



Moreland City Council

**Submission
to
Select Committee on the Administration of Indigenous Affairs
for the Inquiry into**

(a) the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004;

(b) the proposed administration of Indigenous programs and services by mainstream departments and agencies; and

(c) related matters.

August 2004

... recent happenings do serve to highlight the fact that this is a critical time for our nation in the related fight against indigenous disadvantage and search for reconciliation. They also highlight the importance at the present time of reasoned and informed dialogue and consultation and of genuine search on all sides for true consensus about the way forward.

*Sir William Deane,
Patron Reconciliation Australia,
April, 2004*

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Statement of Commitment to Indigenous Australians by Moreland City Council

Council recognises:

- *that Indigenous Australians were the first people of this land;*
- *the ingenuity, spirit and contribution of Indigenous people;*
- *that social and cultural dispossession has caused the current disadvantages experienced by Aboriginal and Torres Strait Islander Australians;*
- *the centrality of Indigenous issues to Australian identity;*
- *that Indigenous people have lost their land, their children, their health and their lives and regrets these losses.*

Council supports:

- *the right of Indigenous people to live according to their own values and customs subject to law;*
- *the vision as expressed by the Council for Aboriginal Reconciliation of a united Australia which respects this land of ours, values the Aboriginal and Torres Strait Island heritage and provides justice and equality for all;*
- *campaigns for Indigenous people's rights, especially to land and native title to land.*

Council commits itself to:

- *building a trusting, collaborative and supportive relationship with Indigenous groups;*
- *respecting identified Aboriginal sacred sites and special places;*
- *educating itself and others on the strength and unique contribution of contemporary Aboriginal cultures, and of the facts of colonisation;*
- *contributing to the promotion of accurate information on current issues;*
- *encouraging equity and access for all members of Indigenous communities to culturally sensitive services.*

1. INTRODUCTION

Moreland City Council appreciates the opportunity given by the Senate Select Committee on the Administration of Indigenous Affairs to make this written submission to the inquiry into the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 and related matters.

The 27th May 2004, the Federal Government introduced to the House of Representatives the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004. This Bill implements the Government's decision to abolish the Aboriginal and Torres Strait Islander Commission (ATSIC) that had been announced in mid April 2004. The Government's decision provides for the retention of ATSIC's Regional Councils until 30 June 2005. Accordingly the Bill provides for the abolition of the Regional Councils after that date. The Government proposes no replacement of any representative structure and to replace Indigenous leadership with a solely 'advisory' role.

Immediately following the Government's decision, Moreland City Council endorsed the attached Council report (Appendix 1). Subsequently Council in partnership with other Indigenous and non-Indigenous organizations immediately advocated for more time to consider this decision and its ramifications.

Moreland City Council has subsequently investigated the key issues in greater detail to assist discussion and understanding and with particular regard to the needs of local Government, local Indigenous communities and other partner agencies in progressing their Reconciliation agendas.

Moreland City Council is concerned about a number of issues related to this matter including the:

- general directions and messages being proposed by the Federal Government related to Indigenous Australians;
- lack of consistency between the Federal Government's proposals and the findings of the ATSIC Review and other key studies including recent Social Justice Annual Reports.
- the loss of representative processes for Indigenous Australians;
- loss of community building achievements and program delivery capacity and skill which ATSIC has built up over the last 13 years in Indigenous communities; and
- various issues related to the effective planning, delivery and evaluation of services and programs for Aboriginal and Torres Strait Islanders generally, and those formerly funded through ATSIC and its service arm Aboriginal and Torres Strait Islander Services (ATSIS).

1.1 *Relevant Moreland Policy*

This submission is consistent with Moreland City Council's policies on Aboriginal and Torres Strait Islander issues that are documented in the Moreland Reconciliation Policy and Action Plan 2001 and in Health, Safety and Well-being in Moreland- the Moreland Municipal Public Health Plan 2003. (Copies are attached). These policies provide a comprehensive foundation to begin assessing the issues emerging from the likely abolition of ATSIC.

The core of Council's Reconciliation Policy is Council's Statement of Commitment to Indigenous Australians that was adopted in 1997. The policy base encompasses three broad areas Recognition Access to Services and Governance. Council's Municipal Public Health Plan supports equitable socio-economic outcomes for Indigenous Australians and emphasises the importance of participation, community capacity building and planning based on quality research, need and a social model of health.

These policies are underpinned by eight principles:

- Health promotion and disease prevention
- Respect for individual dignity
- Equitable access and responsiveness to diversity
- Participation and Engagement in Decision-making
- Strengthening Communities and enhancing Social Capital

- Effective resource use, Accountability and Best Value
- Sustainability and
- Addressing the Triple Bottom Line of social, economic and environmental considerations

1.2 Concerns of Neighboring Councils and Others

Following the Federal Government's announcement, Moreland City Council agreed to the request made by neighbouring Yarra and Darebin Councils to write a joint letter to the Prime Minister expressing support for the valuable contribution and leadership of the ATSIC Tumbukka Regional Council, and to highlight that ATSIC's advice and advocacy on local initiatives has been instrumental and invaluable in helping the three Councils and our communities identify local Indigenous issues and find locally relevant solutions.

The three Councils have relatively high proportions of Indigenous Australian residents and most of the key Aboriginal organisations are located in these three Council areas.

The letter requests that the Prime Minister reconsider and continues a future for a representative Indigenous national body where Indigenous people have capacity to determine their own affairs, an opportunity to democratically elect their representatives, and a structure where programs and services can be delivered in ways that reflect the cultures and priorities of local Aboriginal communities.

Following Moreland City Council investigation of the issues, Council considers that the Municipal Association of Victoria Local Government Indigenous Issues Network and the Indigenous Interagency Coordination Committee (IICC) be elevated to formal committee status of the MAV and that representatives of the MAV Board chair both committees. This initiative is being proposed to improve the leadership role which the MAV can take on behalf of local Councils and to strengthen understanding and mutual support between the MAV and to the Australian Local Governance Association (ALGA) on these important changes affecting local Indigenous communities and local service delivery, and local Councils.

Victorian local governments have not been kept well-informed of the possible impacts of the abolition of ATSIC, or the COAG Trials, nor have locals government been engaged with relevant state and federal government agencies on local service delivery and program changes resulting from the dispersal of ATSSIS/ATSIS programs from 1st July 2004.

It is important to raise the awareness of Victorian Councils, and presumably of local authorities in other Australian States, of the current changes relating to Aboriginal and Torres Strait Islander issues and their potential impact of these changes on local authorities and communities. In Victoria Local Government elections will be held in November 2004 and restrictions on councils over the 'caretaker' period from Sept 2004 to November 2004, give greater import to the role of the MAV, VLGA and ALGA during this critical time. Moreland City Council is advocating on this issue. (Appendix 2).

Given the emotional content of much of the public comment, this paper seeks to clarify facts, to understand the rationale for the establishment of ATSIC and to try to realistically assess the value of the ATSIC organization, as a representative and Indigenous organization, to Indigenous Australians, to Moreland Council independently and to Council's intergovernmental and other partnerships.

1.3 Consultation for this Submission

Moreland City Council has sought advice and consultation for this submission through various avenues, including consideration of the findings in the ATSIC Review and other reports, consideration of public statements by Indigenous leaders, comment at recent forums with representatives of ATSIC, Reconciliation Victoria, Australians for Native Title and Reconciliation (ANTaR), the Equal Opportunity Commission, and conversations with many members of the Aboriginal community.

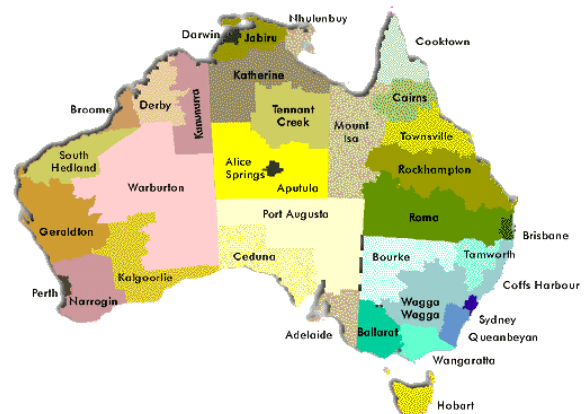
Over May 2004 Moreland City Council advocated to key members of the Federal Parliament, the Australian Labor Party, key Senators and leaders requesting them to delay any legislative proposal by the Federal Liberal Government to mainstream Indigenous programs and abolish ATSIC, before proper consultation and consideration of viable alternatives has been completed.

SUMMARY - ATSI Structure

- regional structure of ATSI addresses the scattered distribution of the Australian Indigenous population of 460,000. About 90% of Australia's Indigenous population lives in areas covering 25% of the continent whereas 90% of Australia's total population is contained within just 2.6% of the continent.
- There are 35 ATSI regions nationally with an average population of 13,000 people in each.

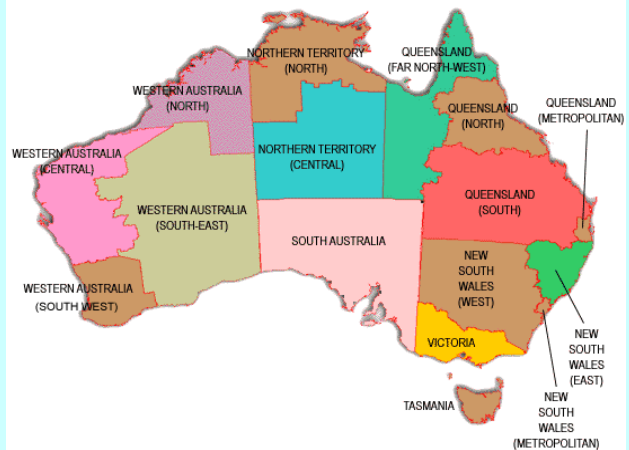
35 Regions and 388 Regional Councillors

- 35 Regions
- Regional catchments of about 13,000 people
- Each region has 2-3 wards.
- Each region has a Regional Council made up of 9-12 councillors.
- Each Regional Council elects its chair person and deputy chairperson.
- There are two Regions in Victoria Tumbukka to the west and Binjirru to the East.



16 Zones and 16 Zone Commissioners

- 1-3 ATSI regions are bundled to create each ATSI Zone. For example the two regions Tumbukka and Binjirru combine to form the Victorian Zone.
- There are 16 Zones created from the 35 Regions.
- The elected regional Councillors elect the 16 Commissioners.



The ATSI Board

- Made up of the 16 Zone Commissioners.
- The Board elects its chair, deputy chair and alternate deputy chair.
- Five **Board committees cover the following portfolios:**
 - Strategic Directions Committee;
 - Culture, Rights and Justice Committee;
 - Economic and Social Participation Committee;
 - Land, Water and Development Committee; and
 - Social and Physical Well-being Committee.

The issues were discussed at Council's Corporate Management Team on 27th May; and subsequently at meetings of the Moreland Steering Committee on Reconciliation that meets monthly.

In July 2004 Moreland City Council hosted a meeting of 12 partners from the Municipal Association of Victoria Local Government Issues Network to assist clarifying the critical issues for local government that may arise from the Federal Government's actions.

1.4 Local Community Response

The Government's announcement in April 2004 to abolish ATSIC drew strong reaction and debate within and beyond the Aboriginal community. In Melbourne, one hundred people attended a meeting at the Aboriginal Advance League in Thornbury two days after the Government's announcement, and a rally held on 11th May on the Steps of Victorian Parliament attracted 500 people. Larger rallies and programs are being activated over recent weeks with a special emphasis for the run up to the next federal election. A 'Restore Indigenous Voice' campaign has been initiated with strong indigenous and non-indigenous support including participation by the Uniting Church, ATSIC, ANTaR Melbourne, the former Equal Opportunity Commissioner, Di Sisely, Reconciliation Victoria and Moreland Council.

These local responses compliment those in other Australian locations. Following the announcement, there was immediate condemnation from leading members of the Aboriginal community including Cape York Aboriginal leader Noel Pearson and the Hon. Fred Chaney AO, Chair of Reconciliation Australia; Dr Willam Jonas, Social Justice Commissioner; Australian Democrats Leader Senator Andrew Bartlett; and from representatives of Australians for Native Title and Reconciliation (ANTaR).

Various groups are initiating response campaigns for the short and long term. Representations to the United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD) are being considered.

Many of those consulted for this paper feel that ATSIC has been very unfairly blamed. The respective outcomes for Aboriginal Australians delivered after 170 years of Government opportunity with large resources, are very poor when compared with those outcomes delivered after 13 years by ATSIC with comparatively much smaller resources.

'15% of the funding, 100% of the blame' is a common complaint.

Many highlight that historically well-funded mainstreamed services delivered by Government such as health, employment and education have a very poor history of delivering equitable outcomes for Indigenous Australians. Analysis by Moreland Council and others bears this out.

Others consulted felt that ATSIC was established without regard for the way indigenous communities work and traditional protocols, and ATSIC was an unlikely model to be effective.

Much of the debate focuses on the comparative benefits and shortcomings of mainstreaming or specialization of Aboriginal and Torres Strait Islander services. The strong feeling associated with this aspect of the debate is due to different perceptions about complex, and often interrelated factors such as resource availability, quality of services, the importance of holistic service delivery, overt and covert barriers to access in mainstream services, cultural responsiveness of services, Aboriginal employment opportunities and other factors. The success or otherwise of programs can be difficult to quantify as in indigenous and non-indigenous programs alike it is common for inadequate resources to be available for evaluations on well-being or cost-benefit impacts.

Some of the reaction to the Federal government's proposal to abolish ATSIC is general community outrage, while other reactions focus on analysis and the way ahead.

A common view seems to be that the current state of affairs may be irreparable for ATSIC. As a public organisation ATSIC may be untenable given its media /public opinion image. Also resources needed to strengthen ATSIC will not be forthcoming from the current Government, and may be unlikely from the alternative Labor Government. This state of affairs may make any efforts to revitalise ATSIC unwarranted.

The core issues are Indigenous rights, self -determination, a representative voice for Indigenous people, and service delivery processes that will achieve equitable socio-economic outcomes for Indigenous Australians.

In summary, it seems that while the ATSIC 'brand' may be no longer viable, many characteristics of ATSIC are highly valued and essential. It is important to avoid their loss and to identify and capture these characteristics in any alternative system.

2. ATSIC – THE BIG PICTURE

2.1 Background

ATSIC was established under the ATSIC Act in March 1990 by the Labor Government following several years of policy developmentⁱⁱ to advance self-determination and protect the rights of Indigenous Australians. The government's intention at the time was for the establishment of a commission as Australia's representative Indigenous organization, made up of, and working for, Aboriginal and Torres Strait Islander people. ATSIC was created to be the Australian Government's principal agency for administering Aboriginal and Torres Strait Islander affairs, on its establishment bringing together the functions previously handled separately by the Department of Aboriginal Affairs and the Aboriginal Development Commission.

The view is not uncommon that ATSIC was a Government construct that was not designed in partnership with Aboriginal people, nor likely to be very effective for Aboriginal people.

Nevertheless, it has provided a representative structure and offered program delivery capacity for 13 years primarily through the commitment, effort and creativity of Aboriginal communities and leaders, as well as with participation and administration to a lesser degree by non-indigenous people. The organization has offered a national structure and representative system, and while there are a number of concerns with the organisations, as with all organizations, the view is held by many of those consulted for this paper that they regard the ATSIC organisation as effective and valued in many areas.

ATSIC has delivered improved socio-economic outcomes for many complex needs clients by dint of its community building mechanisms, specifically its representative structures, staff skills, trust relationships, and unique and innovative local area programs, which are all underpinned by a philosophy that recognises and respects Australia's Indigenous cultures generally as well as being responsive to specific local histories of the various Australian Indigenous communities.

Importantly ATSIC provides the only platform for self-determination and for articulating circumstances, needs and voice of Indigenous Australians nationally and internationally.

Analysis by Moreland Council affirms the generally held view that ATSIC has achieved efficient and cost -effective delivery of many programs by capturing and mobilising high levels of social capital that have to a large extent, substituted for financial capital in its programs. For example ATSIC programs engage contributions of time, trust, leadership and energy by Aboriginal community members, family groups and Elders.

That Government departments or other agencies could take over programs and replicate these inputs and results in the short term, and in the current climate of race relations in Australia, and in the breadth of locations where ATSIC runs programs is highly unlikely.

2.2 Critical Events – Funding Cuts and ATSI

The Federal Government's proposal to abolish ATSI as an organization, to mainstream services and programs and to replace Indigenous leadership with a solely 'advisory' role, follows a range of critical decisions made by the Federal Howard Government affecting Indigenous capacity and representation.

There have also been some key actions by ATSI, and as a representative Aboriginal organisation concurrent with the Howard Government's term of office.

In its first budget in 1996 the new Howard Government cut funding to ATSI by \$100m over 4 years, representing a major reduction in ATSI's program capacity.

ATSI administered some funded programs until mid 2003. The level of ATSI responsibility is generally estimated at 15% of Federal Indigenous programs.

However, on 1 July 2003 the Federal Government created Aboriginal and Torres Strait Islander Services (ATSI) as a new structure to run ATSI's programs and to make specific funding decisions. Minister Ruddock announced at the time that ATSI would be an interim arrangement, pending the findings of the ATSI Review. The ATSI review was completed in November 2003.

The ATSI Board is mounting a legal challenge in the High Court to test the validity of the Federal Government's action in creating ATSI. (For easier readability no distinction is made between ATSI and ATSI in the rest of this discussion paper).

However as the Government could change funding arrangements to many ATSI programs administratively, this was done from 1 July 2004, while the abolition of ATSI organisation requires passage of the legislation.

2.3 The National Board

ATSI has had three national chairpersons Ms Lowitja O'Donoghue (1990-1996), Mr Gatjil Djerrkura OA (1996-1999) and Mr Geoff Clark (1996-2003). Chairs are appointed or elected for 3-year terms. For the first 9 years the Minister appointed the chair and from 1999 the national ATSI board elected the chair.

Over recent years there has been considerable media comment on ATSI, particularly regarding the national Board. Much of the comment has focused on personal matters relating to members of the Board. The Current Chair was suspended in mid 2003.

The suspension of duly elected Aboriginal Chair by a non-Aboriginal Minister is especially significant and symbolic for the Aboriginal community, when considered in the historical context. The ATSI electorate had power to elect the ATSI Chair position only in the 1996, 1999 and 2002 ATSI elections as prior to that the Minister appointed the Chair. Aboriginal Australians were disenfranchised nationally until 1967. To date there have been a handful of Indigenous people elected to prominent positions in public life, with less than 5 in local Government and 3 in Federal or State Governments.

2.4 The Role of the Media and Government

In general there seems to be significant confusion in media, government and community ability, and /or willingness, to distinguish between the performance of ATSI as a whole and the personal, real, or alleged behaviour of ATSI leaders.

Media oversimplifications and sensationalism, as well as real or perceived indifference to ATSI from its inception, have compounded this state of affairs.

In general, the Federal Government has articulated little support for ATSIC. A number of those consulted for this paper consider that the Federal Government had not only been largely unconcerned with any destabilisation of ATSIC, but have encouraged it.

Many of those consulted for this paper felt that by covertly or overtly encouraging the inaccurate perception that all or most funding for Aboriginal services is channelled through ATSIC, the Government avoids public scrutiny and criticism of its own poor performance in relation to education, health and employment for Aboriginal and Torres Strait Islanders.

A corollary view is that both major political parties, and the media, can and do exploit ATSIC's imperfections for political point scoring, racism or other reasons.

2.5 The Relationship to the Human Rights and Equal Opportunity Commission

The Aboriginal and Torres Strait Islander Social Justice Commissioner was created by the Federal Parliament in December 1992- a response to the findings of the Royal Commission into Aboriginal Deaths in Custody and the National Inquiry into Racist Violence. It was also a response to the extreme social and economic disadvantage faced by Indigenous Australians.

The Social Justice Commission Reports over recent years have highlighted the poor socio-economic position of Indigenous Australians. The Commissioner contributes to reports that Australia is required to submit to United Nations' committees on human rights issues affecting Aboriginal and Torres Strait Islander peoples, as well as making independent submissions to these committees.

In March 2003, the Federal Government initiated legislation for changes to the make-up of the Australian Human Rights and Equal Opportunity Commission.

The proposal was that the 5 Commissioner positions that have had specialisations in areas of Human Rights, Sex Discrimination, Race Discrimination, Disability Discrimination and the rights of Indigenous people would be collapsed into three generalist Human Rights position.

The new legislation would also change the Commission's intervention powers requiring it to obtain the Attorney-General's consent prior to seeking leave to intervene in legal proceedings involving human rights and discrimination issues.

This legislation was referred to Senate Committee.

“ Abolishing ATSIC and ensuring that Indigenous people have no place at the negotiating table is not the answer. It will simply silence Indigenous people at the national level while the deeply entrenched crisis in Indigenous communities continues unabated”.

*Dr William Jonas AM,
Aboriginal and Torres
Strait Islander Social
Justice Commissioner
16 April 2004*

2.6 The Relationship to the United Nations

Aboriginal organizations are undertaking a growing level of international advocacy. In 1995, shortly before the Howard government came into office, the Aboriginal and Torres Strait Islander Commission (ATSIC) had gained Special Consultative Status with the United Nations Economic and Social Council (ECOSOC).

ECOSOC is one of the 6 principle organs of the United Nations, with the other five being the General Assembly, the Security Council, the Trusteeship Council, the International Court of Justice, and the Secretariat. ECOSOC consults with 2,418 registered non-governmental organizations worldwide, and these organizations have to be approved for Consultative Status through the UN Committee on Non-Governmental Organizations.

Five Australian Aboriginal organizations have now gained Special Consultative Status. These are

- National Aboriginal and Torres Strait Islander Legal Services Secretariat (NAILSS) in 1985;
- Aboriginal and Torres Strait Islander Commission (ATSIC) in 1995;
- New South Wales Aboriginal Land Council in 1998;
- Link-Up (Qld) Aboriginal Corporation in 1999; and
- Foundation for Aboriginal and Islander Research Action (FAIRA) in 2003.

In 2003 ATSI did not approve funding to continue the National Aboriginal and Torres Strait Islander Legal Services Secretariat (NALSS) resulting in a loss of a national coordinating and advocacy capacity Australia's Legal Services and loss of approximately 30 positions.

Recently, in March 2004, two of these Australian bodies, the Foundation for Aboriginal and Islander Research Action (FAIRA) and the National Aboriginal and Torres Strait Islander Legal Services Secretariat (NALSS) and the Indigenous Social Justice Commissioner joined with Indigenous organizations from other countries in endorsing the submission of the Grand Council of the Cree to the United Nations assessing the International Decade of the World's Indigenous People. The submission outlines proposals for renewed efforts for adoption of the Draft Declaration on the Rights of Indigenous Peoples.

The Prime Minister opposed any preamble to the Australian Constitution mentioning Indigenous peoples, has consistently opposed the idea of a Bill of Rights and described the ACT Human Rights Act passed in March 2004 as 'ridiculous'. The Whitlam and Hawke governments put proposals forward for a federal Bill of Rights. None of these proposals has succeeded.

3. KEY ISSUES

The concerns that are identified by Moreland City Council are supported by Moreland City Council's policies on Aboriginal and Torres Strait Islander issues and on population health improvement.

Moreland Council has formalised its policy on Indigenous Australians in its Statement of Commitment to Indigenous Australians, and with the Moreland Reconciliation Policy and Action Plansⁱⁱⁱ that have been in place since 1998.

In summary, Council's existing policy position challenges Council to mitigate the negative effects of past injustices and to improve the rights and interests of Indigenous Australians with an emphasis on recognition, access to Council and community services, and governance issues.

Council existing policy on population health and well-being improvement as outlined in Health, Safety and Wellbeing in Moreland-the Moreland Municipal Public Health Plan 2003 also informs Council's approach.^{iv}

Moreland City Council urges the Select Committee to consider the 19 issues and concerns outlined below. Council urges the Select Committee to ensure that if any alternative system to ATSI is developed that such a system will incorporate the valued characteristics of ATSI.

3.1 Good Will

The Federal Government's actions, including the speed of change and the tenor of the relevant announcements seem to be counterproductive to good will between ATSI and non- Indigenous communities upon which the national Reconciliation agenda depends. The Government's actions oppose the principles of reconciliation, of community building, of ATSI leadership development that many Victorian local Governments and partner agencies are promoting at the local level, and that to date have been supporting socio-economic improvement of ATSI communities.

3.2 Responsiveness to a Scattered Distribution and to an Urban Population

The national-regional-ward structure within ATSI addresses the scattered distribution of the Australian Indigenous population of 460,000. It is important to highlight that about 90% of Australia's Indigenous population lives in areas covering 25% of the continent whereas 90% of Australia's total population is contained within just 2.6% of the continent.

It is important to remember that in remote areas located further away from the Australian capital cities, ATSI is the only structure that offers public infrastructure, community capacity building, service delivery and the repository of community knowledge and trust.

In urban communities ATSI plays an equally crucial role, albeit a different one.

3.3 *ATSIC Nationwide Repository and Clearing House on ATSI Matters*

ATSIC offers an invaluable contact point for non-indigenous organisations, such as Moreland Council, to access indigenous perspectives and strengthen understanding. ATSIC staff, web sites and publications inform decision-making, stimulate debate and generally support professional development on Indigenous issues in many organisations including Moreland City Council.

ATSIC offers an authoritative contact point, accessible, representative and knowledgeable spokespersons, and a contact network via its community-based programs.

While no organisation could be expected to represent all views, the representative structure of ATSIC provides an authoritative and important conduit for information sharing. ATSIC contributes to international, national, state and local policy and programs, and its perspectives and insights on many matters are based on practical and theoretical experience, and draw on local to international level experience.

To date ATSIC provides the only such generalist Indigenous organisational mechanism.

3.4 *ATSIC Board- Consolidating issues nationally and internationally*

The national ATSIC Board is made up of 16 elected Commissioners and embraces all Indigenous issues. The ATSIC Board operates with five sub committees on

- Strategic Directions;
- Culture, Rights and Justice;
- Economic and Social Participation;
- Land, Water and Development; and
- Social and Physical Well-being.

ATSIC has Special Consultative Status with the United Nations and operates as spokesperson at national level.

The Board also coordinates NAIDOC that is the significant national event for all Indigenous Australians.

3.5 *Democratically Elected Representation*

ATSIC elections are held every three years and managed by the Australian Electoral Commission and a report is published and available on the Internet. An independent review of the ATSIC electoral boundaries and system is also held every three years.

In the 2002 ATSIC elections, a total of 1194 nominations were received for the 388 Regional Councillor places available on the 35 ATSIC Regional Councils around Australia.

Of these 1194 nominations, 408 (37.3%) were received from women. This is a slightly higher rate compared to women's candidature in local government elections. For example in 54 municipal elections held in Victoria in 2003, 31% of the 1565 candidates were women and women comprised 27% of the elected local government councillors.

In the 2002 ATSIC elections, 53,326 people (21%) voted of the eligible voting population estimated at 252,000 representing an increase of 4074 voters from the previous 1999 ATSIC election. Voting is voluntary in ATSIC elections. This compares to a participation rate of 50% in US Presidential elections, which are voluntary, and 62% in the 2003 Moreland City Council elections, which were compulsory.

There is debate of how thoroughly ATSIC currently represents its constituents and whether 21% constitutes significant representation. This level of voter participation needs to be considered in the light of the comparatively short, 13 year, life of ATSIC, with only 5 ATSIC election rounds held to date. There are other contributing factors. Voting in ATSIC elections requires voters to register on the Australian Election Roll, which also commits voters to all Federal, State and local elections. Many Indigenous people are reluctant to be part of elections due to mistrust of 'white mans' systems and experience of past injustices. Generally lower education levels among the Indigenous population and distance from polling booths contribute to lower voter participation rates. ATSIC administers only one sixth of overall funding targeted to Indigenous programs and some Indigenous Australians have access to and prefer to use mainstreamed services and systems.

It is important to reiterate that the national board of ATSIC has been elected over the last two terms in accordance with democratic processes by the ATSIC constituency.

3.6 Organizational Skill Base

The ATSIC web site (www.atsic.com.au) is comprehensive, provides information on its activities, copies of relevant documents and contacts.

ATSIC has key roles in advocacy, planning, community building and service delivery and operates from the local to international level.

A summary of national ATSIC programs and funding is provided as Appendix 3.

Grant funding allocations for the Tumbukka region in 2003-04 totalled \$8.5 million. Highlights included:

- \$5.4 million for Community Development Employment Projects (CDEP);
- \$1.8 million for community housing and \$315,000 for municipal services;
- \$313,500 for sport and recreational activities;
- \$223,700 for Indigenous arts and culture programs;
- \$172,250 for juvenile justice and crime prevention programs;
- \$143,780 for Indigenous women's issues;
- \$56,000 for 2004 NAIDOC Week; and
- \$56,000 for community planning.

3.7 The ATSIC Review

In November 2002 the then Minister for Indigenous Affairs, Mr Ruddock, announced an independent, national review into the role and functions of ATSIC. The review was finalized in November 2003.

The review panel comprised the Hon John Hannaford, Ms Jackie Huggins AM and the Hon Bob Collins, and incorporated consultation on a detailed discussion paper, meetings with 44 Aboriginal communities and regional ATSIC Councils, and consideration of 156 written submissions. Ms Jackie Huggins AM was the only indigenous panel member.

The ATSIC review report made 67 recommendations including two overarching recommendations that the existing objects of the ATSIC Act should be retained, and that ATSIC should be the primary vehicle to represent Aboriginal and Torres Strait Islander peoples' views to all levels of government.

The panel noted that *'in the course of the review there have been many suggestions about ATSIC and the way it has evolved, with criticisms levelled at nearly all aspects of its structure, role and operation. However, the overwhelming view expressed to the panel was ATSIC should continue to operate as the national representative organisation'*.

Key themes in the 67 recommendations are that ATSIC operations and planning at the regional level is highly valued; that ATSIC and all spheres of government should work more closely; and that monitoring and performance auditing of ATSIC programs and other funded programs targeting Indigenous Australians should be enhanced.

These themes are reflected in recommendations of other recent reports including the Reconciliation: Off Track Oct 2003 report and the Social Justice Report 2003.

Quality advice has been provided to the Federal Government over the last three years on Indigenous programs and issues. None of the following reports have recommended that ATSIC should be abolished.

Inquiry	Undertaken by	Duration	Final Report
The ATSIC Review	Independent panel	Nov 2002- Nov 2003	The ATSIC Review, Nov 2003 ^v
Inquiry into capacity building in Indigenous communities	Standing Committee on Aboriginal and Torres Strait Islander Affairs	June 2002 - present	Hansard transcript of Victorian public hearing -Feb 2003. Awaiting final report expected at end June 2004 ^{vi}
Inquiry into the distribution of funding for programs providing services for Aboriginal and Torres Strait Islander people.	Commonwealth Grants Commission	Nov 1999-2001	Report on Indigenous Funding, 2001 ^{vii}
Inquiry into National progress towards Reconciliation	Federal Senate Legal and Constitutional References Committee	2001-3	Reconciliation: Off Track Oct 2003,
Social Justice Report 2003	Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr William Jonas	2003	Social Justice Report 2003

3.8 Responsiveness to a Unique, Australian Population

Aboriginal and Torres Strait Islanders hold a unique place as prior owners and as Australia's first peoples. The population is based in urban to the most remote locations.

Unlike other ethno-specific cultures in Victoria and Australia such as Greek, Somali, Lebanese or Kurd, Australian Indigenous cultures are based nowhere else on Earth, and are not strengthened or sustained on other continents. Consequently cultural recognition, respect and self-determination are critical.

The unique linguistic, social, tribal and territorial characteristics of Aboriginal and Torres Strait Islander (ATSI) cultures presents special challenges in relation to ATSI rights, social justice and achieving equitable socio-economic outcomes for Indigenous Australians generally. These characteristics distinguish what is an appropriate response to the needs of ATSI groups from the needs of other 'multi-cultural' groups in the population.

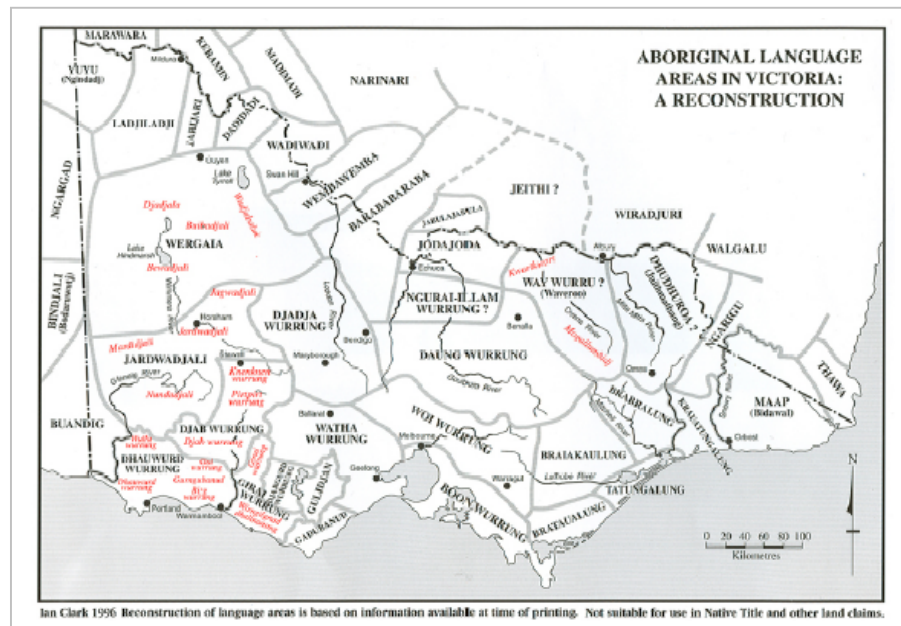
3.9 Cultural Recognition – A Diversity of First Nations

It is important to remember that prior to white settlement, there were 250 distinct Indigenous nations in Australia, each with a separate and distinct territory, language and culture. Nearly half of these languages are still used, although some are under threat. Each language is linked to cultural and spiritual identity and history, through songs, legends, poetry and lore. 60 languages remain strong nationally. It is estimated there were 1000 or so separate dialect groups nationally.

Thirty-six languages may have been spoken in the region now bounded by the state of Victoria. In addition, 19 sub-dialects have been identified in seven languages in Victoria.^{viii} Indigenous languages may be lost as the older speakers pass away. Nevertheless as these cultures are living cultures, traditional ways may change or disappear and modified or new practices emerge.

Moreland City Council recognizes the rights of Indigenous nations and culture collectively and in their separatism.

Recognition and acknowledgement of the First Nations is a cultural, spiritual, healing and health issue that has been emphasized in all relevant reports and studies including the RoadMap to Reconciliation in 2000.



The first people that occupied the Melbourne area prior to European Colonization were the Woiwurrung language group, specifically the Wurundjeri people. The territory of the Wurundjeri lies within the inner city of Melbourne and extends north of the Great Dividing Ranges, east to Mt Baw Baw, south to Mordialloc Creek and west to Werribee River. Moreland is located on Wurundjeri land.

Moreland City Council and other agencies must comply with the federal and state Native Title and Cultural Heritage Acts through formal recognition and consultation arrangements on heritage, cultural and land management issues with the Wurundjeri Tribe Land Compensation and Cultural Heritage Council Inc that is established under Federal legislation for this purpose.

Council has formal protocols and principles for engagement with the Wurundjeri and with other Aboriginal and Torres Strait Islanders.

Moreland City Council recognizes the importance of acknowledging first nations and takes opportunities to promote the Wurundjeri as prior owners and cultural stewards of the Moreland area, and in the historical and contemporary context of the Wurundjeri as one of the Indigenous cultures of southeastern Australia.

As cultural, land, spiritual and health issues are inseparable for Indigenous individuals and community life; these protocols must be respected in any new service delivery system that replaces ATSIIC.

3.10 The Unique Characteristics of metropolitan Indigenous communities

Significantly the Federal Government's actions and the associated public statements seem to be focused on the needs of remote Aboriginal communities. Metropolitan areas and metropolitan Indigenous communities and service systems are very different from those in remote locations. How are these differences being considered?

Indigenous people in urban environments are surrounded by a large population and a multitude of services and activities, yet often experience acute cultural and social exclusion, however Indigenous people in remote communities, though in want of public services and activities, often have a very rich social life and a deeper sense of cultural belonging.

There is a common misconception, particularly among government agencies and service providers, to use remoteness as an indicator of accessibility. The barriers to access experienced by urban Indigenous people include the structure of mainstream services. On the whole, urban services are not culturally appropriate and management and staff lack the training to work in cross-cultural contexts. There are also relatively low numbers of Indigenous staff employed by service providers and consequently, Aboriginal people experience high levels of discomfort and insecurity when attempting to access essential services.

3.11 Social Justice

As a result of white settlement during the last 200 years the sustainability of all Australian Indigenous cultural groups have been severely threatened through violence, dispossession of lands and Government-imposed policies which promoted the fracturing of families and communities.

Many living members of Aboriginal and Torres Strait Islander communities, including people living in Moreland, have personal experience of these traumas. Moreland Council endorses government policies and practices that offer appropriate care, and that support self-determination, cultural recognition and respect.

Moreland City Council promotes improvements to achieve equitable socio-economic outcomes for Indigenous Australians to levels consistent with those of the non-indigenous community.

Moreland City Council adopts a social model of health and well-being that is documented in its municipal public health plan, which is a statutory requirement for all local Governments in Victoria.

3.12 Community Capacity - Social Capital

Moreland Council has a core commitment to community capacity building, as do the Victorian and Federal Governments.

Aboriginal, community-based, funded programs have preempted community capacity building practice that many other local, state and federal Government agencies are only recently learning to embrace. Aboriginal groups and cooperatives have been running community-based programs related to many fields including cultural development, employment, social activism, arts, aged care, child care, family support, land rights and native title, education, housing, health, recreation and justice and legal services. Many Aboriginal structures have long experience in arrangements that require groups to substantially develop and manage funded programs. For example the 2000 ATSIC Tumbukka Grants were directed to 60 community groups in the western half of Victoria.

Funded and unfunded Aboriginal community programs commonly harness and mobilize high levels of social capital including energy, commitment and trust from Elders and community members. To a large extent this social capital has resourced programs as a substitute for financial capital. This contribution of social capital needs to be sustained if ATSIC Aboriginal program delivery is altered, to prevent less program success, or a blow out in program costs over the longer term.

3.13 Ensuring Proper Use of Public Funds

Many First Nations programs are, and should continue to be, run by small community and often family groups. Although program delivery through local level design and delivery approaches runs some risk of, and has contributed to, issues related to the Separation of Powers.

When members are designers, stakeholders, employees, managers and Board members, the issues of equity, transparency and propriety in the use of public funds become more complex than when programs are delivered through large bureaucracies that can offer 'arms length' oversight.

Separation of Powers is an issue that has been identified in various reports including the recent ATSIC review.

Further investigation and perhaps some creative solutions need to be considered to ensure that proper standards are clarified and met while maintaining local level engagement and decision-making in Aboriginal and Torres Strait Islander programs. To assume that the dominant paradigm should be a Separation of Powers may not be the best way forward. There may need to be some way of balancing proper management of public funds with the responsibility felt within community groups to 'look after our own'.

3.14 Information, Research and Planning Capacity

Quality data coordination and planning at the local level is critical to local Government in Victoria. Local Government in Victoria has its role mandated in the Health Act under the municipal public health planning provisions. For local governments to work in partnership with State Government Departments, Primary Care Partnerships and other parties there needs to be some effective mechanism for coordinating ATSI regional level data and knowledge.

Dispersal of ATSIC programs and staff without a replacement system is a backward step in what is already a difficult task at the regional and local level. Many of the Federal Departments which have responsibility for ATSIC/ATSIS programs after June 30 have no office in Melbourne or Victoria, nor organisational infrastructure, physical infrastructure or knowledge and experience to be able to deliver services effectively to ATSI people and communities at the local or regional level.

Council is concerned about who is now delivering existing ATSIC services? Are scarce resources being wasted passing service delivery arrangements from Federal to State agencies, or to NGOs and how are these arrangements being negotiated?

ATSIC has coordinated many programs and the arrangements are recorded in Annual reports and other ATSIC records. ATSIC staff have now been dispersed to various departments without proper planning and knowledge management and knowledge transfer.

There needs to be effective ATSI research and planning capacity that Moreland City Council and other planners can draw on for expertise and for social, environmental, economic and governance planning and activity and at the local regional, state, national and international level.

3.15 Catchment Size

There are 35 ATSIC regions nationally with an average population catchment of 13,000 people in each. Each region has Regional Council made up of 9-12 councillors. Each region has 1-5 wards. Each Regional Council elects its chair and deputy chair.

Regional councils are responsible for developing regional plans every three years, allocating funds for community-based programs, and reporting to their constituents and the wider community.

Over recent years, Moreland Council, the Department of Human Services and agencies in Victoria have been investing resources in population health and well-being development at the local and regional level through programs such as the municipal public health planning, the primary care partnerships, and community building programs.

Planning and service delivery for population catchments of approximately 13,000 is often considered to be an ideal model from a community planning perspective. This size catchment is large enough to have viable programs but of suitable 'human scale' to observe, understand and monitor issues and outcomes. This size catchment enables community-based agencies and leaders to have face-to-face workable relationships and partnerships.

Moreland Council electoral wards, the Fawkner Community Building program and the Metropolitan Melbourne Principal Activity District model (including the Central Coburg Integrated Plan) focus on catchments of this magnitude.

3.16 ATSI Physical Infrastructure

ATSIC owns, has funded, been maintaining or has been managing substantial portfolios of building infrastructure that has supported many of its programs and community activities to date. Who is now responsible for managing and maintaining this?

If the Federal Government chooses to sell off ATSIC's (the communities) physical infrastructure, will local governments be expected to find replacement accommodation for ATSI service delivery centres or community activities?

3.17 Loss of Representative ATSI Policy Advice and Leadership

Many Local governments, Victorian Government bodies and other organisations have engaged ATSIC to provide policy advice and information on many generalist and specialist Indigenous issues. Who will be contactable and who has the knowledge and professional freedom on behalf of communities to take up this role?

Many local Governments, State Government Department, non-government organisations and private sector companies in Victoria have engaged ATSIC staff to provide advice, assist with negotiations and discussions, provide contacts and personal introductions to an appropriate ATSI local community contact, develop and review programs, develop and review policies. ATSIC has co-signed statements of agreement and Memoranda of Understanding, and generally assisted many Victoria Councils, State Government organisations and other non- government organisations progress their Reconciliation agenda.

These invaluable contributions have been provided very willingly by ATSIC staff and in formal and informal settings and often at short notice. Who will replace this?

As an example of more formal agreements, ATSIC is a signatory to many significant local and State Government documents, statements and agreements including the Municipal Association of Victoria Toomangi document, and the Victorian Aboriginal Justice Agreement. How will any whole-of-government approaches without elected representation be able to 'select' the most appropriate community representatives to be signatories for their communities?

Who will take up these roles? The proposed Bill provides no answer.

ATSIC is an active and invaluable partner and policy advisor on key industry forums that benefit Moreland and other local and state government authorities in Victoria. These forums include the Municipal Association of Victoria (MAV) Indigenous Interagency Coordination Committee, the MAV Local Government Indigenous Network, the State Reconciliation Committee, Premier's Aboriginal Advisory Committee, the Aboriginal Justice Agreement Steering Committee and the NAIDOC Committee.

Representatives of ATSIC Tumbukka Regional Council have contributed actively to development of the Moreland Reconciliation Policy and Action Plans, to leaders forums on Indigenous employment, governance and access to services, and with incidental advice to Council officers whenever requested.

Moreland Council and other local Governments in the Victorian Local Government Indigenous Issues Network regularly seek advice from ATSIC representatives to inform programs and policy.

It is crucial to highlight that ATSIC spokespersons not only bring to partnership discussions with Council and other agencies unique insights into Indigenous affairs, but their insights and opinions are representative of their constituency. Their role as spokesperson has been endorsed through a democratic and formal electoral process involving a substantial proportion of the Indigenous community, and available to all Aboriginal and Torres Strait Islanders should they choose to vote.

3.18 Likely Cost-Shifting to local Government– Coordinating the ‘Shared Responsibility’ Agreements - COAG pilots

The Federal Government actions are likely to place extra burden on Victorian Local Governments for coordination, regional or local level planning, partnership development service design and delivery and community building.

Eight COAG pilots – Shared Responsibility Agreements- have been trialed nationally since April 2002 and the Federal Government’s directions seem to be very consistent with these pilots.

Significantly none of the 8 COAG trials have been sited in metropolitan areas (apart from the one trial covering all of Tasmania). Metropolitan Indigenous communities, Indigenous health and well-being needs and the planning systems and service delivery systems are very different from those in remote locations. How are Metropolitan circumstances and situations being analysed and considered in relation to the COAG trials?

It seems very likely that local Governments will be responsible for coordinating and negotiating the whole-of-Government, whole-of community approaches that are fundamental to the COAG trials.

This is not a simple task and will require development of new relationships between bureaucracies which often have very different organizational cultures.

However, apart from City of Greater Shepparton that is the site of the only Victorian COAG trial, no other Victorian Local Government, nor the peak bodies, MAV, VLGA etc seem to have been acknowledged or engaged in the change process proposed.

3.19 The Aboriginal and Torres Strait Islander Voice – Representation

Abolishing ATSIC, the only national structure, has the potential to fracture and diminish the separate and collective voices on Aboriginal and Torres Strait Islander matters.

Moreland City Council Reconciliation Policy and Action Plan opposes this development. Council will take opportunities to promote the voice for Aboriginal and Torres Strait Islanders, to promote discussion on the best ways to capture representative views that may be based on elected and representative processes, traditional Elders protocols or some other system.

Moreland City Council will support Aboriginal and Torres Strait Islander involvement in other representative processes including Local Government elections

SUMMARY OF MORELAND CITY COUNCIL POLICY POSITION (June 2004)

Moreland City Council’s existing policies on Reconciliation, health and well-being provide the policy foundation on all issues related to Aboriginal and Torres Strait Islanders. Core elements of Council’s policy are Recognition, Access to Services and Governance. Moreland City Council’s policy is documented in the Moreland Reconciliation Policy and Action Plan and in Health, Safety and Well-being, the Moreland Municipal Public Health Plan.

In relation to matters arising in 2004 related to the proposed abolition of ATSIC, Moreland City Council affirms and refines these policies with the following statements:

1. Moreland City Council supports a representative Aboriginal and Torres Strait Islander voice at the local to international level.
 - 1.1. Moreland Council’s existing policies on Reconciliation, health and well-being, support self-determination, respect for Indigenous rights, respect for diversity in Indigenous populations, support for a representative voice for Indigenous Australians at local, regional, state, national and international levels, and recognition of the unique place of Aboriginal and Torres Strait Islanders as prior owners and Australia’s first nations.

- 1.2. Moreland Council will continue to listen to, and work in partnership with our Indigenous communities to develop programs, processes and structures that can achieve equitable socio-economic outcomes for all Indigenous Australians, and that are responsive to need, cultural practice and protocols.
2. Moreland City Council supports sustainability and continuous improvement of successful Aboriginal and Torres Strait Islander planning mechanisms, structures and programs.
 - 1.3. Key characteristics of ATSIC and its programs are highly valued. These characteristics need to be identified, sustained and transferred to any alternate agencies that deliver programs aimed at improving socio-economic outcomes for Indigenous Australians.
 - 1.4. Successful transition and efficient and cost-effective transfer between agencies will require time for development of proposed delivery mechanisms and relationships that are cognisant of the critical success factors of current successful ATSIC programs, and that resolve shortcomings associated with mainstreaming of programs.
 - 1.5. Resourcing of programs for all Indigenous Australians should focus on achieving equitable socio-economic outcomes. Effective programs may require innovative and tailored solutions. Change mechanisms should engage affected Indigenous Australians in their design and delivery.
 - 1.6. Recent studies, including the ATSIC Review Nov 2003, provide information and recommendations that should inform any new ATSI program delivery system or representative structures.
3. Moreland City Council supports thorough consideration of the following issues in relation to current developments:
 1. Loss of Good Will
 2. Responsiveness to a Scattered Distribution
 3. ATSIC Nationwide Repository and Clearing House on ATSI Matters
 4. ATSIC Board- Consolidating issues nationally and internationally
 5. The Significance of Democratically Elected Representation
 6. Organizational Skill Base
 7. The ATSIC Review
 8. Responsiveness to a Unique, Australian Population
 9. Cultural Recognition – A Diversity of First Nations
 10. The Unique Characteristics of metropolitan Indigenous communities
 11. Social Justice
 12. Community Capacity - Social Capital
 13. Ensuring Proper Use of Public Funds
 14. Information, Research and Planning Capacity
 15. Catchment Size
 16. ATSIC Physical Infrastructure
 17. Loss of Representative ATSI Policy Advice and Leadership
 18. Likely Cost-Shifting to local Government– Coordinating the ‘Shared Responsibility’ Agreements - COAG pilots
 19. The Aboriginal and Torres Strait Islander Voice – Representation

Appendix 1:

Council Report 24 May 2004: DSD 34 Federal Government proposals for the Aboriginal and Torres Strait Islander Commission (ATSIC) (230/005/3)

1. Purpose

Director Social Development reporting on the Federal Government's proposals for change to the Aboriginal and Torres Strait Islander Commission (ATSIC).

2. Policy Implications

This report is consistent with the Moreland Reconciliation Policy and Action Plan (2001), Health, Safety and Well-being in Moreland, the Moreland Municipal Public Health Plan (2001) and Council's key commitments to governance and social equity as detailed in the Council Plan 2003-2006.

3 Background

The Federal Government announced on 14 April 2004 that it proposes to introduce legislation to abolish ATSIC as an organisation. The Government proposes to replace Indigenous leadership with a solely 'advisory' body and to mainstream services and programs that have to date been provided through ATSIC. The Government's proposal has drawn condemnation from leading members and supporters of the Aboriginal community. Moreland Council has been approached by representatives of the Aboriginal community, Australians for Native Title and Reconciliation (ANTaR), and Yarra and Darebin Councils to oppose the proposed changes.

Moreland Council's existing policies on Reconciliation, health and well-being, provide a comprehensive foundation to assess the issues emerging from the likely abolition of ATSIC. Council's existing Reconciliation Policy encompasses respect for Indigenous rights; self-determination; a representative voice for Indigenous Australians; recognition of the unique place of Indigenous Australians as prior owners and Australia's first nations; and respect for diversity in Indigenous populations. Council's Municipal Public Health Plan supports equitable socio-economic outcomes for Indigenous Australians and emphasises the importance of participation, community capacity building and planning based on quality research, need and a social model of health.

4 Issues

Complex issues are associated with the abolition of ATSIC as a democratically elected, national Indigenous structure. Concerns include the general approach announced by the Federal Government, the establishment of an appointed advisory body rather than one that has elected members, the shift to mainstreaming Indigenous services, the probable dismantling of significant social infrastructure associated with the current ATSIC structures and the impact on the national Reconciliation agenda.

As it is likely that the Federal Government will propose legislation on ATSIC early in the Autumn Parliamentary session, Council, consistent with its Reconciliation Policy and Action Plan, has taken action by co-signing a letter to the Prime Minister with Yarra and Darebin Councils expressing support for the valuable contribution and leadership provided by the Tumbukka Regional Council. The three Councils highlighted that ATSIC's advice and advocacy on local initiatives has been instrumental in helping the Councils and our communities to identify local Indigenous issues and find local solutions. Council has also sent letters to selected Members of Parliament requesting that they oppose any legislation in the upcoming Parliamentary session to abolish ATSIC and mainstream programs.

The defunding of ATSIC programs in such a short timeframe is likely to create loss of program continuity, expertise and community capacity resulting in reduced program success or increases in costs. If ATSIC programs are to be transferred to government departments or other agencies, the Federal Government should allow enough time to ensure successful and cost-effective transition. Time is required for delivery mechanisms and relationships to be developed that are cognisant of

the critical success factors associated with currently successful ATSIC programs and that address the significant shortcomings known to be associated with mainstreaming of programs. In the advocacy letters sent to date, Moreland Council has expressed concern that the Federal Government's decision to abolish ATSIC takes no account of the recommendations of key reports that have been made available to the Government on the needs of Indigenous Australians, or achieving socio-economic equity, or Reconciliation in general.

It is widely recognised that many elements of ATSIC are valued and are essential in the design and delivery of programs to achieve equitable socio-economic outcomes for Indigenous Australians. These strengths should be identified and built into any new proposed structures.

It is crucial that the Indigenous community is engaged as partners in any proposed systemic change or redesign. Council proposes to develop a detailed position paper through consultation and research on the issues associated with the Federal Government's proposals. The paper would address consultative processes and structures which would enable Council to progress its goals for Reconciliation and would identify some of the key elements that should be included or considered in the development of any new structures associated with achieving justice, cultural recognition and socio-economic equity for Indigenous Australians.

4. Financial and Resources Implications

Resource requirements for Council's Social Policy Unit to develop a Position Paper can be covered in the 2003-04 Council budget.

5. Internal / External Consultation

Consultation has occurred through attendance at recent public meetings and discussions with Indigenous community members and representatives of organisations including ANTaR, Yarra and Darebin Councils and the Equal Opportunity Commission. The Councillor Responsible For Reconciliation, Cr Helou, Cr Caputo and the Portfolio Councillor Social Development, Cr Higginbotham and members of the Moreland Steering Committee on Reconciliation have been consulted.

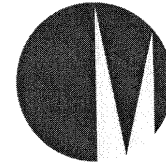
6. Conclusion

The recent announcement by the Federal Government to abolish ATSIC and mainstream its services raises significant concerns for Council and the community. ATSIC provides a crucial representative and coordinating structure at local, regional, national and international levels and has provided an invaluable mechanism for Council to progress its goals for Reconciliation. The key success elements of ATSIC should be understood to fully inform the development of any new structures and effective participation and engagement of Aboriginal communities in this process is essential. A position paper on these issues would assist Council and the community to respond to these changes and to support the achievement of socio-economic equity and justice for Indigenous Australians.

RECOMMENDATION

Council resolve:

- To endorse the actions outlined in this report taken to date on the ATSIC issue and the letters as in Attachment 1 of this report.
- To endorse development of a position paper on matters raised in this report to strengthen Council's contribution to advocacy and planning on Indigenous issues, and through research and consultation with Aboriginal community representatives and key partner organisations.



Moreland City Council

*In reply please quote:
Our ref: acs 20040421 Yarra*

17th May 2004

The Hon. John Howard, MP
Prime Minister of Australia
Parliament House
Canberra ACT 2600

Dear Prime Minister

We write to inform you of our opposition to the manner in which your government proposes to abolish the Aboriginal and Torres Strait Islander Commission (ATSIC).

We urge your government to support the continuation of an Indigenous national body that is representative of Indigenous people and the principles of self determination and community control.

The Tumbukka ATSIC Council has played a crucial leadership role at the grass-roots, regional and State level.

The Tumbukka ATSIC Council has facilitated the delivery of practical and beneficial outcomes for our local Indigenous communities, particularly in the areas of business development, housing and community strengthening. It has also provided advice and representation on local government Indigenous advisory groups, such as the Yarra Aboriginal Advisory Group, Darebin Aboriginal and Torres Strait Islander Community Council and Moreland Steering Committee for Reconciliation.

Most importantly, ATSIC has been instrumental in improving relations between non-Indigenous and Indigenous communities and service providers. To this aim, the Tumbukka ATSIC Council has assisted in the creation of linkages and forged valuable partnerships that have served to identify culturally sensitive local solutions to Indigenous issues.

ATSIC's advocacy on local initiatives has been instrumental in helping our communities identify local Indigenous issues and opportunities, and find locally relevant solutions.

Yours sincerely

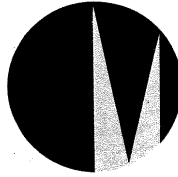
Cr Kay Meadows
Mayor, City of Yarra

Cr Anthony Helou, JP
Mayor, City of Moreland

Cr Rae Perry
Mayor, City of Darebin

cc. The Hon. Amanda Vanstone, Senator
The Hon. Mark Latham, MP
Aiden Ridgeway, Senator
Lindsay Tanner, MP

Martin Ferguson, MP
Jenny Macklin, MP
Kelvin Thompson, MP



Moreland City Council

10th May 2004

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Senator Kerry O'Brien
Shadow Minister for Reconciliation and Indigenous affairs
Parliament House
Canberra ACT 2600

Dear Senator O'Brien,

Moreland Council is deeply concerned at the recent decision by the Federal Government to mainstream programs currently being run by the Aboriginal and Torres Strait Islander Commission (ATSIC) and its service arm Aboriginal and Torres Strait Islander Services (ATSIS).

Moreland Council has core commitments to sustainability, continuous improvement of health and well-being programs, community capacity building and Reconciliation and so Council strongly opposes the hasty decision to abolish ATSIC/ATSIS, and to transfer programs and funding to other departments and agencies in such short timeframes.

If responsibility for ATSIC/ATSIS funding and program delivery is to be transferred to mainstream or other agencies it should occur in the 2005-6 budget at the earliest.

Moreland Council considers that defunding of ATSIC programs in the 2004-2005 budget will create needlessly excessive transition costs and waste, and would be unwise. Defunding of ATSIC programs in such a short time will contribute to loss of program continuity, expertise and community capacity and will result in either less program success or a blow out in program costs over the longer term.

Moreland Council considers that if ATSIC programs are to be transferred to Government departments or other agencies, that the Federal Government should allow enough time to ensure successful transition and efficient and cost-effective transfer. Time is required for proposed delivery mechanisms and relationships to be developed that are cognisant of the critical success factors of current successful ATSIC programs and that resolve shortcomings associated with mainstreaming of programs.

There is much evidence that mainstreaming of programs fails to achieve equitable social and economic outcomes for many Aboriginals. The performance indicators for areas where Government has been the key deliverer of funded programs to Aboriginal Australians, primarily health, education and mainstream employment, bears this out.

Moreland is covered by the ATSIC Tumbukka Regional Council. Moreland Council has analysed the cost-benefits of Tumbukka programs and considers that there are few if any agencies or Government departments that can currently match Tumbukka's demonstrated program expertise, reach and efficiency.

The existing Tumbukka programs demonstrate good levels of performance in terms of the organisation's corporate knowledge, research and planning capacity, service delivery to complex needs clients, program integration, recognition and responsiveness to cultural diversity, and community capacity building.

Furthermore Moreland Council would like to state that the abolition of ATSIC, without replacement with an alternative and representative structure, will have negative impacts on Moreland Council health and well-being programs and regional and local planning capacity.

As a representative body ATSIC has been an invaluable contributor for Moreland Council in key partnerships including the Moreland Steering Committee on Reconciliation, Moreland, Health, Safety and Well-being Leadership Group, the Hume Moreland Primary Care Partnership and the Municipal Association of Victoria Local Government Indigenous Issues Network.

Importantly, ATSIC's expertise and commitment at the regional and national level has meant ATSIC has been an essential partner in progressing Moreland Council's Reconciliation agenda. Moreland Council believes that the Government's proposals and the loss of good will, as demonstrated by the Aboriginal communities' reactions and rallies, are serious set-backs for the national Reconciliation agenda.

Moreland Council is especially concerned that the Federal Government's hasty decision to abolish ATSIC/ATSIIS takes no account of the recommendations of key reports that have been made available to the Government on the needs of Indigenous Australians and Reconciliation in general. These include ten years of the Council for Australian Reconciliation (CAR) and the wisdom in CAR's final 'Road Map' reports, the recent Senate Inquiry report on Reconciliation, 'Reconciliation: Off Track', numerous Social Justice Commission reports and the recent ATSIC Review.

As you are no doubt aware, the recommendations of the recent independent ATSIC Review are being ignored, despite the considerable financial cost, consultation effort and trust that were invested in it by many agencies and members of the Aboriginal communities.

The ATSIC Review report made 67 recommendations including two overarching recommendations that the existing objects of the ATSIC Act should be retained, and that ATSIC should be the primary vehicle to represent Aboriginal and Torres Strait Islander peoples' views to all levels of government.

The panel noted that *'in the course of the review there have been many suggestions about ATSIC and the way it has evolved, with criticisms levelled at nearly all aspects of its structure, role and operation. However, the overwhelming view expressed to the panel was ATSIC should continue to operate as the national representative organisation'*.

Moreland Council has demonstrated and invested in its commitment to Reconciliation with Indigenous Australians over several years through implementation of the Moreland Reconciliation Policy and Action Plans. The centrepiece of its policy is Council's Statement of Commitment to Indigenous Australians. The three core policy elements are Recognition, Access to Council and Community Services, and Governance.

Senator, I urge you to take the matters raised in this letter into consideration and to oppose, and to encourage others in the Federal Labor Party to oppose any proposal by the Federal Government to abolish ATSIC or to defund ATSIC/ATSIS in its program delivery role in the upcoming Parliamentary session.

Yours sincerely



CR ANTHONY HELOU
Mayor

Appendix 2:

Council Report (DRAFT) for 23 Aug 2004: STATUS OF THE INDIGENOUS COMMITTEES OF THE MUNICIPAL ASSOCIATION OF VICTORIA (MAV) (230/005/3)

1. Purpose

Director Social Development seeking Council's endorsement to advocate that the Municipal Association of Victoria Local Government Indigenous Issues Network and the Indigenous Interagency Coordination Committee (IICC) be elevated to formal committee status of the MAV and that they be chaired by representatives of the MAV Board.

2. Policy Implications

This report is consistent with the Moreland Reconciliation Policy and Action Plan (2001) and Council's Statement of Commitment to Indigenous Australians, specifically the commitment to 'work in collaboration with local government networks on the National Strategies to Advance Reconciliation, in particular the Australian Local Governance Association, Victorian Local Governance Association and the Municipal Association of Victoria (MAV).'

7. Background

The MAV Local Government Indigenous Network is a voluntary network of local government councillors and officers interested in Indigenous issues. The network meets quarterly and meetings provide opportunities for councillors and council staff to hear from a variety of speakers on Indigenous matters and to share information about local government Indigenous projects and initiatives. The chair of the network is a council officer and is also a member of the Indigenous Interagency Coordination Committee (IICC) and provides a link between the two committees. One of the purposes of the network is to alert the IICC to matters affecting local government in relation to Indigenous issues which need to be dealt with at a state-wide or state government level.

The Indigenous Interagency Coordination Committee (IICC) is also coordinated by the MAV. It comprises representatives from state government agencies involved in service delivery to Indigenous people and representatives from local government. It is currently co-chaired by Cr Bernie Millane, Councillor with the City of Whitehorse and Indigenous representative, Mr Stephen Walsh, from the Department of Sustainability and Environment.

Currently neither committee has primary status with the MAV Board, although there are currently a number of issues that would make that advisable, primarily related to the possible impact on local Councils from the changes to the Aboriginal and Torres Strait Islander Commission (ATSIC).

Until 30 June 2004, ATSIC has been the main coordinating body for approximately 16% of Federal government funding for Aboriginal and Torres Strait Islander (ATSI) programs. Following a Federal Government decision in early 2004, much of this funding has apparently been redistributed through eight Federal departments, although there is lack of clarity and little detail being made available about the alternative arrangements being implemented or developed for programs previously funded through the ATSIC structure.

Many local governments in Victoria, and elsewhere in Australia, have policy commitments to Reconciliation, to achieving socio-economic justice for Indigenous Australians and to population health improvement through their municipal public health planning responsibilities. These local councils, at a minimum, have a responsibility to keep a watching brief to ensure federal Indigenous funding continues to reach local communities and addresses local priorities. This requires a strong understanding of the issues by councils if they are to engage effectively with other spheres of government and with their local Indigenous communities on Indigenous matters, including the allocation of funds.

4. Issues

It is possible that in the future local Councils may also be required to have a more direct coordination, planning or brokering role related to funding and service agreements for Indigenous programs and services at the local level. New arrangements may be developed along the lines of the Council of Australian Governments (COAG) Trials that are taking place over 2003-2005 in eight communities in Australia, including Greater Shepparton in Victoria. Under the COAG Trials a flexible funding pool is made available to support priority projects established under local agreements. Communities participating in these COAG Trials use the funds on projects to build capacity and improve social and economic wellbeing. Shared Responsibility Agreements are developed to ensure that the Federal funding allocation embraces whole-of-government, whole-of-community approaches.

The Australian Local Government Association (ALGA) plays a key role in federal–state-local intergovernmental relations and is a party to COAG. ALGA is informed by the state associations. During this critical period of change there needs to be a stronger advocacy capacity generally from the MAV, a stronger awareness by Councils of the issues associated with Indigenous need, processes for effective engagement and program delivery, and a stronger link with the ALGA.

5. Financial and Resources Implications

There are no direct financial implications from this report. Advocacy on Aboriginal and Torres Strait Islander issues is incorporated in the Social Policy budget

6. Internal / External Consultation

The Councillor Responsible For Reconciliation, Cr Helou, the Moreland Steering Committee on Reconciliation that includes membership by Cr Caputo, and the Portfolio Councillor Social Development, Cr Higginbotham, have been consulted about this report, along with the representative for the Wurundjeri, Mr Ian Hunter.

7. Conclusion

The Municipal Association of Victoria Local Government Indigenous Issues Network and the Indigenous Interagency Coordination Committee (IICC) should be elevated to formal committee status of the MAV and chaired by representatives of the MAV Board. This formal structure would improve the leadership role which the MAV can take with local Councils and strengthen links to the Australian Local Governance Association (ALGA).

This change would strengthen Victorian local government's capacity to engage with relevant state and federal government agencies on these issues, and it would raise awareness by Victorian councils of current changes relating to Aboriginal and Torres Strait Islander issues and their potential impact on local governments and communities.

RECOMMENDATION

Council resolve:

- To write to Cr Jenny Dale, Acting President of the Municipal Association of Victoria (MAV) proposing that the MAV Local Government Indigenous Issues Network and the Indigenous Interagency Coordination Committee (IICC) be elevated to formal committee status of the MAV, and that they be chaired by representatives of the MAV Board.
- To write to mayors of other councils in the northern region to highlight matters raised in this report.

Appendix 3: ATSIC Achievement

**(Media Release 22/4/2004) ATSIC's Unique Voice and Record of Achievement
Statement by Troy Austin, ATSIC Commissioner for Victoria:
Troy Austin, is ATSIC Commissioner for Victoria and Chair of the Tumbukka Regional Council**

Most of the current talk about abolishing ATSIC and mainstreaming services is generated by non-Indigenous people who have little or no knowledge of the range of activities and results that the organisation has produced.

Yet ATSIC's record of representation and innovation on behalf of Aboriginal and Torres Strait Islander people is unmatched by any mainstream government agency. Most importantly, it is a record of achievement by Indigenous people for Indigenous people.

A summary of that activity follows.

Community Development Employment Projects (CDEP)

The Community Development Employment Projects scheme is the largest Indigenous program funded by the Australian Government. It provides employment and training opportunities to Indigenous participants in a range of activities that benefit both individuals and their communities. Although it is sometimes described as the Indigenous 'work for the dole' scheme, it is more extensive and longer established than the mainstream scheme. In remote Australia CDEP sustains communities in situations where there is no economy. Participants, who are not counted among the unemployed, give up their entitlements to unemployment benefits in return for CDEP wages.

At 30 June 2003, ATSIC supported some 35,000 participants employed by around 270 CDEP organisations. Expenditure in 2002-03 was \$484 million.

Housing

ATSIC's Community Housing and Infrastructure Program improves the living environment of Indigenous people by providing housing and associated infrastructure and municipal services in areas where these are not provided by local government. All these services are theoretically the responsibility of State/Territory or local governments, but in many remote areas ATSIC is the sole provider.

In 2002-03 ATSIC provided grants and other funding for housing and infrastructure amounting to \$202.4 million, plus \$40.4 million for municipal services. These funds built around 500 houses and renovated around 760. Around 6800 people were accommodated in new or upgraded dwellings and almost 48,000 people lived in communities funded for municipal services.

Home loans

In 2002-03 ATSIC's Home Ownership Program made 537 home loans, housing more than 1600 people and managed a home loans portfolio worth \$327 million. This highly successful program is largely self-funding.

Law and justice

It is estimated that only around 10 per cent of legal aid to Indigenous people is provided through mainstream services. In 2002-03 ATSIC spent \$57 million on 25 Aboriginal and Torres Strait Islander Legal Services with 96 service sites across Australia. These and 13 Family Violence Prevention Legal Services assisted around 8,000 people.

Native title services

ATSIC has responsibility for the Indigenous-specific elements of the Australian Government's native title system. This has involved the establishment and operation of a network of 17 Native Title Representative Bodies under the provisions of the Native Title Act. Expenditure in 2002-03 was \$52.5 million.

Broadcasting, art and culture

ATSIC supports networks of Indigenous broadcasters (22 licensed stations and 105 remote units), art and craft centres, language centres.

Business loans

In 2002-03, ATSIC made 120 new business loans and managed a business loans portfolio of \$73.54 million.

Family violence initiatives

ATSIC held roundtable meetings for women (September 2001) and men (October 2001) before establishing the National Indigenous Working Group on Violence in January 2002 with delegates from each State and Territory. In addition, ATSIC supports 13 Family Violence Prevention Units in areas of high need and supports numerous community projects through the CDEP scheme such as night patrols.

A new CDEP innovation is the 'Working for Families' initiative that advances the Board's commitment to taking a leadership role in family violence issues.

Repatriation

ATSIC played a major role in advancing the key intentions in the Prime Ministerial Joint Statement on Aboriginal Remains, signed by the UK and Australia on 4 July 2000. ATSIC made a submission to the UK Working Group on Human Remains that built a case for legislative changes to allow public institutions to release such material.

Since then, we have developed a document outlining protocols for institutions holding collections of remains. Commissioner Rodney Dillon has been particularly active in advocating repatriation and in establishing relationships with relevant parties in the UK.

Stolen Generations

ATSIC funds a network of Link-Up offices that help to re-unite families separated by the past policies of governments. With the Public Interest Advocacy Centre, the National Sorry Day Committee and others ATSIC has developed a proposal to establish a reparations tribunal to take the issue on compensation away from the courts. A national conference, Moving forward: Achieving reparations for the Stolen Generations, organised by PIAC, ATSIC and the Human Rights and Equal Opportunity Commission in August 2001, endorsed the proposal.

ATSIC sponsored the test case for compensation against the Commonwealth pursued by Peter Gunner and Lorna Cubillo that was appealed to the High Court in May 2002. The Court found it was unable to act because of the limitations on proceedings against the Federal Government.

International advocacy

The year 2004 marks the end of the International Decade of the World's Indigenous People. Adopted in 1993 by the United Nations General Assembly and sponsored by Australia, one of the objectives identified for the Decade by the General Assembly include encouraging governments to 'seek means, in consultation with Indigenous people, of giving Indigenous people greater responsibility for their own affairs and an effective voice in decisions on matters which affect them'.

Ironically, at the end of the Decade, Australia is moving as fast as it can away from this ideal.

ATSIC has been instrumental at the UN in developing the Draft Declaration on the Rights of Indigenous Peoples that is now being considered within the UN system.

Since 1997-98 ATSIC's reports to the UN Committee on the Elimination of Racial Discrimination stand as a major evaluation of Indigenous affairs in Australia.

ATSIC has sent its own representatives and those of community organisations to appear before UN bodies to describe the circumstances in Australia. As a result of this advocacy:

- UN bodies such as CERD and the Human Rights Committee criticised the Australian Government's 1998 amendments to the Native Title Act 1993 as discriminatory in 1999 and again in 2000.
- In August 2000 the Committee on Economic, Social and Cultural Rights expressed concern that Indigenous Australians remained at a 'comparative disadvantage in the enjoyment of economic, social and cultural rights' and 'noted with regret' that the 1998 amendments to the NTA had harmed Reconciliation.
- In November 2000, the Committee Against Torture became the fourth UN body to criticise Australia, reminding governments that they are answerable for their treatment of Indigenous people caught in the nation's justice systems.

In February 2001 convened a regional meeting in Sydney with Indigenous representatives from the USA, Canada, Aotearoa (New Zealand) and Hawaii as a precursor to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in South Africa in August 2001. The meeting formulated a number of submissions for the World Conference.

ATSIC's unique voice

It is impossible to see how any government-appointed advisory body could attempt the types of advocacy and reporting that ATSIC has achieved. It will be difficult if not impossible for mainstreamed services to reproduce many of these results because they lack the authority of community endorsement and direction.

ATSIC's structure is unique in that it has inserted Indigenous people directly into the governance process. Its history of success means it deserves to continue to serve its Indigenous constituents on terms that are acceptable to Aboriginal and Torres Strait Islander people

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- i Social Policy Unit, Moreland Council, Discussion Paper on the Municipal Public Health Plan 2003-6, Part B, Health Issues In Moreland by Life Stage and Key Population Groups, 2002

Endnotes

- ii Foundations for the Future, Hansard, 18 December 1987
- iii Moreland Reconciliation Policy and Action Plan 1998-2000 and Moreland Reconciliation Policy and Action Plan 2001-2004.
- iv Health, Safety and Well-being in Moreland, the Moreland Municipal Public Health Plan 2003
- v The ATSI Review, Nov 2003 http://www.atsic.gov.au/About_ATSIC/ATSIC_Review/default.asp
- vi Standing Committee on Aboriginal and Torres Strait Islander Affairs, <http://www.aph.gov.au/house/committee/atsia/indigenouscommunities/inqinde.htm>
- vii Report on Indigenous Funding, 2001, Commonwealth Grants Commission, http://www.cgc.gov.au/IFI_Downloads/Final_Report/Volume_1/01_Pre-Chapter.pdf
- viii Aboriginal Language Areas In Victoria, A Report to the Victorian Aboriginal Corporation For Languages, Ian D. Clark, 1996