

Chapter 16

Torres Strait Governance

16.1 There is a complex and multilevel involvement of governments in the Torres Strait, including two national governments as well as state, provincial and local bodies. Numerous departments and agencies within these bodies also assume responsibility for specific functions—health, immigration, community policing, conservation, quarantine, biosecurity, border security and economic development. This complicated arrangement calls on a high level of cooperation and coordination by those responsible for the administration of the Torres Strait.

16.2 There is no doubt that all levels of government involved in implementing the provisions of the Treaty are required to pay close attention to their role, how they carry out their responsibilities and their relationship with the numerous other agencies working in the region. In this chapter, the committee considers the degree of cooperation and coordination between all levels of government in the Torres Strait.

Whole-of-government and agency cooperation

16.3 Australia's Treaty Liaison Officer, Mr Young, described the interaction between the various government agencies in the Torres Strait as 'a high point of whole-of-government operations'. He told the committee that agencies work together 'extremely well', which increased efficiencies and made sure that people are aware of what is going on across government. He explained:

To some extent we have divided up the resource pie in the Torres and enabled agencies to do more than they normally would be able to self-resource. For those reasons, I would have no hesitation in declaring whole-of-government operations and cooperation in the Torres very successful.¹

16.4 According to Mr Young, 'one of the pillars and successes of the treaty is the input of the state and local representatives and traditional inhabitants, and that happens in a productive way on a day-to-day basis'. He cited as an example the close working relationship between DFAT and Queensland Health, which has a significant role in the cross-border health issues.² The Queensland Government shared the view that the Treaty and associated government mechanisms work well.³ Mr Wade Lewis, Queensland's Department of the Premier and Cabinet, stated:

The relationship of DFAT officers in Canberra, Brisbane and Thursday Island under the treaty are particularly good in my experience and

1 *Committee Hansard*, 18 December 2009, p. 5.

2 *Committee Hansard*, 18 December 2009, p. 5.

3 *Committee Hansard*, 25 March 2010, p. 2.

especially so in the context of all of our government's interactions on the range of treaty matters that we deal with.⁴

16.5 He noted that the inter-departmental committee (IDC), chaired and run by the Commonwealth to coordinate Australia's effort in carrying out its responsibilities under the Treaty, is 'a very collaborative and constructive process'. In his view, it prepares the Queensland Government 'very well' for meetings of the joint advisory council, the health issues committee and the environment committee. According to Mr Lewis, the meetings are 'very well run' and allow ample opportunity to 'provide input to the agenda papers' and present ideas from the government's point of view.⁵

16.6 Mr Lewis noted further that in the last year or so, the Queensland Government had set up its own interdepartmental committee to ensure that when it goes to those meetings, it brings a 'whole-of-government flavour to them'.⁶ The Premier's Department chairs this committee and represents Queensland in the Commonwealth-run IDC.⁷

16.7 In this report, the committee cited a number of areas where cooperation and collaboration between governments and government agencies appears to work well: for example, quarantine and biosecurity are areas where Commonwealth and Queensland state agencies work in partnership. The working relationship between DFAT and Queensland police is another area. Mr Young explained that he worked with the police on an ongoing basis and had a very good working relationship. He stated that it was certainly obvious to him that Queensland Police are very responsive when he contacts them about specific issues.⁸ Australian customs and quarantine agencies also function as a team at the designated entry points.

16.8 There were some areas in the report, however, where the committee identified the potential to strengthen the degree of cooperation between agencies. For example, the committee dealt at length with the governance arrangements and performance of the PZJA and has noted that efforts were underway to redress these problems.

16.9 It also noted an apparent lack of a clear whole-of-government approach to climate change in the Torres Strait. In contrast to the agencies working in quarantine and biosecurity, those dealing with climate change presented a rather muddled account of departmental or agency responsibilities and their programs. It would seem that because no department is yet to take the lead and because of confusion over the allocation of responsibilities, departments are yet to achieve coordination and integration in the government's climate change programs in the Torres Strait.

4 *Committee Hansard*, 25 March 2010, p. 3.

5 *Committee Hansard*, 25 March 2010, p. 4.

6 *Committee Hansard*, 25 March 2010, p. 4.

7 *Committee Hansard*, 25 March 2010, p. 4.

8 *Committee Hansard*, 18 December 2009, p. 18.

16.10 One particular area that may benefit from further whole-of-government government consideration is the sharing of assets in the Torres Strait.

Sharing assets

16.11 A number of submitters referred to the asset base of the Commonwealth (including helicopters) in the Torres Strait. Ms Kelley, Customs and Border Protection, noted that 'it is probably not formally written down anywhere but we have an agreement whereby the department of immigration can approach us when they require assistance with transportation to the other islands'.⁹ She explained further that the agency had been able to meet every one of the number of requests made over the past 12 months, adding:

We have vessels and we do regular visits to the islands, so we are very happy to take our colleagues with us as required... It has always been on a timely basis.¹⁰

16.12 On the other hand, DAFF informed the committee that 'the availability of Border Protection Command assets for non-essential biosecurity functions is periodically constrained through the allocation of assets to higher priority functions'.¹¹ Also, the Queensland Government suggested that 'more multi-agency infrastructure' should exist on certain islands, that is, that state and federal agencies, particularly those involved in law enforcement, could share resources such as office and accommodation facilities, which would also enhance sharing of information.¹²

16.13 In chapter 8, the committee discussed the Customs facility on Saibai, which is available for other government agencies to use. It noted the suggestion by the Queensland Police Commissioner that community police officers could use the Saibai facility which 'could be available for state and federal agencies to come and use as well'.¹³ He was hopeful that, given the uniqueness of the location, some sort of joint Australian and state government approach could be taken. He thought the Saibai model, or whatever model evolved, where community police and visiting federal and state authorities could use the same building and office was really interesting and had potential.¹⁴

Committee view

16.14 Evidence presented to the committee shows clearly that government agencies in the Torres Strait work together to ensure that their assets are used efficiently and

9 *Committee Hansard*, 17 December 2009, p. 46.

10 *Committee Hansard*, 17 December 2009, pp. 46–7.

11 *Submission 13*, p. 8.

12 Queensland Government, *Submission 20*, p. 6.

13 *Committee Hansard*, 25 March 2010, pp. 11–12.

14 *Committee Hansard*, 25 March 2010, p. 12.

shared as necessary. The Customs unit on Saibai is an example of this sharing. Nonetheless, there may well be potential for even greater sharing or pooling of resources.

Recommendation 30

16.15 The committee recommends that the Australian Government look closely at the operation of the Customs facility on Saibai with a view to increasing the opportunities for greater integration of effort across all agencies engaged in the Torres Strait.

16.16 The committee recommends that the government establish a working group to consider the sharing arrangements for government assets in the Torres Strait with a view to identifying any areas for improvement, any real or potential points of conflict in the sharing of assets and how they could be resolved.

16.17 The committee recommends that a copy of this assessment be provided to the committee for its consideration.

Navy in Torres Strait

16.18 During its visit to C Company, Far North Queensland Regiment, on Thursday Island, the committee was concerned to learn that the Royal Australian Navy (Navy) had withdrawn its personnel and its only vessel, *Malu Baizam*, from the Torres Strait. This Navy vessel formed an integral part of Australia's whole-of-government effort in the far north with other government agencies using it to assist them in carrying out their duties. For example, according to Lieutenant Colonel Brain, the Army relied on this vessel to transport its reservists from their villages to Thursday Island and back for training purposes and also to assist in transporting soldiers for patrol exercises. The withdrawal of this vessel and its crew would limit the Army's capacity to conduct its patrols. Army has level two tier boats which can travel only 15 nautical miles from the coast and do not have the endurance capacity of the Navy vessel.

16.19 DFAT also stressed the importance of the *Malu Baizam* to the whole-of-government effort in the Torres Strait. It cited in particular its reliance on the logistical support provided by the Navy for the Treaty awareness visits (TAV) to PNG. The department explained that the visits to the eastern and central villages are aboard the Navy vessel, with each visit taking about one week. The multi-agency delegation lives on the vessel during such visits. It stated further:

The RAN provides onboard accommodation, meals, small craft transport to the villages, and prepares the various diplomatic and exit-entry clearances. The RAN also plots the schedule for the TAV, to take into account the unsurveyed and sometimes perilous waters of the PNG coast...in addition to numerous ad hoc visits, the TLO [Treaty Liaison Officer] also leads one TAV each year one to the Australian communities in the Protected Zone aboard the *Malu Baizam*.¹⁵

15 *Submission 23*, pp. [8–9].

16.20 In April 2010, the then Minister for Defence, Senator the Hon John Faulkner, informed the committee that the Navy had not withdrawn its personnel from the Torres Strait region and was currently reviewing its ongoing requirement for the Resident Naval Officer Thursday Island (RNOTI) organisation. He informed the committee that at the time of the committee's visit to the Torres Strait the vessel, *Malu Baizam*, had been relocated to Cairns as a cyclone avoidance measure and would return to Thursday Island shortly. He then stated that a final determination with regard to the RNOTI was yet to be made and that the Navy would remain in consultation with other Australian government agencies on its future presence on the island. The minister assured the committee that the Navy would consult with him before any changes were made regarding the relocation of the RNOTI organisation.¹⁶

Committee view

16.21 The withdrawal of the *Malu Baizam* would affect considerably the capabilities of other agencies in the Torres Strait to exercise their responsibilities. It would limit the capacity of the Army to conduct its patrols in the region and severely disrupt programs such as the Treaty awareness visits. Furthermore, in the committee's view it does not appear sensible for this remote area, with 17 communities separated by large tracts of water and sharing a border with PNG, to be without a naval presence. The committee notes that the Navy was consulting with other government agencies operating in the region before making a decision on the future of RNOTI

Recommendation 31

16.22 The committee recommends that the Royal Australian Navy remain in close consultation with all relevant agencies working in the Torres Strait in order to arrive at a decision regarding a Navy presence there that would best support Australia's whole-of-government effort in the region.

Delivery of services

16.23 Although government agencies were generally satisfied with how they cooperate and coordinate their activities in the Torres Strait, some local leaders expressed misgivings about the way the government delivers services. From their perspective, the complicated governance structure in the Torres Strait was of concern.

16.24 During its visit to the Torres Strait, the committee heard from local leaders about their frustration with people flying in from Brisbane or Cairns but achieving little, especially in dealing with the problems caused by PNG nationals travelling across the border. They cited health and law and order concerns and PNG visitors using resources intended for Australians. As noted earlier they feel as though they keep asking for action but nothing gets done. Mr See Key explained further:

16 Senator the Hon John Faulkner, Minister for Defence to Senator Mark Bishop, correspondence received 21 April 2010.

...you will hear stories as you go through communities about a number of planes showing up each week, of people getting off and asking the same questions and then of another load coming in next week. One community can have an average of three or four planes of departments a week wanting to consult.¹⁷

16.25 The TSRA recognised that in the past there had been failures 'to effectively integrate policy and program delivery, or to consider the effects of different policies on community wellbeing'. In its submission, it also referred to 'consultation overload' where government agencies have not coordinated or consolidated their visits.¹⁸ Mr See Kee stated:

My observation working through the administration and also in engaging with communities...is that if you are on the community it can get very hard to work out who to deal with based sheerly on the physical presence and number of government departments, state and Commonwealth, based in this region...one of the things the TSRA, with the councils, is trying to do in terms of our space in looking at Indigenous disadvantage in the Australian side is that it is trying to pull together a framework...for integrated service delivery—in essence, making government easier for community to engage and work with.¹⁹

16.26 In this regard, he spoke of the need to simplify the 'delivery model' so that local people do not have to 'navigate a labyrinth of government departments but can go to one or two and they can actually do the navigating and get the relevant department in there'. He informed the committee that they were trying to develop a model that would work and one that the community was 'going to be satisfied with, rather than one that would satisfy public servants.'²⁰ Councillor Stephen noted that 'As the Commonwealth sits, a stock take needs to be done in terms of how services are delivered and who is the lead agency'.²¹

16.27 According to Mr Kerlin part of the problem originates from the viewpoint of Torres Strait Islanders who consider any agency that visits the islands as representing the government, regardless of its function or role. As an example, he noted the confusion over who has responsibility for overstayers'. He said:

So if someone on the island is concerned about overstayers they will approach us and ask us to do something about it. That is not our role. That is where the frustration for us comes in. There is an expectation that we can do something on behalf of the community when we really need DIAC to

17 *Committee Hansard*, 24 March 2010, p. 14.

18 TSRA, *Submission 18*, p. 28.

19 *Committee Hansard*, 24 March 2010, p. 14.

20 *Committee Hansard*, 24 March 2010, p.14.

21 *Committee Hansard*, 24 March 2010, p. 28.

take that action. In fairness, DIAC has taken action and it has reduced the number of overstayers significantly in recent times.²²

Committee view

16.28 The committee notes the concern of local inhabitants about the assortment of government officials that are located in or visit the Torres Strait. The committee believes that the Australian government should take account of local calls for a more efficient and streamlined administrative and service delivery structure in the Torres Strait and explore ways with the TSRA and TSIRC on how this simplification could be achieved. The committee is of the view that all agencies must place the highest priority on engaging with and strengthening their relationship with local communities.

Recommendation 32

16.29 The committee recommends that agencies take note of the observations about 'consultation overload' and make real efforts to dispel the notion that government officials fly in and fly out.

16.30 The committee recommends that the Australian Government, the Queensland Government, the two local councils and the TSRA form a working group with the aim of developing a more streamlined and integrated approach to service delivery in the Torres Strait.

Local government

16.31 As noted on a number of occasions in this report, the unique environment of the Torres Strait places particular demands on those in administrative positions. Local bodies form part of the complex administrative arrangement in the Torres Strait and also confront difficulties delivering services and meeting the needs of their constituents.

Responsibilities

16.32 There have been recent reforms to local government arrangements in the Torres Strait in an effort to simplify the multiple and complicated layers of administration. Since March 2008, 15 island councils have combined into the Torres Strait Island Regional Council (TSIRC). Before the amalgamation, a Queensland Government Green Paper on local councils noted that 'the Island councils in general have accepted a range of responsibilities far greater than most other councils in Queensland. For example, housing, employment and community police services are not normally local government functions'.²³

22 *Committee Hansard*, 17 December 2009, p. 43.

23 Queensland Government, *Torres Strait Community Government Review*, Green Paper, October 2005, p. 6.

16.33 Mr Toolis, Queensland's Department of Infrastructure and Planning, explained that the principal objective behind the amalgamation of the 15 councils into the TSIRC, was to provide local government type functions to the community.²⁴ He noted further: 'I think there is work to be done in terms of people understanding the particular roles and functions of the organisations they are with (Local councils etc)'. As an example, he noted that there are elected members of the TSIRC who see their role as 'being greater than providing local government services—they comment on the community in general'. He explained that the Queensland government, 'through legislation changes and supporting implementation policies, is asking local government to focus on core municipal functions. That will be implemented in the coming years'.²⁵

16.34 Despite this observation, the TSIRC still performs tasks not normally the concern of local councils, particularly given the free movement of traditional inhabitants from PNG into their communities and the proximity of some of these communities to PNG. The council also has responsibilities for policing isolated and remote communities and is involved in conservation and biosecurity programs of national and in some cases international concern. For example, Commissioner Atkinson observed that there is probably nowhere else in Australia where local government is expected to be responsible for law and order and community safety. He explained:

Local governments in these communities have the normal responsibilities of local government. But then we ask them to take on responsibility for law and order as well, through the community police. And, to some extent, we ask them to be a bit interested in border security as well. So it is a pretty big ask...by and large [community police], do an outstanding job and have a great deal of pride in what they do.²⁶

16.35 Along similar lines, the TSRA argued, that it was 'working above and beyond its core business'. In its view the Torres Strait Islander and Aboriginal residents of the region are 'acting—informally and often with little recognition—as the 'eyes and ears' of the nation on its northern border whilst also carrying the 'silent burden' of PNG visitation'.²⁷ In its submission the TSRA mentioned that one of its tasks was to manage 'the pressures that the Torres Strait region faces in assisting PNG with its own broad range of challenges'.²⁸

16.36 In the Torres Strait there are also twenty-one Prescribed Bodies Corporate representing local Native Title interests, fourteen of which are for inhabited islands. The TSRA informed the committee that it is the Native Title Representative Body for

24 *Committee Hansard*, 25 March 2010, p. 5.

25 *Committee Hansard*, 25 March 2010, p. 5.

26 *Committee Hansard*, 25 March 2010, p. 10.

27 TSRA, *Submission 18*, Executive summary and p. 10.

28 *Submission 18*, Executive Summary.

the Torres Strait region and has provided administrative, financial and legal service support to claimants since 1996.²⁹

Committee view

16.37 There is no doubt that the TSIRC and the TSRA are key institutions in the overall governance structure of the Torres Strait and have a pivotal role in matters that go beyond local concerns, especially in areas such as community policing, conservation, biosecurity, border security, economic development and Australia's relations with PNG. They are also instrumental in representing the interests and concerns of local inhabitants to state and Commonwealth agencies.

Traditional Inhabitants

16.38 According to Mr Young, one of the pillars of the Treaty is the input of traditional inhabitants.³⁰ There are a number of avenues through which local communities are able to convey their opinions or concerns about the operation of arrangements made under the terms of the Treaty. These various fora also provide an opportunity for government agencies to present their views, to clear-up any misconceptions and in collaboration with local communities devise solutions to problems.

Consultation mechanisms

16.39 Article 18 of the Treaty requires PNG and Australia to appoint a representative each to facilitate the implementation of the provisions of the Treaty at the local level. In exercising their functions as Treaty Liaison Officers, they are required to 'consult closely' with representatives of the traditional inhabitants of their respective countries. According to Mr Bruer:

The consultative process is an extensive one; it reaches down into many levels and involves large groups of people. It involves many different mechanisms, including regular visits. It involves different layers of government at all three levels. It involves representative groups of individuals from the communities.³¹

16.40 The annual cycle of treaty meetings provides the machinery that allows the traditional inhabitants to communicate with those administering the region. In various sections of this report, the committee has discussed the Traditional Inhabitants' Meeting (TIM), the Treaty Liaison Meeting, the Health Issues Committee (HIC), the Environmental Management Committee (EMC) and the Joint Advisory Council (JAC).

29 *Submission 18*, p. 30.

30 *Committee Hansard*, 18 December 2009, p. 12.

31 *Committee Hansard*, 18 December 2009, p. 13.

16.41 The TSRA is a key participant and the main conduit through which traditional inhabitants have their say at these meetings. It has a board comprised of twenty elected representatives who are Torres Strait Islanders and Aboriginal people from each Torres Strait community in the region. According to the TSRA, all elected community leaders in the Torres Strait are permitted to participate in the TIM as well as other TSRA members from communities within the TSPZ that receive regular visits from Treaty villages in PNG's Western Province. Mr Young informed the committee that the TIM is 'for and by those traditional inhabitants, who are the board, led by the chair of the TSRA with me and my counterpart in Papua New Guinea as the secretariat'. He explained:

We are all forced to work well together, and we do; we have a common aim and a common goal and, as I mentioned before, there is a resource efficiency generated by us all working so closely together.³²

16.42 Mr Young noted that the TIMs, with agendas drafted by the traditional inhabitants of the Treaty area, enable local people to voice any discontent. The meetings generate recommendations which need to be considered at different levels including some community-to-community issues that can be dealt with at local gatherings. According to Mr Young, the body of recommendations produced by the TIM go to the JAC, the peak governance body established under the Treaty. He explained that the recommendations are the findings of that subcommittee of traditional inhabitants and not affected by the JAC: they 'exist as a document in their own right' and are 'distributed widely'.³³ He made clear that the JAC's role was not to reject the findings or recommendations of the TIM. The JAC notes and endorses the outcomes of the traditional inhabitants meeting, so, as explained by Mr Young, they are 'not distilled' but attached as an appendix to the joint advisory council report.³⁴

Joint Advisory Council

16.43 As an advisory body, the JAC is largely responsible for helping to maintain a harmonious and strong cooperative relationship between Australia and PNG by providing the means for discussing and recommending ways to implement the Treaty. Its function is not administrative nor can it make binding decisions on the parties—it facilitates cooperation in the administration of the Protected Zone. The council, which meets alternately in Australia and PNG, seeks solutions to problems arising at the local level that are not resolved by the Treaty Liaison Officers. It considers and makes recommendations on any developments or proposals relating to the protection of the traditional way of life and livelihood of the traditional inhabitants.³⁵ The council is

32 *Committee Hansard*, 18 December 2009, p. 5.

33 *Committee Hansard*, 18 December 2009, p. 14.

34 *Committee Hansard*, 18 December 2009, p. 15.

35 DFAT website, http://www.dfat.gov.au/geo/torres_strait/brief.html

also an 'environmental watchdog' and is required to transmit its report and recommendations to the Foreign Ministers of Australia and Papua New Guinea.³⁶

16.44 Article 19(4) of the Treaty states that in the exercise of its functions, the JAC shall ensure that the traditional inhabitants are consulted and given full and timely opportunity to comment on matters of concern to them. The JAC's membership provides for this level of engagement. It consists of representatives of national and regional governments and traditional inhabitants and reflects the diverse interests that the Treaty seeks to accommodate. The Treaty specifies that the JAC shall have a membership of 18, comprising 9 members from each country including at least three representing the traditional inhabitants.³⁷

16.45 Mr Young noted that a significant number of traditional inhabitants are required to form a quorum for the JAC. He explained that members of the TSRA board participate in the JAC meeting and that the TSIRC has an open invitation, with observer status, to attend the TIM and the JAC meetings.³⁸ He observed that they participated in the two meetings held in Australia in 2008 but not the 2009 meetings in PNG—at Daru and Alotau.³⁹ Councillor Stephen noted that forums such as the JAC and TIM are in place so that the people at the grassroots level can actually raise issues and discuss them there and then.⁴⁰

Local views on the consultative framework

16.46 Despite the level of representation by traditional inhabitants and their participation in the cycle of Treaty meetings, some local leaders were critical of the process, particularly the failure to follow-through on recommendations coming out of the meetings. For example, during its visit to Saibai and Boigu, the committee heard local leaders criticise the community consultation process. They made observations such as nothing happens when they ask for action; that monitoring needs to be conducted daily and someone needs to take responsibility. During the hearing on Thursday Island, Mr See Kee was also critical of the consultative framework. He noted that at the JAC meetings there appears to be 'common acknowledgement of issues', many of which are 'long standing', and a level of commitment from all to work issues through. He then stated that:

...because of the cycles, once everybody disengages from the JAC meetings there is very little contact. That is one thing that seems in some ways to contribute to not a lot being done in addressing the long-term issues.⁴¹

36 DAFT website, http://www.dfat.gov.au/geo/torres_strait/brief.html

37 Article 19(6).

38 *Committee Hansard*, 18 December 2009, p. 16.

39 *Committee Hansard*, 18 December 2009, p. 16.

40 *Committee Hansard*, 24 March 2010, p. 25.

41 *Committee Hansard*, 24 March 2010, p. 6.

16.47 The TSIRC wanted better access to the various meetings associated with the operation of the Treaty. It argued that the council must be included as a key decision maker as it is the only local government to which the Treaty relates: that there is 'a strong need' for it to be represented at every forum, committee that is established or will be established that deals with the treaty'.⁴² Mayor Gela reasoned that 'At the end of the day, it is the TSIRC's resources that are expended to accommodate those who choose to travel under the treaty'.⁴³ He acknowledged that while five or six councillors have sat on the TIMs and some of them involved at the JAC level, 'they sit there under the banner of the TSRA, the Commonwealth statutory body'. In his view, 'there needs to be some sort of Torres Strait Island Regional Council presence there'.⁴⁴ He explained further:

We raised those concerns when invited to attend the TIMs meeting, a one off invitation. It was raised there directly with the departments that are responsible. We have also flagged it with not only the state but also some of the Commonwealth ministers. To date we have not received any sort of a response or any type of solution, even to the extent of looking at commencing or starting to look at developing administrative policies which would not only benefit us but would also benefit the monitoring bodies, especially in ensuring that people do not land on any part of the island day or night...Nothing has happened.⁴⁵

16.48 Mr David stated that a serious review of some sort should be undertaken 'to ensure that some of the old arrangements, which to some degree are archaic, be done away with and the traditional owners from the Torres Strait are genuinely included in the process'. He noted that at present, representatives of a number of elected institutions represent the views of traditional owners, which, in his view, 'is a big flaw...simply because you get people who are not traditional owners participating in the process'. He suggested that:

Now that there are native title determinations in this regard, where there are prescribed bodies corporate that genuinely represent native title and traditional owners, a review should be conducted to ensure that as part of that mechanism that native title and traditional owners' views are maintained or are seen to be engaged.⁴⁶

16.49 Although the cycle of treaty meetings provides opportunities for local authorities to air their grievances with officials working in the Torres Strait, clearly some local leaders were dissatisfied with their level of representation or the response to their concerns. Their disappointment extended to the consultations that take place with PNG.

42 *Submission 9, p. 1; Committee Hansard, 18 June 2010, p. 2.*

43 *Committee Hansard, 18 June 2010, p. 2.*

44 *Committee Hansard, 18 June 2010, p. 9.*

45 *Committee Hansard, 18 June 2010, p. 10.*

46 *Committee Hansard, 24 March 2010, p. 33.*

PNG and Australia working collaboratively

16.50 In numerous parts of this report, the committee has discussed capacity constraints in PNG that affect the overall implementation of programs or arrangements under the Treaty whether it is in the delivery of health services, conservation, biosecurity or the fisheries industry in the TSPZ. The same problem is evident when it comes to the work of the consultative mechanisms and particularly putting into practice some of the agreements reached at these meetings. Mr Kris explained that the JAC worked well on the Australian side but was concerned about the PNG side. For example, he noted 'how we police on other side is another issue'.⁴⁷ According to him,

...when we attend those meetings you still have issues from the other side pertaining to those particular communities who are most active under the treaty. There are still issues that need to be cleared up on their side of the border that are beyond the authority of colleagues on our side.⁴⁸

16.51 Moreover, the TSRA informed the committee that the message from local communities was that 'every time an issue crops up, with the way that things are being clarified, more preference is given to the need of people on the PNG side of the border rather than the communities on our side'.⁴⁹ The capacity of PNG to participate in discussions and contribute to resolving issues was a particular concern. Mr Kris drew attention to attendance at meetings:

We have seen very minimal numbers of representatives, but through the other process of the traditional inhabitants meeting of the teams that is referred to we do get the majority of those elected members who attend those meetings. But when we attend the JAC, the numbers are very small when we are looking at the representation of those communities that interact under the treaty compared to the Australian side.⁵⁰

16.52 On this matter, Mr See Kee explained:

...there always seems to be a resourcing issue on the PNG side in terms of getting people to the meetings. There have been occasions when the Australian side have, to the best of their ability, assisted or tried to assist PNG to come to the meeting.⁵¹

16.53 Mayor Gela informed the committee that the TSIRC had the sense that 'the PNG government does not care about the people of the Western Province because Australia is taking care of them via the treaty'. He suggested that 'Appropriate

47 *Committee Hansard*, 24 March 2010, p. 6.

48 *Committee Hansard*, 24 March 2010, p. 6.

49 *Committee Hansard*, 24 March 2010, p. 5.

50 *Committee Hansard*, 24 March 2010, p. 6.

51 *Committee Hansard*, 24 March 2010, p. 6.

consultation in relation to the treaty cannot be one-sided. The Western Province needs to be consulted and not just the PNG government'.⁵²

Committee view

16.54 The committee recognises the importance of having PNG fully engaged in the cycle of Treaty meetings and being able to implement arrangements agreed to at those meetings. It has made a number of recommendations designed to better equip those on the PNG side of the border to take an active and constructive part in activities that support the objectives of the Treaty. The committee suggests further that assistance should also be given not only to encourage PNG representatives to attend meetings but to extend that assistance to providing support for follow-up activities.

Recommendation 33

16.55 The committee recommends that DFAT examine the working of the consultative mechanisms with a view to developing, in collaboration with their PNG counterparts, initiatives that would encourage and assist PNG representatives to attend and participate in all joint activities, build their capacity to contribute to decision making and importantly to follow through with agreed actions.

Ministerial level meetings

16.56 The committee notes that 'Torres Strait Cooperation' was an agenda item in its own right for the 2008 and 2009 Australia–PNG Ministerial Forums. For the 2010 bilateral meeting between the foreign ministers, however, it did not feature prominently as an agenda item.⁵³ Considering the importance of the Torres Strait to Australia and to Australia–PNG cooperation, the committee believes that the Torres Strait should be a standing item on the ministerial meeting agenda. It would hope that attention given to the Torres Strait at this level would then trickle down to other meetings and provide an incentive for PNG to attach greater importance to meetings such as the JAC.

Recommendation 34

16.57 The committee recommends that the Australian Government, in consultation with the PNG Government, establish 'Torres Strait cooperation' as a standing item on the agenda for the annual bilateral ministerial meetings or forums.

52 *Committee Hansard*, 18 June 2010, p. 3.

53 The meeting discussed the matter of the arrangements to facilitate the cross border movement of officials and health professionals. See The Hon Stephen Smith MP, Australian Minister for Foreign Affairs and Trade, 'Visit to Papua New Guinea', Joint media release, 8 July 2010, <http://www.foreignminister.gov.au/releases/2010/fa-s100708a.html> (accessed 24 August 2010).

Conclusion

16.58 Clearly, some local members feel as though their voice is not being heard or not taken seriously by government agencies. The confusion and frustration caused by the multitude of Commonwealth and state agencies delivering a range of services coupled with disappointment with the consultative framework could undermine local support for the Treaty. The following chapter looks closely at the level of support for the Treaty.