



ATSIC

CHAIRMAN

Mr Jonathan Curtis
Committee Secretary
Select Committee on the Administration of
Indigenous Affairs
Australian Senate
Parliament House
Canberra ACT 2600

25 February 2005

Dear Mr Curtis

The Chairman has asked me to write to you requesting that the enclosed material be included as part of the public submissions to the Select Committee.

The Chairman is concerned that media reports and views emanating from Government sources continue to promote a negative, fabricated and fraudulent picture of matters to do with the democratically elected voice of Indigenous peoples.

Yours sincerely

Mick Fitzgerald
ATSIC Chairman's Office
Framlingham Aboriginal Trust
Kirrae Avenue
Purnim Vic. 3278

SELECT COMMITTEE ON THE
ADMINISTRATION OF INDIGENOUS AFFAIRS

REC'D: 28 Feb 05

FROM: ATSIC

RECOMMENDED FOR PUBLICATION:

SECRETARY:



ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION

Woden Tower Phillip ACT 2606 • PO Box 17 Woden ACT 2606

Tel: (02) 6121 4000 • Fax: (02) 6281 0772

www.atsic.gov.au

PARTNERS

E. William Coady, LL.B.
 Mark A. Yorston, B.Ec., LL.B. * ‡ ❖
 Peter J. Window, B.Sc., LL.B.
 David M. Andrew, B.Juris., LL.B.
 Robert J. O'Keefe, LL.B., B.Bus., Dip. Tax Law
 Andrew K. Ball, B. Juris, LL.B.
 Bill Lambros, B.Sc., LL.B.

**CONSULTANTS**

Andrew D. Wardlaw, LL.B.
 David M. Brett, B.A., LL.B. ‡
 Marjorie A. Thompson, LL.B.
 Francis Zemljak, B.A., LL.B. •
 Roger Johnson B.A., L.E.C., Ad. Ql. •
SENIOR ASSOCIATES
 Adrian Stone, B. Ec., LL.B. •
 Ron Jorgensen, B.A., LL.B., LL.M. †
 Chris Stakis, LL.B.

REPLY TO: MELBOURNE
 Our ref: 20050069/MAY/CS
 E-Mail: mark@coadys.com.au

23 February 2005

"Private & Confidential"

Mr Pat Watson
 Chief Executive Officer
 Aboriginal and Torres Strait
 Islander Services
 PO Box 17
 WODEN ACT 2606

By facsimile: 02 6282 4541

Dear Mr Watson

Bidjara Aboriginal Housing & Land Company Limited ("the Company")

We refer to your letter to Mr Clark dated 22 February 2005.

Mr Clark has instructed us to write to you for the limited purpose concerning your request that he advises you that he will take no further action in relation to the "Decision" and that he will request the Commissioners to reconsider the same.

We are instructed that the Decision was made at the Board meeting on Friday 18 February 2005. The resolution was considered by the Board in the presence of a legal adviser provided by ATSIIS. (Another legal adviser had left on Thursday afternoon after indicating that she could not provide advice in relation to matters which were to be considered by the Board.) The adviser did not proffer any advice to the Board with respect to the lawfulness or otherwise of its decision when it was being considered and passed.

We are further instructed that only some time after the resolution had been passed and the meeting was adjourned during Friday afternoon, did the ATSIIS legal adviser suggest that there may be concerns about the decision and that he would look further into the matter. The specific concern was whether the request for a decision needed to come directly from the Board of the Company or could come from an agent. We are instructed, however, that no concern was raised by the adviser with respect to any requirement to give Notice.

Upon resuming the Board meeting later in the afternoon, the Commissioners agreed to not take any further steps until the specific issue had been addressed.

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* Accredited Specialist in Business Law
 ‡ Accredited Specialist in Commercial Litigation

• Accredited Specialist in Family Law
 = Accredited Specialist in Property Law

† Accredited Specialist in Tax Law
 ❖ Accredited Specialist in Workplace Relations

Incorporating Wardlaw & Associates

23 February 2005
[Page 2]



On 21 February, 2005 the Chair of the company's Board formally confirmed that the request which had been considered at the meeting on Friday morning had been put forward at the request of the Company's Board.

Mr Clark is mindful not to act unlawfully but the issues you raise highlight the difficulties the Board faces when it is unable to obtain legal advice because of decisions made by ATSI and the Minister to deny the Board access to legal advice and where resources are withheld which would enable the timely provision of the Board papers to the Commissioners.

We have not been engaged to advise the Board in relation to the Bidjara matter and we were not present at the Board meeting when the resolution was considered and passed. Mr Clark instructs us that he is unable to comment on the merits of your legal arguments. However, in accordance with your request, he agrees not to take any further action in relation to the 'Decision' and that he will request the Board to reconsider the same at the next board meeting. Mr Clark hopes that he will be given the resources to fully advise the board in relation to the issues you raise in your letter so that the resolution can be properly considered on the next occasion.

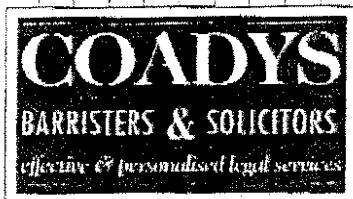
Yours faithfully



for COADYS

PARTNERS

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Ron Jorgensen, B.A., LL.B., LL.M. ^
Chris Stakis, LL.B.

REPLY TO: MELBOURNE
Our ref: 20050069/MAY/CS
E-Mail: mark@coadys.com.au

22 February 2005

CONFIRMATION OF
FACSIMILE SENT
ON 22/2/05...

'Private & Confidential'

Mr Pat Watson
Chief Executive Officer
Aboriginal and Torres Strait
Islander Services
PO Box 17
WODEN ACT 2606

By facsimile: 02 6282 4541

Dear Mr Watson

ATSIC - Artwork

We are instructed by the Board of ATSIC to write to you in relation to ATSIC owned artwork removed from the offices of ATSIC and other organisations.

The Board has been led to believe that the items in question have been moved at the direction of the Minister to a secret location and that they will not be returned to ATSIC. The Board's belief is not, of course, without foundation. It clearly has not authorised any removal and enquiries by the Commissioners as to the whereabouts of the items have gone unanswered.

It is the belief of the Board that the items were moved and hidden in response to its resolution to grant all ATSIC artwork to the indigenous community. As you would be aware, the Board made the grant pursuant to its obligations under the ATSIC Act to further the social, cultural and economic development of indigenous people. Ordinarily, ATSIC would have retained possession of artwork created by indigenous people for the benefit of all. The proposed abolition of ATSIC means that there is no guarantee that the artwork will be held for the benefit of indigenous people, the very purpose for which it was acquired.

To this date, ATSIC has not been given any advice by your agency as to the lawfulness of ATSIC's decision. ATSIC wrote to you in January of this year asking for such advice. By letter dated 17 January 2005 you advised the Chairman that ATSIS was unable to give legal advice on this question because ATSIS had a conflicting duty to the Commonwealth.

You also brought to the attention of the Chairman, that pursuant to clause 24 of the ATSIC/ATSIS Agreement that ATSIS was under an obligation to provide ATSIC with all legal service it requires to properly carry out its functions under the agreement, but that clause 24.1.2 should operate to enable ATSIC to obtain its own legal advice in circumstances where a conflict of interest could not be resolved.

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▪ Accredited Specialist in Property Law

^ Accredited Specialist in Tax Law
✦ Accredited Specialist in Workplace Relations

Incorporating Wardlaw & Associates

22 February 2005

[Page 2]



In the absence of any legal advice to the effect that the Board has acted unlawfully, the Board considers that any unauthorised removal of artwork is itself unlawful. At this stage, the Board is unable to determine if the artwork was removed at the direction of ATSSIS or the Minister, and on what basis such removal was made. In any event, it may not be of any real consequence as clearly ATSSIS is an agency of the Minister.

It appears to the Board that the only basis upon which artwork could be removed from ATSSIC's premises is pursuant to the ATSSIC/ATSSIS Agreement. The Board notes that under the Agreement, ATSSIS may purport to exercise a right of exclusive use of ATSSIC owned assets during the term of the agreement. However, ATSSIS is also bound to exercise its functions in accordance with protocols. The Board is also cognisant of ATSSIS' underlying duty to act in the best interests of ATSSIC, and that any rights conferred on ATSSIS to deal with ATSSIC assets is underpinned by the notion that ATSSIC retains ownership of all such assets.

It is clearly the duty of ATSSIS to account to the Board for all ATSSIC owned assets in its possession, including the whereabouts of such assets. In the circumstances, the duty also extends to giving an undertaking that the assets will revert to ATSSIC upon the termination of the ATSSIC/ATSSIS Agreement. If ATSSIS were to do otherwise, it is the opinion of the Board that ATSSIS is exercising unauthorised rights over the assets in conflict with its true owner, ATSSIC.

If ATSSIS does not account to the Board within 48 hours and gives the undertaking which is sought, the Board will treat such failure as a repudiation of the Agreement and will treat the Agreement as being at an end. The Board will then insist on the immediate return of all its assets and will take all such steps as are necessary to ensure this is done.

If legal action becomes necessary, then in line with the obligations under the agreement, if ATSSIS is unable to provide sufficient legal services to ATSSIC, the Board requests ATSSIS continues to pay in full, the cost of all legal services obtained by ATSSIC.

If you wish to discuss this matter, we would be pleased if you could contact us as a matter of urgency.

Yours faithfully

for COADYS



Australian Government

Aboriginal and Torres Strait Islander Services

22 February 2005

Geoff Clark
Chairman
Aboriginal and Torres Strait Islander Commission

Dear Chairman

The purpose of this letter is to let you know that I am gravely concerned about the content of your letter dated 22 February 2005 to the Receivers and Managers of Bidjara Aboriginal Housing & Land Company Limited (Receivers and Managers Appointed), covering, as it does, two documents which, for the reasons that I set out below, are of no effect.

In the circumstances, your letter, and that documentation, is false and misleading.

My strong advice to you is at once to desist from proceeding any further in purported reliance on the purported "Decision" of the Board of Commissioners of the Aboriginal and Torres Strait Islander Commission allegedly taken at its meeting in Melbourne on 17 and 18 February 2005 relating to Bidjara Aboriginal Housing & Land Company Limited (Receivers and Managers Appointed).

The "Decision" appears to have the intended effect, without any justification, of wholly subordinating the interests of ATSIC to the advantage of the interests of Bidjara Housing and/or Commissioner Robinson. It was Commissioner Robinson who, I understand, produced the document on the basis of which discussion of this issue at the meeting proceeded, even although the Board had before it a paper relating to Bidjara Housing provided by ATSIS and paying due regard to the interests of ATSIC.

As well, the "Decision" comprises contraventions of two lawful directions given by the Minister for Immigration and Multicultural and Indigenous Affairs.

The *Aboriginal and Torres Strait Islander Commission (Forgiveness of Debt) Directions 2004* require the Commission to give the Minister Notice of any intention to waive, write off or otherwise forgive a debt.

No such Notice, with the obligatory report from a qualified auditor, has been given.

No Decision waiving, writing off or otherwise forgiving a debt is open to be made by the Board until after 60 days after the requisite Notice has been given to the Minister.

The *Aboriginal and Torres Strait Islander Commission (Supervision of Debt) Directions 2004* require the Commission to give the Minister notice of any decision to dismiss or otherwise remove a receiver-manager.

Again, no such Notice has been given.

No Decision dismissing or otherwise removing a receiver-manager is open to be made by the Board until after 60 days after the requisite Notice has been given to the Minister.

The requirements of the Directions to which I have referred are so well known to the Board there can be no doubt that those members of the Board who voted in favour of, or participated in, what occurred in relation to Bidjara Housing did so in full knowledge of the contraventions of those Directions to which I have referred.

As I am sure that you appreciate, any purported Decision that contravenes a lawful Direction given by the Minister is of no effect.

As I am sure that you understand from what I have said, neither you, nor ATSIIS, nor anyone else, can take any action purporting to give effect to the "Decision". It follows that the document dated 21 February 2005 and described as "Deed of Revocation of Appointment of Receivers and Managers" is a nullity, as is your letter dated 22 February 2005 to which it was attached, and for you to suggest otherwise is, as I have already said, false and misleading. I note that the "Deed of Revocation of Appointment of Receivers and Managers" appears to be sealed with the Common Seal of the Commission: however, I know that the Common Seal - there is only one - was not in Warmambool yesterday, when that document was executed. This is an additional reason for no reliance whatever to be able to be placed on that document.

Unless you let me know at once that you will be taking no further action pursuant to the "Decision", and requiring the Board of Commissioners to reconsider the same, I am afraid that I shall have to take such further action in relation to the matter as I may be advised.

Yours sincerely



Pat Watson
Acting Chief Executive Officer



Australian Government
Aboriginal and Torres Strait Islander Services

Chief Executive Officer

Mr Geoff Clark
Chairman
Aboriginal and Torres Strait Islander Commission
Casselden Place
Level 26, 2 Lonsdale Street
MELBOURNE Vic 3000

Dear Mr Clark

I refer to your letter dated 21 January 2005 regarding the funding of legal advice.

In your letter you indicated that you will be approaching Coadys solicitors for the provision of legal advice in respect to the disposal of ATSIC's assets and caveats on properties in which ATSIC has an interest.

There are two issues which I consider need to be brought to your attention.

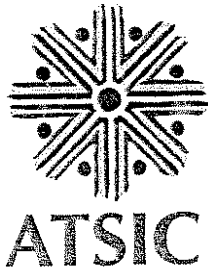
First, in respect to the cost of this legal advice you have indicated that any account from Coadys solicitors will be forward to myself for payment. You should note that as CEO of ATSIIS I will not agree to ATSIIS meeting any of the costs for legal advice that you as Chairperson of ATSIC seek in relation to these matters. Should you make a commitment to Coadys to meet such costs it is in your role as Chair of ATSIC or in your own personal capacity. You are unable to commit the Australian Government in relation to these expenses.

Secondly, I remind you that any commitments entered into to expend ATSIC monies must accord with the Budget as approved by the Minister for Immigration and Multicultural and Indigenous Affairs. I have attached for your information a copy of the 2004-05 ATSIC Budget approved by the Minister on 24 June 2004.

Yours sincerely

Pat Watson

27 January 2005



Mr Pat Watson
Chief Executive Officer
Aboriginal and Torres Strait Islander Services.
PO Box 17
Woden ACT 2606

21 January 2005

Dear Mr Watson

Thank you for your letter of 17 January 2005. Given your comments regarding a potential for a conflict of interest in you providing legal advice about the requirements for disposal of part or all of ATSIC's assets and the fact that there is no CEO of ATSIC I now advise you that as Chairman of ATSIC I will be seeking this legal advice as a matter of urgency. It is imperative that I have this legal advice so that I can be properly informed on this matter.

As well, in the last week it has been brought to my attention that there are caveats on properties that represent significant impediments to Aboriginal people attempting to break out of welfare dependency by using these properties to carry on economic activities. In this matter I also seek independent legal advice.

Given the urgency of these matters and your inability to assist I will now approach Coadys solicitors to provide this advice and I will have them forward their account to you for payment.

Yours sincerely



Geoff Clark
Chairman



Australian Government
Aboriginal and Torres Strait Islander Services
Chief Executive Officer

Re
20/1/05

Mr Geoff Clark
Chairman
Aboriginal and Torres Strait Islander Commission

Dear Mr Clark

On 15 December 2004, you requested a list of ATSIC owned assets including artwork. That list is presently being compiled and will be provided to you as soon as it is finalised.

In the meantime, I refer you to the lists of assets current at 16 June 2003 which are appended to the ATSIC / ATSIS agreement. I have attached these lists for your convenience. Artwork is included. It is not expected that there has been significant change to those lists but I will confirm that for you when updated lists are available.

You also ask for independent legal advice on the requirements for disposal of part or all of ATSIC's assets.

Clause 24 of the ATSIC/ATSIS agreement provides:

24.1.1 ATSIS will provide, without cost to ATSIC all legal services which in the opinion of the CEO of ATSIS it requires to properly carry out its functions under this Agreement.

24.1.2 Where there is a conflict of interest which cannot be resolved in a reasonable time, then ATSIC may obtain its own legal advice which the CEO of ATSIC will commission on their behalf.

In the ordinary course, I would be able to provide that advice to you in accordance with clause 24.1.1. However, it is likely that, in the circumstances of the present time, the Commonwealth would be concerned to inquire into the propriety of any attempt by the Commission to dispose of assets and for that reason, I consider there to be a potential for a conflict of interest in my providing that advice to you.

Clause 24.1.2 should therefore operate. As the Acting CEO of ATSIS, it is not incumbent upon me to commission that advice as that is properly the role of the CEO of ATSIC.

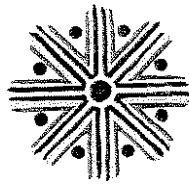
I am sorry I am unable to assist you in that regard.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Pat Watson', written in dark ink.

Pat Watson
Acting Chief Executive Officer

17 January 2005



ATSIC

CHAIRMAN

15th December, 2004

Pat Watson
Chief Executive Officer
ATSIS

Dear Pat

I request a list of ATSIC owned assets including artwork and also legal opinion as to what are the requirements for disposal of part or all of these assets.

This advice needs to be independent of ATSIS. Please contact me to discuss.

Yours sincerely

Geoff Clark



Handwritten notes:
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deal
15/12/04

Geoff Clark
Chairman
ATSIC

MOBILE PHONE

Monitoring of your mobile telephone account shows that you are close to or possibly over the limit of \$1000, per Commissioner, for mobile telephone usage as per the ATSIC Budget approved by the Minister.

If or when this limit is confirmed, your ATSIC provided mobile telephone will be disconnected without further advice.

If you have any queries in relation to this, please contact this office on 02-6121 4790.

Ian Levinge
Manager
Elected Arm Support

07 December 2004

**ATSIC**<http://www.atsic.gov.au>

Aboriginal and Torres Strait Islander Commission

to : ATSIC Board of Commissioners
fax : Various
from : Anne Sinclair
address : Elected Arm Support - Canberra
Phone: 02-6121 4799
date : 11 November 2004
pages : Cover only

Commissioners

The Chairman has been advised this morning that there are no funds for a Board Meeting for several reasons including that the Minister only approved an amount of \$45,000 for Commissioner travel for 2004-05 and this has been fully expended. Also it is not possible to move \$250,000 within the Budget as this can only be undertaken if the bottom line budget remains as approved by the Minister. Currently, the total Budget is over committed as it has a liability held against it for \$2m in wages that ATSIC owes to ATSI. This means that there is no flexibility within the Budget to move the \$250,000.

The Chairman has asked that Commission Support proceed to arrange Board of Commission Meeting No. 87 as a two day meeting on 17/18 November in Picton NSW. The Chairman has advised that Commissioners will need to meet their own costs to travel including using their Frequent Flyer points to travel to the meeting and each Commissioner will have to fund all other costs associated with the meeting. This will include accommodation, meals and any cab fares. Commissioners will have to arrange their own travel and accommodation. Commission Support have sought a quote on cab fares from Sydney to Picton and have been advised that it would be approximately \$130 one way. Alternately Commissioners could catch a train from Sydney Central or the Airport to Picton.

To allow Commission Support to continue making arrangements for the meeting, Commissioners will need to advise by lunchtime this Friday (12 November) if you are able to attend the meeting in person. Commission Support will confirm whether video/telephone link up is available for Commissioners who are unable to travel to Picton.

Please advise by lunch time 12 November whether you will be attending in person or by video or telephone link up.

Further information about the venue in Picton will be made available to you as soon as we have confirmed arrangements.

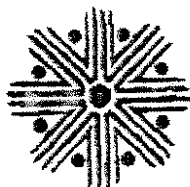
Anne Sinclair

Elected Arm Support

Aboriginal and Torres Strait Islander Services

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If you encounter any transmission difficulties, please contact the sender.



ATSIC

CHIEF EXECUTIVE OFFICER

The Chairman
Aboriginal and Torres Strait Islander Commission
PO Box 17
WODEN ACT 2606

Dear Geoff

I refer to our conversation of 14 October 2004 in relation to the submission of the ATSIC Annual Report to the Minister for Immigration, Multicultural and Indigenous Affairs. That Report has been prepared and is available for your signature and transmittal to the Minister.

You have said that, without the provision of adequate staffing resources, you do not intend to carry out any administrative duties associated with your position, including signing off on the Report.

However, you should appreciate that there may be adverse consequences for you and fellow Commissioners if the Report is not submitted on time. As discussed yesterday, the *Commonwealth Authorities and Companies Act 1997* sets out the annual reporting responsibilities of Commonwealth authorities, such as ATSIC, as follows:

9 Directors must prepare annual report

- (1) *The directors of a Commonwealth authority must:*
- (a) *prepare an annual report in accordance with Schedule 1 for each financial year; and*
 - (b) *give it to the responsible Minister by the deadline for the financial year.*

The deadline is the 15th day of the 4th month after the end of the financial year.

Note: The deadline will be 15 October of the financial year ends on 30 June. Financial year is defined in section 5.

- (2) *The responsible Minister may grant an extension of time in special circumstances.*
- (3) *The responsible Minister must table the report in each House of the Parliament as soon as practicable.*

Today is the deadline for the ATSIC Annual Report to go to the Minister unless an extension of time is granted.

A failure to comply with the reporting requirement in the absence of an extension may incur a penalty for each director who caused the contravention or failed to take all reasonable steps to comply with, or secure compliance with, the requirement. ;

I have attached a copy of the letter of transmittal of the Annual Report to the Minister for your signature for your signature. I now urge you to reconsider your position and sign this letter to allow the Annual Report to be submitted by the deadline.

Your sincerely

Mick Gooda

Received

Sen the Hon Amanda Vanstone

Minister for Immigration and Multicultural
and Indigenous Affairs

Minister Assisting the Prime Minister for Reconciliation



Parliament House, Canberra ACT 2600

Telephone: (02) 6277 7860

Facsimile: (02) 6273 4144

OCT 2004

Mr Geoff Clark
Chairperson
Aboriginal and Torres Strait Islander Commission
PO Box 17
WODEN ACT 2606

Dear Mr Clark

Geoff

I refer to your letter of 27 September 2004 concerning the proposed appointment of Mr Mick Gooda as Acting Chief Executive Officer of the Aboriginal and Torres Strait Islander Commission (ATSIC CEO).

Section 50 of the *Aboriginal and Torres Strait Islander Commission Act 1989* (the Act) provides that the Minister may appoint a person to act as the ATSIC CEO after consulting the Commission. This process was followed in relation to this appointment and I have therefore appointed Mr Gooda for a further term until 29 October 2004. A copy of the appointment instrument is attached.

You raise a number of other matters in your letter. As you would appreciate, we are in a caretaker period and it would not be appropriate for me to meet with you at this time.

In relation to the work and role of the Commission, it can be acknowledged that the provisions in the Act remain in place, however, most of ATSIC's programs and services and the funds associated with those activities have been transferred to mainstream departments. Notwithstanding that the Act remains in place, the Parliament has declined to appropriate funds to ATSIC for this financial year. Both major parties have indicated that it is their intention to proceed with the abolition of ATSIC after the election. These developments have had a significant impact on ATSIC's role and functions including the role of the Chairperson.

As Mr Gooda has the continuity in the management of what remains of ATSIC's administrative arm, and as we are in the caretaker period, I have appointed him for the term provided in the instrument.

Yours sincerely

Amanda Vanstone

AMANDA VANSTONE



Australian Government
Aboriginal and Torres Strait Islander Services

RECEIVED
20/10/04

TO: Chairperson Clark
ORGANISATION: ATSIC
FAX: 03 5567 1298
FROM: Ian Levinge
DATE: 30 September 2004

TOTAL PAGES FAXED: 1

MESSAGE TEXT:

Chairperson

As requested I have sought a copy of the brief sent to the Minister, proposing the appointment of Mick Gooda as Acting CEO of ATSIC.

I am advised by the head of the Secretariat Branch, which drafted the brief for the Minister's consideration, that it is inappropriate to release correspondence between OIPC and the Minister.

Should you wish to seek further clarification it may be appropriate to contact the Associate Secretary of OIPC, Mr Wayne Gibbons.

In relation to the Western Australian sports carnival you should contact Mr Les Turner at DCITA on telephone 02 6271 1730

Ian Levinge

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO
CONNECTION TEL 055671296
SUBADDRESS
CONNECTION ID
ST. TIME 21/09 09:20
USAGE T 00'44
PGS. SENT 1
RESULT OK



"WATSON,Patrick"
<Pat.Watson@oipc.gov.au>
20/09/2004 05:15 PM

To: "FOERS,John" <John.Foers@ICC.gov.au>
cc: "CLARK,Geoff" <Geoffrey.CLARK@rc.atslc.gov.au>,
"GOODA,Michael" <Michael.Gooda@oipc.gov.au>,
"LEVINGE,Ian" <Ian.Levinge@oipc.gov.au>,
<gwenda.prince@facs.gov.au>, (bcc: John Foers/User/FaCS)

Subject: SUPPORT FOR CHAIRMAN

Importance: Normal(24-72hrs)
Unclassified
Expires on

Advice from Wayne Gibbons

John

Unfortunately there has been a last minute hitch in the level of service support that we are able to provide the Chairman. It has been pointed out to me that the level of support has to be consistent with that which we provided to the Acting Chair while he was in the position. That level of support can only be provided through the PAS unit located in the Melbourne ICC and who are employees of OIPC. I will ask the Melbourne ICC Manager to identify an officer who can be made available to assist the Chairman with his correspondence.

I apologise for this late notification but would appreciate it if you could resume your responsibilities with FACS immediately.

Regards

Pat Watson

Geoff

*LEC MAZZEL } EL2
ANNE MARTIN }*

CHIEF

John Feers

17/09/2004 10:43 AM

To: pat.watson@atsis.gov.au

cc:

Subject: Chairman's Office - Support Staff

importance:

Normal(24-72hrs)

Unclassified

~~Export Security~~ Expires on

Pat

The Chairman has requested that I contact you to establish time lines for my reappointment to his support staff as Executive Assistant - EL2.

The State Manager FaCS has advised that she has no objection to my release from FaCS. Please advise if you require any information from me regarding the appointment.

John

27. SEP. 2004 14:34

Sen the Hon Amanda VanstoneMinister for Immigration and Multicultural
and Indigenous Affairs

Minister Assisting the Prime Minister for Reconciliation



Parliament House, Canberra ACT 2600

Telephone: (02) 6277 7860

Facsimile: (02) 6273 4144

Mr Geoff Clark
Chairperson
Aboriginal and Torres Strait
Islander Commission
PO Box 17
WODEN ACT 2606Dear Mr ~~Clark~~ SA,

I am writing in relation to the position of acting Chief Executive Officer (CEO) of the Aboriginal and Torres Strait Islander Commission (ATSIC).

The term of the acting CEO, Mr Mick Gooda, ended on 23 September 2004. While the functions of ATSIC are now considerably reduced, it would be desirable for Mr Gooda to act until shortly after the election.

As you are aware, we are currently in a caretaker period prior to the election. The guidelines on the caretaker conventions issued by the Department of the Prime Minister and Cabinet indicate that governments should defer making significant appointments during the caretaker period. The guidelines on the caretaker conventions also suggest making an acting appointment for a short term as an option during the caretaker period where there is a need for a position to be filled, as is the case for the acting ATSIC CEO position. In view of these guidelines, I am proposing therefore that Mr Gooda act for a further term from 1 October 2004 until 29 October 2004.

Section 50(1) of the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act) empowers me to appoint an acting CEO, after consulting the Commission, during any period of vacancy in the CEO's position. As required under section 50(1) of the ATSIC Act, I am seeking the Commission's views in relation to this proposed appointment of Mr Gooda. I also seek the Commission's agreement to the acting CEO being engaged on a full-time basis.

Given that Mr Gooda's current acting appointment ended on 23 September 2004, I would appreciate formal advice from you on behalf of the Commission by no later than close of business 29 September 2004. While there will be a short period without an acting CEO, I do not anticipate this should present any significant difficulties.

Yours sincerely

AMANDA VANSTONE

Received by fax
27 SEP 2004



ATSIC

CHAIRMAN

6-40 p
27/9/04
D FAXED

Senator the Hon Amanda Vanstone
Minister for Immigration and Multicultural and Indigenous Affairs
Parliament House
Canberra ACT 2600

27 September 2004

Dear Senator Vanstone

I acknowledge receipt of your letter dated 27 September 2004 in relation to the position of acting Chief Executive Officer (CEO) of the Aboriginal and Torres Strait Islander Commission (ATSIC).

I have been attempting to communicate personally with yourself without success for some time. Your staff are very effective gatekeepers. There is a range of matters, where I think it is important that you and I have face-to-face discussion. Not least is your proposition that "the functions of ATSIC are now considerably reduced." Allow me to remind you that the ATSIC Act is still in place and the functions of the Commission have not changed nor diminished. Indeed the Commissioners and myself continue to carry out our responsibilities to our people. We think that the government's reluctance to resource the Office of the Chair and further to with-hold the Commission's budget process may breach the duty of care that we have on behalf of Aboriginal people.

In relation to the proposed appointment of Mr Gooda and the Commission's agreement to the acting CEO being engaged on a full-time basis, I advise that I am unwilling to give the Commission's consent without first having the opportunity to discuss with yourself serious legal issues surrounding this matter.

I am available to meet with yourself either in Canberra or Adelaide by the cob 29 September 2004.

Yours sincerely



Geoff Clark



Received
28/9/04
[Signature]

Minister for Immigration and Multicultural and Indigenous Affairs
Minister Assisting the Prime Minister for Reconciliation
SENATOR THE HON AMANDA VANSTONE

Parliament House
CANBERRA ACT 2600

Telephone: (02) 6277 7860
Facsimile: (02) 6273 4142

MC 20041123

~~22 SEP 2004~~

Mr Geoff Clark
Chairman
Aboriginal and Torres Strait Islander Commission
PO Box 17
WODEN ACT 2606

Dear Chairman

Thank you for your letters of 31 August 2004 and 10 September 2004 in which you sought approval of Variation No1 to ATSIC's 2004-05 Estimates of Expenditure pursuant to section 61 of the Aboriginal and Torres Strait Islander Act (1989).

As advised in my letter of 6 September 2004, given the current caretaker conventions, I wrote to the leader of the Opposition, Mr Mark Latham, seeking his views on your proposal. Mr Latham has responded indicating that he thinks that it would not be appropriate to consider increasing the resources available to ATSIC at this time.

I therefore reject your request.

Thank you for bringing this matter to my attention.

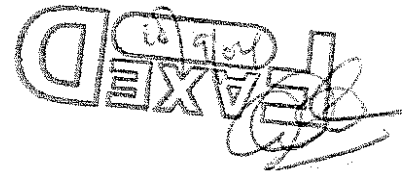
Yours sincerely

AMANDA VANSTONE



ATSIC

CHAIRMAN



Mick Gooda
CEO
ATSIC

10th September 2004

Dear Mick

I am concerned that my efforts to progress debate with Regional Councils on the future arrangements of the Government's interaction with the Community are being frustrated by the suggested lack of travel funds.

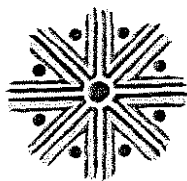
I expect that over the remainder of this financial year that I will engage with Regional Councils and with their agreement at their expense. You advised that Regional Councils were unable to allocate their administrative funds for Chairman or Commissioners to travel where the Regional Council requests attendance at a meeting "as business of the Regional Council".

As Chairman I believe that my Commissioners and I have a mandated role to progress the Community's aspirations. We do this to a significant degree with the Regional Councils.

Please advise me in writing of the reasons that prevent the Regional Councils from assisting me with funds to enable me to meet with them and therefore continue the work of my office.

Yours sincerely


Geoff Clark
Chairman



ATSIC

CHAIRMAN

Senator The Hon. Amanda Vanstone
Minister for Immigration and Multicultural and Indigenous Affairs
Parliament House
Canberra. ACT 2600

10th September 2004

Dear ~~Senator~~

I have some concerns with the letter you wrote to me on 6/9/2004 re. 2004-2005 Estimates of Expenditure for ATSIC.

Your suggestion that the ATSIC Board has a diminished role since 1 July 2004 is incorrect. I remind you that the ATSIC Act is still in force and that there has been no decrease in the functions of the ATSIC Board.

In the 12 months since my suspension I must express my deep disappointment at the way in which the Commission and its staff have been treated by your government.

The training programmes that led to Aboriginal skilling and employment within ATSIC have been decimated. Corporate knowledge, experience and networks of former staff all operating within an organisation mandated by the people and operating in a culturally sound environment now has been lost.

Staff transferred over to mainstream departments are reporting that they are operating in a vacuum. No direction – no purpose, is the daily cry that I am hearing.

Whilst communities are suffering, your government has driven a wedge clearly between the Board of Commissioners and the Regional Councils, not to mention the scurrilous campaign waged against ATSIC.

Political jockeying will not ameliorate the suffering that is occurring within communities on a daily basis.

I strongly recommend that you approve the ATSIC budget recently endorsed at the last Board of Commissioners meeting. This will enable the Commissioners to carry out a process of discussions with our constituents about the best model reflecting best practice for service delivery and representation that will reflect the communities' aspirations.

We should put behind us the past events and enter into dialogue as to how we can best address Aboriginal disadvantage.

Yours sincerely,

Geoff Clark
Chairman

A handwritten signature in black ink, appearing to be 'Geoff Clark', written over the printed name.

4 13:31 FAX 61 2 6273 4142
2004 04:02 FROM

SENATOR VANSTONE

TO 0262734144

002
P.02



Minister for Immigration and Multicultural and Indigenous Affairs
Minister Assisting the Prime Minister for Reconciliation
SENATOR THE HON AMANDA VANSTONE

Parliament House
CANBERRA ACT 2600

Telephone: (02) 6277 7860
Facsimile: (02) 6273 4142

-6 SEP 2004

Mr Geoff Clark
Chairman
Aboriginal and Torres Strait Islander Commission
PO Box 17
WODEN ACT 2608

Dear ~~Chairman~~ *Geoff,*

Thank you for your letter of 31 August 2004 seeking approval of Variation No. 1 to ATSIIC's 2004-2005 Estimates of Expenditure pursuant to section 61 of the Aboriginal and Torres Strait Islander Act (1989).

Given that the functions of the ATSIIC Board have reduced since 1 July 2004, I have some concern about agreeing to increased administrative costs. However, before providing a final response I have followed normal caretaker conventions and have written to the Leader of the Opposition, Mr Mark Latham, seeking his views on your proposal.

Thank you for bringing this matter to my attention.

Yours sincerely

Amanda Vanstone
AMANDA VANSTONE

*Faxed to Klytia Weyman
7/9/04 as he will
fax to rest of both
[Signature]
[Signature]*