

**THE COMMISSION'S
RESPONSE TO THE
ATSIC REVIEW REPORT**

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PREFACE

This document is a detailed analysis of the Report of the Review of ATSIC '*In The Hands of the Region – A New ATSIC*' that is made up of three components.

The first part *The Commission Perspective on the Report and its Recommendations*, details the Commission's perspective on the major concerns and areas of change discussed by the Report.

The second part *In the Hands of the People: The Commission's Position on the Future Development of ATSIC* outlines the Commission's proposed alternative for the future design of a new ATSIC.

The third part contains two attachments – the first is an initial analysis of all 67 recommendations of the ATSIC Review Report with the Commission's position in relation to these and the key issues each recommendations raises for ATSIC. The second attachment is a table that compares the Report's proposed changes to ATSIC's national structure with the current structure and the new ATSIC model proposed by the Commission.

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Part 1

The Commission Perspective on the Report and its Recommendations

Introduction

On 28 November 2003, the final Report of the Review of Aboriginal and Torres Strait Islander Commission *'In the Hands of the Regions – A New ATSIC'* (the Report) was released. The Report contains 67 recommendations that address a range of issues relating to the functions, structure and arrangements of ATSIC both at a national and regional level. The Terms of Reference for the Review were primarily focussed "on how Aboriginal and Torres Strait Islander peoples can in the future be best represented in the process of the development of Commonwealth policies and programmes to assist them" and ATSIC's roles in providing "programmes and services to Aboriginal and Torres Strait Islander people".

ATSIC had welcomed the review as an opportunity to address the views and aspirations of Aboriginal and Torres Strait Islander peoples, and to establish an enhanced, constructive relationship between ATSIC and the Australian Government. While the main concern of the Review was the representation of Aboriginal and Torres Strait Islander people at the national level, clearly the Review was also an opportunity to consider both sides of the linkages between Aboriginal and Torres Strait Islander people and Governments.

The Commission has indicated support for aspects of the Report and has signalled agreement with many of the ideas and principles underpinning most of the recommendations. The Report however does not present the progressive agenda for reform that was sought in order to advance ATSIC's role as the peak representative Indigenous body. It also fails to recommend the broader systemic changes required to ensure Governments and their Departments are receptive to the needs and aspirations of the Indigenous community, whether advocated on their behalf by the Commission or directly themselves.

Self-determination

While broadly supportive of self-determination, the Report does not specifically propose any changes to achieve it. The opening recommendation proposes no change to the current objects of the ATSIC Act. ATSIC believes that the Review provided an ideal opportunity to formally recognise the right to self-determination rather than be limited by the current reference to self-management in the Act. ATSIC regards self-management as less significant and believes it does not adequately emphasise or provide for Aboriginal and Torres Strait Islander peoples taking responsibility of their communities and having real authority within community based governance systems. Governments have increasingly supported Aboriginal and Torres Strait Islander peoples' participation in decision making and control as fundamental components for taking responsibility for

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improving the health, well-being and sustainable development of Indigenous communities. In order to implement this responsibility effectively Aboriginal and Torres Strait Islander peoples must be recognised as having the authority to govern our communities particularly where mainstream governance systems and services are non-existent or ineffective.

One of the key principles of the ATSIC submission was the right to self-determination based on inherent rights and the laws, traditions and cultures of the Indigenous peoples of Australia. It has been over ten years since the High Court recognised the rights of native title holders and traditional owners and the formal recognition of this within the ATSIC structure is long overdue. Therefore, ATSIC believes that the recognition of self-determination within the ATSIC Act would also protect and promote the inherent rights of traditional owners and native title holders.

Practical measures that would have recognised self-determination such as the establishment of regional authorities were also not recommended by the Report. Greater regional autonomy through the creation of regional authorities as well as agreement making with governments is a primary goal of many Regional Councils who seek greater control and responsibility over the decisions that impact on their communities. Both the Commonwealth Grants Commission (CGC) and the Council of Australian Governments (COAG) have recognised that full participation in identifying needs and in decision-making about funding for provision of services, along with the ability to form productive collaborative arrangements with the main providers of services, are important ways of building effective Indigenous governance.

In excluding these practical measures, the Report fails to increase the scope of elected regional Aboriginal and Torres Strait Islander representatives to determine the ways in which policies and programs are developed and delivered to meet the specific needs of their people.

National and Regional Representation

Much of the Report focuses on the representativeness of current arrangements and argues for more regional representation at a national level, and more connection between the regions and the national structure. As a solution to this issue, the Report proposes a new national body composed of all 35 Regional Councils Chairs, a Chair and Deputy Chair (full-time), TSIAB Chair, two Ministerial appointments, and the TSRA Chair who is a non-voting member (a total of 41). In addition, the Report proposes a national executive with eight members drawn from the national body, and the TSIAB Chair, and two Ministerial appointments.

The Commission rejects these proposals for a number of reasons.

Firstly, the proposed procedures for the election of the Chair and Deputy Chair of the national body, as well as the part-time Regional Council Chairs of the national executive, extinguishes the current right of Regional Councillors to elect their full-time national

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representatives. The Report does not justify this step other than the implied justification that the proposed national executive should be established at the expense of this right of all Regional Councillors.

The Report proposes that rather than the current 371 Regional Councillors electing the full-time national representatives these will be elected by the 41. This is not consistent with an approach that seeks to improve the representativeness of national representatives.

Secondly, the provisions for the new national body and national executive represent a reduction of national and regional representation from 53 to 38, a 28% reduction in the current arrangements. The proposal also reduces the number of full time national representatives from 18 to two, representing an 89% reduction. Despite the Report's concerns to strengthen the level of representation in ATSIC and the capacity of the elected arm, this key proposal undermines Indigenous representation. It is also difficult to see how the current level of full-time work by Regional Council Chairs on regional-level matters will be maintained when the proposed national body structure adds national responsibilities to their current workloads. While the Report proposes that the national body meet twice during its four year term, the current crisis in Indigenous communities means the body will be under growing pressure to meet more often further adding to the pressures and workloads of Regional Council Chairs.

Thirdly, by not requiring mandated based geographic representation on the national executive there is a risk that the interests of Indigenous peoples living in small states territories, rural and remote areas will not be properly represented.

ATSIC believes that at a time when the crisis in many Aboriginal and Torres Strait Islander communities is increasing, there is an urgent need to support and enhance national representation to ensure the effective advocacy of Indigenous interests, rights and needs.

Representation of Torres Strait Islanders on the Mainland

The recommendations addressing the arrangements and structure of the Torres Strait Islander Advisory Board (TSIAB) are disappointing as they maintain the status quo on the major issue of key stakeholders not having the power to vote and therefore not being able to determine their elected representatives. Similarly, proposed changes to the Office of Torres Strait Islander Affairs (OTSIA) are not supported by ATSIC because they do not reflect the aspirations of Torres Strait Islander peoples. OTSIA has argued for recognition of their separate functions.

The principles behind the proposals to make the TSIAB Chair full-time and reform the arrangements for full-time representation of Torres Strait Islander people at the national level within the national body warrant further consideration should that model not be adopted.

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Relationship with Government

The Review continues to support ATSIC's role as the peak Indigenous representative body and principal Indigenous policy adviser to all levels of government. It also recommends a number of positive proposals that would assist in improving the opportunity of a national Indigenous body to engage with the Australian Government, in particular an annual report by the Cabinet Secretary on ATSIC's involvement in the Cabinet process. The Report also proposes changes to current arrangements that are likely to improve the engagement of a national body with the Australian, State and Territory Governments through COAG. While the Commission supports these recommendations it also believes that as a package the proposed changes either fall short of the Commission's proposals or the benchmarks set previously in relation to landmark national statements of commitment in Indigenous affairs.

The Report also does not make recommendations that ensure any change in how the agreement and practical support of all levels of government will be gained in order that the interests of Aboriginal and Torres Strait Islander peoples are advanced successfully. While the focus of the Review was on ATSIC it also had considerable scope to advance a more ambitious set of reforms for the engagement of Aboriginal and Torres Strait Islander peoples with Governments.

Furthermore, the Report does not propose much change at the State and Territory Government level failing to adopt ATSIC's proposals to provide State Advisory Committees with a legislative basis to engage with State and Territory Governments. ATSIC has consistently argued that fundamental change is required in the relationship and commitment of the Australian, State and Territory governments to ATSIC in order to improve coordination and delivery of services in Indigenous communities and provide sustainable solutions to local problems. ATSIC believes the Report did not sufficiently address this objective.

ATSIC originally sought to strengthen the formal and direct relationship with the Government with a more ambitious package of measures - firstly with the Prime Minister, then with Cabinet Ministers and with the Parliament as a whole. However, the Report only proposes the specific measure involving the Cabinet Secretariat making an annual report on ATSIC's involvement in the Cabinet process. This alone will not achieve the intended strengthened relationship between ATSIC and the Australian Government.

Under the ATSIC Act, the Commission has the function of providing advice to the Minister on matters relating to Aboriginal and Torres Strait Islander affairs, including the administration of legislation. ATSIC supports the continuation of this function and seeks to strengthen its role as the peak Indigenous policy adviser to all levels of government based on its democratic representation of Aboriginal and Torres Strait Islander peoples. ATSIC believes there is no other organisation at a national, state or territory level that can fulfill this role. The Report recommends the replacement of Office of Aboriginal and Torres Strait Islander Affairs (OATSIA) with a small group located in the Department of

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Prime Minister and Cabinet, who will provide policy advice on Indigenous affairs. Such a body could detract from the intended strengthened relationship between ATSIC and the Australian Government and reduces ATSIC's role as the principal adviser on Indigenous policy to the government. However, if the Government believes there is a need for such a separate body, it should be located where it will have the most influence and best advance an Indigenous perspective.

Powers of the Minister

The Report makes a number of recommendations regarding the powers and role of the Minister in relation to ATSIC, including the power to remove elected officials and exercise a veto power in relation to decisions of the elected arm. ATSIC continues to agree that it is inappropriate for the Minister to have the power to remove ATSIC elected officials or to order an inquiry with coercive powers to remove an official. ATSIC seeks the use of an inquiry to be conducted by an Independent Tribunal, as has been recommended to the government by the 1998 ATSIC Review. As the report noted:

Decisions for the removal of an elected official are better not made by other elected officials, who may be perceived to be influenced by political rather than purely objective considerations.

The Review Report also recommends the introduction of 'a vote of no confidence' motion whereby a Regional Council Chair or the Chair or Deputy Chair of the national body can be removed by a statutory majority. While such a measure, has the potential to create considerable instability from frequent "votes of no confidence" called by sectional interests within the national body or Regional Council, the Commission is also willing to negotiate on this provision. ATSIC seeks a more formal process and staged approach for removing elected representatives that will avoid inappropriate actions and provide for a more transparent, accountable and fair outcome.

The Report recommends that ATSIC's Chief Executive Officer (CEO) should be appointed by the Minister after consultation with the national executive. ATSIC does not support this recommendation because it is a backward step in terms of the current provisions in the Act which require the Commission's agreement before the Minister can appoint the CEO. At best, this reflects a paternalistic approach that would undermine the autonomy of the Commission and its decision making authority over how it governs and administers itself.

Another crucial area where ATSIC seeks to enhance its capacity for self-governance is in relation to the employment of its staff. ATSIC believes that it should be able to employ its own staff through provisions made in the ATSIC Act and through the use of contracts, rather than under the Public Service Act. ATSIC regards such a measure as providing for the employment of staff that are better able to assist in the development and support of the Indigenous perspective on policy and programs.

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Regional Councils

Many of the Report's recommendations and its title '*In the hands of the regions – a new ATSIC*' imply that the intention is to empower Indigenous peoples in the regions and provide for their greater involvement in national decision making. ATSIC has been drawing attention to the need for a greater focus on the regions for some years and supports those recommendations that seek to strengthen the position and capacity of Regional Councils and Regional Council plans. ATSIC endorses provisions that seek to enhance the role of Regional Councils amongst governments, accommodate for diversity in the arrangements of Regional Councils, and make changes to Section 94 of the ATSIC Act to ensure these proposals are implemented. ATSIC also welcomes those recommendations that promote a whole of government approach to Regional Council plans and an increased role for the Commonwealth Grants Commission (CGC) in developing measures of relative need. ATSIC has been implementing changes that focus on Regional Council plans addressing needs, outcomes and capacities.

While ATSIC agrees to many of the proposed changes for Regional Councils, it also believes that as a package these measures do not sufficiently capture the reform ATSIC sought. The Report does not consider the evolution of Regional Councils into Regional Authorities as warranted, even on a trial basis. This is a major disappointment to progressive Regional Councils who have taken great strides to develop themselves as credible and effective representative of their communities with sound governance frameworks. There is no explicit acknowledgment of the desire of many Regional Councils to have greater authority to enter into agreements with governments, an important step in terms of formalising the relationships and commitments between Regional Councils and Governments. ATSIC believes that without more formal means of committing governments to working with Regional Councils the proposed changes limit the power in the hands of the regions.

Program and Service Delivery

ATSIC supports playing an equal role with all Governments to identify and clarify program and service delivery roles and responsibilities, and welcomes the recommendation seeking ATSIC's participation in a round table to achieve this aim. Like the Report, ATSIC believes a whole of government approach based on effective community consultation, is the most effective way of improving outcomes in the delivery of programs and services and sharing the responsibility in meeting that objective. ATSIC also supports a partnership arrangement and agrees to its involvement in Memorandum of Understandings (MOU) and bilateral agreements that involve Indigenous issues.

While ATSIC agrees with many of the proposed changes for ATSIC's engagement with the Council of Australian Governments this package of measures falls short of the effort needed to marshal the authority and resources of all Governments to deal with the crisis in Indigenous communities. The recommendation to give the ATSIC Chair observer status only at the COAG meetings does not however align with the commitment to new working relationships and shared responsibility that COAG advocates. While it includes

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ATSIIC in Council matters related to Indigenous peoples, it provides little assurance that ATSIIC will have a real say or involvement in the proceedings of this powerful inter-governmental forum. A prospect that is likely to result in poor decision-making in terms of Aboriginal and Torres Strait Islander peoples being unable to assume real responsibility for the decisions that effect or impact on Indigenous communities

The package of COAG-related measures is disappointing in terms of it falling short of the innovative ideas agreed to by COAG in 1992, specifically, the commitment to negotiate with and maximise the participation of Aboriginal and Torres Strait Islander peoples through their representative bodies, including ATSIIC.

The Relationship of the Elected and Administrative Arms

This relationship is fundamentally important to the long term performance and effectiveness of the Commission and Regional Councils. ATSIIC supports the Report's recommendation to return ATSIIC to a single organisation. ATSIIC believes that a unified organisation with an internal separation of powers entrenched by legislation, provides a significantly more efficient and cost-effective model than the interim arrangements.

Funding

The Report recommends changes to ATSIIC's funding arrangements and the purchase of services. It argues that ATSIIC must shift away from grant funding based on historical arrangements and focus on outcome-based contracts. ATSIIC agrees with the concerns expressed by the Report about historical funding and has always sought to discourage this type of arrangement.

Furthermore, the Ministerial Directions effective from 1 July 2003, have resulted in progressive changes in ATSIIC's funding arrangements. The development of Standardised Funding Agreements has been designed to assist communities improve administration and avoid duplication. While current appraisals are taking place in the regions with regard to funding distributions, ATSIIC also recognises the need to continue supporting those organisations that provide a range of vital community services. The Commission is concerned that in some cases the use of contracts and tendering processes would work against such organisations and not be appropriate to the unique cultural environment in which they operate. However, ATSIIC also accepts that future funding should be based on the achievement of outcomes and welcomes any changes that move to an outcomes focus for all programs and greater accountability of all providers to Indigenous communities.

Electoral Arrangements

ATSIIC sought the development of an ATSIIC electoral roll that would make ATSIIC elections more relevant to Aboriginal and Torres Strait Islander peoples. More importantly the roll increases the Indigenous control over the determination of who constitutes ATSIIC electors. While the Report did not endorse this suggestion, ATSIIC supports the continuation of voluntary voting and encourages voter participation in

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elections. Seeking to promote the greater participation of women in elected positions is a priority of ATSIC and was addressed in its submission to the review.

Conclusion

As the only elected national Indigenous body, ATSIC must continue to be supported in its role as the peak body representing Aboriginal and Torres Strait Islanders people's views to all levels of Government. ATSIC welcomes the Report's desire to continue ATSIC's role as an agent for positive change in the development of policies and programs to advance the interests of Aboriginal and Torres Strait Islander peoples. ATSIC also supports the intent of the Report to ensure the greater participation and commitment of all governments in Indigenous affairs.

Overall, ATSIC believes many of the recommendations of the Report could serve to strengthen its capacity to broker the relationship between Indigenous communities and governments at the local, regional, state and national levels. Much of the Report reflects the calls for change that ATSIC has been making for some time and which require action from all governments rather than just ATSIC. The Report offers a number of measures that if implemented could advance the role and position of ATSIC and its relationship with governments, provided that the concerns expressed by the Commission are given serious consideration and are incorporated into the future design of a new ATSIC.

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Part 2

In the Hands of the People

The Commission's Position on the Future Development of ATSIC

National Representation

The Commission recognises the need for ongoing reform across all areas of Indigenous affairs including its own structures and internal processes but believes there are fundamental flaws in the proposed new national body and national executive. In order to address the expressed concerns and present a positive and constructive way forward, the Commission proposes an alternative model to improve the effectiveness of Indigenous representation at the national level. This model enhances the linkages between the elected arm and its constituency and the accountability of the leadership, while also maintaining an appropriate level of national representation.

The Review Report expressed concerns about the accountability and representativeness of the elected arm to its constituency. The Report argued that better mechanisms were required to facilitate communities' views 'up the line'. ATSIC's alternative model seeks to address this concern through major changes to its electoral arrangements.

ATSIC proposes the direct election of all Regional Councillors and Zone Commissioners. This would transfer the right to vote for both the regional and national leadership to the communities and in turn, make the leadership directly accountable to its constituency. This would give Aboriginal and Torres Strait Islander peoples more control over the constitution of their national leadership than ever before. Candidates would only be allowed to seek election for one position i.e. Commissioner or Regional Councillor and would hold their position for a four year term. Regional Council Chairs would continue to be elected by their Regional Councillors.

While the Review Report's proposals for the election of full-time national representatives would result in Regional Councillors losing their right to decide who will represent them nationally, the Commission's new approach extends that right to all Indigenous constituents. The Commission proposes that at the next national election both regional and national representatives be elected by Indigenous community members. Unlike the proposal of the Review Report, the Commission seeks to anchor the election of national representatives in the community rather than the Regional Councils.

In addition, the Commission is prepared to consider the adoption of a 'vote of no confidence' provision for the removal of elected representatives with the use of an Independent Tribunal and safeguards that ensure frivolous or vexatious attempts to conduct a vote of no confidence are prevented.

One of the concerns expressed in the Review Report was the apparent 'disconnect' between the Commission and the Regional Councils. ATSIC's alternative model

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proposes that the National Chair be elected by all Regional Councillors in order to provide for a direct connection between the national leadership and those representatives elected by the people. This measure would also serve to strengthen the relationship between Regional Councillors and elected representatives at the national and regional level. Candidates for the National Chair would be drawn from the pool of Zone Commissioners.

The Commission is of the view that any reduction in the full-time national representation will detract from the capacity of ATSIC to represent and advocate on behalf of all Aboriginal and Torres Strait Islander peoples at the national level. The challenges in Indigenous affairs are not diminishing, rather the crisis remains and yet the Report proposes a major reduction in the resources available for elected Indigenous representatives to advocate at a national and State and Territory Government level. Rather than decrease this representation, the Commission proposes retention of a full-time national board comprising 20 Commissioners responsible for national leadership and advocacy.

The Board will consist of 17 Zone Commissioners (includes an additional Commissioner for SA), a National Chair, the TSIAB Chair who would have full voting rights and a TSRA representative who would have observer status.

One of the issues ATSIC has with the review team's proposal for a national executive is the lack of mandated geographic representation in the national leadership. The likely outcome of an election for the national executive is that the larger geographic areas with more Regional Council Chairs (RCC) and the areas of common interest and experience (eg urban-based RCCs) will dominate, thus reducing the representativeness of the national leadership in terms of the diversity of Indigenous peoples. The Commission's alternative model of retaining Zone Commissioners ensures that the representation of the states and territories and rural and remote regions would be retained at a national level.

Removal of Elected Officials

The Report has recommended establishing a provision for Regional Councillors whereby a Chair or Deputy Chair could be removed by a 'vote of no confidence' motion. Such a measure is seen as giving increased authority to Regional Councils over their full-time elected officials. The Commission is willing to negotiate on this recommendation and is in agreement with increasing the role and responsibility of Regional Councillors as well as the accountability of elected officials. The Commission however, seeks a fair and transparent process and proposes a system through the use of an Independent Tribunal in conjunction with the vote of no confidence by a statutory majority of 70%.

The Commission proposes that firstly there would need to be a 70% majority support for a petition to have a vote of no confidence. This would require a statement of reasons for the proposed removal of the individual in question. If there was a 70% majority supporting the proposal for removal, the person would then be given a right of reply, specifically addressing the statement of reasons. Following this, the vote of no confidence

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would be taken which would also require a 70% majority to proceed to an Independent Tribunal for a final decision.

Such a process recognises the need to make provisions to allow for the removal of elected officials by the electors, while also ensuring against inappropriate actions by sectional interests. An alternative to the above proposal would be the use of the Independent Tribunal at an earlier stage of the process so that the final vote for removal would lie with the elected representatives yet still on the basis of a 70% majority.

National Forum

The Report claims that ATSIC's national policy needs to be developed in accordance with community, local and regional issues. The Report recommends a national body involving all 35 Regional Council Chairs to facilitate a bottom-up approach to setting national policy positions and a national plan. The Commission supports facilitating regional involvement in formulating national policy and a national plan. One option is to conduct biennial or annual forums of all Regional Council Chairs in order to provide an opportunity for regional input. Another alternative is to allocate positions on all six national board committees to Regional Council Chairs.

Why this model?

The Commission's alternative model for a new ATSIC is one that seeks to address both the concerns of the Review Team, as well as its own about the Report's recommendations for change. The new ATSIC proposed by the Commission strengthens the relationship between all elected officials and their constituents as well as the accountability of the national and regional representation, while not extinguishing existing rights to vote. The model also retains a maximum level of national representation in the belief that any reduction will undermine the capacity for leadership and advocacy of Aboriginal and Torres Strait Islander peoples' interest at the national level. The Commission is in agreement with the view of the Report that ATSIC must be responsive to the needs of those it serves and feels that the model it proposes is ultimately about putting ATSIC back in the hands of all Aboriginal and Torres Strait Islander peoples.

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Part 3

Attachment 1

Initial Analysis of the ATSIC Review Report Recommendations

The Report of the Review of ATSIC *'In The Hands of the Region – A New ATSIC'* was released 28 November 2003. The following table includes the 67 recommendations of the Report, ATSIC's position in relation to these and the key issues they raise for ATSIC.

The first column contains the recommendations as they appear in the Report and the relevant page numbers. The middle column states the level of consistency between ATSIC's submissions to the review and the Report's recommendations. The third column identifies the issues and presents ATSIC's position in relation to the recommendations.

If the specific idea or focus of the Report's recommendation was not addressed in either of the ATSIC submissions, relevant past ATSIC positions have been included. In addition, the third column contains the Commission's perspectives as developed during its consideration of the recommendations in early December 2003.

As the Commission rejects Recommendation three, it should be noted that the perspective or position on subsequent recommendations is based on the adoption of an acceptable alternative to the proposed new national bodies.

The Commission supports the adoption of ideas and principles of any recommendations that are likely to improve its performance and which can be incorporated within the Commission's view of the future ATSIC.

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Report's Recommendations	Consistent/Not Consistent with ATSIC Position	Key Issues
<p>OVER-ARCHING 1. The existing objects of the ATSIC Act should be retained. Refer to Report, p17</p>	<p>Inconsistent</p>	<p>* Maintains the Status quo. * ATSIC has a long established position on the inclusion of the concept of self-determination. Inclusion of self-determination in the objects of the Act is more appropriate and should replace self-management which is a lesser goal. *Recognition of self-determination provides a basis for Aboriginal and Torres Strait Islander peoples to take responsibility for Indigenous communities and of their own destinies.</p>
<p>2. ATSIC should be the primary vehicle to represent Aboriginal and Torres Strait Islander peoples' views to all levels of government and be an agent for positive change in the development of policies and programs to advance the interests of Indigenous Australians. Refer to Report, p18 & p24</p>	<p>Broadly Consistent</p>	<p>* ATSIC endorses the principle of intent of this recommendation and has an established record of trying to implement it. *For this recommendation to be implemented successfully the agreement and practical support of all levels of Government is required.</p>
<p>THE RELATIONSHIP BETWEEN ATSIC AND ABORIGINAL AND TORRES STRAIT ISLANDER AUSTRALIANS 3. The structure of ATSIC shall be altered to provide for a national body and a national executive (Outlined in Report p14-15 and explained on p78-80)</p>	<p>Inconsistent</p>	<p>* Extinguishes the right of Regional Councillors to a direct vote to elect their Commissioner. * Reduces the level of full-time elected Indigenous representation at the national and regional levels from 53 to 38, a 28%</p>

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<p>Recommendation 3 (cont’d)</p>		<p>reduction. * Reduces the national full-time representation from 18-2, an 89% reduction. * Creates two layers of decision-making at the national level as opposed to one at present; decision making boundaries not clear; and reduces the number of full-time representatives. * Potential cost effectiveness difficult to estimate as key elements are not fixed eg. number of meetings; remuneration. * Seeks to increase the accountability over the Chair and Deputy Chairs at the national and regional levels, but this could be achieved by giving the ‘no confidence vote’ power to the current Commission and Regional Councils. * No mandated geographical representation - small states and territories and rural and remote areas are likely to be disadvantaged.</p>
<p>4. ATSIK regional plans should be focused on needs, outcomes, outputs and capacities, not the broad sweep currently set out in the Act. Refer to Report, p32-35</p>	<p>Consistent</p>	<p>* The development of Regional Council Plans is currently focused on addressing needs, outcomes and capacities. * The Review doesn’t go far enough in requiring other agencies to abide by Regional Council plans. * Legislation is required to enforce this recommendation.</p>
<p>5. ATSIK must take the initiative to involve other</p>	<p>Consistent</p>	<p>* ATSIK has a long established</p>

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<p>relevant players, particularly all relevant government agencies, in the preparation of regional plans. Refer to Report, p32-35</p>		<p>commitment to, and experience of, a whole of government approach that shows the initiative of all relevant parties is required. * To succeed this requires legislation to ensure agreement and support of all levels of Government.</p>
<p>6. All spheres of government and government agencies need to be actively involved in assisting with the development and implementation of ATSIC regional plans. Refer to Report, p33-34</p>	<p>Consistent</p>	<p>* ATSIC agrees the Regional Councils must broker the needs and aspirations of the Indigenous communities with the resources, assistance and skills of Government agencies. * Also requires the agreement and practical support of all levels of Government.</p>
<p>7. Section 94 of the ATSIC Act should be amended in accordance with the above recommendations. Refer to Report, p35</p>	<p>Consistent</p>	<p>* While Recommendations 4, 5 & 6 are largely consistent with ATSIC's view, as a package it is inadequate as it fails to support the establishment of Regional Authorities, recognise diversity at a Regional level or that Regional Councils need to make agreements with Government. * s.94 will need to be amended to give effect to ATSIC's recommended changes in the roles of the Regional Councils.</p>
<p>8. Funding to Aboriginal and Torres Strait Islander organisations based on historical funding arrangements, by way of funds grants, should be discouraged. Refer to Report, p7</p>	<p>Not mentioned in ATSIC's submission</p>	<p>* ATSIC-ATSIS has been developing and implementing such changes. * Funding to organisations based purely on historical funding arrangements has always been discouraged. As part of the current submission appraisal delegates are</p>

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<p>Recommendation 8 (cont’d)</p>		<p>required to assess each application on its merits and against program priorities and guidelines and Regional Council priorities and policies.</p> <p>* In many Regions there has been a rebasing exercise to look at how funding is distributed while also recognising the need for ongoing support to a large number of organisations providing a range of community services. Reviews of organisations are carried out on a regular basis to determine their effectiveness.</p> <p>* Because a significant portion of program funding is linked to operational costs, there is an historical element to the funding decisions. However, the Ministerial Direction to ATSSIS has provided the impetus to look more closely at service delivery arrangements.</p>
<p>9. Future funding by ATSIC should focus on outcomes-based contracts for the purchase of services. Refer to Report, p7</p>	<p>Inconsistent</p>	<p>* While the Commission has supported the introduction of contracts and tendering processes concern is emerging about their appropriateness for Aboriginal organisations.</p> <p>* While ATSIC’s policies and programs are based on the achievement of outcomes, for ATSSIS programs the adoption of Standardised Funding Agreements as the basis for future arrangements for community level service delivery will introduce the contract concept.</p>

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Recommendation 9 (cont'd)		* AT SIS will be introducing new Program Funding Agreements (contract based) for all programs in 2004-05. A number of strategies are in train for moving to an outcomes focus for all programs.
10. Bilateral agreements, Memorandums of Understanding (MOUs) and purchaser/provider arrangements should be used to develop more effective working and service delivery relationships between ATSIC, funded service providers and governments. Refer to Report, p7	Consistent	* Many such agreements already exist. * The commitment of other State and Territory Governments is required to enter into more agreements.
11. Professional development programs should be adequately resourced and implemented immediately for both the elected and administrative arms of ATSIC to enable the organisation to cope with the new administrative arrangements and to deal effectively with new working relationships. Refer to Report, p36, see also p50 & p75	Broadly Consistent	* Funds have already been allocated for this purpose.
12. A skills audit of all staff should be undertaken by ATSIC in order to identify the existing level of policy development skills within the organisation. Refer to Report, pp50-51	Largely Consistent	* These issues are currently being addressed through existing business, planning and performance management programs.
13. Adequately resourced policy skills development programs should be instituted for ATSIC staff. ATSIC should develop a model employer program for itself which particularly provides for the development of the skills of its staff in rural and remote regions. Refer to Report, pp50-51	Largely Consistent	* Currently underway.
14. ATSIC's advocacy and representation at the	Largely Consistent	* Consistent with the current strategy to

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<p>international level should continue but must ensure that it reflects the views of its constituents. Refer to Report, p37</p> <p>Recommendation 14 (cont'd)</p>		<p>focus the international program and ATSIC's international activities and to seek the broader involvement of ATSIC's elected arm in ensuring that ATSIC's advocacy and representation efforts at the international level best represent the views of its constituents.</p> <p>* ATSSIS is working to ensure there are improved reporting arrangements in general, including that international developments inform domestic policy development and debate.</p> <p>* There needs to be regular reviews of international activity.</p>
<p>15. ATSIC should review the nature and quality of its communication to the elected membership of ATSIC about its international advocacy and representation activity. Refer to Report, p37</p>	<p>Largely Consistent</p>	<p>* The current strategy seeks the broader involvement of ATSIC through the provision of improved reporting and information dissemination on international advocacy and representation activities.</p> <p>* ATSIC is working in partnership with the HREOC to provide information on international issues, including human rights issues, to Aboriginal and Torres Strait Islander peoples.</p> <p>* Improved communications are a central feature of a revised international strategy being developed for the Board's consideration in March 2003.</p>
<p>16. The ATSIC Board, with the financial and other support of ATSSIS, should immediately examine practical ways, including active campaigns and other</p>	<p>Consistent</p>	<p>* ATSIC supports measures that enhance the representation of women in Regional Councils and the Commission.</p>

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<p>strategies, to address the under-representation of women in ATSIC elected positions; if it has not been completed, this work should continue under any new arrangements for ATSIC. Refer to Report, pp37-39, p41</p>		<p>* ATSIC believes existing provisions within the ATSIC Act can also be utilised to enhance the participation of women and build on with advice from the s.13 Committee (ATSIC, Submission 2, p.15).</p>
<p>17. ATSIC should adopt and resource approaches that have been identified through the implementation of recommendation 16 to ensure that the under-representation of women is remedied. Refer to Report, pp37-39</p>	<p>Consistent</p>	<p>* In accordance with its support for increasing women's representation, ATSIC-ATSIS will continue to provide for appropriate activities and the necessary resources to achieve that aim.</p>
<p>18. ATSIC voting should continue to be voluntary. Refer to Report, p41</p>	<p>Consistent</p>	<p>* Maintains status quo. * ATSIC supports the continuation of voluntary voting (Sub. 2, p.15).</p>
<p>19. ATSIC's activity to encourage voter participation should continue. Refer to Report, p41</p>	<p>Consistent</p>	<p>* A priority since ATSIC's inception.</p>
<p>20. An Indigenous electoral roll should not be introduced. Refer to Report p42</p>	<p>Inconsistent</p>	<p>* Maintains the status quo. * ATSIC supports the establishment of an Indigenous electoral roll (Sub. 2, p.15).</p>
<p>21. ATSIC in conjunction with all levels of government should address the issue of proof of Aboriginality as a matter of priority. Refer to Report, p43</p>	<p>Broadly Consistent</p>	
<p>22. The members of the Torres Strait Islander Advisory Board should continue at this time to be appointed by the Minister. Refer to Report, p44</p>	<p>Inconsistent</p>	<p>* Maintains the status quo and prevents choice by the key stakeholders. * The TSIAB submission to the ATSIC Review supports the election of TSIAB Members not by appointment by the Minister. * The TSIAB is the only representative</p>

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		structure within ATSIC that is not elected.
23. The Torres Strait Islander Advisory Board (TSIAB) should elect its own chair from its membership and that this person becomes a full-time chair of the TSIAB representing mainland Torres Strait Islanders. Refer to Report, p44	Consistent	* ATSIC supports election of the TSIAB Chair (Sub.2, p.15) * Consistent with TSIAB submission.
24. The TSIAB chair should be a member of the proposed ATSIC national body. Refer to Report, p14	Consistent	*The TSIAB submission supports the TSIAB Chair becoming a member of the ATSIC Board.
25. Recommendation 23 from the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs <i>A New Deal</i> report (to transfer the Office of Torres Strait Islander Affairs to assist and support the Torres Strait Islander Advisory Board) should be implemented. Refer to Report, p44	No ATSIC comment in its submission to this review	* Not endorsed by TSIAB and OTSIA.
26. The Minister should consider appointing an additional Torres Strait Islander Advisory Board member from Queensland. Refer to Report, p44	Largely consistent	* ATSIC sub.2, p.15. * TSIAB submission recommended an additional member from WA who would be elected not appointed.
27. The ATSIC Act should be amended to allow flexibility in the boundaries of the Torres Strait Regional Authority. Refer to Report, p45	No comment on this issue in the ATSIC submissions	* This recommendation was put to the recent s.141 review and the review was unable to investigate.
28. The Minister should consider amending section 94 of the ATSIC Act to substitute the Torres Strait Islander Advisory Board for the Torres Strait Regional Authority. Refer to Report, p44	No position in the ATSIC submissions	* Agreed by Commissioners.

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<p>THE RELATIONSHIP BETWEEN ATSIK AND THE AUSTRALIAN GOVERNMENT 29. Government funding of services and the development of programs should be consistent with the regional plan. Refer to Report, p34</p>	<p>Consistent</p>	<p>* This is a long established ATSIK view.</p>
<p>30. Funding for ATSIK and for its service providers should be on a triennial funding basis with the adoption of accrual accounting practices for the organisation. Refer to Report, p34</p>	<p>Largely Consistent</p>	<p>* Accrual accounting practices are already in place within ATSIK-ATSIK. * Funded organisations generally required to meet Australian Financial Standards which include accrual accounting. *Triennial funding supported by the Commission since the RCIADIC recommendation. Triennial funding requires a forward obligation cover signed off by the Minister for Finance and Administration.</p>
<p>31. The Cabinet Secretariat should report annually, within the annual report of the Department of the Prime Minister and Cabinet, on ATSIK's involvement in the Cabinet process. Refer to Report, p50</p>	<p>Largely Consistent</p>	<p>* Not a specific strategy in the ATSIK submission. * Falls well short of the package of measures proposed by ATSIK, (Sub.2, p.13).</p>
<p>32. A small group should be established within the Department of the Prime Minister and Cabinet, replacing the current office of Aboriginal and Torres Strait Islander Affairs (OATSIK) located within the Department of Immigration and Multicultural and Indigenous Affairs, to provide a whole-of-government focus on Indigenous issues. Refer to Report, pp51-52</p>	<p>Inconsistent</p>	<p>* ATSIK should be the principal Indigenous policy adviser to the Australian Government. * ATSIK does not support a separate Indigenous affairs advisory body and agrees with the report's intention to reduce the size of the resources even though it falls short. * Should the Government believe there is a need for such a separate body it should be</p>

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Recommendation 32 (cont'd)		located where it will have the most influence assuming a fair go for Indigenous perspectives.
33. ATSIC'S function in subparagraph 7(1)(e)(i) of the ATSIC Act should remain. Refer to Report, pp52-53	Consistent	* Currently this function requires the Commission to provide advice to the Minister on matters relating to Indigenous affairs including the administration of legislation.
34. A ministerial veto power in relation to decisions of the national body or the national executive should not be introduced. Refer to Report, p53	Consistent	* ATSIC supports the separation of powers in relation to direct funding decisions.
35. The Act should be amended to give the Minister the power to order an Inquiry, with appropriate coercive powers, to determine whether a member of the national should be removed from office. Refer to Report, pp53-54.	Inconsistent	* ATSIC proposes the establishment of an Independent Inquiry.
36. The Commonwealth Grants Commission should be tasked to develop measures of relative need in Aboriginal and Torres Strait Islander communities at the regional council level, taking into account funds provided by Indigenous-specific and mainstream programs and funds provided by all levels of government. Refer to Report, p54	Not addressed in ATSIC's submissions	* ATSIC supports the CGC being given the role of benchmarking regional needs with funding to be based on that advice on the basis that relative need measures be developed from the Indigenous Disadvantage Framework, and cannot be the only consideration when allocating resources. * Regional Councils should be able to further develop local needs measures of specific interest.
37. The work referred to in recommendation 36 should be undertaken by the Commonwealth Grants Commission on an	Not addressed in ATSIC's submissions	* ATSIC supports this proposed role of the CGC and recognises that this is an ongoing function.

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<p>ongoing basis. Refer to Report, p54</p>		
<p>THE SPECIFIC ROLES OF ATSIC AND THE DIFFERENT SPHERES OF GOVERNMENT IN EFFECTIVE PROGRAM AND SERVICE DELIVERY 38. COAG should convene a round table between the Australian, State and Territory governments and ATSIC to identify and clarify program and service delivery roles and responsibilities. Refer to Report, p65</p>	<p>Not addressed in ATSIC's submission</p>	<p>* Proposal supported by ATSIC. * ATSIC wants an equal role with all Governments to identify and clarify program and service delivery roles and responsibilities. * The COAG related recommendations, 38, 39, 40,41,44,46 fall well short of the ideas agreed to by COAG in 1992.</p>
<p>39. The COAG round table approach outlined in recommendation 38 should be used to identify the most effective processes to achieve key Indigenous policy outcomes. Refer to Report, p65</p>	<p>Not addressed in ATSIC's submission</p>	<p>* ATSIC supports a whole of Government approach based on effective community consultation. However, the recommendation falls short of the 1992 COAG Agreement. * There is a need to identify programs and delivery of services and ensure agreements with governments have clauses committing them to Regional Council Plans.</p>
<p>40. ATSIC should retain its existing programs pending a determination of its role in the context of this broader examination of service delivery. Refer to Report, pp 60-61</p>	<p>Not addressed in ATSIC's submission</p>	<p>* ATSIC supports this but see recommendation 38.</p>
<p>41. ATSIC's regional planning role should be examined and determined, also in context of the above</p>	<p>Not addressed in ATSIC's submission</p>	

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task. Refer to Report, pp60-61		
42. The Australian Government should ensure that ATSIC's involvement should be written into all relevant MOUs and bilateral agreements that involve Indigenous issues. Refer to Report, p7	Not addressed in ATSIC's submission	* ATSIC supports a partnership arrangement.
43. COAG meetings should in future include Aboriginal and Torres Strait Islander Affairs as a standing item. Refer to Report, p65	Broadly Consistent	* ATSIC supports this initiative.
44. The ATSIC chair should have observer status at COAG meetings for all discussions on Aboriginal and Torres Strait Islander Affairs. Refer to Report, p65	Broadly Consistent	* ATSIC representation at COAG is supported (sub.2, p.13) but it should be on full membership status i.e. attending meetings with speaking and voting rights.
45. The role of MCATSIA should be reviewed. Refer to Report, p66	Not addressed in ATSIC's submission	* Review supported.
46. COAG should commission the Productivity Commission to undertake a rolling program of evaluations at the regional level. Refer to Report, p70	Not addressed in ATSIC's submission	* Supported by ATSIC.
47. The Indigenous Land Corporation, Indigenous Business Australia and Aboriginal Hostels Limited remain under their current arrangements. Refer to Report, pp67-68	Consistent	* Supported by ATSIC. * Annual reports of all three agencies to be endorsed by the ATSIC Board of Commissioners.

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<p>48. These three agencies should participate in the development of the regional plans that are to be prepared by ATSIC's regional councils. Refer to Report, pp67-68</p>	<p>Not addressed in ATSIC's submission</p>	<p>* Supported in principle, consistent with vision for Regional Council planning.</p>
<p>49. Funding decisions of those three agencies should be consistent with relevant ATSIC regional plans. Refer to Report, pp67-68</p>	<p>Not addressed in ATSIC's submission</p>	<p>* See recommendation 48.</p>
<p>50. The function of governance training and capacity building of Aboriginal and Torres Strait Islander organisations should not be performed by ORAC. Refer to Report, pp68-69</p>	<p>Not mentioned in the ATSIC submissions</p>	<p>* Recommendation supported, such training and capacity building should be provided by state training authorities.</p>
<p>51. ATSIC should increase the level of governance training and capacity building of Aboriginal and Torres Strait Islander organisations and provide it through appropriate training organisations. Refer to Report, p.68-69</p>	<p>Not mentioned in the ATSIC submissions</p>	<p>* ATSIC supports increased levels of governance training and capacity building. * Funding for such training should not come from ATSIC. * Possibility of Regional Councils pursuing funding for training resources outside of ATSIC.</p>
<p>52. Consideration should be given in the longer term to having all Aboriginal and Torres Strait Islander organisations incorporated under general corporations laws. Refer to Report, p.68-69</p>	<p>Not addressed in ATSIC's submission</p>	<p>* ATSIC-ATSIS recently supported amendments to RAC Act, but has not taken a position on having <u>all</u> Aboriginal and Torres Strait Islander organisations being incorporated under the General Corporations Law. * In its Submission to the Review of the ACA Act, ATSIC expressed reluctance for Indigenous corporations to be transferred to its Act if they required any special assistance.</p>
<p>53. The <i>Aboriginal Councils and Associations Act 1976</i> should be amended to allow for an appropriate</p>	<p>Inconsistent</p>	<p>* Supported.</p>

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<p>business turnaround mechanism to be used by organisations. Refer to Report, p69</p>	<p>Not mentioned in the ATSIC submissions</p>	
<p>54. 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. Refer to Report, p70</p>	<p>Inconsistent</p>	<p>* ATSIC's submission supported greater accountability of all Government agencies in their provision of services to Aboriginal and Torres Strait Islander people. * Falls short of the ATSIC submissions which proposed the Commission itself be given greater monitoring powers over services (sub.2, p.13).</p>
<p>THE RELATIONSHIP BETWEEN ATSIC'S ELECTED ARM AND ITS ADMINISTRATIVE ARM 55. ATSIC should be a single organisation with a legislated delineation of roles. Refer to Report, p6 & p80</p>	<p>Consistent</p>	<p>* ATSIC supports a unified ATSIC (i.e. ATSIC-ATSIS re-amalgamated), and the separation of powers embedded in the legislation.</p>
<p>56. Governance training programs should be developed by ATSIC to lift the skills levels of the elected and administrative arms to implement an appropriate level of governance. Refer to Report, p36 & 75</p>	<p>Not addressed in ATSIC's submission</p>	<p>* Supported in principle. * Currently training programs are in place and ATSIC supports any increases towards training.</p>
<p>57. Culturally appropriate variations to the standard principles of governance should be adopted. Refer to Report, p35 & p45</p>	<p>Not addressed in ATSIC's submission</p>	<p>* Supported (see ATSIC sub.2, p.7 on diversity in communities). * Consistent with position on diversity in Regional Council electoral arrangements in the ATSIC submission. * Falls short of ATSIC's position if this recommendation is not based on the formal recognition and fostering of self-</p>

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<p>Recommendation 57 (cont'd)</p>		determination at the community level.
<p>58. The ATSIK Act should require that protocols be developed covering working relationships for the elected and administrative arms of ATSIK. Partiality in decision-making should form part of such protocols. Refer to Report, p74</p>	Not addressed in the ATSIK submissions	* Consistent with current practices.
<p>59. Breaches of these protocols, either by elected officials or staff members, should constitute misbehaviour. Refer to Report, p74</p>	Not addressed in ATSIK's submission	<p>* Consistent with current practices. * ATSIK requires greater clarification of misbehaviour. * Inconsistent with rec. 60 – the Public Service Act has a code of conduct which applies to all staff and any protocol could potentially conflict with this existing Act.</p>
<p>60. ATSIK staff should continue to be engaged under the <i>Public Service Act 1999</i>. Refer to Report, p74</p>	Inconsistent	<p>* Maintains status quo. * This action implies current staffing arrangements are effective and no changes are required. * Since the RCIADIC recommended staff should not be employed under the Public Service Act, ATSIK has sought to employ its staff under its own Act. This was reiterated in the ATSIK Submissions as was the use of contract employment. * Relevant precedents have already been set in the ABC and a Department of the Parliament.</p>
<p>61. ATSIK's CEO should be appointed by the Minister after consultation with the national executive. Refer to Report, p76</p>	Inconsistent.	<p>* Not supported * Suggests a return to paternalistic approach of the past.</p>

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Recommendation 62 (cont'd)		* Currently the Commission's <u>agreement</u> must be sought on the appointment of the CEO (as per the ATSIK Act).
62. The ATSIK Act should be amended to reinforce that the ATSIK CEO is responsible for all staff and their employment. Refer to Report, p.76	Not mentioned specifically in the ATSIK submissions	* Consistent with the ATSIK agreement to the separation of powers and its application to staffing matters.
63. The remuneration of elected members should continue to be determined by the Remuneration Tribunal. Refer to Report, p.79.	Not mentioned in the ATSIK submissions	* To date generally accepted. * ATSIK wants the right to make submissions direct to the Tribunal and not through the Minister.
64. The remuneration of elected members through sitting fees should be reconsidered and replaced with annualised remuneration. The remuneration should reflect any additional duties that are undertaken by different categories of elected member. Refer to Report, p79	Not mentioned in the ATSIK submissions	* The current system based on attendance is more accountable – this proposal has the risk of payments made even if duties are not performed.
65. Elected members should cease to hold office if they fail to attend without reasonable cause one half of the meetings scheduled each year. Refer to Report, p79	Not mentioned in the ATSIK submissions	* Not inconsistent with commitment to improved internal governance. * Clarification required on 'reasonable cause'.
66. The chair and the deputy chair of the national body and the chairs of the regional councils may be removed by a no-confidence vote in them, carried by a statutory majority of their respective electing bodies. Refer to Report, p80	Inconsistent	* ATSIK proposes the establishment of an Independent Tribunal (sub.2, p.15). * 'Vote of no confidence' could be supported if measures are implemented to eliminate vexatious, frivolous actions, and processes are open, fair and transparent.

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<p>67. The ATSIC Act should be amended to provide that where a substantial majority of Aboriginal and Torres Strait Islander people living in an ATSIC region or ward agree to a system for selecting regional councillors that is different from the system set out in the ATSIC Act, the Minister may approve such a system for determining the regional councillors for that region or ward.</p> <p>Refer to Report, p46</p>	<p>Consistent</p>	<p>* Supports ATSIC proposed measures for diversity in organisations and arrangements. (ATSIC sub.2, p.14)</p> <p>* This proposed amendment would provide for a substantial majority of people in a region or ward to be able to select their regional councillors by a different system to that in the Act with the Minister's approval of any alternative.</p>
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Attachment 2

ATSIK Review Report Comparison of the Current ATSIK Organisational Arrangements and those Proposed by the Review Team and ATSIK

REPORT'S PROPOSAL	CURRENT ARRANGEMENTS	ATSIK's PROPOSAL
<p><u>National Body</u></p> <ul style="list-style-type: none"> • 40 members + 1 non voting member <ul style="list-style-type: none"> - Chair and Deputy Chair - 35 Regional Council Chairs - TSIAB Chair - TSRA Chair - non-voting member - 2 Ministerial appointments from Regional Councillors • Chair & Deputy Chair of National body – full time on national responsibilities • “Governs” a unified ATSIK with the separation of powers to produce national plan similar to the current Commission’s corporate plan • 4-year term – to meet at least twice during that time • Can invite key stakeholders to meetings • Regional Council Chair could be removed through no-confidence vote by Regional Council • Reduces full-time national and 	<ul style="list-style-type: none"> • 18 full-time national representatives • National representatives elected by all Regional Councillors • Meetings of Regional Council Chairs have been conducted and could happen on regular basis • Separation of Powers in place • ATSIK-ATSIK separate entities in an interim arrangement. • 3-year term • Commissioners and Councillors can be suspended due to misbehaviour or incapacity • No power in the Act for Regional Councillors to “vote no confidence” in their Regional Council Chair or their own Commissioner • Corporate plan in place, and used as the model for the “national plan” • Minister can suspend a Commissioner due to misbehaviour or incapacity • Minister can terminate appointment on grounds of conviction or absence 	<ul style="list-style-type: none"> • 20 full-time national representatives <ul style="list-style-type: none"> - 17 Zone Commissioners (includes an additional Commissioner for S.A) - National Chair - TSIAB Chair - TSRA representative (non-voting member) • Direct election of Regional Councillors and Zone Commissioners by Indigenous constituency • Regional Council Chairs elected by Regional Councillors • Election of National Chair by Regional Councillors • 4 year term • Unified ATSIK with a legislated internal separation of powers • Vote of no-confidence motion (petition, right of reply and 70% statutory majority) along with the

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<p>regional representation from 53 to 38 and requires RCCs to take on responsibilities in addition to their current full-time regional responsibilities</p>		<p>use of an Independent Tribunal (to be negotiated)</p> <ul style="list-style-type: none"> • Biennial or annual forum of Regional Council Chairs to ensure regional input to setting national policy direction
<p><u>National Executive</u></p> <ul style="list-style-type: none"> • 11 members <ul style="list-style-type: none"> - 6 RCCs elected by National body (part-time) - Chair and Deputy Chair (full-time) - TSIAB Chair (part of full-time TSIAB responsibilities) - 2 Ministerial appointments selected from Regional Councillors (part-time) • Possibility of smaller national executive if national body meets more frequently eg. once a year • 4-year term • Removal of Chair or Deputy through no confidence motion by national body • No confidence motion will not apply to the 2 ministerial appointees • National Executive will implement policy and provide leadership • No mandated geographic-based representation 	<ul style="list-style-type: none"> • No “executive” with the same powers. 	<ul style="list-style-type: none"> • No “executive” with the same powers • Mandated geographic based representation • Appointment of CEO by agreement between Minister and the Commission • Vote of no confidence process for Regional Councillors to remove Regional Council Chairs or Commissioners

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<ul style="list-style-type: none"> • Extinguishes the current rights of regional councillors to elect full-time national representatives • Reduces full-time national representation from 18-2 		
<p><u>National Committees</u></p> <ul style="list-style-type: none"> • Provide policy advice to National Body include Regional Council Chairs from national body and members of national executive • Board Committees will consult and develop policy • Board Committee membership drawn from the national body 	<ul style="list-style-type: none"> • 6 Board Committees: <ul style="list-style-type: none"> - Strategic Directions - Land, Water and Development - Economic and Social Participation - Social and Physical Wellbeing - Culture, Rights and Justice - Audit Committee • 7-8 Commissioners on each Board Committee • SDBC comprises ATSIK Chair plus 5 Board Committee Chairs 	<ul style="list-style-type: none"> • Maintain Board Committees with option of membership for Regional Council Chairs • National forum of all Regional Council Chairs to set policy direction
<ul style="list-style-type: none"> • Staff employed under Public Service Act • Appointment of CEO by Minister “after consultation with national executive” 	<ul style="list-style-type: none"> • Staff employed under Public Service Act • Appointment of CEO by Minister but not “unless the Commission agrees to the appointment” 	<ul style="list-style-type: none"> • Staff employed under ATSIK Act and on a contractual basis • Appointment of CEO by Minister but not “unless the Commission agrees to the appointment”