. FUNDING COMMUNITY SERVICES

Seeking to achieve workable inter-governmental financial arrangements to improve the well-being of Torres Strait Islanders and Aboriginal people often founders on who is responsible and who funds Indigenous community services and their delivery. This is despite recognition of the shared responsibilities of all spheres of government. A particular focus of these policy discussions is improving relationships and shared outcomes between local government and Indigenous people.

### *Local government and Indigenous services*

That local government has a direct responsibility for the provision of services for Indigenous people is embedded in the requirements of the Commonwealth *Local Government (Financial Assistance) Act 1995* and the associated determination of relativities assessments by local government grants commissions.

Grants to the States under this Act are determined in the first instance on a per capita basis. They are then distributed to local government authorities on the basis of assessments of need by State Local Government Grants Commissions. The agreed principles for distribution recognise the specific needs of Aboriginal and Torres Strait Islander people within local government boundaries.

The purpose of the funding, according to the Commonwealth legislation, is to improve:

- (a) the financial capacity of local governing bodies;
- (b) the capacity of local governing bodies to provide their residents with an equitable level of services;
- (c) the certainty of funding for local governing bodies;
- (d) the efficiency and effectiveness of local governing bodies; and
- (e) **the provision, by local governing bodies, of services to Aboriginal and Torres Strait Islander communities.**

In determining the distribution of funds, State and Northern Territory Grants Commissions must conform to a series of general guidelines, known as the *National Principles*. A relevant principle relates to Torres Strait Islanders and Aboriginal people, namely:

***Financial assistance shall be allocated to councils in a way which recognises the needs of Aboriginal peoples and Torres Strait Islanders within their boundaries.***

In giving effect to this principle, State Grants Commissions seek to take into account the special circumstances of councils and their Indigenous citizens, involving, among



other things, the additional costs incurred by councils due to "special" factors. These factors include isolation, remoteness, and population growth.

### ***Relative need***

The funding issue results from the way financial assistance is provided to the States and local government. Because states and local government derive Commonwealth financial assistance in a way that is intended to recognise the additional costs in providing services to Torres Strait Islanders and Aboriginal people, and are untied grants, there is a perception that not all monies intended for Indigenous services reach their target and that, therefore, Indigenous people miss out on their fair share.

Local government councils, in turn, point to their difficulties in raising sufficient monies to fund both the immediate need and the growing gaps in service delivery requirements for Indigenous people, taking into account the high costs of providing such services to discrete communities in remote areas.

The first national Indigenous Housing and Infrastructure Needs Survey released in 1993 estimated that in the order of \$3 billion was required to overcome the backlog in meeting the housing and infrastructure needs of Aboriginal and Torres Strait Islander communities.

Local Government legitimately argues that to increase outlays on services to Indigenous communities, both because of the higher costs arising from remoteness and the capital backlog, would place extra financial burdens on ratepayers. Community government councils are even more disadvantaged, given their limited revenue raising capacity and lack of a rate base. Central to the achievement of better outcomes for Torres Strait Islanders and Aboriginal people is the provision of Commonwealth and State Government grants to supplement the revenue raising capacity of local government.

### ***The impact of cost shifting***

In its discussion paper, the committee states that local government's role over the past three or four decades has expanded substantially. Its responsibilities have both grown and diversified by adding a range of new functions to its traditional activities, as well as taking over responsibilities from the Commonwealth and State.

While this expansion of local government responsibilities may serve the best interests of local residents, with an increasing emphasis on human services, it has not been associated with the equitable provision of services for Torres Strait Islanders and Aboriginal people.

Cost shifting in the management of programs and services for Torres Strait Islanders and Aboriginal people relates both to:

- the way local government is required generally to undertake more service provision on behalf of Commonwealth and State Governments, thus putting pressure on its resources; and



- the increasing demands being placed, as a consequence, on Indigenous-specific funding to provide services, either directly or indirectly, which would normally be delivered by local government from its own resources.

Community councils are significantly under resourced to meet their widening responsibilities. Increasingly they have become involved in a wide range of functions, apart from providing basic community services, including housing, water and sewerage, airport and wharf maintenance, Centrelink agencies, postal services, community courts and policing, administration of emergency relief, broadcasting, and administration of Community Development Employment Projects. The attached submission from the Bamaga Community Council is indicative of the pressures faced by community councils.

Because they must draw on financial assistance from many jurisdictions, they face rigorous accountability and compliance requirements. The main source of local revenue is rental on housing and service charges in the absence of rates.

Funding of local government type functions by the TSRA is the result of lack of community government capacity that involves a form of cost shifting from community councils to the Commonwealth. This inevitably creates both tension and uncertainty between Commonwealth and State governments over who is responsible and frustration among community councils over their inability to meet the needs of their communities.

As Commonwealth outlays in Indigenous affairs have increased, there is evidence that mainstream service providers believe they can vacate the field, as the Commonwealth Grants Commission put it in its *Report on Indigenous Funding 2001*. There is a growing assumption that organisations like the TSRA will fill the gap and are being funded to do so because of what is seen as the Commonwealth's special responsibility towards Torres Strait Islanders and Aboriginal people. There are no apparent offsets to compensate for the expenditure from Indigenous-specific appropriations, thus reducing outcomes for Indigenous people.

Inherent in these issues should be a recognition that to meet the needs of Indigenous people requires a higher initial public investment to overcome the deficit in infrastructure and services compared with other Australians. This is particularly the case where the capacity of community councils serving discrete Indigenous communities is restricted.

For these reasons, the Commonwealth Government has indicated that it is keen to carefully and critically explore the pooling of program funds to enhance the flexibility and local responsiveness of programs and services to community needs and achieve the efficient and culturally appropriate application of resources to deliver outcomes.

The TSRA is not, in the terms used by the Government, a "replacement funder" of infrastructure for Indigenous Australians but a supplementary funder that provides a safety net to assist in the provision of essential services and infrastructure to Indigenous communities where other spheres of government are either slow, reluctant, or unable to provide these services.

### *Funding relationship*

The TSRA believes that in the circumstances of present funding arrangements for local and community government much is to be gained by State and local government with their general community service obligations and institutions of Indigenous regional governance funded by the Commonwealth Government working together through pooling arrangements to make more effective use of available resources.

Such arrangements can facilitate regional planning and ensure long-term certainty for the communities in need of services.

A particular feature of the TSRA's operations has been its capacity to enter into agreements with the three spheres of governments to ensure the provision of essential services, such as water and infrastructure, and in health, education and housing.

The inter-relationship between the TSRA and community government, in particular, can be illustrated by the TSRA's commitment to supplement what might be seen as specific local government activities, including the operating expenses of community councils.

In 2001-2002, the TSRA allocated almost \$2 million as a contribution to Island Councils' operations, \$1.256 million towards the purchase or replacement of earth moving and other machinery; and \$1.7 million towards the construction of council buildings, community halls, resource centres and other amenities.

The Island Councils used the TSRA's funds for the employment of council clerks, responsible for the management and coordination of the councils' operations and to supplement the funds provided by the Queensland Government for council operations and their capital equipment replacement programs.

The TSRA provided a further \$604,000 as a contribution to the operating costs of the Island Coordinating Council, established under the Queensland *Community Services (Torres Strait) Act 1984*.

Grants to these councils from the Queensland Government for direct local government activities in 2001-2002 included:

Aboriginal Council Chambers Program:	\$869,716
Financial Accountability Improvement Program	\$680,000
Motor Vehicle and Heavy Equipment Program	\$623,000
State Government Financial Aid Program	\$3,956,666
Island Coordinating Council	\$300,675
Torres Strait Council Chambers Program	\$646,313

The 17 community councils also received Commonwealth financial assistance grants of \$3,180,000.

An independent *Review of Funding to Aboriginal and Island Councils* concluded that the overall pool of funding available in 2000-2001 for distribution for operational purposes (\$17.5 million) was not sufficient to meet the expenditure needs of councils,

taking into account the population served, administrative and legislative requirements, and the capacity of councils to raise revenue.

It concluded also that an increase of 33.7% from \$17.5 million to a total operational pool of \$23.4 million would be required in 2001-2002 to allow reasonable local government service provision, in line what is expected by the wider Australian community and consistent with the roles and functions of Aboriginal and Island Councils.

This was despite a recorded growth in grants from \$10.8 million in 1992-93 to \$17.5 million in 2000-2001.

For Torres Strait island councils the funding level needed to be increased from \$4.1 million in 2000-01 to \$6.1 million in 2001-2002. The actual amount allocated was in the order of \$4 million.

### *Funding Capacity*

Island Councils continue to be assessed by the Queensland Local Government Grants Commission as having a nil rating capacity as the land in their areas is not rateable. Most island communities now also have native title.

The Local Government Grants Commission includes 50% of the State Government Financial Aid grant as being equivalent to the councils' assessed rating capacity. The assessment takes into account that the grant is also for functions the Local Government Grants Commission does not assess and that these councils have responsibilities other councils do not normally have.

In 2001-2002, the TSRA committed \$25 million of CDEP funds to projects in the Torres Strait region, many of them associated with local government type services and activities. These funds made a direct contribution to community well-being and economic development generally. CDEP communities are involved in a number of works projects that they consider beneficial to their communities.

The TSRA operates on a three-year budgeting cycle which gives community councils the opportunity to develop community plans to inform the funding process.

Three-year community plans are prepared in conjunction with the relevant community council. The plans address all aspects of the council's operations. A separate planning process involves major capital infrastructure. Each plan documents the needs of the community and determines priorities and a timetable. To ensure appropriate coordinating of funding, the plans document which government agencies are being approached to meet the community's needs and how this assistance will be applied. All plans are required to summarise the desirable outcomes expected over the next three years.

The Torres Strait Regional Authority is committed to building strong community links that seek to coordinate the activities of all government agencies to overcome Indigenous disadvantage and tackle priority issues. The next five years will be an

important period for the development of the Torres Strait, a central feature of which will be strengthening governance arrangements.

The Authority will continue to promote an accountable, transparent and collaborative approach to regional development by working with interest groups from industry, community and government to achieve positive outcomes in economic development, health, community services, protection of our environment and further improvement of our living standards.

### 3. GOVERNANCE AS A KEY

A significant aspect of achieving better outcomes for Torres Strait Islanders and Aboriginal people is effective institutions of governance.

The Commonwealth Government has recognised that improving community capacity and governance is a key factor in establishing viable Indigenous-specific services, improving access to mainstream services, and achieving sustainable outcomes. A number of Commonwealth programs now have distinct community capacity building components.

Government policy also acknowledges the importance of improving the management of Indigenous community organisations and, more broadly, in developing the vocational skills of individuals in Indigenous communities with the objective of achieving self-reliant service delivery.

Inherent in these arrangements is accountability to Torres Strait Islanders and Aboriginal people for the provision of services funded from the public purse.

The Council of Australian Governments has specifically identified the role of local government as a major area for ongoing focus on the basis that local government is both a key provider of services to indigenous communities and an important entry point into decision-making processes at the local level.

#### *Indigenous governance*

The two main elements of Indigenous governance in the Torres Strait are community councils performing local government functions and the TSRA established as a separate and independent statutory authority under the *Aboriginal and Torres Strait Islander Commission Act 1989*.

The community services legislation under which community councils are established prescribes that they shall be the local government for their area.

Section 45 (1) of the Community Services Act prescribes that:

“An Island council has and may discharge the functions of local government of its council area and is hereby charged with the good rule and government thereof in accordance with the customs and practices of the Islanders concerned and for that purpose may make by-laws and enforce the observance of all by-laws lawfully made by it.”

Community councils have wide ranging functions prescribed by the legislation. In general terms, a council may make by-laws for promoting, maintaining, regulating and controlling:

- the peace, order, discipline, comfort, health, moral safety, convenience, food supply, housing and welfare of its council area;

- the planning, development and embellishment of its council area;
- the business and working of the local government of its council area.

Matters over which a council may exercise its powers include traditional local government activities, and extend to village planning, the lending of monies to adult residents, and matters conducive to the good rule and government of the area or to the well being of its inhabitants. Their powers also include carrying on any business enterprise that the council believes can be profitably or effectually carried on.

The Torres Strait Regional Authority is a statutory authority which was established under the *Aboriginal and Torres Strait Islander Commission Act 1989* following a review of the Act. The review recognised the cultural unity of the Torres Strait and proposed the creation of a separate Torres Strait Authority with the same powers as ATSIC. Creation of the Authority was seen as a significant step towards greater autonomy for the Region and will soon have its own legislation.

TSRA's operating budget for 2001-02 was \$50 million, including a Commonwealth Government appropriation of \$40 million. Just over half of the appropriation was spent on Community Development Employment Projects. The remainder represented program and administrative expenditure.

The TSRA comprises 20 elected members representing Torres Strait Islanders and Aboriginal people living in the Region. The majority of its membership is derived from Island Council chairpersons elected under *the Queensland Community Services (Torres Strait) Act 1984*.

These chairpersons are also members of the Island Coordinating Council, a State instrumentality responsible for matters to do with the outer Islands. TSRA and the ICC work cooperatively together and their activities complement each other.

As the committee's discussion paper observes, the growth in local government's functions has outstripped its financial capacity to discharge all the functions now expected of it. This applies directly to community councils performing local government functions in the Torres Strait where because of their remoteness access to mainstream services is limited

As small councils they have limited revenue raising capacity and are thus dependent on supplementary assistance and government grants. In addition to the lack of rateable land individual incomes, often directly related to CDEP payments, are at the poverty level.

The widening of the resource gap means that Indigenous people will continue to miss out on services to which they are entitled.

The committee's identification of inter-government relations - both functional and financial - as an essential element in responding to these challenges has significant ramifications for Torres Strait Islanders and Aboriginal people and their capacity to participate in these arrangements.



Involving Indigenous people in a substantive way in the design and delivery of mainstream services is seen as a key to improving outcomes and, at the same time, improving the relationship between mainstream and Indigenous-specific programs.

This also reflects the Government's view that the better alignment of funding with needs is more likely to be successful when there are effective partnerships between Indigenous people and all relevant spheres of government and through which the responsibility and accountability for outcomes is shared between agencies and individuals, families and communities.

The Government is committed to maximising participation by Indigenous people through representative and service provider bodies, including the TSRA and ATSIC in matters affecting funding distribution and service delivery.

At the local level, the Government acknowledges that policies, programs and services work best when they are developed with Indigenous input and when local needs are identified in partnership with Indigenous people, recognising the interplay between social and economic factors.

#### 4. THE TSRA EXPERIENCE

The Torres Strait Region can be likened to a federation of island communities. Each island community is self managing through its own community government. With Commonwealth funding, the TSRA coordinates planning and service delivery with a single integrated regional voice and works in partnership with other Government agencies.

Many communities are still at what might be called the developmental stage. They have limited internal resources and are dependent on continuing government assistance at levels established historically.

One of the TSRA's advantages has been that it integrates Commonwealth, State and local government decision-making and operates within a legislative framework which recognises *Ailan Kastom*.

The TSRA – like ATSIC – does not provide services directly. It is a lead agency for ensuring strategic direction in the provision of services with a budget that enables it to fund organisations, including community councils, and to improve the delivery of services through agreements negotiated within its jurisdiction. Its legislative independence enables it to re-design programs to match local circumstances.

Public investment in services for Torres Strait Islanders and Aboriginal people is essential to treating them equitably and to fostering sustainable development in their own communities. It aims to improve the quality of lives through better access to services, achieving outcomes in key areas of need and disadvantage, promoting economic participation, and achieving critical outcomes by improving services and developing community assets and capacity, and promoting economic participation.

##### ***Raising Standards***

Achievement of improved outcomes will result from recognition that the overall health of Indigenous communities is the result of a convergence of effort and programs by Commonwealth, State and local government, requiring effective mechanisms of decision-making and coordination. Such recognition must ensure that Torres Strait Islanders and Aboriginals enjoy no lesser a standard of service than other Australians.

Future strategies, therefore, should promote the twin objectives of raising their standard of living and promoting the sustainable development of Indigenous communities as an integral part of Australia's social fabric. Institutions of governance can contribute to the way needs are assessed and funding is targeted to meet that need.

The Torres Strait region is culturally distinct and has a history of disadvantage in its standards of housing, infrastructure, health, education, employment and economic development.

### *Working with government*

The experience of the Torres Strait Regional Authority (TSRA) is that sustainable development occurs when governments provide funds and expertise in a genuine partnership with communities, one that recognises the capacity of communities to determine their own needs, determine priorities and measure outcomes. The decision-making and development planning processes in the Torres Strait give weight to these considerations.

Partnerships and funds available from all spheres of Government have contributed to overcoming disadvantages in health, education, employment and economic development, housing, infrastructure, community development, social programs and indigenous administrative support. Making progress on all of the key indicators of need at the same time is mutually reinforcing, and leads to positive interactive outcomes.

The TSRA has built on a number of strengths developed from previous years and has taken new initiatives to enable it to become more independent and more effective as a regionally based and focused organisation with statutory powers of planning, coordination, funding and reaching agreements with other stakeholders to support it. It has been able to do this because of its legislative independence as a statutory authority.

For major funding commitments, tripartite agreements between the Commonwealth and State Governments and the indigenous community provide the best model for the identification of need and the efficient and effective use of funds on a pooled basis.

### *A comprehensive approach*

The need for funding flexibility and joint planning favours a comprehensive approach to the determination of outcomes. This takes account of the interrelatedness of activities as they impact on the well being of Indigenous communities. Improved outcomes are better achieved through the discretion inherent in a comprehensive approach, where adjustments can be made within block funding. In circumstances where funding is limited, efficiency and effectiveness are assisted through coordination arrangements under the control of Indigenous people.

As a lead agency in the Torres Strait, the TSRA fulfils this role with direct participation by communities and recognition by agencies implementing programs in the Torres Strait, a recognition that increases as service providers seek to improve their own performance through negotiation and cooperative arrangements..

Governance arrangements are important in improving the management of service delivery in the Torres Strait. The Torres Strait was the first, and so far is the only, Regional Council under the Aboriginal and Torres Strait Islander Commission Act to be translated into a Regional Authority. In both the creation of the Authority and the recognition by the High Court of traditional rights over their land, the Torres Strait has become an administrative model for Indigenous people.

## 5. MEETING THE NEEDS OF INDIGENOUS PEOPLE

In its response to the *Report on Indigenous Funding*, the Government agreed with the Grants Commission that mainstream programs and services, intended to meet the needs of all Australians, do not meet the needs of Indigenous people to the same extent as they meet the needs of non-Indigenous people.

A focus on outcomes suggests, among other things, that the higher levels of need of Torres Strait Islanders and Aboriginal people impact on the adequacy of service provision and their funding.

As the Commonwealth Grants Commission noted, most service provision is under State and Territory control. The Commonwealth is perceived as having limited influence on the extent to which the distribution of these mainstream programs reflects and meets the needs of Indigenous people in different regions.

Even so, the Commonwealth has a direct service delivery involvement, specifically through the TSRA and the Aboriginal and Torres Strait Islander Commission and departments such as education, health and family and community services.

The Government has stated that in line with the CGC's findings, it will ensure that as the current special purpose payments are renegotiated, where practicable, they will seek to include clear Commonwealth objectives and associated reporting requirements in respect of inputs and regional outcomes for Indigenous Australians.

The CGC report concluded that achieving equitable access for Indigenous people to the full range of mainstream services is the highest priority.

The Government response stated:

“If these Indigenous-specific funds are applied in a way that substitutes for available and accessible mainstream services they effectively represent a wasted opportunity to apply the limited funds available to assist Indigenous people in areas where mainstream services are inaccessible. The corollary of this effect is that Indigenous disadvantage is prolonged in areas where the depth of need is greatest.”

Government recognises that need should be addressed through an appropriate mix of mainstream and Indigenous-specific services determined by careful consideration of the causes of disadvantage and barriers to access to services. We need now to get the balance right.

In the provision of mainstream services, the Government also recognises that the resources needed to address the specific disadvantages faced by Indigenous clients may be greater than for other clients, especially in rural and remote locations.

Additional assistance for remote locations is already factored into a number of program funding formulae. Where additional assistance is provided, it is tied to the additional costs of service delivery in remote locations and/or targeted to overcoming identified disadvantages and achieving improvements in outcomes.

The Government is therefore committed to improving the ability of mainstream systems to respond to the needs of Indigenous people, and to monitor performance in terms of outcomes for Indigenous people. .

In allocating resources to redress Indigenous disadvantage, the Commonwealth Government, in its response to the Report on Indigenous Funding, has outlined a number of key principles relevant to the committee's current inquiry into cost shifting and the role of local government. These include:

- The design and delivery of services to meet Indigenous needs should be flexible and undertaken on the basis of partnerships and shared responsibilities with Indigenous people in a culturally and locationally appropriate way.
- The development of a long term perspective in the funding, design and implementation of programs and services to provide a secure context for setting goals.
- Access to services will be provided on the basis of need and equity to all Australians, including Indigenous Australians, with a clear focus on achieving measurable outcomes.
- Mainstream programs and services have the same responsibility to assist Indigenous Australians as other Australians.
- The resources needed to address the specific disadvantages faced by Indigenous clients, whether delivered through the mainstream or Indigenous-specific services, can be greater than for other clients, especially in rural and remote locations.
- Where mainstream services are unable to effectively meet the needs of Indigenous people (whether due to geographic limits to availability or other barriers to access) additional Indigenous-specific services are required.
- Overall capacity to achieve outcomes is an important factor when considering whether Indigenous-specific programs and services should be established to meet identified need or whether to enhance mainstream programs.
- Coordination of service delivery within and between governments.
- Improving community capacity is a key factor in achieving sustainable outcomes for Indigenous communities.

## 6. IMPROVING LOCAL GOVERNMENT ARRANGEMENTS

Issues associated with the operation of the *Local Government (Financial Assistance) Act 1995* have been examined in detail by the Commonwealth Grants Commission. The TSRA believes that implementation of relevant recommendations of that inquiry will go some way towards improving services for Torres Strait Islanders and Aboriginal people and at the same time underpinning regional agreements and arrangements to pool funding.

While the Grants Commission has recommended that the purpose clause relating to "ensuring local governing bodies improve the services provided to Indigenous people" be removed on grounds of its inconsistency with equalisation principles, the TSRA believes the clause should remain as it emphasises the role of local government in providing these services.

TSRA would endorse the CGC's recommendation that the Aboriginal Peoples and Torres Strait Islander principle be retained and strengthened to make it explicit that relative need requires an assessment of the impact of Indigenous people on the expenditure requirements and revenue raising capacity of local governing councils.

Similarly the TSRA would support the recommendation that the national report required as part of the financial assistance act continue to monitor and report on the performance of local government bodies in providing services to Indigenous people. We would also suggest that it identify gaps in service delivery as a guide to providing financial assistance to local government or enhancing the capacity of Indigenous organisations to supplement the resources of local government under service agreements.

Of particular interest to the TSRA is the CGC's recommendation that there be a third funding pool to be known as a relative need pool to improve equity by providing additional assistance to the more disadvantaged local governing bodies.

Associated with this pool specific regard should be had for the particular disadvantage faced by Indigenous people. This could have a significant impact in small remote communities similar to those in the Torres Strait. Such funding pool could help bridge the gap between what mainstream local government can provide and what community councils need to provide services at the Australian standard, particularly given the inadequacy of services in most communities.

Regional funding agreements and pooled arrangements would be facilitated if such councils were provided with adequate funding in the first instance, with the TSRA providing special "add on" services, such as economic development initiatives, thus improving the overall situation of Torres Strait Islanders and Aboriginal people..

The CGC has indicated that needs assessments should reflect differences in the demand for services by Indigenous people, the cost of providing services to them and the capacity to raise revenue from them. An important factor is the existing low level of services in most communities to which Commonwealth and State funding has been directed.



The concept of a relative need pool, as we understand it, is to provide additional assistance to disadvantaged local governing bodies. The question is whether this will be relative within the existing pool or whether it will involve additional funding. An important issue will be the weighting to be given to Indigenous disadvantage.

The CGC was unable to determine relative need between Indigenous communities; it should be an easier proposition to determine relative need of community councils against the general Australian standard of service provision.

Section 6(3) of the Financial Assistance Act defines full horizontal equalisation as being an allocation of funds that:

- ensures that each local governing body in a State is able to function, by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State; and
- takes account of differences in the expenditure required to be incurred by local governing bodies in the performance of their functions and in their capacity to raise revenue.

Thus poorer communities where services are more expensive to provide are seen as more deserving of funding assistance. In the distribution of a general pool of funds, they should receive relatively greater financial assistance.

Equalisation, however, even if it worked perfectly, can not address the backlog in infrastructure for indigenous people. To the extent that further supplementary funding is required to overcome the backlog of need for Aboriginal and Torres Strait Islander Communities, this could be provided in two ways:

- special purpose payments specifically earmarked for Indigenous services and allocated directly to the State or to community councils; or
- channelling such funding through the TSRA to provide designated supplementary funding for infrastructure and municipal services within a framework of negotiated arrangements, thus ensuring Indigenous people have a voice in the distribution of funds.

Given the recommendations of the Commonwealth Grants Commission in its *Report on Indigenous Funding*, the latter course would further assist in empowering Torres Strait Islanders and Aboriginal people in the distribution of funding and accountability for outcomes. Such arrangements should facilitate the setting of priorities so that more urgent development issues may be funded in the first instance with funding becoming available as part, say, of a five-year planning and development process.

## **“AT THE CROSSROADS”**

### **INQUIRY INTO LOCAL GOVERNMENT AND COST SHIFTING**

#### **SUBMISSION TO THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMIC, FINANCE AND PUBLIC ADMINISTRATION BY THE BAMAGA ISLAND COUNCIL**

The Bamaga Island Council fully endorses the submission by the Torres Strait Regional Authority and makes the following comments in additional support.

#### **TIME LAGS**

Mainstream LGCs, because of their rate base, are able to respond quickly to any shortfalls in funding or needs for additional funding. However indigenous Councils are solely reliant on Government grant funding (eg the State Government Financial Assistance Grant) and cannot respond in a timely manner to funding shortages.

This is clearly demonstrated by the inability of Government to respond to the Morton Report 2000/01 which indicated an increase of 33.7% from \$17.5m to a total operational pool of \$23.4m would be required for operational purposes to allow reasonable local government service provision in line with what is expected by the wider Australian community. Three years later the shortfall is even greater and little has been done.

Therefore, effective and timely financial management is not available to Indigenous Councils as they are totally dependent on the political and bureaucratic processes at State and Federal level which can take years to reach conclusions and the end result is usually less than favourable.

#### **USER PAYS PHILOSOPHY**

Mainstream LGCs have a population base that is both large and affluent enough to meet user pay charges in regards to waste management, water, sewerage, roads etc. ie LGCs have the flexibility to raise additional revenue. This is not the case with most Indigenous Councils as the population is usually very small (well under 1000) and employment opportunities are restricted with the majority of residents working under the Community Development Employment Program (ie unemployment benefit, wage levels) There is therefore only limited opportunity to introduce a user pay regime except in a very restricted sense (eg Bamaga charges Government, local organisations and private enterprise, a waste management fee).

Such user pay schemes are also difficult to enforce because the Courts will not give judgement against people with very low incomes.

## **ADDITIONAL SERVICE PROVISION**

Indigenous Councils have to provide a range of community services that other mainstream LGCs do not eg Community Police, BRACS, Sports & Recreation Housing etc.

## **HOUSING/STAFF HOUSING**

All housing on Indigenous DOGIT areas is owned and maintained by Councils. Because of the low rent structures (again driven by low incomes) there is insufficient funding to carry out adequate and timely repairs and maintenance and consequently there is a continual downward spiral in regards to their condition, resulting in increasing social problems because of overcrowding and poor living conditions.

This is a burden mainstream Councils do not have to bear but is not funded in any of the grant methodologies (neither is extra service provision in 3 above)

In remote communities non-indigenous staff have to be provided with staff housing. To attract professional staff these houses have to be of good quality. There is no funding for this housing in any grants (housing grants can only be used for indigenous housing)

## **CDEP/ENTERPRISE INCOME**

Because of the shortfalls in the SGFA, most Councils balance their budgets through CDEP surpluses, using them for capital projects and machinery purchases to assist CDEP participants etc. This should not be the case.

However as CDEP programs become more disciplined with participants working their full hours, there are few surpluses and therefore effectively a reduction in funding.

The budget has also to be topped up through enterprise profits without which the funding situation would be even worse. A major source of income is the Canteen, which Government is attempting to take away from Council control, thereby further worsening the problem.

## **COMPLIANCE ISSUES**

There are now more and more compliance requirement being placed on Indigenous Councils that are totally unfunded eg upgrade of workshop to meet EPA standards (\$100,000). They are also very time consuming in relation to management resources, which are already stretched. Often the expertise is not available in house and costly consultants have to be used.

## **REMOTE LOCATION**

Although there is a component in the Grant Commission methodology for remoteness, it does not in any way cover the increase in costs. The SGFA grant does not factor in remoteness.

Nearly every Indigenous Council function is affected by increased costs due to remoteness eg computer systems support, freight, salary and salary on-cost, business travel, repairs and maintenance etc. There is also basically a 35% premium on every trade that is required to be brought in.

### **UNCOORDINATED FUNDING CUTS**

Government Departments independently cut programs without addressing the overall funding position, which again effects the level of funding available to Councils.

### **SUMMARY**

There is a crisis in regards to the level of funding available to Indigenous communities which is resulting in the provision of less services and community infrastructure and will ultimately undermine the effectiveness of their management, financial and administrative systems.

Government needs to be more responsive and timely in adjusting basic grant levels such as the SGFA.

It is counter-productive having an ever increasing compliance regime (Audit, EPA, WPHS etc) without increased funding.