

CHAPTER 3

The effects of the ATSIC Amendment Bill

Introduction

3.1 In her second reading speech, the Minister indicated that:

The Bill does one thing. It abolishes ATSIC. The bulk of the Australian Government's reforms to Indigenous affairs are proceeding independently of this Bill.¹

3.2 The Committee is concerned that this seriously over-simplifies the Bill's proposed effects. While most of the reforms have been independently implemented, there are changes in the Bill that affect more than just the Board of ATSIC, and this chapter analyses those changes.

Transfer of ATSIC assets and intellectual property

3.3 The Government's approach to ATSIC's assets was explained by the then CEO of ATSI, Mr Gibbons:

The principle that has been followed in the drafting of the Bill is that real assets that were in the hands of Indigenous organisations remain in Indigenous custody through ILC or IBA. Assets that were acquired for the purposes of administering programs would return to the Commonwealth for that purpose where they have not already been returned to or taken over by the Commonwealth.²

3.4 Under Schedule 1, Item 192 of the Bill (item 191 in the Bill that was before the previous Parliament), ATSIC's assets and liabilities are transferred to the Commonwealth, to Indigenous Business Australia, or to the Indigenous Land Corporation. Broadly speaking, the assets are divided up as shown in the table below.³

Table 3.1 – Transfer of ATSIC assets

1 *Senate Hansard*, 1 December 2004, p. 1.

2 Mr Gibbons, *Committee Hansard*, Canberra, 29 June 2004, p. 26.

3 Note that Mr Vaughan, Office of Aboriginal and Torres Strait Islander Affairs, in his statements during a hearing mistakenly reverses which class of asset goes to which body: *Committee Hansard*, Canberra, 29 June 2004, p. 9.

| Movement of asset | Type of asset involved |
|--|---|
| Transferred to IBA – 'Class A exempted assets' | Regional Land Fund money |
| Transferred to ILC – 'Class B exempted assets' | Housing Fund money ATSIC housing loans and business loans (if declared by the minister to be a class B exempted asset) |
| Transferred to the Commonwealth | Other ATSIC assets not declared by the minister to be either class A or B. |

3.5 Any other ATSIC asset may be declared by the Minister to be either a class A or class B exempted asset. In these cases, which body acquires ATSIC's liabilities (IBA, ILC or the Commonwealth) is entirely at the discretion of the Minister. Assets of the Regional Councils are vested in the Commonwealth once they are abolished.⁴

3.6 Item 192(4) of the Bill specifies that, if an asset was held by ATSIC on trust, then the body to which the asset is transferred will hold it on trust 'subject to the terms of the trust' under which it was held by ATSIC.

3.7 ATSIC does hold assets other than the various Fund moneys and pastoral stations. It holds shares in Yipirinya (Yeperenye) and Imparja Television.⁵ ATSIC also holds other assets, including artworks and artefacts valued at \$1.76 million.⁶ AIATSIS pointed out that:

With the abolition of ATSIC, there is an immediate risk of disbursement of material of long term historical significance to Indigenous peoples and the Australian community in general. AIATSIS is well placed to fulfil the responsibilities of a central repository of cultural and other material of relevance to Indigenous peoples held by ATSIC/ATSIS, including the library, art, media and ephemera.⁷

3.8 The Government indicated it planned for these assets to be transferred to the Commonwealth rather than IBA or the ILC.⁸ This would effectively mean they would pass out of the hands of Indigenous-controlled organisations. More recent evidence

4 ATSIC Amendment Bill, Schedule 3, Item 48.

5 Mr Gibbons, *Committee Hansard*, Canberra, 29 June 2004, p. 23; see also DIMIA and OIPC *Submission* 128A, pp. 2-3. Although decisions have been made to divest these shares to other Indigenous organisations, the Committee understands implementation is being delayed by taxation issues.

6 OIPC, *Submission* 128B, Q.3.

7 *Submission* 144, p. 11.

8 OIPC, *Submission* 128B, Q.3.

was given suggesting there would be discussions between AIATSIS, OIPC and the National Gallery of Australia about how the collection would be preserved.⁹ The Committee supports the maintenance of the collection as a coherent entity, and also that Indigenous people should formally have custody of Indigenous artworks and artefacts.

3.9 The principles that should underlie any decision about the future ownership and location of the artworks and artefacts currently in the possession of ATSIC include:

- That the collection be maintained as a single, coherent entity;
- That Indigenous people and organisations be closely involved in, and approve, the location of the collection; and
- That the collection remains in public hands.

3.10 Because the ATSIC art collection emphasises desert and Northern Australian art, a location in the Northern Territory or possibly another part of Northern Australia might be favoured.

Recommendation 3.1

3.11 The Committee recommends that all assets controlled by ATSIC continue to be applied to the benefit of Indigenous Australians, and that Indigenous people retain custody of Indigenous artworks and artefacts.

Changes to the Office of Evaluation and Audit

3.12 Under the original Act, the Office of Evaluation and Audit (OEA) was established within ATSIC. OEA has never had the same degree of independence as the Auditor-General. Its director was appointed by the Minister after consultation with the Commission. It could conduct audits within its terms of reference at its own initiative, or, in particular situations, when requested by the Minister, the Commission, the TSRA, Aboriginal Hostels Limited, the ILC or IBA.¹⁰

3.13 Under the new arrangements, OEA will be established within DIMIA, and its agenda will be set to a large degree by the Minister.¹¹

3.14 The Bill proposes to change the role of OEA. Currently OEA examines the activities of Indigenous organisations such as the Commission. Under the proposed

9 Mr Larkin, AIATSIS, *Proof Committee Hansard*, Canberra, 3 February 2005, pp.28–9; Senate Legal and Constitutional Committee, *Estimates Hansard*, 27 May 2004, pp. 60–1.

10 *ATSIC Act 1989*, S.76.

11 *ATSIC Amendment Bill*, Schedule 2, Item 1; Mr Vaughan, *Committee Hansard*, Canberra, 29 June 2004, p. 38.

Bill, OEA will be able to evaluate any 'relevant program' administered by an Australian Government body, and to audit organisations and individuals who receive funding under relevant programs. A relevant program is:

A program, or a program component, under which money is provided, including on loan, or a guarantee is given, or an interest in land or other property is transferred, for the purpose of furthering the social, economic or cultural development of Aboriginal persons or Torres Strait Islanders.¹²

3.15 Even prior to the administrative changes implemented by the Government in the first half of 2004, ATSIC was not responsible for all federal Indigenous programs, so this change in definition of what OEA can audit broadens the scope of OEA's scrutiny. The Committee notes that this change is consistent with the recommendation of the ATSIC Review, that:

The role of the Office of Evaluation and Audit be expanded to enable it to evaluate and performance audit the programs and services of all service providers including all agencies of government where the Australian Government has provided resources for the provision of services for Aboriginal and Torres Strait Islander people.¹³

3.16 In its submission, the National Aboriginal Community Controlled Health Organisation (NACCHO), expressed concern that this would not go far enough:

Currently, there is no explicit mechanism whereby Departments can be held accountable for mainstream health program expenditure and whether these programs reach target populations such as Aboriginal peoples and Torres Strait Islanders as is required under the Australian Governments Charter of Public Services in a Culturally Diverse Society (1996). If enhanced Departmental accountability only pertains to a restricted set of health programs, NACCHO cannot see that this process will contribute to address the current lack of accountability.¹⁴

3.17 NACCHO's doubts are partly based on its experience in the area of health, where mainstream health services were inadequate.¹⁵ The Commonwealth Grants Commission report also identifies this issue, indicating that Indigenous people may not be accessing mainstream programs to the same extent as non-Indigenous people.¹⁶ Even under the proposed new, expanded mandate, OEA will not be able to examine this type of problem.

12 ATSIC Amendment Bill, Schedule 2, Item 1.

13 *'In the Hands of the Regions'*, Recommendation 54.

14 *Submission 179a*, p. 15, footnotes in original omitted.

15 *Submission 179a*, p. 8.

16 Commonwealth Grants Commission, *Report of the Indigenous Funding Inquiry*, Vol. 1, pp. 59–61.

3.18 Concern was expressed that the change could bring more bureaucracy rather than more transparency:

...there is such an increasing array of auditing processes and possibilities that there needs to be a clean look at who should be auditing Aboriginal organisations and for what purpose, to make it more streamlined and appropriate. Certainly, it looks to us after our initial trawl through the bill that this is only going to make it a yet more complex and difficult process rather than an easier one to work through, particularly for organisations like the land council, where the transparency and scrutiny is already extremely high in terms of annual reports and the ANAO.¹⁷

3.19 There is also the question of whether the audit function is being broadened without resources to match. There are already areas that OEA has the power to examine, but which it has not explored.¹⁸ It is not clear whether there is a plan to increase OEA's budget to allow its operations to significantly expand.¹⁹ Whether this broadening of OEA's remit is going to enhance the scrutiny and performance of Indigenous programs will depend on OEA having adequate resources.

3.20 The mainstreaming of ATSIC functions and Indigenous programs generally creates a more onerous task for the Parliament in overseeing and monitoring the Government's overall performance. In the case of each program, there is a good chance that, under the new arrangements, failures or shortcomings in its performance might well be less apparent, and even overlooked. There is a sound argument, therefore, for a new structure or process to be established, so that adequate public scrutiny can be ensured.

Changes affecting the Indigenous Land Corporation and Indigenous Business Australia

3.21 The ILC is required to prepare an Indigenous land use strategy to guide it in the performance of its functions.²⁰ Under the current Act, the ILC 'must have regard to the desirability of consulting the Commission' when preparing the strategy.²¹ The Bill in its current form does not propose to require any other consultations with Indigenous organisations to replace the reference to ATSIC, leaving the clause to read:

17 Ms Weepers, *Committee Hansard*, Darwin, 24 August 2004, p. 36.

18 See, for example, comments regarding Native Title Representative Bodies: Mr Vaughan, *Committee Hansard*, Canberra, 29 June 2004, p. 37.

19 OIPC *Submission* 128B, Q16, provides some budget data, but it is not able to be used for comparisons of the old and proposed new arrangements for OEA.

20 ATSIC Act S.191Q.

21 ATSIC Act S.191N; See also Mr Vaughan, *Committee Hansard*, Canberra, 29 June 2004, p.7.

In performing functions under this section, the Indigenous Land Corporation Board may consult such other persons and bodies as the Board considers appropriate.²²

3.22 The Committee notes that retaining the word 'other' no longer makes sense, as its use was a consequence of the provision also containing the provision requiring particular regard to be had to the views of ATSIC.²³

3.23 The Bill will for the first time empower the ILC to give money to IBA for projects.²⁴ It is likely that the ILC will acquire properties that were previously owned by ATSIC.²⁵ In evidence, the ILC's general manager, Mr Galvin, indicated it did not think the acquisition of 19 properties from ATSIC would be an issue:

I do not think that will bring too much of a burden upon us. We have already purchased 172 properties and we have 108 under a remediation strategy which looks at properties, their condition, the people who are there and the aspirations for those properties and provides funds and property management plans. We will just incorporate them into our normal regime.²⁶

3.24 The Committee is nevertheless concerned about the capacity for the ILC to manage the expanded portfolio of properties. As Mr Galvin noted, the ILC is already starting to expend considerable resources on management of properties already in its portfolio:

Land management expenditure has been escalating because now we are looking at Indigenous held land that needs what we call our remediation strategy. Back in 2000-01 we looked into 156 properties that we had purchased, and found that probably 85 per cent of them were not generating the benefits that people thought they were going to. Primarily, the reason for that was that they were purchased without a great deal of scrutiny or effort. It was more that land equalled benefit.

We have developed a remediation program where we go back to those properties and the landholders. We have got about 108 of those 152 properties in our remediation program, where we are developing property management plans. We are fixing up infrastructure.²⁷

3.25 The ILC is thus already having to spread its resources across acquisition, property maintenance and remediation, and is now going to acquire a diverse range of

22 ATSIC Amendment Bill, Schedule 1, Item 136.

23 In a related manner, the Committee notes that the retention of the phrase ', as the case may be,' in subsection 42(3) of the AIATSIS Act will make no sense if the Bill proceeds in its current form.

24 ATSIC Amendment Bill, Schedule 1, Item 133.

25 Mr Vaughan, *Committee Hansard*, Canberra, 29 June 2004, p. 27.

26 *Proof Committee Hansard*, Brisbane, 31 January 2005, p.37. See also ILC, *Submission 228*, p. 1.

27 *Proof Committee Hansard*, Brisbane, 31 January 2005, p.42.

properties from ATSIC. These new acquisitions will be imposed on the ILC effectively regardless of whether they would have been consistent with the ILC's acquisition policies and strategies.

3.26 While the Committee notes the ILC's assurances of its capacity to manage this expanded portfolio of properties, the Committee nevertheless considers that the issue should be monitored by the Parliamentary Joint Committee on Native Title as part of its statutory scrutiny role of the ILC.

Recommendation 3.2

3.27 The Committee recommends that ILC's capacity to manage its portfolio of properties be monitored by the Parliamentary Joint Committee on Native Title as part of its statutory scrutiny role of the ILC. In the event that ATSIC and its regional councils are abolished, the ordinary members of the ILC Board include an Indigenous representative nominated by a relevant Indigenous organisation

3.28 The Committee also notes assurances by Mr Galvin, CEO of the ILC, that the changes will not have any effect on the number of Indigenous people on the seven member ILC Board, notwithstanding that once the Bill is passed and ATSIC is no longer in existence the two ATSIC representatives cease to be members of the board.

3.29 As Mr Galvin explained:

[T]here will still have to be five Indigenous members of the board and two other members who have certain skills and who can be Indigenous or not.

It would be up to the minister to appoint two other Indigenous members, so there is no reduction in the number of Indigenous members.²⁸

3.30 The Committee notes that if the Parliament were to abolish ATSIC but retain the Regional Councils, there would be an opportunity to require that one of the ordinary members of the ILC Board be a Regional Council member, just as the Act currently requires one of them to be a Commissioner.²⁹

3.31 The changes affecting IBA are different. Currently, the Act sets out principles under which IBA should operate.³⁰ The ATSIC Act also currently indicates that:

Except as expressly provided in this Act or the Commonwealth Authorities and Companies Act 1997, the Minister is not empowered to direct Indigenous Business Australia in relation to any of its activities.³¹

28 Mr Galvin, *Proof Committee Hansard*, Brisbane, 31 January 2005, p. 45.

29 One Board member is required to be a Commissioner under the *ATSIC Act 1989*, s.191X(5). This subsection is proposed to be repealed under the Bill.

30 *ATSIC Act 1989*, S.148.

31 *ibid*, S.151.

3.32 These 'expressly provided' powers given to the Minister are currently quite limited: the Minister can ask IBA to change its Corporate Plan (but not demand that it do so),³² and can request information.³³ In addition, the Treasurer can limit the total loans for which IBA can provide guarantees.³⁴ As the IBA submission points out, 'IBA is therefore not a conventional government agency and operates at arms-length from the Commonwealth'.³⁵

3.33 The Bill proposes to alter this arrangement, saying instead that:

Indigenous Business Australia must perform its functions and exercise its powers in accordance with any general written directions given to it by the Minister.³⁶

3.34 Asked about the justification for this revision of the Minister's capacity to direct IBA, Mr Vaughan said:

at the moment the Minister has such powers in respect of the housing fund and the business loan programs administered by ATSIIC; given that it is planned that those two functions be transferred to IBA, it is appropriate that the minister's powers to give general directions about them should also be imported into the IBA provisions of the act.³⁷

3.35 Section 12 of the current ATSIIC Act sets out the powers of general direction in regard to ATSIIC:

The Commission shall perform its functions and exercise its powers in accordance with such general directions as are given to it by the Minister in writing.³⁸

3.36 In addition, the ATSIIC Act currently states that 'Money in the Housing Fund shall not be spent otherwise than in accordance with budget estimates approved by the Minister'.³⁹

3.37 The amendment proposed in the Bill to provisions governing IBA will apply to *all* of IBA's functions. This represents a significant change to the capacity of IBA to control its own operations. In its submission, IBA indicated that it supports changes to the Act.⁴⁰ However, it also indicated that it supported legislation 'framed in a way

32 *ibid*, S.150.

33 *ibid*, S.154.

34 *ibid*, S.153.

35 *Submission* 130, p. 7.

36 ATSIIC Amendment Bill, Schedule 1, Item 112.

37 *Committee Hansard*, Canberra, 29 June 2004, p. 27.

38 *ATSIIC Act 1989*, S.12(1)

39 *ibid*, S.67(5).

40 *Submission* 130, p.10.

which limits Commonwealth control and therefore any perception that the Commonwealth has any flow-on responsibilities for IBA's actions'.⁴¹ Given that the changes appear to extend ministerial control of IBA's activities, the Committee was not able to clarify how these two positions are reconciled.

3.38 The Committee also sees potential conflict between the reforms to IBA and the recommendations of the Government's recent review of the governance of statutory authorities. That review recommended that 'governance boards should be utilised in statutory authorities only where they can be given the full power to act'.⁴² This change to IBA's functions appears to be moving in the opposite direction.

3.39 The Committee emphasises that IBA has a good track record in the financing of Indigenous business enterprises. The new arrangements will radically shift the focus of the agency, in particular by requiring it to move into the housing loan market, which operates on different principles and has different goals. The generalised financial constraints now to be placed on IBA have the potential to undermine the integrity and success of this organisation, and they certainly reduce its autonomy in financial decision-making. The Committee expresses strong reservations about the changes to IBA's functions and autonomy and urges the Government to agree to a review into their effects on the organisation, to take place within three years of the new arrangements' taking effect.

3.40 The new requirement being imposed on IBA regarding ministerial directions is not being applied to the ILC. The ILC's clause restricting ministerial involvement (Section 191L) is substantively unchanged (except temporarily in regard to the ILC's administration of Regional Land Fund moneys).⁴³

3.41 Finally, the current ATSIIC Amendment Bill 2004 repeals the existing paragraphs 196(1)(a)-(c) which provide for appeals to the Administrative Appeals Tribunal where IBA refuses a business loan. While the Bill provides for such appeals when housing loans are refused by IBA, it neglects the issue of business loan refusals: this avenue of appeal is to be cut off. The Committee regards this omission as unfortunate and believes that such a provision should be restored.

Recommendation 3.3

3.42 The Committee recommends that the Bill be amended to provide appeals to the Administrative Appeals Tribunal in cases where IBA refuses a business loan. The Committee also recommends that the Government examine all new requirements that the Bill and related administrative changes impose on the IBA to ensure that these do not have a negative impact on its operation.

41 *Submission* 130, p.7.

42 John Uhrig, *Review of the Corporate Governance of Statutory Authorities and Office Holders*, June 2003, p. 12,

www.finance.gov.au/governancestructures/docs/The_Uhrig_Report_July_2003.pdf

43 ATSIIC Amendment Bill, Schedule 1, Items 135.

Implications for Native Title Representative Bodies

3.43 The Bill has implications for Native Title Representative Bodies. In response to a question on notice, OIPC summarised the changes:

Representative bodies will no longer apply for grants from ATSIC, but for the provision of funds from the Secretary of the Department which has administrative responsibility for Part 11 of the Act. This is presently the Department of Immigration and Multicultural and Indigenous Affairs...

The Secretary of the relevant Department, rather than ATSIC, will have a role in overseeing the performance of representative bodies. Section 203F will be amended to require the Secretary (rather than ATSIC) to inform the Minister of matters relating to the performance of representative bodies. Section 203FB will be amended to provide that review of assistance decisions made by a representative body will be undertaken by the Secretary of the relevant Department, rather than ATSIC.

The operations of representative bodies will no longer be evaluated under s76 of the ATSIC Act but under the new s193X.

A new s203FI is being added to allow delegation of certain of the Secretary's powers to an officer of the Australian Public Service who is a member of the Senior Executive Service or has equivalent rank.⁴⁴

3.44 In addition, the language of the Bill has been changed, so that Representative Bodies apply for 'provision of funding' instead of a 'grant of money'. The Government has stated that this is 'to ensure greater accountability for outcomes for funds provided to bodies which provide services to Indigenous people'.⁴⁵ The change in language will allow the Government to provide funds through contracts for services.

3.45 The Committee is concerned about these changes. Native Title Representative Bodies provide assistance to native title holders or persons who may hold native title to prepare, lodge and progress claims. This process necessarily has the potential for litigation against the Commonwealth. Until now, the allocation of funds through ATSIC kept them at arms length from Commonwealth agencies. Now that adversary is saying it wants 'to ensure greater accountability' for funds. In practice, this could create the temptation on the part of the Commonwealth to exploit the Representative Bodies' dependency on the Government for funds. There is a clear potential for a conflict of interest to develop, whereby the Commonwealth might direct funding away from organisations it perceives as likely to take it to court in a native title claim.

Recommendation 3.4

3.46 The Committee recommends that the Parliamentary Joint Committee on Native Title carefully examine the issue of conflict of interest in the funding of

44 OIPC *Submission* 128B, Q.18.

45 OIPC, *Submission* 128B, Q.19.

Native Title Representative Bodies as part of its current inquiry into Native Title Representative Bodies.

Consulting with Indigenous Australians

3.47 The existence of ATSIC gave opportunities for Indigenous Australians to have a national, representative voice. One important way in which this voice was heard was through government bodies being required to consult with ATSIC, or to have ATSIC members as representatives on their boards. As Professor Scott stated:

I have prepared in the documents an analysis of what the Bill actually does. It goes through 11 or 12 bits of other legislation and removes the voice of Indigenous people from any of those forums. Nothing has been contemplated to take its place.⁴⁶

3.48 Because ATSIC is to be abolished under this Bill, Indigenous Australians potentially lose control of these opportunities for consultation and participation. These changes include:

- The loss of consultation with ATSIC by the Minister when considering new Directors for either Indigenous Business Australia or the Indigenous Land Corporation, without anything taking the place of that consultation;⁴⁷
- The loss of input, through the Torres Strait Islander Advisory Board, into the selection of a Torres Strait Islander to the Council of the Australian Institute for Aboriginal and Torres Strait Islander Studies;⁴⁸
- Removal of a requirement that the Minister for the Environment consult with ATSIC in some circumstances;⁴⁹
- Removal of a requirement that the Aboriginal and Torres Strait Islander Social Justice Commission *must* consult with any Indigenous organisation,⁵⁰ and
- Loss of ATSIC control over the nomination of a member of the National Health and Medical Research Council (NHMRC).⁵¹

3.49 Under the Bill, Indigenous people also lose some influence over other bodies designed to advance Indigenous welfare. For example, the abolition of ATSIC means that there is no longer an organisation, chosen and controlled by Indigenous people,

46 *Proof Committee Hansard*, Sydney, 2 February 2005, p.102.

47 ATSIC Amendment Bill, Schedule 1, Items 121, 140.

48 ATSIC Amendment Bill, Schedule 4, Item 17.

49 ATSIC Amendment Bill, Schedule 4, Item 23.

50 ATSIC Amendment Bill, Schedule 4, Item 24. The Human Rights and Equal Opportunity Commission Act retains provisions that the Commissioner *may* conduct consultations with Indigenous community organisations etc.

51 ATSIC Amendment Bill, Schedule 4, Item 26.

which can delegate functions to IBA.⁵² Now IBA and its Minister solely determine what IBA will do.

3.50 The Committee believes that, in the absence of ATSIC, Indigenous people should be able to have confidence that their representatives and organisations will be listened to, including by organisations like ILC and IBA. One element of ensuring this could be consultation processes that require engagement with Indigenous organisations.

3.51 The Committee notes that the reforms to OEA will create a definition of programs that OEA will be able to evaluate. They are defined as 'relevant programs' (for the Office of Evaluation and Audit – see the Bill, Schedule 2, Item 1).

3.52 The Committee encourages the Government to consider whether consultation clauses in Acts affecting Indigenous people could make reference to a requirement that 'relevant organisations' being consulted. These could be defined in a manner analogous to the clause above governing the programs that OEA can evaluate. Alternatively, there could be provision made for determinations from time to time as to what are relevant organisations to be consulted for the purposes of particular Acts, or particular proposals. This could take account of the future emergence of national Indigenous representative organisations.

Recommendation 3.5

3.53 The Committee recommends that consultation clauses in the Acts modified by the ATSIC Amendment Bill be amended to insert a requirement to consult relevant Indigenous organisations.

3.54 As well as the direct effects of the Bill, the abolition of ATSIC may have other, indirect effects on Indigenous representation. NACCHO gave an example in the health area:

The abolition of ATSIC removes an Aboriginal representative voice from the Aboriginal Health Framework Agreements forums at the state level of operations... These meetings previously brought together NACCHO Affiliates, ATSIC, with state government representatives from the State Department of Health and Commonwealth representatives from the Office of Aboriginal and Torres Strait Islander Health. As a consequence, the introduction of the Bill, places Aboriginal representative bodies in a minority position at the Framework Agreement table with potentially significant consequences.⁵³

3.55 There are some suggestions about *ad hoc* ways in which other Indigenous organisations could fill the gaps created by the proposals in the Bill. NACCHO suggested that it could take over from ATSIC the role of nominating an Indigenous

52 ATSIC Amendment Bill, Schedule 1, Item 108.

53 NACCHO *Submission* 179a, p. 9.

person to the NHMRC.⁵⁴ The Committee outlined above possible modifications to the legislation to require consultation with Indigenous organisations in some circumstances. However, the fundamental problem not addressed by the Bill is how Indigenous people will be assured of an effective voice at the regional, national or international level. It is to this problem that the report now turns.

Implications for Regional Councils

3.56 The Committee received a substantial amount of evidence on the effects of the Bill on the regional structures currently existing under the aegis of ATSIC. There is widespread concern that these by and large successful bodies will not be adequately replaced, let alone funded. This matter is discussed at length in chapter 4.

54 NACCHO, *Submission 179a*, p. 5.

