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Mr Peter Hallahan
Secretary
Senate Legal and Constitutional References Committee
Room S1.61, Parliament House
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AUSTRALIA

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Dear Mr Hallahan

I enclose a copy of a submission by the Commonwealth Government to the Senate Legal and Constitutional References Committee's current Inquiry into the National Progress Towards Reconciliation.

As it had not been released at the time the Senate initiated this Inquiry, the Commonwealth Government Response to the final report of the Council for Aboriginal Reconciliation (at Appendix A of this submission) forms the major part of the Government's submission.

The submission provides additional information to the Committee and highlights the importance the Commonwealth places on agreement making and performance monitoring as ways of progressing reconciliation in Australia. It highlights some of the existing successes of the agreement making approach, and the potential for further developments to increase the real influence and control that Indigenous people are able to exercise in key areas of their lives.

I trust the Committee will find the submission useful in its considerations.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Philip Ruddock', written over the 'Yours sincerely' text.

Philip Ruddock

***COMMONWEALTH
GOVERNMENT SUBMISSION TO***

***SENATE LEGAL AND
CONSTITUTIONAL REFERENCES
COMMITTEE***

***INQUIRY INTO THE PROGRESS
TOWARDS NATIONAL
RECONCILIATION***

The Commonwealth Government Response to *Reconciliation: Australia's Challenge* – the final report of the Council for Aboriginal Reconciliation – deals substantially with the substance of this Inquiry. As it had not been released at the time the Senate initiated this Inquiry, the response (Appendix A) forms the major part of the Government's submission and should be read in conjunction with this document. In addition to addressing the recommendations of the Council's final report, the Government response also dealt with the Roadmap to Reconciliation and the associated National Strategies to Advance Reconciliation. In relation to those parts of the Aboriginal and Torres Strait Islander Social Justice Commissioner's social justice reports for 2000 and 2001 that relate to reconciliation, the Government believes those aspects which deal with its efforts to overcome the disadvantage experienced by Indigenous Australians are addressed adequately in this submission and the response to *Reconciliation: Australia's Challenge*.

The terms of reference for this Inquiry are wide-ranging, but focus predominantly on processes established to implement the recommendations of the various reports cited. It should be noted in relation to the Council's final report that its recommendations were not directed exclusively to the Commonwealth, but in fact encompassed other levels of government and society more widely. This fact is reflected in this submission, which provides additional information on two key areas of interest to the Inquiry, namely;

- the performance monitoring aspects of the broad approach being taken by the Commonwealth to meet its key policy objective of accelerating the rate of progress towards overcoming Indigenous disadvantage; and
- the Government's perspective on how Indigenous people are being empowered to take control of their own destinies through a partnership of shared responsibility, with an emphasis on agreement-making.

The Government's key objective is to provide Indigenous people with access to social and economic opportunities that the vast majority of Australians take for granted. The challenge of ensuring that Indigenous people are able to effectively access their basic citizenship rights is one that faces all governments. It is a litmus test of reconciliation.

If this Inquiry is to serve a useful purpose, its main scrutiny should be on what will really make a difference for Indigenous people in terms of overcoming the legacy of social and economic disadvantage they live with every day. Such a focus is being advocated increasingly by Indigenous leaders and social policy commentators. This submission is therefore framed in this context.

The Government is aware of criticism that its practical approach to reconciliation does not acknowledge the consequences of history. This is incorrect. Quite to the contrary, its policies are designed as a direct response to the legacy of disadvantage that flows from that history. These policies are also designed to recognise that in addition to its historical origins, contemporary issues such as substance abuse and welfare dependency affect Indigenous disadvantage.

The Government also wishes to challenge the notion that it is in some way hostile to the rights of Indigenous people, and therefore does not support the pursuit of those rights. There is, in fact, a range of areas where Government funding underpins the pursuit of such rights. For example, the Government provides substantial resources to assist Indigenous people to have their native title rights determined, while significant resources

are also provided through Aboriginal legal aid funding for the defence and pursuit of rights, including through test cases. The Government is also currently reviewing the National Indigenous Justice Strategy, which addresses concerns raised by Senator Aden Ridgeway in relation to Indigenous justice issues. The current focus on making mainstream services more accessible and responsive to the needs of Indigenous people is grounded in a recognition that access to such services is a practically focused right that requires more attention if disadvantage is to be overcome.

The Aboriginal and Torres Strait Islander Commission, has identified five rights that it places at centre of its advocacy. These are the rights of Indigenous people:

- To maintain their distinct identities as Aboriginal and Torres Strait Islander peoples;
- To enjoy life and security in their own country;
- To sustainable livelihoods;
- To appropriate social services; and
- To be heard.

Speaking at the ATSIC National Policy Conference in March 2002, the Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock, said “I endorse these [rights] absolutely”.

What the Government has been concerned to achieve is a better balance between the pursuit of Indigenous rights and the pursuit of better social and economic outcomes for Indigenous people. The Government’s view is that over the past decade or so the pendulum had swung too far towards the pursuit of rights at the expense of making a difference, now, in the day to day lives of Indigenous people.

The Commonwealth’s approach to reducing Indigenous disadvantage has a number of key elements. These are:

- 1 Respecting Indigenous people’s desire for greater control over their own futures by working with Indigenous leaders, communities and their organisations to build their capacity to make decisions and exert greater influence in the decision-making processes of the Government, within a partnership framework of shared responsibility. This includes the increasing use of negotiated agreements as a vehicle for pursuing Indigenous aspirations for community control, self-management and self-reliance. Strengthening organisational and community governance is critical.
2. Working through inter-governmental fora, under the authority of the Council of Australian Governments (COAG) Framework to Advance Reconciliation, to ensure Indigenous disadvantage is addressed as a key aspect of policy development, planning and program delivery at all levels of government. The Commonwealth places high priority on this work because although the States and Territories are substantially responsible for service delivery, the Commonwealth provides significant funds towards the delivery of these services. Work at the inter-governmental level is occurring in three key areas:

- Through the development of Ministerial Council Action Plans to tackle Indigenous disadvantage;
- By ensuring Indigenous outcomes and performance monitoring arrangements are included in Specific Purpose Payment agreements with the States and Territories as they come up for renegotiation; and
- Piloting a whole of government approach to meeting the self-identified needs of selected communities in a partnership of shared responsibility with those communities.

The Council for Aboriginal Reconciliation, in its Final Report, said it saw “the implementation of this COAG agreement as a key plank in sustaining the reconciliation process into the future”. It also commented favourably on the decision that Ministerial Councils would develop action plans, strategies for improved performance reporting, and benchmarks.

3. Focusing specifically on key performance monitoring issues by improving reporting through mechanisms such as the annual Report on Government Services by the Steering Committee for the Review of Commonwealth State Service Provision, addressing key data deficiencies, and developing more sophisticated reporting tools for measuring progress in reducing disadvantage.
4. Examining opportunities within the Commonwealth to improve service delivery and better target both Indigenous-specific and mainstream programmes to meet the needs of Indigenous people.

Agreement making

There has been extensive activity across a wide range of Commonwealth portfolio areas to implement agreements in which Indigenous people, often represented by ATSIC, are given real influence in decision-making processes as part of a partnership of shared responsibility that empowers Indigenous people and organisations to take responsibility for managing their own affairs. Such agreements operate at the national, regional and local level and vary considerably in content. All of them reflect the broad objective expressed in *Reconciliation: Australia's Challenge* and in the Social Justice Commissioner's reports of increasing Indigenous influence in and control over decision making processes relating to the wellbeing of Indigenous people. The Government places great store on this objective because it views it as being critical to Indigenous people moving away from a paradigm of passive welfare dependency to one in which they are empowered economically and socially to manage their own affairs, independent of government, for the betterment of themselves, their families and future generations.

The Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock, speaking at the ATSIC National Treaty Conference in August 2002, advocated the more widespread adoption of negotiated agreements between Indigenous Australians, governments and other bodies as a key mechanism for tackling Indigenous disadvantage.

The Minister said:

“Agreement making has become core business for Aboriginal people in the course of the past few years. Empowered by clearer recognition of their basic citizenship rights and seasoned by a generation of advocacy, Aboriginal people are marking out new territory in their efforts to realise their ambition of self-management and self-reliance.”

Agreement-making, if it is to succeed, should be guided by the following principles:

- Involvement of the local Indigenous community in decision making and determining priorities for action;
- Shared responsibility of parties to the agreement. Without all parties making undertakings, results can not be ensured;
Flexibility to meet local circumstances; and
- Focus on outcomes with clear benchmarks to measure progress.

Throughout the remainder of this section of the submission there are examples of how Commonwealth agencies are actively engaged in agreement making processes.

Health Framework Agreements

In the health sector, *Health Framework Agreements* have been developed between the Commonwealth, State and Territory Governments, ATSIC and the Indigenous community controlled health sector. These agreements provide for a collaborative approach to improving Indigenous health through improving access to health and health related programmes, increasing the level of resources allocated across the health system, joint planning and data collection. They are the key planning and coordinating mechanism connecting all spheres of government with the Aboriginal community health sector.

Partnership Forums, comprising the four Framework Agreement partners in each jurisdiction, have been established in every State and Territory, to carry out the planning and needs analysis specified in the Framework Agreements. They advise governments on the impact of programs, and advise on the progression of State/Territory strategies, and national plans aimed at addressing specific health conditions.

The Health Framework Agreements also operate at the regional level. Regional plans have now been completed in almost every State and Territory. Regions are based on what makes the most sense to local people. Factors such as language groups, communities of interest and the geographic location of Aboriginal and Torres Strait Islander communities are taken into account in establishing regions. Planning is intended to identify regions and communities with greatest need for additional or improved health care services. Planning also identifies communities with capacity to use additional resources effectively, and sites with limited infrastructure or limited experience in managing or delivering a health service, but a high need.

Progress on the commitments made under the Framework Agreements is presented to the Australian Health Ministers' Conference on an annual basis. The National Aboriginal and Torres Strait Islander Health Council, which reports to the Commonwealth Minister for Health and Ageing, monitors and advises on implementation of the Framework Agreements.

Indigenous housing agreements

Similarly, in the housing sector, there are negotiated Indigenous housing agreements between the Commonwealth and ATSIC individually with Western Australia, South Australia, New South Wales, Queensland (a mainland agreement and a separate Torres Strait Island agreement), the Northern Territory and the Australian Capital Territory. These agreements are signed by the ATSIC Chair, the Commonwealth Housing Minister and the State or Territory Housing Minister. Some states, such as Queensland, incorporate housing-related infrastructure into the agreements.

The objectives of the agreements are to reduce duplication of effort and simplify the planning and delivery of housing services through improved coordination; and to provide for greater Indigenous involvement in the delivery of housing programs. In particular, the agreements improve coordination at the state level between the Commonwealth's two Indigenous-specific housing programs—Community Housing and Infrastructure Program (CHIP) and the Aboriginal Rental Housing Program (ARHP), and State/Territory Indigenous housing programs.

Under the agreements in New South Wales, South Australia and the Northern Territory, ATSIC CHIP funds, ARHP funds and State-sourced funds are pooled. In Queensland, there is joint program planning, although ATSIC Regional Council housing program funds continue to be administered by Regional Councils. Western Australia is moving towards pooling funds.

Indigenous Land Use Agreements

The Government's emphasis on agreement-making has been given significant momentum by the emphasis on agreement making in the *Native Title Act* 1993. The operation of the Native Title Act was substantially improved by the 1998 amendments that streamlined the processes for managing native title claims and established the framework for Indigenous Land Use Agreements. The Agreement provisions allow mutually beneficial arrangements not necessarily involving governments to be developed outside the adversarial system and have proven to be a popular option with, at 6 November 2002, 55 Indigenous Land Use Agreements registered with the National Native Title Tribunal and a further 23 being processed by the Tribunal. In addition, there are also over 2500 native title future act agreements, the majority of which are related to mining. The Native Title Act is enabling Indigenous people at the local and regional level to participate in native title negotiations as stakeholders of real influence.

National Park Management

Three Commonwealth national parks, Kakadu, Uluru – Kata Tjuta, and Booderee, are managed jointly with their traditional owners. The model of handing back title and then leasing the lands back to the Government to manage as national parks, was established in 1985 at Uluru. Key formal features include majority Indigenous representation on Boards of Management who prepare and monitor statutory park Management Plans; commitments regarding Indigenous employment and training, Indigenous enterprise development and protection of cultural heritage; and rent payments and revenue shares. Traditional owners receive between 25 and 38% of park revenue, and between 40 and

50% of park staff are Indigenous. In practice joint management is an evolving concept, with traditional owners' needs and aspirations developing over time.

Whole of Government Initiatives

Under the auspices of the COAG Framework to Advance Reconciliation, the Commonwealth Government has agreed to working closely with State and Territory Governments in up to 10 Indigenous communities and regions to provide programmes and services in a more coordinated and flexible way based on priorities agreed with communities. The initiative is part of the Commonwealth Government's aim of improving the way all governments work with Indigenous communities. The core element of the new approach is based around shared responsibility, that is, the responsibility of governments to sensibly and effectively meet the needs and aspirations of Indigenous communities and the responsibility of Indigenous communities to identify their needs and sustain funded activities to meet those needs.

So far, two of the possible ten sites have been announced for the whole-of-government initiative: Cape York (Queensland) and Wadeye (Northern Territory).

Methods to measure the impact and progress in communities will be developed with communities and be captured in local agreements with communities. These will depend on the issues confronting the community and be based on the outcomes that people in the community wish to achieve. An important part of the process will involve both government and the community clearly articulating their expectations of each other at the start and ensuring regular feedback throughout. There will also be a set of indicators to measure the performance of Commonwealth agencies. This will include identifying factors that assist better coordination between Commonwealth agencies and between Commonwealth and State/Territory Government agencies, specifically in relation to breaking down barriers and silos and affecting cultural change at all levels of Commonwealth agencies where work has a particular impact on Indigenous Australians.

Two major Commonwealth elements of the initiative are the formation of a Secretaries Group on Indigenous Issues and the Indigenous Communities Coordination Taskforce.

The Secretaries Group involves a number of Departmental Secretaries and the ATSIC CEO who meet monthly to oversee the progress and development of the new initiative. In addition, their role is to promote coordination between Commonwealth agencies, oversee development of linkages between Commonwealth and State/Territory programs, and foster cross-portfolio partnerships. Several of the Secretaries 'sponsor' an Indigenous community involved in the initiative and are personally involved in ensuring progress is made.

The Indigenous Communities Coordination Taskforce consists of officers from the participating agencies. It has been established to lead joint activity across Commonwealth agencies, and to work with the Indigenous communities that have agreed to participate, together with State and Territory Governments. The Taskforce reports directly to the Secretaries Group.

ATSIC Army Community Assistance Programme (AACAP)

AACAP is another example of successfully negotiated agreements between local communities and government agencies to deliver practical outcomes.

In delivering the program the Army approaches a community through a local governing body, such as a community council, describes the AACAP program, then arranges for a community visit where the Army walks through and consults with the community regarding members needs in terms of housing, infrastructure, employment, training and health. At a subsequent community meeting the Army delivers a proposal to meet identified needs.

Community representatives and Army project managers then sit down and negotiate a *Project Management Agreement*, where the community contracts the Army to undertake the works. The agreement covers outcomes relating to housing, infrastructure, health access, employment, training, and opportunities for the Army to undertake other tasks not included in the formal scope of work.

The initiatives within the AACAP process represents a holistic approach between the participating government agencies (ATSIC, The Army and the Department of Health and Ageing and local Indigenous Australians) which delivers sustainable and long-term health and housing outcomes for communities while continuing to provide ownership, decision making and self governance to Indigenous Australians and their communities.

Role of ATSIC in agreement-making

In his speech to the ATSIC National Treaty Conference, the Minister for Immigration and Multicultural and Indigenous Affairs, commenting on the reassessment of ATSIC, indicated his desire to “formulate an arrangement where the elected representatives of Indigenous people have more influence over government agencies”. He indicated the focus would be on more fully engaging Indigenous people in policy development, and program design and delivery. The Government recently announced details of the reassessment.

While the Government believes it is important for ATSIC to share the leadership on agreement making as a vehicle for self-empowerment, it does not believe ATSIC should be handed or expected to take on sole responsibility. This is because agreement making requires the willing participation of governments under the rubric of partnerships of shared responsibility.

The ATSIC Act gives the Commission a wide range of powers that it may exercise in seeking to redress the disadvantage experienced by Aboriginal and Torres Strait Islander people. Among them is a power to negotiate and cooperate with other Commonwealth bodies and with State, Territory and local government bodies, and to enter into agreements with the States and Territories.

One example of ATSIC’s negotiating mandate in action is the Memorandum of Understanding between ATSIC and the Department of Education, Training and Youth Affairs (now the Department of Education, Science and Training) for the purpose of improving Indigenous education and training outcomes. The MOU sets out a protocol for consultation between the two agencies and provides for ATSIC’s participation in major policy development, review and evaluation. ATSIC has similar MOUs with other agencies that formalise the means by which the Commission is able to be engaged in the processes of government and influence policy development and implementation for the benefit of Indigenous people.

At the inter-governmental level, ATSIC has also been pursuing agreements at the State and Territory level. For example, last year ATSIC negotiated a *Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians*. The purpose of the statement was to agree on a set of principles and a process for the parties to negotiate a statewide framework that can facilitate negotiated agreements at the local and regional level. Its core objective is to significantly improve the health, education, living standards and wealth of Aboriginal people. Its significance lies not just in its objectives, but in the processes that underpin it – acceptance of responsibility, joint planning, accountability for outcomes, the use of clear performance measures, and institutional reform where it is needed.

On a more community and individual level, ATSIC are implementing Community Participation Agreements as part of the *Australians Working Together* welfare reforms. The Community Participation Agreements are targeted at remote communities with few job opportunities. Individuals in participating communities will agree to undertake community work identified by their community in exchange for their welfare benefits. It is an important initiative to reinforce the premise of mutual obligation, or shared responsibility, that is such a strong element of Indigenous culture.

Community Capacity and Governance

The success or otherwise of efforts to more effectively engage Indigenous people in decision making processes and service delivery depends to a significant extent on the capacity of the people engaged in these processes. A constant theme of contemporary Indigenous affairs policy is the need to strengthen community governance arrangements, build individual and community capacity and enhance leadership.

To this end, the Government has initiated a review of the Aboriginal Councils and Associations Act 1976. It is expected that this review, which has involved extensive consultation with stakeholders, will result in proposals for legislative change. One of the aims of reform of the ACA legislation will be to replace the outdated incorporation and supervisory powers of the Registrar of Aboriginal Corporations with a contemporary capacity-building role in advising and assisting all Indigenous organisations towards better governance. The Government is yet to receive the final review report.

A number of Commonwealth Departments and agencies have made submissions to the current Inquiry into Capacity Building in Indigenous Communities by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs. These submissions outline in some detail the extent of Commonwealth engagement in capacity building activity as part of the process of empowering Indigenous people to take control of their own affairs at the levels of the individual, family and community.

Performance monitoring

The Government's overarching performance benchmark and objective mirrors that of the Council for Aboriginal Reconciliation:

“... a society where Aboriginal and Torres Strait Islander peoples enjoy comparable standards of social and economic wellbeing to those of the wider community, especially in

the areas of education, health employment and law and justice, while maintaining their unique cultural identities."¹

The Government recognises that both the Final Report of the Council and the recent reports of the Social Justice Commissioner have placed a strong emphasis on performance benchmarks and monitoring through a national framework to address Indigenous disadvantage. While the Government's approach to these issues does not necessarily align with the methodology proposed by the Council and the Social Justice Commissioner, it meets the underlying objective of providing a systemic, coordinated, whole of government approach to reducing Indigenous disadvantage in absolute and relative terms. This submission discusses the Government's commitments in this area.

Under the aegis of the Framework to Advance Reconciliation agreed by the Council of Australian Governments (COAG) in November 2000, all Australian governments are collectively establishing a comprehensive regime of performance monitoring and reporting that supports this overarching performance benchmark and objective. This regime has two key elements:

- a regular national report on indigenous disadvantage; and
- a series of sectoral performance monitoring strategies and benchmarks oversighted by the responsible Commonwealth/State Ministerial Council.

The purpose of this regime is to enable governments, community organisations, Indigenous people and other Australians to monitor the progress of the nation in overcoming Indigenous disadvantage. The regime is still in its development phase and the Government anticipates that it will be firmly in place by the third quarter in 2003. However, it also understands that performance assessment is an iterative process and that the regime will continue to be improved and fine-tuned for many years to come.

The Commonwealth is taking a leadership role within this regime by driving improved performance reporting with a focus on improving major gaps in data collection. Also, the government funded, independent data agencies are providing comprehensive statistical reports and technical support and working to improve data quality and analysis.

An example of the Commonwealth's leadership role can be seen in its commissioning of the Commonwealth Grants Commission (CGC) Inquiry on Indigenous Funding and in its responses to both the CGC Report and the House of Representative Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA) inquiry into the needs of urban dwelling Indigenous people. The CGC report provided an excellent overview of what is known about the health, housing, infrastructure, education, employment and training needs of Indigenous people across a geographic gradient of increasing remoteness. It also demonstrated that while data quality and coverage must be improved, there is a broad information base to support policy and program planning, and the potential to achieve better outcomes through a more careful use of resources. The Government also saw the report as providing a valuable basis for the further development of evidence-based policy in Indigenous affairs. The Government's responses are discussed later in this submission.

¹ Council for Aboriginal Reconciliation, *Overcoming Disadvantage*, Canberra: Council for Aboriginal Reconciliation, 2000.

A Regular National Report on Indigenous Disadvantage

The apex of the COAG performance monitoring regime will be occupied by a regular national report on Indigenous disadvantage. In April 2002, COAG commissioned the Steering Committee for the Review of Commonwealth State Service Provision (SCRCSSP) to develop and publish this report. The objective of this report is to inform Australian governments about whether policy programs and interventions are achieving positive outcomes for Indigenous people. The SCRCSSP is supported in its task by a secretariat located in the Productivity Commission. This report will complement the annual Report on Government Services which, following a request from the Prime Minister in 1997, gives particular attention to the performance of mainstream services in meeting the needs of Indigenous Australians.

The SCRCSSP is developing a two-tiered reporting framework largely based on a prototype developed by the Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA). While there are key areas where further data development is a priority, compared with many areas of social and economic policy there is a wealth of information about the social and economic position of Indigenous Australians. The real problem is that the historically heavy public focus on headline indicators (such as average life expectancy, year-12 school retention rates and unemployment rates – which generally reflect the accumulated impact of social and economic disadvantage) has not assisted policy makers to focus in on the causes of disadvantage, and the key times in the lifecycle when the most effective interventions can be made.

This insight benefits from explanation. High-level measures of disparity do not provide a sufficient catalyst for action among the policy actors most able to influence changes over the long term. The complexity in causal relationships and long lead times meant that headline indicators² has little impact on those policy actors and service delivery personnel who can make a lasting difference. In many respects, reporting at the headline level (eg. life expectancy) creates a perception that the problem is too big to handle. The problems being reported on with headline indicators (eg. life expectancy) are at the end of long chains of causal factors (eg. birth weight, diet and smoking) that cross many sectoral boundaries. This same recognition is responsible for COAG's decision to trial a whole-of-governments approach to meeting the needs of Indigenous communities.

Unquestionably, statistics on average life expectancy at birth and unemployment rates (for example) demonstrate substantial inequalities between Australia's Indigenous and non-Indigenous populations. However, these high level measures represent the cumulative, downstream results of earlier risks and disadvantage. Lower life expectancy is correlated with many factors occurring over a person's lifetime, including those which at the time of death, may have occurred in the distant past, such as low birth weight, diet and smoking. Similarly, adult unemployment rates are influenced by early school performance which in turn is influenced by domestic circumstances, pre-school nutrition etc.

What this means is that today's policy interventions to improve future Indigenous health or Indigenous employment outcomes may take many years to influence the headline disparity indicators. In the intervening period, headline statistics of disparity may

² Headline indicators are also referred to as "high level" or "down stream" indicators.

incorrectly suggest inactivity when much is being done to close the gap between the social and economic circumstances of Indigenous and non-Indigenous Australians.

The indicator framework being developed by the SCRCSSP is designed to overcome the problem discussed above and can be described as a preventive performance indicator model. This model attempts to tackle outcome inequalities by focusing on the upstream causal factors that are likely to result in the greatest impact on population-wide differentials. It encourages policy actors and service delivery staff to look upstream to focus on those factors causing social and economic Indigenous disadvantage downstream. To give effect to a preventive model, a two tiered indicators framework is proposed. The first tier serves to keep a national focus on the challenge of reducing disadvantage – and the extent of that disadvantage. There will be a second, more important tier of strategic change areas where strategic action would make inroads into headline disadvantage over time. A series of strategic change indicators has been identified. They are tied to the upstream causes that are immediately amenable to policy interventions. In one sense, the headline indicators outline the problem, and strategic change areas outline key areas where we can do something about the problem. The strategic change indicators tell us if we are making a difference in these key (strategic change) areas.

The underlying rationale is that a preventive indicator framework would have a greater impact on driving improved outcomes for Indigenous people. For example, as research suggests, Year 3 literacy and numeracy rates are predictive of Year 12 retention rates, and subsequent university enrolments and employment outcomes. Compared with Year 12 retention rates, an indicator based around Year 3 literacy and numeracy (or more precisely, early school engagement and success) is more likely to drive changes in primary school and other service delivery systems and their contribution to improved Year 12 retention rates, university enrolments and employment outcomes.

The SCRCSSP is currently consulting on the two-tiered framework.³ A key feature of this report will be its integrated, whole-of-government focus. It will be multi-sectorial and it has been designed to avoid the silos of programs and policy domains. It is being developed in substantial consultation with Indigenous people and groups, and COAG has required that the report must be useful for Indigenous people. It is anticipated that the first report will be available in the third quarter 2003.

A series of Commonwealth/State sectoral performance reports and benchmarks

Underpinning the regular national report on Indigenous disadvantage will be a series of action plans, performance monitoring strategies and benchmarks developed by Commonwealth/State Ministerial Councils. These were commissioned by COAG in November 2000. Already a number of Ministerial Councils have performance monitoring strategies and benchmarks in place. A leading example is the annual performance report against the Aboriginal and Torres Strait Islander health indicators. Other Ministerial Councils also have specific data agreements that will support the development of performance monitoring strategies and benchmarks.

³ Steering Committee for the Review of Commonwealth/State Service Provision. Draft framework for reporting on Indigenous disadvantage. Request for comment. Melbourne: SCRCSSP Secretariat, 2002.

Through the development of performance monitoring strategies, COAG has ensured that the nation's key decision makers are thinking about and informed about the way in which their decisions affect Indigenous people. The individual performance monitoring strategies of Ministerial Councils will ensure that the Ministers responsible for policy areas across all the various aspects of government are regularly informed about the way in which their work is impacting on Indigenous people. COAG and MCATSIA are also monitoring the development of performance monitoring strategies and the associated reports, with a view to ensuring they meet COAG's aspirations in terms of benchmarks and performance monitoring.

A number of Ministerial Councils have now developed action plans and reported on existing and/or proposed performance monitoring strategies and benchmarks. These include the Community Services Ministers Conference, the Ministerial Council on Mineral and Petroleum Resources, the Australian Transport Council, the Sport and Recreation Ministers Council, the Standing Committee of Attorneys-General, the Online Council, the Primary Industries Ministerial Council, the Ministerial Council for Education, Employment, Training and Youth Affairs, the Australian Health Ministers Conference, the Cultural Ministers Council, the Small Business Ministerial Council, and the Housing Ministers Conference.

The Government recognises that these plans – both new and pre-existing – vary in their sophistication and will benefit from periodic review. ATSIC is positioned to play a key role in this process. Some of the key points of progress are outlined below.

Education

Performance reporting in the education sector has undergone rapid development in the last five years. Since 2001, all education authorities receiving Commonwealth schools funding under the *States Grants* legislation have been required to commit to the National Goals for Schooling in the Twenty-first Century.⁴ Reporting requirements include on Indigenous outcomes as required in the Annual National Report on Schooling information framework. The legislated performance measures to be reported against cover literacy, numeracy and educational participation and attainment. They follow decisions on national performance benchmarks and measures by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA).

The national literacy and numeracy benchmarks are (or will be) the minimum acceptable standards. Consequently, MCEETYA agreed that the performance target was that all students meet the national benchmarks. The reading and numeracy benchmarks for Years 3, 5, and 7 have been developed; writing and spelling benchmarks are still in development. The first report against national benchmarks for Years 3 and 5 Reading was published in 1999 and included comparative data on Indigenous students. The 2000 Report also reports Indigenous data.

Under the Commonwealth's Indigenous Education Strategic Initiatives Program (IESIP), providers (including the state and territory departments of education) report on performance as required under the Indigenous Education Agreement between the provider

⁴ The Adelaide Declaration on National Goals for Schooling in the Twenty-First Century. <http://www.curriculum.edu.au/mceetya/adeldec.htm> (accessed 18/8/02).

and the Commonwealth. The National Report to Parliament on Indigenous Education and Training (2001) is due to be released in November 2002.

The Government's overarching performance target for the IESIP 2001-2004 funding quadrennium is an acceleration in closing the gaps in the educational outcomes in literacy, numeracy and attendance between Indigenous and non-Indigenous students. The performance indicator framework covers changes in the gap between outcomes for Indigenous and non-Indigenous students, as well as changes over time for Indigenous students. The performance indicators for IESIP relate to:

- improving literacy and numeracy achievements of Indigenous students at preschool, school and in vocational education and training;
- improving achievement of Indigenous students;
- improving the employment of Indigenous people in education;
- improving the professional development of staff involved in Indigenous education; and
- expanding culturally inclusive curricula

Currently, performance targets are as agreed bilaterally between the Department of Education, Science and Training and education providers as part of their agreements.

A key part of IESIP is the National Indigenous English Literacy and Numeracy Strategy (NIELNS), launched by the Prime Minister in March 2000. Its objective is to achieve English literacy and numeracy for Indigenous students at levels comparable to those achieved by other young Australians.⁵ One of the six key elements of the strategy is 'measuring success, achieving accountability'. Implementation involves "the regular collection and reporting of the educational progress and outcomes of students; establishing clear performance measures, data collection procedures and improvement targets; and the provision of regular information to parents, communities, schools and governments on the actual progress and outcomes achieved".⁶

The Indigenous strategy for vocational education and training, 'Partners in a learning culture' uses the key performance measures for the seven mainstream objectives plus an additional 25 key performance measures for the four Indigenous-specific objectives.⁷

Community Services

Among the more recent developments, the Community Services Ministers' Advisory Council has endorsed the report *Principles and Standards for Community Services Indigenous Population Data*, which aims to enhance the quality of Indigenous data in the community services sector. A National Aboriginal and Torres Strait Islander Community

⁵ National English Literacy and Numeracy Strategy. <http://www.dest.gov.au/schools/indigenous/nielns.htm> (access 20/10/02).

⁶ <http://www.dest.gov.au/schools/indigenous/publications/nielnsreport.htm> - THE SIX KEY ELEMENTS (accessed 29/10/02).

⁷ Australian National Training Authority. *Partners in a learning culture. Australia's National Aboriginal and Torres Strait Islander Strategy for vocational education & training 2000-2005*. Brisbane: ANTA, 1999.

Services Information Plan has been endorsed with four priority areas for improving information collected on Indigenous clients of child protection and welfare services, the Supported Accommodation Assistance Program, Commonwealth State/Territory Disability Agreement funded agencies; and in juvenile justice.

Health

The National Aboriginal and Torres Strait Islander Health Performance Indicators were endorsed in 1997 by all Health Ministers. An interim set of national performance indicators was reported for 1998 and 1999. Revised indicators were agreed by AHMAC in 2000. The indicators measure key health determinants, including biological, environmental and social risk factors, the performance of health departments; and the health status of the population at key stages and for key conditions. Thus far, however, data required to report on some indicators are either unavailable, of poor quality, or require substantial development. These indicators are priority areas of data development for all jurisdictions.

The National Indigenous Health Information Plan⁸, endorsed by the Australian Health Ministers' Advisory Council (AHMAC) contains 42 recommendations for the collection and maintenance of quality statistics on the health of Indigenous Australians.

Agreements on Aboriginal and Torres Strait Islander Health (Framework Agreements) include a requirement for annual reporting on progress to the Australian Health Ministers Conference.

Housing

In 2001, the Minister for Family and Community Services, the then Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs and all State and Territory housing ministers affirmed their commitment to a national effort to make a real difference in housing and environmental health outcomes for Indigenous people. Ministers adopted a new policy of safe, healthy and sustainable housing for Indigenous Australians and approved *Building a Better Future: Indigenous Housing to 2010*, a statement of new directions.

An Agreement on National Indigenous Housing Information (ANIHI) was signed in 1999 by the Department of Family and Community Services, ATSIC, the Torres Strait Regional Authority, all jurisdictions, the ABS, and the Australian Institute of Health and Welfare. Its goal is to introduce a means of obtaining nationally relevant Indigenous housing data. An Indigenous Housing Information Management Strategy was endorsed by the Housing Ministers Advisory Council in September 2001.

All jurisdictions have agreed to develop performance monitoring through:

- improving the availability of good quality data through the Agreement on National Indigenous Housing Information;
- developing and implementing reporting systems that will facilitate performance appraisal at the national, State/Territory, regional and local levels; and

⁸ Australian Institute of Health and Welfare. National Indigenous Health Information Plan This time let's make it happen. Canberra: AIHW, 1997 (AIHW Cat. no. HWI12).

- reporting annually to Housing Ministers and the Minister for Immigration and Multicultural and Indigenous Affairs against the outcomes in *Building a Better Future: Indigenous Housing to 2010*, and making recommendations for action to address any shortfalls in performance.

ATSIC and the Department of Family and Community Services have developed a *Common Reporting Framework for State, Territory and ATSIC Housing Plans* to assist with preparation of annual plans and performance reports. The Common Reporting Framework is based on *Building a Better Future: Indigenous Housing to 2010* and focuses on outcomes reporting under the four objectives:

1. identify and address unmet housing needs of Indigenous people;
2. improve the capacity of Indigenous community housing organisations and involve Indigenous people in planning and service delivery;
3. achieve safe, healthy and sustainable housing;
4. coordinate program administration.⁹

A review of *Building a Better Future: Indigenous Housing to 2010* will be undertaken in 2005. The review process will provide for consultation with key stakeholders, including the Indigenous community.

Employment

Indigenous-specific employment data is collected for evaluation purposes at the national level. Indigenous status and other data definitions comply with ABS standards. The Department of Employment and Workplace Relations stores the data in the Integrated Employment System and the management information systems used for the Indigenous Employment Policy and mainstream employment assistance such as the Job Network.

Quarterly reports that include outcomes data are published for Indigenous clients of mainstream services and for the Indigenous Employment Policy in *Labour Market Assistance Outcomes*.¹⁰

Justice

The Standing Committee of Attorneys General, in its Action Plan, has agreed a set of performance indicators under five key objectives against which progress will be reported:

- prevent crime and improve community safety;
- improve access to justice related services, including services for victims of crime;
- improve access to bail;

⁹ *Building a Better Future: Indigenous Housing to 2010*.

http://www.facs.gov.au/internet/facsinternet.nsf/aboutfacs/programs/community-indig_housing_2010.htm (accessed 18/7/02).

¹⁰ See for example *Labour Market Assistance Outcomes – March Quarter 2002*.

<http://www.workplace.gov.au/DEWRSB/WP/Content/Files/WP/EmploymentPublications/lmao0302.pdf> (accessed 28/10/02).

- improve access to diversionary programs, community based sentencing options and non-custodial sentencing options; and
- enhance the participation of Indigenous people in the administration of justice systems.

Data on Indigenous interaction with the justice system are presented in the Report on Government Services 2002 for Indigenous police staff, deaths in custody, corrective services rates, and child protection services.¹¹ A report on the development of a national minimum data set for juvenile justice was released in April 2001. The data set is being field-tested. The development of national performance indicators for juvenile justice is expected to be complete by June 2003.¹²

At its 17 July 2002 meeting, the Australasian Police Ministers' Council (APMC) agreed to provide to SCAG the jurisdiction reports, which are provided as a response to the COAG National Commitment to Improved Outcomes in the Delivery of Services for Aboriginal and Torres Strait Islanders. The reports give a comprehensive overview of the range of programs and projects being undertaken across the country by Police services. APMC also sought references from the National Aboriginal Justice Advisory Committee (NAJAC) in relation to national measures to advance reconciliation. These references are assisting in the development of performance monitoring strategies and benchmarks.

The Corrective Services Ministerial Conference (CSMC) established a working group to progress the development of its action plan. The working group drafted a framework, which was endorsed by CSMC at its 16 July 2002 meeting. The framework will form the basis of the CSMC action plan. The working group is continuing to refine the framework and developing an action plan, performance monitoring strategies and benchmarks, and will report to CSMC on progress later in 2002.

Comprehensive data, information and technical support from independent data agencies

The regular publications produced by independent data agencies complement the Indigenous performance monitoring regime set in place by COAG. These regular publications include:

- Indigenous census and survey publications from the Australian Bureau of Statistics (ABS) including the forthcoming Indigenous Social Survey and the Indigenous component of the National Health Survey;
- The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples, a biennial publication from the ABS and the Australian Institute of Health and Welfare (AIHW);
- Australia's Health and Australia's Welfare, biennial publications from the AIHW;
- Report on Government Services, an annual report prepared by the SCRCSSP;

¹¹ Steering Committee for the Review of Commonwealth/State Service Provision. Report on Government Services 2002. Canberra: Ausinfo; 2002. Volume 2, pp810-814.

¹² Australian Institute of Health and Welfare. <http://www.aihw.gov.au/childyouth/juvenilejustice/index.html> (accessed 16/7/02).

- Regular publications from the Australian Institute of Criminology (AIC) and the ABS on the policing, judicial and correction systems, including regular reports on Indigenous deaths in custody; and
- Higher education and vocational education and training information published by the Department of Education, Science and Training (DEST) and the National Centre for Vocational Education Research (NVCER) on an annual basis.

In addition, the ABS is proposing a new biennial publication on Indigenous social and economic statistics. The initial publication is scheduled for 2004.

The independent data agencies, in conjunction with Commonwealth/State Information Management Groups, have also engaged in an active program to standardise data definitions and reporting frameworks for national data across the nine Commonwealth, State and Territory jurisdictions. Indigenous data development is high overall priority in this standardisation process.

Commonwealth government role in performance reporting

The Commonwealth is taking a leadership role in monitoring and reporting outcomes because Indigenous disadvantage is a national issue. In that context, the Aboriginal and Torres Strait Islander Commission (ATSIC) has as one of its legislative functions a responsibility to monitor the effectiveness of programs for Indigenous people, including programs conducted by bodies other than the Commission. The Government therefore considers that ATSIC has an existing and important role in relation to performance monitoring and reporting.

Much of the Commonwealth's leadership role in performance assessment was set out in the Government's responses to:

- the HORSCATSIA report into the needs of urban dwelling Indigenous people, *We can do it!*; and
- the Commonwealth Grants Commission (CGC) Report on Indigenous Funding.

The Government accepted recommendation 2 of the HORSCATSIA report *We can do it!* to include the requirement for 'regular and comprehensive performance information from the states and territories about their delivery of jointly funded services to Indigenous people'. A number of agreements already include performance reporting and although there are weaknesses in the scope or quality of reporting, these can be reviewed as agreements come up for renegotiation.¹³

The CGC report made the important observation that disadvantage was not uniformly distributed on a geographical basis. Typically, while Indigenous disadvantage is high in all areas, it is greater in remote locations. In responding to the CGC, the Commonwealth adopted a set of 10 principles (Appendix B) to guide its approach to meeting the needs of Indigenous people:¹⁴

¹³ Government response to 'We can do it! The needs of urban dwelling Aboriginal and Torres Strait Islander peoples'. Canberra: DIMIA, 2002, pp 12-13, 46-55.

¹⁴ Government response to the Commonwealth Grants Commission Report on Indigenous funding 2001. Canberra: DIMIA, 2002; p 22.

There two elements of particular note in the Government's response to the CGC report that reinforce the Government's commitment to improving the monitoring of and reporting on Indigenous disadvantage.

First, the Government agreed that as Specific Purpose Payments (SPPs) to states and territory governments are renewed, in the areas of health, housing, infrastructure, and education, the Commonwealth will seek to include clear objectives and associated reporting requirements in respect of inputs and regional outcomes for Indigenous Australians. Similarly, where the Government has funding formula under SPPs that recognise differential funding rates for Indigenous people on the basis of remoteness, the Government will re-examine whether the differential rate of funding is appropriate to the need, having regard to allocations available through other programs. The Government will be pursuing these objectives in the forthcoming renegotiations of the Commonwealth State Housing Agreement and the Australian National Training Authority Agreement.

Second, the Minister for Immigration and Multicultural and Indigenous Affairs will report publicly in the 2005-06 financial year on the geographic distribution of Indigenous need, the alignment of mainstream and Indigenous-specific resources to meet that need and the progress in making mainstream services more accessible to Indigenous Australians.

In 2001 the Government indicated that its national commitment to improving the circumstances of Indigenous Australians is based on further improving the quality of data to better target services for Indigenous Australians. The Government is taking further steps to improve the availability and quality of data to provide better information about the outcomes of services for Indigenous Australians. Specifically the Government is seeking to include an Indigenous identifier in the Medical Benefits Scheme data set and the Public Housing data set in the next Commonwealth/State Housing Agreement, thereby providing detailed information on the circumstances of Indigenous communities. A more detailed exposition of the steps the Government is taking to improve data quality and availability can be found in the Government's response to the CGC Report on Indigenous Funding.

At the Commonwealth level, there has been steady improvement in performance measurement and in the data sources that underpin performance indicators, particularly over the last decade. The Commonwealth has also provided leadership in inter-government agreements on national data and information development in a number of functional areas. The key development area now is in whole of government and cross-portfolio performance measurement for outcomes that depend on interventions in a number of areas. Nevertheless, the groundwork based on reporting sector-specific outcomes is essential for informing a broad performance framework for reporting on Indigenous disadvantage.

A New Policy Agenda

The Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock, in his speech to the ATSIC National Policy Conference, nominated five broad policy objectives as a basis for future policy development by the Commonwealth. They were:

First, shifting the Indigenous policy emphasis towards individuals and families specifically rather than viewing all Indigenous need through rubric of community or focusing on the organisational providers through which resources are channelled. This was based on the recognition that in the end, functional individuals and families are the foundation of communities.

- Second, that the disempowering rhetoric of victimhood be abandoned in favour of a genuine partnership of shared responsibility between governments and indigenous people in which the notion of individual responsibility empowers Indigenous people. Governments can provide schools and clinics, for example, but parents must ensure that their children attend them.
- Third, intensively targeting Indigenous primary school students to ensure they actually attend school and gain the literacy and numeracy skills essential for long term economic independence, as a key plank of a commitment to breaking welfare dependence. At the end of the day it is a marketable skill that promotes self-esteem and freedom from poverty.
- Fourth, making substance abuse – in particular alcohol and tobacco – a central focus of our attempts to improve Aboriginal wellbeing, on the basis that their contribution to Indigenous ill-health, violence, incarceration and premature death demand such a focus.
- Fifth, making sure that general programs and services are meeting their obligations to Indigenous people so that Indigenous-specific resources can be targeted to areas of greatest need.

These principles provide substance to the idea of practical reconciliation in terms of the responsibilities of policy makers and deliverers to ensure that government programs make the best possible contribution towards reducing Indigenous disadvantage.

Future Developments

This submission has elaborated on aspects of the Government's commitment to, and foundation for, effectively progressing reconciliation, as outlined in its formal response to the Council for Aboriginal Reconciliation's Final Report. The Government believes reconciliation must and should take place on many levels and in many forms. It is reliant upon the work and commitment of government, communities, organisations and individual Australians. And, while reconciliation may manifest in different ways in different communities, we also believe that the hallmark of true reconciliation will be when Indigenous Australians enjoy standards of opportunity and treatment which are the equal of the wider community.

November 2002

**COMMONWEALTH GOVERNMENT
RESPONSE**

TO

**THE COUNCIL FOR ABORIGINAL RECONCILIATION
FINAL REPORT –
*Reconciliation: Australia's Challenge***

September 2002

Commonwealth Government Response to the Final Report of the Council for Aboriginal Reconciliation

This document is the Government's response to the final report of the Council for Aboriginal Reconciliation (the Council), *Reconciliation: Australia's challenge*

Introduction

Reconciliation is not an abstract concept. It is acknowledged as an important priority by and for our nation. Throughout the 1990s and into the new millennium, the process of reconciliation has gathered growing and overwhelming support by governments, by the wider community, and among Aboriginal and Torres Strait Islander people.

The establishment of the reconciliation process was influenced by a range of factors and events spanning successive governments. The 1980s were dominated by the issues of Indigenous rights and land rights with Indigenous people calling for the government to recognise their rights in the form of a 'treaty'. While in 1988, the then Prime Minister, the Hon R J Hawke AC, committed the government to negotiating a treaty, broad agreement could not be reached on such matters in the Parliament or within the wider community, and the national focus of Indigenous affairs moved on to other issues. Following on from the 1991 *Report of the Royal Commission into Aboriginal Deaths in Custody*, there was a call for political leaders to recognise reconciliation as a key means of reducing the division and discord around Indigenous issues and to confront and defeat injustice to Aboriginal people.

In 1991, unanimous cross-party political support was achieved when the Commonwealth Parliament voted to establish the Council for Aboriginal Reconciliation to progress a formal reconciliation process. The Parliament noted that there had been no formal process of reconciliation to date, and that it was 'most desirable that there be such a reconciliation' by the year 2001, the Centenary of Federation. At the time the Bill was introduced in Parliament in 1991, the Hon Dr Michael Wooldridge, the then Shadow Minister for Aboriginal and Torres Strait Islander Affairs, said "If anything is to be achieved in the area of Aboriginal affairs, it will be achieved with simple practical solutions, with realistic, measurable and achievable goals, with cooperation rather than confrontation and, quite simply, hard work free from political bickering".

The object of the establishment of the Council was to promote a process of reconciliation between Indigenous people and the wider community based on an appreciation of Indigenous cultures and to foster an ongoing commitment to addressing Indigenous disadvantage. One of the key Council functions under the *Council for Aboriginal Reconciliation Act 1991 (the Act)* was to consult widely with Indigenous people and the wider community on the merits of a document or documents of reconciliation and to make recommendations on the content and manner of giving effect to a document or documents. The Council's charter was to promote both practical and symbolic reconciliation.

The Council ceased operations in accordance with the sunset clause in the Act on 31 December 2000. The Council had energetically performed its functions over the previous nine years and played a significant role in promoting and furthering a process of reconciliation. Australia can be proud of the progress which has been made. Nonetheless there remains much work to be

done. True reconciliation can never be said to have occurred until Indigenous Australians enjoy the same opportunities and standards of treatment as other Australians. Achieving sustainable improvements in outcomes for Indigenous people, that is, better health, better education, and a better standard of living – is the true test of reconciliation.

Among the achievements of the past decade are the growth of a people's movement which harnessed and increased community awareness of, and enthusiasm for reconciliation; bridge walks demonstrating widespread support for reconciliation across the nation; and the recognition of native title in legislation following from the High Court's findings in the Mabo case. The Council presented its reconciliation documents (the Roadmap for Reconciliation and Declaration towards Reconciliation) to the largest ever gathering of Australian leaders at *Corroboree 2000* in May of that year. The Council's work culminated in its final report, *Reconciliation: Australia's Challenge* (the Final Report) which was presented to the Commonwealth Parliament in December 2000.

The Council has generated an enduring legacy of bipartisan support for its efforts. This was demonstrated at the November 2000 meeting of the Council of Australian Governments (COAG) where the Commonwealth Government was joined by all State and Territory governments in its commitment to continuing the process of reconciliation and to addressing the high levels of disadvantage faced by many Indigenous Australians. This commitment was renewed at the COAG meeting in April 2002. Progress continues to be made within and between governments in a number of practical areas.

This bipartisan commitment to reconciliation was also demonstrated when on 26 August 1999, both Houses of the Australian Parliament resolved to adopt the Commonwealth Government's historic *Motion of Reconciliation*. This motion appears below.

MOTION OF RECONCILIATION

Moved by the Prime Minister, the Hon John Howard MP

That this House:

- (a) Reaffirms its wholehearted commitment to the cause of reconciliation between Indigenous and non-Indigenous Australians as an important national priority for Australians;
- (b) Recognising the achievements of the Australian nation commits to work together to strengthen the bonds that unite us, to respect and appreciate our differences and to build a fair and prosperous future in which we can all share;
- (c) Reaffirms the central importance of practical measures leading to practical results that address the profound economic and social disadvantage which continues to be experienced by many Indigenous Australians;
- (d) recognises the importance of understanding the shared history of Indigenous and non-Indigenous Australians and the need to acknowledge openly the wrongs and injustices of Australia's past;
- (e) acknowledges that the mistreatment of many Indigenous Australians over a significant period represents the most blemished chapter in our international history;
- (f) expresses its deep and sincere regret that Indigenous Australians suffered injustices under the practices of past generations, and for the hurt and trauma that many Indigenous people continue to feel as a consequence of those practices; and
- (g) believes that we, having achieved so much as a nation, can now move forward together for the benefit of all Australians.

At *Corroboree 2000*, the Government pledged its commitment to the Council's vision of "a *United Australia, which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage and provides justice and equity for all.*"

In its *Corroboree 2000* vision, the Council acknowledged that there are many paths to reconciliation. The Government supports a flexible approach to advancing the reconciliation process. The Prime Minister, the Hon John Howard MP, has said that reconciliation is an “unstoppable force and rather than a disproportionate focus on what is the preferred path, collective priority must be to strengthen support for the ongoing process to most importantly improve the lives of Indigenous Australians”. The Government believes that the key to continuing progress is a commitment by all Australians to achieving reconciliation through addressing disadvantage and by improving community attitudes and understanding. All Australians have a responsibility in this regard and the Government gladly adopts a driving role. The Government will maintain its commitment to the implementation of practical and symbolic measures which have a positive effect on the everyday lives of Indigenous Australians.

Over the last decade the nation has been enriched by the progress towards reconciliation. Support for reconciliation has never been greater. The Government maintains that the things that unite Australians are infinitely greater and more enduring than the things that divide. And so it is in relation to reconciliation.

The Final Report

A major function of the Council, as set out in section 6 of the Act, was the requirement to:

- *“consult Aborigines and Torres Strait Islanders and the wider Australian community on whether reconciliation would be advanced by a formal document or documents of reconciliation, and*
- *after that consultation, to report to the Minister on the views of Aborigines and Torres Strait Islanders and of the wider Australian community as to whether such a document or documents of reconciliation would benefit the Australian community as a whole, and if the Council considers there would be such benefit, to make recommendations to the Minister on the nature and content of, and manner of giving effect to, such a document or documents.”*

Subsequently, at *Corroboree 2000*, on 27 May 2000, the Council presented to the Prime Minister, other national leaders and the nation as a whole, the *Australian Declaration Towards Reconciliation* (the Declaration) and the *Roadmap for Reconciliation* (the Roadmap) representing its formal recommendations on documents of reconciliation. These documents were followed by its Final Report which was presented to the Prime Minister and the Commonwealth Parliament on 7 December 2000, and which makes six recommendations on the manner of giving effect to these documents of reconciliation.

It is important to appreciate that the Council’s proposals, especially the Roadmap and accompanying strategies, were not solely addressed to the Commonwealth Government. They were addressed to all governments and to the community as a whole. It is up to each to respond in its own way to the Council’s proposals. The response of the Commonwealth Government is but one piece, albeit an important one, in that mosaic.

The Commonwealth Government’s response to the Final Report’s six recommendations and to other issues raised in the Declaration and the Roadmap is set out below. In developing this response, the Government has taken a careful and considered approach to ensure that the enormous amount of effort and commitment the Council put into producing these documents is reflected in the Government’s response. Other stakeholders or groups with an interest in the report will respond as they see fit.

Recommendation 1

The Council of Australian Governments (COAG) agree to implement and monitor a national framework whereby all Governments and the Aboriginal and Torres Strait Islander Commission (ATSIC) work to overcome Aboriginal and Torres Strait Islander peoples' disadvantage through setting programme performance benchmarks that are measurable (including timelines), are agreed in partnership with Aboriginal and Torres Strait Islander peoples and communities, and are publicly reported.

This recommendation was acted on before the Final Report was presented to the Commonwealth Parliament.

The Council of Australian Governments considered the challenges of reconciliation at its meeting on 3 November 2000. It took the opportunity to thank the Council for its extensive work and contribution to the nation in its nine years of existence. It agreed that reconciliation would be an ongoing issue in the life of Australians and a priority issue for all governments, requiring a concerted and sustained effort over many years. COAG also acknowledged the unique status of Indigenous Australians and the need for recognition, respect and understanding in the wider community.

On 3 November 2000, COAG also agreed to a framework to advance reconciliation, promote economic independence and address the economic disadvantage that is experienced by many Aboriginal and Torres Strait Islander people. COAG agreed to a new national approach in Aboriginal and Torres Strait Islander Affairs, based on partnerships and shared responsibilities with Indigenous communities, and programme flexibility and coordination between government agencies, with a focus on local communities and outcomes. COAG agreed to action in three priority areas:

- investing in community leadership initiatives;
- reviewing and re-engineering programmes and services to ensure they deliver practical measures that support Indigenous families, children and young people. In particular, governments agreed to look at measures for tackling family violence, drug and alcohol dependency and other symptoms of community dysfunction; and
- forging greater links between the business sector and Indigenous communities to help promote economic independence.

The Council indicated in the Final Report that it was heartened by the fact that COAG has acknowledged reconciliation as a priority issue for all governments and agreed to take a leading role in pursuing the necessary changes and periodically reviewing progress under these arrangements. The Council recognised the implementation of the COAG agreement as a key plank in sustaining the reconciliation process into the future.

The November 2000 COAG commitment to reconciliation recognises that the 1992 *National Commitment to Improved Outcomes in the Delivery of Programmes and Services for Aboriginal peoples and Torres Strait Islanders* proved less successful than originally anticipated, largely because it did not contain mechanisms for follow through or accountability measures.

COAG therefore agreed to the development of action plans, performance-monitoring strategies and performance benchmarks for Indigenous programmes. These are being developed and implemented by Commonwealth/State Ministerial Councils. The Australian Health Ministers' Council provides a model for the other ministerial councils with its Aboriginal and Torres Strait Islander health performance indicators first agreed in 1997.

COAG also agreed that the annual *Report on Government Services*, prepared by the Productivity Commission on behalf of the Steering Committee for the Review of Commonwealth State Service Provision, would continue to focus on the performance of mainstream services in meeting the needs of Indigenous Australians. This annual report covers many areas of social policy that are critical to the advancement of reconciliation, including: school education, vocational education and training, health, police services, court administration, corrective services, aged and community care services, services for people with a disability, children's services, child protection and support services, and housing.

In April 2002, COAG met to consider the nation's progress in implementing the framework to advance reconciliation and to consider next steps in addressing the identified priorities. The Council agreed to trial a whole-of-governments approach in up to 10 communities or regions. The aim of these trials will be to improve the way governments interact with each other and with communities to deliver more effective responses to the needs of Indigenous Australians.

The Commonwealth is determined that these trials will succeed and has established a core group of Departmental Secretaries which will guide a dedicated taskforce charged with the responsibility of turning the whole-of-government approach into reality.

At its April 2002 meeting, COAG also agreed to commission the Steering Committee for the Review of Commonwealth/State Service Provision to produce a regular report against key indicators of Indigenous disadvantage. This report will help to measure the impact of changes to policy settings and service delivery and provide a concrete way to measure the effect of the Council's commitment to reconciliation through a jointly agreed set of indicators.

Converting the COAG agreement into measurable outcomes is and will remain a central priority for the Government.

COAG's approach is very much consistent with that of the Council. The Council agreed that many actions are necessary to advance reconciliation, from governments, the private sector, community organisations, Indigenous communities, and the wider community. The Commonwealth Government continues to pursue the approach agreed by COAG and looks forward to the achievement of real and lasting improvements as a result.

The Government recognises and has consistently focused on the need to relieve the serious social and economic disadvantage suffered by many Indigenous Australians. It is the Government's view that the cornerstone of its contribution to the reconciliation process must continue to be providing practical and effective measures to address the legacy of profound economic and social disadvantage experienced by the Indigenous community, particularly in the areas of housing, health, education and employment. The Government is committed to addressing these disadvantages and, in 2002-03, is providing \$2.5 billion for Indigenous-specific programmes, the highest amount on record for the fourth year in a row. The Government considers that true reconciliation can be achieved only if Indigenous Australians can participate equally in the opportunities available to all Australians.

Governments have made solid and consistent efforts to address disadvantage and improvements have been achieved.

Education

- from the commencement of secondary schooling, the proportion of Indigenous children who stay on at school through to Year 12 has risen from 29% in 1996 to 36% in 2001
- the number of Indigenous people undertaking post-secondary vocational education and training has increased from 26,138 in 1995 to 58,046 in 2001

- in 2001, there were 7,342 Indigenous higher education students compared to 1,933 in 1987

Employment

- for the 2001-02 financial year commencements in Intensive Assistance increased by 14% to 22,400, Interim outcome numbers increased by 73% to almost 4,600 and Job Matching eligible placements increased by 32% to 12,200.
- since 1 July 1999, more than 5,800 Indigenous people have been placed into jobs through the Indigenous Employment Policy's wage assistance program; and almost 11,000 Indigenous jobseekers have been assisted under the Structured Training and Employment Project
- 62 private sector corporations have signed up to be Corporate Leaders for Indigenous Employment with commitments to provide over 3,000 jobs
- the number of Indigenous people commencing traineeships and apprenticeships has increased from around 1,320 in 1995 to approximately 6,435 in 2001
- under Australians Working Together (AWT) initiatives announced in the 2001-02 Budget, some Community Development Employment Program (CDEP) organisations have taken on the role of Indigenous Employment Centres in areas with good job opportunities. These centres will offer a range of support to participants to gain off-benefit employment and aim to assist 10,000 Indigenous Australians over the next four years.

Health

- infant death rates have fallen by a third between 1992 and 1999
- since 1996, basic health services have been approved for 44 remote communities which previously had little or no access to services
- between 1992-94 and 1997-99, Indigenous death rates for respiratory illness fell from between 7 and 8 times the non-Indigenous average to 4 times
- between 1992-94 and 1997-99, Indigenous death rates for infectious and parasitic diseases fell from between 15 to 18 times the non-Indigenous average to between 4 and 5 times
- other examples of progress include
 - 50% reduction in the number of patients progressing to end stage renal disease in the Tiwi Islands (NT)
 - at Yarrabah (QLD) incidents of self harm have substantially decreased following implementation of a youth suicide program
 - a 100% immunisation rate has been achieved for children 0-5 years in Wilcannia (NSW)

Infrastructure and housing

- 93 per cent of discrete communities now have access to electricity, compared to 72 per cent of those communities in 1992
- 73 per cent of those communities now have higher level sewerage systems, compared to 55 per cent in 1992
- the proportion of dwellings, managed by Indigenous Housing Organisations, in need of major repair or replacement has declined from 39 per cent in 1992 to 31 per cent in 2001
- since 1996 the proportion of residents living in temporary dwellings has decreased from 7 per cent to 5 per cent
- the Army has been working alongside community members in some of the most needy Indigenous communities in Australia, building important housing and health related infrastructure.

Law and justice

- despite a rise in the total prison population since 1994, the rate of Indigenous incarceration has remained relatively stable in recent years
- on average, the rate of Indigenous deaths in custody has fallen since the Royal Commission, and Indigenous people are less likely to die in custody than non-Indigenous prisoners
- the revision of the National Indigenous Justice Strategy will strengthen efforts towards improved justice outcomes for Indigenous people.

Land and Native Title

- through various statutory schemes, land purchase and native title, more than 15% of the Australian continent is now Aboriginal owned or controlled
- almost half of the Northern Territory has been returned to Aboriginal ownership under the *Northern Territory Land Rights Act 1976*
- the 1998 amendments to the *Native Title Act 1993* have resulted in:
 - the volume of claims being rationalised and claim processes streamlined. There are now 43 determinations of native title, including 24 consent determinations
 - an increased interest in the negotiation of Indigenous Land Use Agreements. 50 Agreements are in place and a further 30 are being processed by the National Native Title Tribunal.

In the medium term the performance monitoring strategies developed by ministerial councils and an enhanced annual *Report on Government Services* will result in regular, comprehensive and public performance reports across a wide range of economic and social policy areas. This information will enable Indigenous people and the wider community to evaluate the performance of governments. It will also enable government agencies to identify those service delivery approaches that are most effective in overcoming disadvantage. Also relevant, in the area of education, reporting arrangements are legislated in the *Indigenous Education (Targeted Assistance) Act 2000*. Under this Act, the Commonwealth Minister for Education, Science and Training is required amongst other things, to report to the Parliament on national performance information relating to Indigenous students, as well as reporting on retention rates and post-compulsory education participation rates for Indigenous students. The Commonwealth has established performance benchmarks against which the States and Territories must report as a condition of targeted Indigenous education funding.

The Government commissioned the Commonwealth Grants Commission (CGC) Report on Indigenous Funding 2001 as part of its 1998 election commitment to ensure that Indigenous funding is targeted on a needs basis, particularly in relation to geographic location. The Government's suspicion, confirmed by the CGC, was that socioeconomic disadvantage is highest among Indigenous people living in remote locations. However, the distribution of Commonwealth resources does not match the distribution of need.

One of the key issues that emerged from the report is that if governments don't make mainstream services perform better, they give an impossible task to the limited Indigenous specific funds that are available. For example, in the area of public and community housing services for Indigenous people, overcoming the Aboriginal backlog requires an increase in the supply of safe and healthy housing. Redirecting Indigenous demand in urban areas towards mainstream housing options and allocating Indigenous-specific resources to remote areas would make more funds available for housing construction and upgrades in the remote areas. This is why the Government has shifted its focus to housing in remote communities.

In the 2001 Budget, the Government targeted new housing funds to areas of greatest need, specifically rural and remote areas where no other housing markets operate. At the same time, the Government is committed to improving the responsiveness and accessibility of mainstream services to Indigenous need in the areas where such services are provided.

The Government response to the CGC Report illustrates the collaborative and coordinated approach this government is taking to address Indigenous disadvantage. The Report called for better targeting (through needs based planning) for mainstream and Indigenous-specific services, informed by improved data availability, quality and comparability at the regional level. The Government response largely accepts the CGC report's findings and outlines a number of actions towards ensuring that mainstream services are improved and Indigenous-specific resources are directed to areas of greatest need. These actions include:

The adoption and use of key funding and equity principles. These principles confirm the Government's commitment working with Indigenous people, its recognition of Indigenous need, its commitment to improving the mainstream service system with support from Indigenous-specific services as needed, its commitment to improving community capacity and the better coordination of government services.

The Government has agreed that when specific purpose payments to states and territories are renewed in the areas of health, housing, infrastructure and education, the Commonwealth will seek to include clear objectives and associated reporting requirements in respect of inputs and regional outcomes for Indigenous people.

- The Government is committed to including an Indigenous identifier in mainstream collections (like public housing records) and ensuring this data is collected. Better data will improve public accountability for outcomes and will ensure that we are able to plan for services where they are most needed.
- The Government has also agreed to publicly report in 2005-06 on the geographic distribution of Indigenous need, the alignment of mainstream and Indigenous-specific services to meet need, and progress in making mainstream services more responsive to Indigenous clients.

Recommendation 2

All parliaments and local Governments pass formal motions of support for the Australian Declaration Towards Reconciliation and the Roadmap for Reconciliation, enshrine their basic principles in appropriate legislation, and determine how their key recommendations can best be implemented in their jurisdictions.

The Documents of Reconciliation

Australian Declaration Towards Reconciliation

The Prime Minister indicated at the time of release of the Declaration that although there were significant areas of agreement, the Government could not give its full support. Consequently, on 11 May 2000, the Government presented a revised Declaration to which it offered its full support. Presentation of this document reflected the goodwill and desire of the Government and of Australians for the goal of reconciliation and for seeking areas of common ground. Many individuals, groups and organisations throughout the country have also made their own commitments and statements reaffirming a common commitment to reconciliation reflecting the varying views, approaches and priorities within this common goal.

11 May 2000 (Government version)

Australian Declaration Towards Reconciliation

We, the peoples of Australia, of many origins as we are, make a commitment to go on together in a spirit of reconciliation.

We value the unique status of Aboriginal and Torres Strait Islander peoples as the original owners and custodians of lands and waters.

We recognise this land and its waters were settled as colonies without treaty or consent.

Reaffirming the human rights of all Australians, we respect the cultures and beliefs of the nation's first people and recognise the place of traditional laws within these cultures.

Through understanding the spiritual relationship between the land and its first peoples, we share our future and live in harmony.

Our nation must have the courage to own the truth, to heal the wounds of its past so that we can move on together at peace with ourselves.

Reconciliation must live in the hearts and minds of all Australians. Many steps have been taken, many steps remain as we learn our shared histories.

As we walk the journey of healing, Australians express their sorrow and profoundly regret the injustices of the past and recognise the continuing trauma and hurt still suffered by many Aboriginals and Torres Strait Islanders.

We desire a future where all Australians enjoy equal rights, live under the same laws and share opportunities and responsibilities according to their aspirations.

And so, we pledge ourselves to stop injustice, overcome disadvantage and respect the right of Aboriginal and Torres Strait Islander peoples, along with all Australians to determine their own destiny.

There is vastly more common ground than difference between the Revised Declaration and the Council's Declaration. Both documents make a commitment to the process of reconciliation and acknowledge the unique status of Aboriginal and Torres Strait Islander peoples as the original owners and custodians of lands and waters. Both recognise that this land and its waters were settled as colonies without treaty or consent and reaffirm the human rights of all Australians. Both documents identify the importance of understanding the spiritual relationship between the land and its first peoples, and in sharing a future and living in harmony.

Also, both the Revised Declaration and the Council's Declaration affirm that our nation must have the courage to own the truth and to heal the wounds of its past so that we can move on together at peace with ourselves. They both affirm that reconciliation needs to live in the hearts and minds of all Australians and acknowledge that many steps have been taken and many remain as we learn our shared histories. Both encourage Australians to walk the journey of healing and express sorrow and regret for injustices of the past, and both pledge Australians to stopping injustice and overcoming disadvantage. Both documents aspire to an improved future for all Australians, recognising our shared history and the unique role, contribution and cultural identity of Indigenous Australians.

The Government is pursuing a better future for all Australians, and believes that any reconciliation document should provide the inspiration to all Australians to commit to the process of reconciliation with the objective of realising the Council's vision of "*a united*

Australia, which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage and provides justice and equity for all.”

The areas of difference between the Revised Declaration and the Council’s Declaration relate to areas where there remain clear differences of view within the community. For example, the Government is unable to endorse the approach to customary law in the Council’s Declaration as the Government believes all Australians are equally subject to a common set of laws. Neither can the Government endorse the term ‘self-determination’ (which implies the possibility of a separate Indigenous state or states) although it unequivocally supports the principle of Indigenous people having opportunities to exercise control over aspects of their affairs (as reflected in the establishment and operation of ATSIC for example). Also, the Commonwealth Government does not support a formal apology to Indigenous people for the injustices of the past. Such an apology could imply that present generations are in some way responsible and accountable for the actions of earlier generations, actions that were sanctioned by the laws of the time, and that were believed to be in the best interests of those concerned, but which when judged by today’s standards were not.

These areas of disagreement are important. The Government does not seek to deny the validity of continued debate and discussion, but given the divergence of views on the Council’s Declaration, the Government does not believe it is appropriate to pursue legislation that would enshrine the principles in the Council’s Declaration and the Roadmap for Reconciliation. The Government reaffirms its support for reconciliation expressed through its *Motion of Reconciliation* passed by both Houses of Federal Parliament on 26 August 1999. The principles of reconciliation expressed in the Motion remain entirely relevant to the Government’s continuing commitment to the cause of reconciliation between Indigenous and non-Indigenous Australians as an important national priority for all Australians. Further, the Government reaffirms its support for the content of the Motion that expresses deep and sincere regret that Indigenous Australians suffered injustices under the practices of past generations, and for the hurt and trauma that many Indigenous people continue to feel as a consequence of these practices.

Roadmap for Reconciliation

Four National Strategies to Advance Reconciliation

The Government supports many proposals contained in the Roadmap for Reconciliation including the need for individuals, communities, organisations and governments to act on their commitments to the reconciliation process. The Government is fully supportive of a partnerships approach to Indigenous affairs and recognises the need for flexible local options where individuals, communities, organisations and governments look at ways to action commitments which suit local needs and circumstances. This approach is at the core of the COAG Reconciliation Framework.

The Government supports the overall direction and intention of the strategies of the Council to overcome disadvantage, sustain the reconciliation process and promote economic independence. It does, however, have a different view on matters in the National Strategy to Promote the Recognition of Aboriginal and Torres Strait Islander Rights.

National Strategy to Overcome Disadvantage

The Government supports the goal set by the Council in its National Strategy to Overcome Disadvantage: a society where Aboriginal people and Torres Strait Islanders enjoy comparable standards of social and economic well-being to those of the wider community, without losing

their cultural identity. It also agrees that priority must be given to achieving comparable outcomes in health, education, employment, housing and law and justice, and that improvement in these areas is critical to advancing reconciliation. The objectives outlined in this strategy are strongly supported by the Government, which has taken many steps towards addressing Indigenous disadvantage. While not an exhaustive list, examples of some of the practical measures that have been undertaken by the Government are outlined below. While there is clearly still much progress to be made, the Government is committed to ensuring these positive trends are continued through the provision of adequate resources. Indeed, it is worthwhile again noting that the level of resources dedicated to redressing Indigenous disadvantage is now at a historically high level.

Health

- By 2003-04, Commonwealth Government spending on Indigenous specific health programs will have increased by 89 per cent since 1996 to \$257 million per year.
- Considerable effort has been invested in making mainstream programmes more accessible and more responsive to the needs of Indigenous Australians. A range of initiatives including improving access to medicines for remote Indigenous Australians, increased use of Medicare in Aboriginal community controlled health services (providing improved access to doctors via bulk billing), and streamlined enrolment and billing arrangements have resulted in greater use of the Medicare and Pharmaceutical Benefits Schemes by Indigenous Australians.
- Four landmark coordinated care trials, conducted in Aboriginal communities between 1997 and 1999, showed significant improvement in increasing access for Aboriginal people to services, health care planning and population health programs that address priority needs at the community level.
- Another outcome of critical importance has been building the capacity of local communities, organisations and services to identify and meet local health needs.
- The provision of basic health services in remote communities has improved, and over the last five years, 44 basic health services have been approved for remote Indigenous communities.

Housing

- In the 2001-02 budget, \$75 million was allocated for extra housing, as well as repairs and replacement of old houses, along with improved infrastructure and management.
- A number of states and territories have entered into Indigenous housing agreements with ATSIC and the Commonwealth (represented by the Department of Family and Community Services) to pool housing and infrastructure funds and to allocate these funds regionally on the basis of need.
- In 2001, 93 per cent of remote communities had access to electricity compared to 72 per cent in 1992.
- In 2001, 73 per cent of remote communities had higher-level sewerage systems compared to 55 per cent in 1992.
- In 2001, 31 per cent of dwellings in remote communities were in need of major repairs or replacement compared to 39 per cent in 1992.

Education

- The Year 12 retention rate from the commencement of secondary schooling has increased from 29 per cent in 1996 to 36 per cent in 2001.
- Indigenous Education Strategic Initiatives Programme funding has grown by 75 per cent in the past five years from \$89 million in 1995-96 to over \$156 million (est.) in 2001-02.

- There has been an almost fourfold increase in new apprenticeships undertaken by Indigenous Australians, up from just 1,380 in-training at 31 December 1995 to 6,170 in-training at 30 September 2001.
- Between 1992 and 2001, the number of Indigenous students in higher education increased from 5105 to 7342.
- The Commonwealth will provide some \$1.68 billion to improve educational outcomes for Indigenous students over the 2001-2004 period.
- The National Indigenous English Literacy and Numeracy Strategy, launched by the Prime Minister in March 2000, is another key element in the Government's programme to improve the educational outcomes achieved by Indigenous students.
- The participation in vocational education and training by Indigenous people under the age of 25 years old has increased from 13,454 in 1996 to 23,290 in 2000 (an increased rate of 73 per cent).

Employment

- In 1999 the Government introduced the Indigenous Employment Policy. The Policy has three elements, Job Network, the Indigenous Employment Programme and the Indigenous Small Business Fund. The Indigenous Employment Programme has a number of elements providing flexible financial assistance to employers to assist in achieving sustainable employment outcomes for Indigenous Australians. These elements include Wage Assistance, Structured Training and Employment Projects (STEP), Corporate Leaders for Indigenous Employment, National Indigenous Cadetship Project as well other initiatives.
- The Job Network is a national network of around 200 private, community and government organisations dedicated to finding jobs for unemployed people. Job Network provides the bulk of assistance to Indigenous job seekers through Intensive Assistance, Job Search Training and Job Matching. Almost 35,000 programme and job placements were provided for Indigenous Australians through Job Network in the 2001-02 financial year. Currently 62 major Australian companies have signed up as Corporate Leaders for Indigenous Employment. This initiative involves the commitment of major private sector companies to generate more jobs for Indigenous job seekers in the private sector, with commitments to provide over 3,000 jobs. This public commitment of industry leaders provides excellent employment opportunities in key companies and helps to improve the employment outcomes for Indigenous Australians in the private sector.
- Structured Training and Employment Projects (STEP) provides flexible assistance for structured training, such as apprenticeships and traineeships, for groups of Indigenous job seekers. A requirement of STEP is that the training leads to lasting job opportunities. For the period 1 July 2001 to 31 June 2002, 292 STEP projects have been approved with a commitment to assist over 7,700 Indigenous job seekers.
- Wage Assistance is an incentive to help Indigenous job seekers to find long-term jobs either through Job Network or their own efforts using an eligibility card, supplied by Centrelink. A \$4400 incentive is paid over 26 weeks to employers providing ongoing job opportunities. It is available to all job seekers who identify as Indigenous and are in receipt of income support and all Indigenous job seekers under 21 years of age. For the period 1 July 2001 to 31 June 2002, almost 2,000 Indigenous job seekers have been placed in employment through Wage Assistance.
- The National Indigenous Cadetship Programme provides opportunities for Indigenous undergraduates to gain professional qualifications needed for a range of jobs in the public and private sectors. 110 new cadetships have been funded in 2001-02. As at 30 June 2002, the Cadetship Project had over 220 participants.
- The Community Development Employment Projects (CDEP) programme, administered by ATSIC, assists with employment creation and the establishment

of successful businesses. It is the Government's largest Indigenous programme, and ATSIC and the TSRA will spend \$510.47 million in 2002-03.

- The Australians Working Together measures announced in the 2001-2002 budget include a number of initiatives aimed at improving employment services to Indigenous job seekers. These include:

- Some CDEP organisations taking on the role of Indigenous Employment Centres in areas where there are good job opportunities. These centres will offer work experience, job search support and access to training, as well as the provision of support and mentoring assistance to Indigenous job seekers, outside the CDEP;
- The development of community capacity and community participation agreements;
- A Centrelink remote servicing strategy;
- Increased education and training assistance;
- Access to training credits for eligible participants and;
- Measures to better assess Indigenous job seekers' needs.

Other Initiatives

While much has been achieved, much remains to be done. Substantial disparities remain between Indigenous people as a group and other Australians in the areas of health, housing, education and employment - the Government is addressing these disparities and will continue to do so.

The COAG framework to advance reconciliation, promote economic independence and address disadvantage demonstrates the Government's commitment to keep looking for further ways forward. Other Government initiatives confirm this commitment.

The Government is exploring flexible and pooled funding arrangements in a number of areas, most notably in the health area by incorporating lessons from the coordinated care trials in the Primary Health Care Access Program (PHCAP). The PHCAP framework entails coordinated effort with state/territory jurisdictions in joint service planning and delivery and, where possible, the pooling of funding. PHCAP funding is provided on the basis of need and the capacity to utilise funds effectively. Where there is a high need but limited capacity to utilise funds effectively, there is some scope within the program to provide for capacity building at an organisational, community and individual level. The Government is willing to explore the benefits that can be achieved from innovations in financing in other policy areas.

In 2000, the Government convened the Indigenous Community Capacity Building Roundtable, to consider how to strengthen Indigenous families and communities. Roundtable members include senior Indigenous and community leaders, industry and church representatives, academics and individuals with expertise in the area. The Roundtable developed a set of principles to guide Government work in Indigenous communities. These principles represent a best practice guide in terms of identifying how governments should go about the process of developing and delivering programmes that are responsive to the needs of Indigenous communities in partnership with them.

The Council also recommends that the Government, through the COAG process, monitor and report on work which is being undertaken to overcome Indigenous disadvantage. COAG and other Ministerial Councils have committed to this role, and the Government notes that the Human Rights and Equal Opportunity Commission already has the power to report on the enjoyment, exercise and protection of the human rights of Indigenous people, including in the context of addressing disadvantage. The Human Rights and Equal Opportunity Commission has been established with the function of promoting an understanding, acceptance, and public discussion of human rights in Australia. It also undertakes research, educational and other programmes on behalf of the Commonwealth Government, for the purpose of promoting human

rights. Further, it deals with complaints of unlawful discrimination. The importance of this educational role was emphasised by the Council for Aboriginal Reconciliation.

ATSIC has as one of its legislative functions a responsibility to monitor the effectiveness of programmes for Aboriginal persons and Torres Strait Islanders, including programmes conducted by bodies other than the Commission. The Government therefore considers that ATSIC has an existing and fundamental role in relation to monitoring disadvantage.

National Strategy for Economic Independence

The Government supports the goal set by the Council for Aboriginal Reconciliation in its National Strategy for Economic Independence: *a society where Aboriginal and Torres Strait Islander peoples and communities can share the same level of economic independence as the wider community*. It also supports the broad objectives outlined in the strategy as being complementary to those objectives identified in the National Strategy to Overcome Disadvantage.

The Government notes that for most Australians the pathway to economic independence involves employment, and for fewer people economic independence is achieved through business and capital management. This presents challenges in respect of the relatively large proportion of Indigenous people who live in areas with limited employment and economic opportunities. It is also noted that some Indigenous people choose to pursue traditional lifestyles, which are not reflected in Western measures of economic independence.

Nonetheless, there is clear evidence of progress being made. As already highlighted, increases are evident in the participation of Indigenous people in traineeships and apprenticeships, as well as in employment in professional occupations. There have been significant increases in the proportion of Indigenous people who buy or own their own home. Largely as a result of the various approaches pre-dating native title, at least 15 per cent of the continent is already Aboriginal owned or controlled (including most of the coastline and control over mining in the case of the Northern Territory). The provisions of the *Native Title Act*, in particular the Indigenous Land Use Agreements provisions, also offer people significant opportunities to negotiate agreements that will contribute to their overall economic well-being. An example is the Giants Reef Exploration agreement with the Central Land Council which covers over 7,500 square kilometres of land and permits mining, exploration and related activities and includes protection of the environment and native title rights. There is also around \$50 million per annum available through the Indigenous Land Corporation to purchase and develop land and other economic assets for Indigenous Australians.

There are a number of Commonwealth initiatives and programmes that focus on the need to assist Indigenous people to achieve economic independence:

- In April 2001, Indigenous Business Australia (IBA) was established to build on the previous work of the Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC). During 2002-03 IBA will build its capital base to over \$70 million and will be involved in joint ventures with an annual turnover exceeding \$350 million. IBA will forge partnerships between Indigenous people and corporate Australia by developing commercially viable joint ventures that will enable Indigenous Australians to acquire equity in a number of large businesses and create opportunities for employment and training. The establishment of IBA complements other ongoing programmes.
- ATSIC's Business Development Programme provides financial assistance and business support (including financial planning, marketing, training and mentoring) to Indigenous businesses. Currently approximately \$38 million is provided for this programme.

- The Indigenous Small Business Fund (ISBF) has funding of \$11 million available between 1999 and 2002 to help Indigenous people enhance business prospects and networks, develop good business ideas and the business management skills needed to start commercially viable businesses and to gain access to business capital and support services. As at 31 June 2002, 95 projects had been approved.
- A number of Indigenous tourism enterprises and organisations have been assisted through regional tourism programmes and ATSIC's Business Development programme over the last 8 years. The Tjapukai Aboriginal Cultural Park in Cairns is one such enterprise. The centre employs approximately 55 Indigenous staff (75 per cent of the total staff).
- The Indigenous Land Corporation which provides funds to enable Indigenous people to purchase land, also assists them to manage their land in a sustainable manner so as to provide cultural, social, environmental and economic benefits.

National Strategy to Sustain the Reconciliation Process

The Government is committed to reconciliation as an ongoing process with practical, cultural and spiritual dimensions.

The Commonwealth Government is only one entity to which the Council's recommended strategy is addressed. It is also directed towards parliaments and political parties, state, territory and local governments and their agencies, reconciliation organisations at national, state and local level, private sector organisations, voluntary and community organisations, Indigenous organisations, and Indigenous and non-Indigenous individuals. The Government views the Commonwealth's role primarily as a practical one in which it makes a substantial (but not exclusive) contribution of the resources necessary to meet the practical needs of Indigenous Australians.

The *Motion of Reconciliation* moved by the Prime Minister in the Parliament in 1999 demonstrated the government's commitment to the process of reconciliation. The Government wants to maintain this commitment and the momentum towards reconciliation, and provided \$5.6 million to Reconciliation Australia to continue promoting reconciliation throughout all sectors of the Australian community. The Government has also accorded Reconciliation Australia tax deductibility status so that organisations, businesses and ordinary Australians can be encouraged to contribute to the valuable work of Reconciliation Australia. The foundation's three priority areas are to: work towards social and economic equity for Indigenous Australians; strengthen the people's movement for reconciliation; and acknowledge the past and build a framework for a shared future by amongst other things, facilitating constructive discussion on all aspects of the rights agenda.

The Government agrees that there should be tangible recognition of the value of Indigenous history, culture and heritage. It allocated \$5 million for the design and construction of Reconciliation Place, in the Parliamentary Triangle. The first stage of Reconciliation Place was opened by the Prime Minister, the Hon John Howard MP, the Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock MP, and the former Chairperson of the Council for Aboriginal Reconciliation, Dr Evelyn Scott, on 22 July 2002.

Reconciliation Place, as a national place of reflection, will portray Australia's shared journey of reconciliation – past, present and future. It is a prominent public symbol of the nation's commitment to healing the wounds of the past and of our desire as a Nation to move forward together and share a harmonious future. It is envisaged that it will continue to evolve over time, reflecting the process of reconciliation for current and future generations of all Australians.

Protocol and Symbols

The nation values and respects Indigenous cultures and heritage. There are now many examples where this has been given symbolic and practical effect. The opening ceremony of the Sydney 2000 Olympic Games and the forecourt of Parliament House are important examples. The Prime Minister and Government ministers have adopted the practice of ‘acknowledging country’ at ceremonial occasions and appropriate public events. This practice involves acknowledgment that the event is taking place in the country of the traditional Indigenous owners. It shows respect for Aboriginal and Torres Strait Islander protocol and the ongoing relationship of the traditional owners of the area with that land and/or waters. Significantly, an Indigenous element was included in the formal welcoming ceremony for Her Majesty the Queen when she visited Australia.

Another positive advance in this area is the practice of flying both the Aboriginal and Torres Strait Islander flags on Commonwealth buildings at times of particular significance for reconciliation, such as for National Aboriginal and Torres Strait Islander Day Observance Committee (NAIDOC) week and National Reconciliation Week.

Recognising that such symbolic practices can contribute to improving the understanding of Aboriginal and Torres Strait Islanders peoples by the wider community, in 1999, the Government provided significant funding for the development of a kit to assist communities to develop local symbols of reconciliation. The kit *Local Symbols of Reconciliation-What Can we Do?* was launched at the end of 2000 and led to the establishment of a number of reconciliation symbols. One of many positive examples is the memorial built at Myall Creek to commemorate the deaths of Aboriginal people at the hands of stockmen in 1838.

The Government believes that responses to reconciliation which promote Indigenous heritage and culture at a public level and through symbols of reconciliation can do much to improve and expand community understanding of our Aboriginal and Torres Strait Islander people, and build public support for reconciliation. Therefore the Government believes that acknowledgment of the special place of Indigenous people in the life and history of Australia is appropriate on certain occasions and in certain Commonwealth ceremonies, such as citizenship ceremonies. While the Government does not believe a prescriptive approach should be taken, it none-the-less feels that the cause of reconciliation is greatly aided by such acknowledgment.

Of relevance also, the House of Representatives Standing Committee on Procedure released a report in August 2001, *Balancing Tradition and Progress: procedures for the opening of Parliament*, which recommends a number of changes to the procedures for the opening of Parliament. The proposed changed procedures include significant Indigenous content. This matter will be considered in the Government’s response to the Procedures Committee report.

The Commonwealth welcomes the statement of commitment to reconciliation adopted by the Australian Local Government Association in 2000. This statement openly acknowledges Australia’s Aboriginal and Torres Strait Islander heritage and commits to practical and on-going reconciliation activities by local councils, including Indigenous involvement in events and celebrations of significance which respect the dignity and protocols of the local Indigenous community. The Commonwealth encourages all local government authorities to implement the statement and urges the states and territories to pursue this issue in a similar light.

National Strategy to Promote Recognition of Aboriginal and Torres Strait Islander Rights

The Government agrees that all Australians have the right to enjoy, in daily life, a fundamental equality of rights, opportunities and acceptance of responsibilities. The Government agrees that the unique status and identities of the Aboriginal and Torres Strait Islander people as the first people of Australia must achieve recognition, respect and understanding in the wider community. This unique status is already recognised in legislation including the *ATSIC Act*, the *Native Title Act* and *The Aboriginal and Torres Strait Islander Heritage Protection Act*. The Government recognises that the cultures of Indigenous Australians are essential to our distinctive character as a nation. The Government sought to have this special status recognised in the 1999 referendum on the adoption of a preamble to the Constitution, however, the proposed preamble was not approved by the Australian people.

The Government is committed to common rights for all Australians. The Government recognises that many Aboriginal and Torres Strait Islander people have not had the opportunity to enjoy such equal rights in the past because of events that have had a profound impact on Indigenous people. The Government supports additional measures to ensure equality of opportunity where such measures are necessary to overcome specific disadvantages experienced by Indigenous people. Neither the Government nor the general community, however, is prepared to support any action which would entrench additional, special or different rights for one part of the community.

The Council's Rights Strategy recommends three key areas for essential action.

1 Education

The Government supports the Strategy's focus on education as an effective mechanism for promoting tolerance and understanding in our society, an appreciation of Indigenous heritage and culture, and a clear understanding of our nation's history. The Government supports a range of programmes and initiatives aimed at promoting community awareness, and supporting Indigenous culture and languages.

For instance, the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) houses the world's most extensive collection of printed, audio and visual materials on Aboriginal and Torres Strait Islander subjects. The new National Museum of Australia includes the First Australians Gallery, one of the permanent exhibitions in the museum. Together the National Museum of Australia and AIATSIS create a precinct of international significance and stature that will enhance the public's appreciation and understanding of Aboriginal and Torres Strait Islander peoples' cultures and experiences.

ATSIC has a wide range of programmes relating to Indigenous heritage, culture, language and media. The ATSIC heritage and culture programmes fund local keeping places, arts and craft centres, repatriation of Indigenous remains and cultural property, festivals and ceremonial activities. The Aboriginal and Torres Strait Islander Languages Initiatives Programme funds around 25 regional language centres and community-based language projects that promote Indigenous languages and protect those languages in danger of being lost forever. Through its broadcasting programme, ATSIC provides funding for the establishment and support of a large number of Aboriginal and Torres Strait Islander owned and operated media groups (approximately 150 so far).

The Government currently supports a range of initiatives designed to promote tolerance and understanding, promote an appreciation of Indigenous culture and a clear understanding of our

nation's history. Programmes include *Living in Harmony*, which encourages Australian organisations to work with multicultural and Indigenous communities to address issues of racism and to promote harmony in communities across Australia; and several programmes administered by ATSIC which promote an awareness of Indigenous culture contributing to the wider recognition of the cultural identity of Indigenous Australians. The Aboriginal and Torres Strait Islander Arts Board, through the Australia Council for the Arts, supports Indigenous artists and communities and distributes funding to foster Indigenous arts and culture.

2 Legislation

- ***Recognition and protection of Indigenous intellectual property***

The Government is committed to addressing Indigenous intellectual property concerns and enhancing the protection of the expression of Indigenous culture. Existing intellectual property laws and other laws (for example, contract law) afford a considerable opportunity to obtain protection for matters of cultural, historical, religious, moral and economic significance to Indigenous groups and individuals. For example, the use of trademarks, including certification marks, is one means of exercising control over the commercial utilisation of particular representations. Copyright can also be used to protect certain uses of Indigenous arts and cultural expressions. In addition to the economic rights available under copyright, on 21 December 2000 amendments to the *Copyright Act* came into force giving the "moral rights" of integrity and attribution to all authors, artists and new film-makers, including Indigenous creators. The Government committed, in the context of the 2001 election, to amend the moral rights regime to give Indigenous communities a means to prevent unauthorised and derogatory treatment of works that embody community images or knowledge. The Government is actively involved in international fora which are considering Indigenous traditional knowledge and its interaction with intellectual property protection schemes.

- ***International Indigenous and human rights obligations***

As stated in the preamble to the *ATSIC Act* 1989, the Australian Government has acted to protect the rights of all its citizens, and in particular its Indigenous peoples, by recognising international standards for the protection of universal human rights and fundamental freedoms through:

- (a) the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination and other standard-setting instruments such as the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights; and
- (b) the acceptance of the Universal Declaration of Human Rights. Australia has been actively and constructively participating in United Nations deliberations concerning a possible Declaration on the Rights of Indigenous Peoples.

- ***Legislative processes to deal with unfinished business***

The Government believes that a continuing dialogue on the unfinished business of reconciliation allowing for negotiated outcomes on matters such as rights, self-determination within the life of the nation and constitutional reform should be achieved outside the confines of a legislated process. The Council's draft legislation would impose a potentially divisive, protracted (at least 12 years) and inconclusive process on the nation. It envisages an agenda encompassing self-government, recognition of customary law, compensation and reparation, comprehensive settlement of native title and other land claims, deaths in custody and separated children issues, a bill of rights, and constitutional recognition. ATSIC's treaty consultation process identifies similar objectives, including possible legislative recognition of sovereignty, recognition of

Indigenous inherent rights, and control, ownership and management of land, waters and resources. Whatever community support there may be for a written declaration of goals and values, the Council's own public opinion research disclosed community opposition to the idea of a treaty as a legally enforceable instrument such as is made between sovereign states. A number of Aboriginal leaders have also recently voiced concerns about the concept, its relevance and relative importance. The Government is deeply concerned that rather than offering closure, pursuit of a treaty would be a recipe for ongoing disputation and litigation as has happened in North America and elsewhere.

There are areas in this debate which evidence widespread disagreement between the aspirations of some Indigenous people and the wider community. The Government is committed to a process which fosters an open, honest and ongoing dialogue on reconciliation. This process must respect the rights and differing views of all interested parties while also fostering ongoing and increased support for reconciliation based on the principle of equal and common rights for all Australians.

Australian governments have generally observed the principle of only enacting legislation once they are convinced that a legislative solution is superior to other policy instruments for achieving the stated objective. The Government does not consider that the Council's proposed legislation would achieve increased support for reconciliation or necessarily achieve the Council's desired outcomes. There are many examples of negotiated agreements and outcomes which have been achieved outside of such a special legislative process. Local memoranda of understanding and industry specific agreements are positive outcomes which can be achieved under existing processes. Examples include the actions by companies such as Normandy and Pasminco to affirm recognition of Aboriginal and Torres Strait Islander peoples' relationship to the land by the development and implementation of agreed principles by which negotiations can be carried out.

The Government supports the principle that Indigenous people should have meaningful opportunities to exercise control over their own affairs. The Government's continuing support for the operations of the Aboriginal and Torres Strait Islander Commission which ensures the maximum participation of Aboriginal and Torres Strait Islander people in the formulation and implementation of programmes which affect them is a practical illustration of this commitment. ATSIC was established by the Parliament to pursue its objectives in a manner that is consistent with the aims of self-management, self-sufficiency and economic independence for Aboriginal and Torres Strait Islander peoples.

However, the Government is concerned that self-determination is defined by some as representing the right to unilaterally challenge national sovereignty. It carries the implication of a separate Indigenous state or states. The *ATSIC Act* itself does not use the term. The Government prefers the term self-management or self empowerment, believing that these terms are consistent with a situation in which Indigenous people exercise meaningful control over aspects of their affairs in active partnership and consultation with government.

It is the responsibility of government to ensure that all Australians have equality of opportunity and access to services. The Government is concerned that self-determination implies that a government must in some way relinquish responsibility for and control over those aspects of Indigenous well being over which it rightly has jurisdiction in common with its responsibilities to all Australian citizens. The Commonwealth Government remains accountable for outcomes in Indigenous affairs when making fiscal commitments. The Government has demonstrated its strong and continuing commitment to outcomes in addressing disadvantage in the areas of health, housing, education and employment and is continuing to provide funds where most needed. The COAG agreement further solidifies the commitment of the Government to achieving outcomes for Indigenous peoples in these areas. Very importantly, the Government is

committed to ensuring that in the process of meeting its responsibilities to Indigenous people, they are engaged to the maximum extent possible as partners in the design and delivery of services.

3 Legislation for a referendum which seeks to:

- Prepare a new preamble to the Constitution which recognises the status of the first Australians; and
- Remove section 25 of the Constitution and introduce a new section making it unlawful to adversely discriminate against any people on the grounds of race

This is discussed below in response to Recommendation 3 of the Final Report.

Recommendation 3

The Commonwealth Parliament prepare legislation for a referendum which seeks to:

- *Recognise Aboriginal and Torres Strait Islander peoples as the first peoples of Australia in a new preamble to the Constitution;*

The Government put forward a proposed preamble to the Constitution at a referendum in November 1999 which, among other things, honoured Aboriginal and Torres Strait Islanders as "the nation's first people, for their deep kinship with their lands and for the ancient and continuing cultures which enrich the life of our country". The proposed preamble was not approved by the Australian people and this decision is respected by the Government. Therefore, the Government will not pursue this recommendation.

- *Remove section 25 of the Constitution and introduce a new section making it unlawful to adversely discriminate against any people on the grounds of race.*

Section 24 of the Constitution is used to determine the number of House of Representatives members in each State. This is qualified by section 25, which provides:

For the purposes of the last section, if by any law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

Being a limitation on the previous section, the clear intention of this section is, as noted by the Council, to discourage discrimination by the states on the basis of race. The Government, nevertheless, recognises that this section anticipates State provisions to disenfranchise citizens on the basis of race and this, clearly, has no role to play in the governance of the modern Australia nation.

However, section 25 does not have any practical effect in the governance of the nation. No State has a racially discriminatory voting provision in place and any such provision would contravene the *Racial Discrimination Act* and would be rendered inoperative by virtue of section 109 of the Constitution. The Government is generally supportive of the proposal to remove s.25 of the Constitution. Given adequate support for such a proposal, the Government would be disposed to put the matter to a referendum at an appropriate time.

The Government does not believe that paragraph 51(xxvi) of the Constitution needs to be amended, as proposed by the Council in *its National Strategy to Recognise Aboriginal and Torres Strait Islander Rights*. Prior to the 1967 referendum the Commonwealth was specifically precluded under the Constitution from making laws specifically relating to Indigenous Australians. Since the referendum, which was overwhelmingly endorsed by the nation, Commonwealth, State and Territory Governments have shared responsibility for enacting special laws and delivering special programs and services to Indigenous Australians. While the view has been put that this power has the capacity to be used to discriminate against Indigenous Australians, the Government considers that Australia's robust parliamentary system mitigates against such a possibility. The Government remains of the view that this legislative power is necessary to advance the interests of Indigenous Australians and does not propose to seek its amendment.

The Government's position on a Bill of Rights, or express Constitutional provisions to the same effect, have been clearly stated on a number of occasions. The Government strongly believes that the best guarantee of fundamental human rights in this country is to have a vigorous and open political system, an incorruptible judicial system, and a free press. It follows that the Government does not support the establishment of a formal Bill of Rights, either by way of discrete legislation or by the incorporation of specific rights into the Australian Constitution.

In relation to the specific provision recommended by the Council, Australia already has an effective system in place to prevent discrimination on the basis of race. The *Racial Discrimination Act 1975* has had a major impact on the legal and cultural life of Australia. The Act makes it unlawful to discriminate against another person on the basis of race, colour, descent or national or ethnic origin in any field of public life. The Act also prohibits acts done because of race, colour or national or ethnic origin, otherwise than in private which are likely to offend, insult, humiliate or intimidate.

To complement this Act, complaints of unlawful discrimination can be made to the Human Rights and Equal Opportunities Commission (HREOC). HREOC can investigate and attempt to conciliate such complaints and, where a complaint cannot be conciliated, it can be terminated by HREOC and taken up in court. If a complaint is upheld, the courts can make certain orders, including orders to cease the unlawful conduct, to redress the loss or damage suffered, or to pay compensation. As Australia's national human rights institution, HREOC also researches issues concerning racism, and educates the community on racism and tolerance. A framework of State and Territory laws also prohibits discrimination.

Discrimination on the basis of race is contrary to law and to the Australian way of life. Nothing practical would be gained by the changes suggested by the Council.

Recommendation 4

Recognising that the formal reconciliation process over the last decade has achieved much and has helped bring Australians together, all levels of government, non-government, business, peak bodies, communities and individuals commit themselves to the process and sustaining it by:

- ***Affirming the Australian Declaration Towards Reconciliation and actioning the Roadmap for Reconciliation;***
- ***Providing resources for reconciliation activities and involving Aboriginal and Torres Strait Islander peoples in their work;***
- ***Undertaking educational and public-awareness activities to help improve understanding and relations between Aboriginal and Torres Strait Islander peoples and the wider community; and***

- ***Supporting Reconciliation Australia, the foundation which has been established to maintain a national leadership focus for reconciliation, report on progress, provide information and raise funds to promote and support reconciliation.***

The Government generally supports this recommendation. As discussed above in Recommendation 2, the Government supports many proposals contained in the Roadmap, and although there are some topics within the Council's Declaration to which the Government cannot give its full support to, there are many significant areas of agreement.

There are, and will continue to be, national celebrations which provide the opportunity for Indigenous people to demonstrate the richness of their culture and heritage to other Australians, in addition to allowing the wider community to show their support. National Reconciliation Week (NRW) and the National Aboriginal and Islander Day Observance Committee (NAIDOC) are well-established events which are both educative and raise awareness to help improve understanding and relations between Aboriginal and Torres Strait Islander people and the wider community. The Government flies both the Aboriginal and Torres Strait Islander flags on Commonwealth buildings at such significant times for reconciliation.

Also, as discussed in more detail under recommendation 2, the Government provided \$5.6 million to Reconciliation Australia to maintain its commitment and the momentum towards reconciliation, as well as funding the design and construction of Reconciliation Place, in the Parliamentary Triangle. Reconciliation Place, launched on 22 July 2002 by the Prime Minister, the Hon John Howard MP, as a national place of reflection, will portray Australia's shared journey of reconciliation – past, present and future. Four artworks, known as "slivers", have been included in the initial development of Reconciliation Place. It is envisaged that many more slivers will be added over time to represent significant issues and events of our shared history. The design of another sliver that will recognise Indigenous leaders Neville Bonner and Vincent Lingiari, is well under way. The National Sorry Day Committee is also conducting a consultation process to determine how the past separation of Aboriginal children from their families could be depicted at Reconciliation Place.

Recommendation 5

Each Government and parliament:

- ***Recognise that this land and waters were settled as colonies without treaty or consent and that to advance reconciliation it would be most desirable if there were agreements or treaties; and***
- ***Negotiate a process through which this might be achieved that protects the political, legal, cultural and economic position of Aboriginal and Torres Strait Islander peoples.***

Recommendation 6

That the Commonwealth Parliament enact legislation (for which the Council has provided a draft in this report) to put in place a process which will unite all Australians by way of an agreement, or treaty, through which unresolved issues of reconciliation can be resolved.

The Government has affirmed that Indigenous people were the original custodians of this land and its waters, and that they were settled as colonies without treaty or consent. The Government acknowledged this through its Revised Declaration, on page 10 of this Response.

The Government agrees that there is much work to be done to advance reconciliation. It does not, however, support the concept of a treaty for the reasons already discussed. The Government considers that ongoing community debate and education must occur prior to being able to clearly identify, agree and resolve issues which will benefit the community as a whole and take the reconciliation process forward. Moreover agreement is more likely to be achieved

on a progressive, issue by issue basis, rather than through a once and for all global process. The Council for Aboriginal Reconciliation itself, at the end of its term in 2000, acknowledged that reconciliation is an on-going process and that there are a number of challenges still ahead.

The people's movement' itself clearly demonstrates the importance of communities concentrating on working in partnership at the local level to tackle issues of immediate concern to them. This means that considerably more progress must be made to improve community awareness and understanding in order to shift communities to a position where they can make progress. A national agreement – a “top down” policy response - is not appropriate to local circumstances. Change must be driven and enacted from the local level on the basis of community will.

It is important to note that in recent years there has been a proliferation of agreements between Indigenous groups and proponents of infrastructure and mining development, businesses, local and state governments, tertiary institutions and many other agencies. The Council in its Final Report highlighted many examples of such partnerships that had positively impacted on Indigenous and non-Indigenous relations in communities. The Body Shop, for example, has worked with several Aboriginal and Torres Strait Islander communities to develop their own business programme, First Australians Business. In Moree, the Gwydir Valley Cotton Grower's Association has also done much to foster partnerships between Indigenous and non-Indigenous people. As a result the previously negative community relations are shifting.

The Government will continue to listen to and act on views that serve to further the cause of reconciliation based on the fundamental principal of equality for all Australians whilst recognising the unique position of Aboriginal and Torres Strait Islander peoples in Australian society.

The Government's position on a treaty is that such a legally enforceable instrument, as between sovereign states would be divisive, would undermine the concept of a single Australian nation, would create legal uncertainty and future disputation and would not best harness the positive environment that now exists in relation to reconciliation. In fact, such a process could threaten that environment.

The existing inclusive reconciliation process already allows for state, regional and local level agreements. Significant achievements in regional planning have been made in each state and territory under the initial Framework Agreements in Aboriginal and Torres Strait Islander Health entered between the Commonwealth, the state/territory, ATSIC and the community controlled health organisations. Similarly, there are now bilateral Commonwealth/state and ATSIC housing agreements in an increasing number of jurisdictions, and this Government has also legislated for a native title process by which Indigenous and non-Indigenous people can enter into Indigenous Land Use Agreements (50 have been registered as at 22 July 2002 with many more in the pipeline).

Conclusion

The Council's report reflects the fact that reconciliation must and does take place on many levels and in many forms. It relies on people, communities, organisations and governments doing things which suit their circumstances, needs and possibilities. There is no single blueprint for reconciliation, no one policy or action to make it happen, no magic formula to ensure success.