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SELECT COMMITTEE ON THE ADMINISTRATION OF
INDIGENOUS AFFAIRS

(Subcommittee)

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SENATE
SELECT COMMITTEE ON THE ADMINISTRATION OF INDIGENOUS AFFAIRS
Thursday, 26 August 2004

Members: Senator Crossin (*Chair*), Senator Johnston (*Deputy Chair*), Senators Heffernan, McLucas, Nettle, O'Brien, Ridgeway and Scullion

Senators in attendance: Senators Crossin, McLucas, O'Brien and Scullion

Terms of reference for the inquiry:

To inquire into and report on:

- (a) the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004;
- (b) the proposed administration of Indigenous programs and services by mainstream departments and agencies; and
- (c) related matters

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BANU, Mr Donald, Chairperson, Boigu Island Council; Member, Torres Strait Regional Authority

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DAY, Mr Ron, Chairperson, Murray Island Council; Member, Torres Strait Regional Authority

ELU, Mr Joseph, Chairperson, Seisia Island Council; Member, Torres Strait Regional Authority

FORDHAM, Mr Mike, General Manager, Torres Strait Regional Authority

GELA, Mr Fred, Chairperson, Hammond Island Council; Member, Torres Strait Regional Authority

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KRIS, Mr John Toshie, Chairperson, Torres Strait Regional Authority

MACKIE, Mr Walter, Chairperson, Yam Island Council; Member, Torres Strait Regional Authority

MAU, Mrs Margaret, Chairperson, Dauan Island Council; Member, Torres Strait Regional Authority

MOSBY, Mr Donald, Chairperson, Yorke Island Council; Member, Torres Strait Regional Authority

MOSBY, Mr Phillemon, Chairperson, Coconut Island Council; Member, Torres Strait Regional Authority

NONA, Mr Maluwap, Member for Horn Island and Prince of Wales Island, Torres Strait Regional Authority

SAGAUKAZ, Mr Jesse, Chairperson, Bamaga Community Council; Member, Torres Strait Regional Authority

SAGIGI, Mr Robert Conwell, Member for Tamwoy, Rosehill, Aplin, Waiben and Quarantine, Torres Strait Regional Authority

SAVAGE, Mr Saila, Chairperson, Kubin Community Council; Member, Torres Strait Regional Authority

SHIBASAKI, Mr Bill, Member for Port Kennedy, Torres Strait Regional Authority

STEPHEN, Mr Rocky, Chairperson, Stephen Island Council; Member, Torres Strait Regional Authority

WAIA, Mr Terry, Representative for Saibai Island Council, Torres Strait Regional Authority

CHAIR—I declare open the Senate select committee hearing on the administration of Indigenous affairs, sitting on Thursday Island. At a private committee meeting held on 11 August, the committee agreed to the formation of a subcommittee for the purpose of holding public hearings in the Northern Territory and Far North Queensland during August. The committee comprises me as chair—I am from Darwin; Senator Jan McLucas, whom you will know, from Cairns; Senator Kerry O'Brien, from Tasmania; and Senator Nigel Scullion, who is also from the Northern Territory.

The committee recognises that this hearing is taking place on Indigenous land, and we pay our respects to the traditional owners of that land. We want to put on record our thanks to the traditional owners for allowing us to travel here and for allowing this committee to sit. Today is the sixth day in the committee's inquiry, which is to focus on the government's proposal to make changes to institutional structures in respect of the administration of Indigenous affairs in Australia, with particular reference to the abolition of ATSIC and the mainstreaming of services for Indigenous people to individual government departments. To begin this morning's hearing, I want to welcome representatives from the Torres Strait Regional Authority Board—especially Mr Kris, as chairperson. Do you have any comments to make on the capacity in which you appear?

Mr Sagigi—I am also the Chair of the Island Coordinating Council.

Mr Nona—I am a representative of Muralug and Ngurapai communities and am currently a commissioner elect.

Mr Kris—I am the Chair of the Saint Pauls community council.

Mr Gela—I am the Deputy Chair of the TS Regional Authority.

Mrs Mau—I am the Deputy Chair of the ICC.

Mr Elu—I am also the Chairman of Indigenous Business Australia.

CHAIR—The committee prefers all evidence to be given in public. Let me tell you what that means. That means that it is recorded in *Hansard* and, when we table our report in parliament, the discussion we have had today—the evidence you give us—is made public for everyone to be able to read. But, if you want to have a session that is in private or is confidential, you can ask to do that. Mr Kris, I understand that you want a session in camera. Is that correct?

Mr Kris—Yes.

CHAIR—That would be between members of the Torres Strait Regional Authority and the senators. Do you want to do that first or would you perhaps like to give us an opening statement? We can ask you some questions and then we can have a private session. What would you prefer to do?

Mr Kris—We could just start off and then go into the in camera session with the members.

CHAIR—All right. We can do that. We are really here for you to perhaps give us a submission—to tell us what is on your minds. We are really here to listen and to ask questions. You have to decide what parts you want to tell us and what parts you want to keep confidential.

Senator O'BRIEN—One of the possibilities is that we could have a hearing in camera. You could look at the transcript and decide which parts of it you were happy to have made public and which parts you thought should be kept in camera. If that suits, that is sometimes a way, where people are not sure what is going to be said and they want to make sure that things that are private are kept private. You can control it in that way. But the committee would need to make that decision.

Mr Sagigi—I think we should have an in camera session. The separation of powers ends, so we must have this conversation.

CHAIR—There are just a few things that I perhaps need to explain to you. If we have a session that is in camera, confidential, then, when you get the *Hansard* of that, it all stays confidential unless you tell us that there are parts that you would like made public. If you keep all of it confidential, then we cannot use any of our discussion today in our report. Also, at some time in the future, the Senate may vote to take your confidential submissions and make them public. In my six years in the Senate, I am not aware that that has happened—

Senator O'BRIEN—It happened once.

CHAIR—It is very rare that that happens. But I think people are feeling a bit uneasy about the process, so perhaps we might start with an in camera session, if that is what you prefer. Is that what you are saying? When you get the *Hansard* and have a look at what other people in other places—in Gove, Darwin, Alice Springs and Broome—have talked to us about, I think you will find that what you have to say will be similar to what they are talking about and you probably will not have any reservations. But, if people are feeling a bit uneasy about the process, we can have an in camera session. When you get the *Hansard*, you can then tell us what parts you would like made public, or there might be sections you still want kept confidential. Would that be better for people? All right. I also understand, though, that you would prefer the staff to stay while we have the in camera session—or would you like them to leave?

Mr Kris—We would prefer part of it with the staff and part of it as a session just with the members and the committee.

CHAIR—All right. Mr Kris, the rules of the Senate say that if people are going to stay for an in camera session they cannot be observers. Mr Kris, would you like to start by making an opening statement or a comment or would you like to present us with some views to begin with?

Mr Kris—Thank you. Just for the members, if you go to page 80 of our submission to the Senate committee—

CHAIR—Is this your submission, Mr Kris? What document do you have there?

Mr Kris—That is our submission. We would also be interested to know what the other communities around Australia are discussing with the committee.

CHAIR—Do you want to start, Mr Kris, and briefly take us through some of the key points in your submission that you want us to know. We need to leave some time for questions.

Mr Kris—We need to look at the provisions of the ATSIC Amendment Bill 2004. The Torres Strait Regional Authority has been looking at self-governance and some form of the autonomy process and the proposed administration of Indigenous programs and services by mainstream departments and agencies.

Senator McLUCAS—Mr Kris, can you tell us why—and maybe others of the TSRA board might also like to do this—you think that the TSRA model is working or not working? Can you tell us what is good about it? It is different, as you all know, from ATSIC and how it operated. It is a regional authority. Partially in answer to your question earlier, many submissions from other parts of Australia talk about the model of the TSRA and they are interested in it as a regional governance model. Such a model does not exist in other ATSIC regions.

Many people around Australia have said to the government, ‘You’re taking away ATSIC and we don’t agree with that.’ However, many of the people are saying that, if we are going to replace it with something, the TSRA model is something worth looking at. What our committee needs from you people who actually work within this model is for you to tell us what is good, what works and what you like about it. There may be different opinions around the room, and that is respected. Tell us what you think about why it works and how, if it were a brand new day, you would make it again, if there is something that you think needs changing. The opportunity that we senators have today to learn from you as people who are in the system is amazing. If you could do that, that would be extremely helpful to our committee.

Mr Kris—The thing that really works in our favour is the separation of powers within the board. Also, the views of people on the ground actually get delivered to the top level within the governing structure of our region. Also there is the service delivery that applies to our region through the MIP and other things under the delivery of service of the Torres Strait Regional Authority. The only thing that we are really pushing for is how we can better the structure in getting some of our members or people from our region into state or Commonwealth government, actually sitting in the parliament. That is one of the biggest pushes for us for autonomy. Apart from that, I think there is a bit of room for improvement within the organisation, and how we are going to get it is totally up to the members around the room and their working as a unified board. I will leave it open for some other members who also want to put in comments to the committee.

Mr Day—In comparison with ATSIC, if we look at the size geographically and the size of the organisation itself, ATSIC is more widespread across Australia—and here we are, a small island group, where everybody is more related and, when it comes to practising politics, everybody

understands where everybody is going. That is where we feel more empowered, if I can say that. But, as far as the day-to-day operation is concerned, it is not enough. That is how I feel anyway, as a member of the board.

We would envisage the government sitting down and looking at the region itself, understanding where people are coming from in public statements, media and stuff like that. But ATSIC has a centre in Canberra and regional offices across Australia, compared to our small island groups here, where we feel more related and everybody knows where we are going. The terminology also plays an important part; it has an impact. I attended a meeting and heard some Aboriginal brothers saying, 'We are regional councillors and they are a regional authority.' That makes a difference. We feel that it is not enough. That is what I feel, anyway.

Mr Sagigi—I am also chair of the ICC. I want to talk about good governance and how we should look at it, because there is duplication in delivering services. There is TSRA and there is ICC. ICC is the democratically elected arm of the Torres Strait, and it becomes a member of the regional authority. I will tell you now that I am only a rubber stamp for stamping things of the ICC that are carried out by TSRA. I am also a member of TSRA, but that is duplication. With proper governance it should go back to being democratically elected under the Community Services Act. Later on during this hearing we will talk about a few more things.

Mr Nona—First of all, I want to acknowledge the spiritual ancestors of the Kaiwalagal nation, whose land I am talking from. As the chair said, there is scope for more improvement in TSRA. I believe that TSRA should be abolished and that we should have regional governance, with our own constitution and our own legislative assembly so that we would have a parliament to manage our own affairs in the Torres Strait. The reason I come forward this morning is because of the allegation that some board members and Indigenous staff are being discriminated against whilst others are receiving favourable treatments—for example, the poor treatment of the commissioner-elect compared to the favourable treatment of the previous TSRA chair.

The reason I am saying this is because it is 14 weeks on and I still have not been appointed by the Minister for Immigration and Multicultural and Indigenous Affairs, Amanda Vanstone. What I want to ask here today is: why is the chairman of Darnley Island, Mr Eliah Doolah, still receiving my payment? Could that be explained and identified through this process? I have been democratically elected by the board. A resolution was passed by a majority of the board that I am the commissioner to serve the interests of the constituents that I represent.

Mr Elu—I would just like to say to the committee that the difference between TSRA and what has been happening with ATSIC is that we have always treated TSRA as a funding conduit only. The money comes from TSRA and there is transparency and scrutiny there, but the actual program delivery is done by people on the ground. TSRA does not do its own business, although it has the right to—it does own property, land and all that—but, if it wants to exercise any function, it appoints somebody outside of TSRA.

The two gentlemen talked before about TSRA and ICC. They have different functions. ICC is a state government body which really only coordinates the island councils. That is what it does. We, the island council chairmen, make up the ICC. However, the green paper coming out from the state government asks whether there is a need for ICC or whether we could use the Local Government Association of Queensland to perform the same services that ICC is meant to

perform for island councils. We, as island councillors, are asked in that green paper to have a look at the possibility of being moved to be under the minister for local government rather than being under the Minister for Aboriginal and Torres Strait Islander Policy. Those changes are taking place now. It has already happened on the mainland, where the Aboriginal councils are now shire councils under the local government minister. So we are being asked to look at that as well.

On the mainland, what has happened is that the funding the state government had been providing to the ACC—which is our equivalent—has been given to the councils. The councils have been informed that if they want to keep the ACC alive they have to fund it from the money that has been given to them because of the disbandment of the ACC. Anyway, we are not here to talk about the state government, I suppose.

With the federal government, members might know that I was a commissioner of ATSIC from 1994 to 1997. That is when the election happened and the government changed. But even before that—when Robert Tickner was the minister—there was talk about separation of powers within ATSIC. That did not happen. The commissioners fought that. I was round that table. The biggest problem was what I talked about here before: ATSIC participating in the actual running of programs and businesses. That is where Canberra had a lot of influence in the regions. The difference between us and ATSIC is that we and George Mye—the elder statesman of the Torres Strait—have always said that what we want to see is the Torres Strait Regional Authority, the minister and God, with nobody else in between. That is where we come from. There should be no other person pulling purse strings between us and the minister. That has happened.

The biggest problem, as I said before to the chairman of IBA, is that we at IBA are now being landed with these projects that ATSIC has been dabbling in, and there are a lot of bad ones in there because ATSIC commissioners took an active role in shifting money from ATSIC to run projects and programs. That is where the rot started; that is where the rot is. All the other ATSIC programs are not too bad—the housing ones and all that. But the difference I see is that the membership has a firm grasp on what happens with this organisation. The administrative staff are very supportive of not only the chair and the board members but particularly their communities. That is where the delivery of programs lies: down at the community level. The reason for that is that ICC members make up 90 per cent—or 85 per cent or whatever it is—of this board.

Jan, you might remember that ACC and ATSIC had a big fight when ATSIC first started. ACC wanted to do the same thing that TSRA did: make ACC members automatically become regional council members on the cape. But it did not happen. Yarrabah had two CDEP programs, Coen had one CDEP program and Port Stuart had one CDEP program. ATSIC did it to appease certain members in the community, whereas island council chairs said that they wanted to be part of TSRA to stop that type of thing happening in the Torres Strait. So the program delivery from admin goes direct to island councils, and the island councils deliver CDEP, housing or whatever programs on the ground. That is where we saw the regional members of ICC back in 1991 or 1994, as the core—to say that the program delivery must happen here and not be governed by anybody. So once I get the CDEP money from the admin office, that program is run by me at Seisia, not by TSRA officers, managers or whoever. Well, they can try if they want to!

Senator McLUCAS—You'll be lucky.

CHAIR—Just for the record, the new structure the government is proposing has ICCs in it, which are Indigenous coordination centres. I want to make it clear for the *Hansard* that, when you refer to the ICC, you are talking about the Island Coordinating Council.

Mr D. Mosby—It is very interesting and encouraging to know that there is interest out there in the TSRA model. It must have been doing good things and right things in this organisation. I too agree that it gives us fair and equitable representation, allowing us sitting around here to represent our community from the lowest level up to the region. For any step that we take towards any changes that we make, we must take a step to make sure that we get what we want. Any changes that are proposed must go through a process of consultation with all our people. In your inquiries you will find other comments in regard to that. We all want to make changes to the region but, at the moment, I see here a model that is working and that others want to adopt. So, whatever changes we need to make, we need to be careful how we go about it. I do not think there are many bad things about TSRA, but the fair thing about it is that you have fair and equitable representation around here. We would like to see changes, but we will progress to changes. I feel that, for a start, there needs to be a boost to the region's budget for economic development so we can make things happen and appear before we go any further towards political independence.

CHAIR—For the *Hansard* record, can someone explain to us how the separation of powers works. When you talk about the separation of powers, who makes policy decisions and who implements them?

Mr Fordham—In fairly broad terms, the system is basically that the communities have their development plans that drive much of our budget and policy allocation. There is then a development plan for the whole region. We are in fact going through that process now. That sets policy for a period four years out. We have direct funding from the Department of Finance and Administration, which is probably one of the main advantages of the TSRA. That means we can give people indicative budgets for three or four years out as what people are going to be getting.

In terms of the separation of powers issue, the policy at the broadest level is set by the board and then it is implemented by the administration. Delegations in terms of funding, various levels of decision making and so on are all quite clearly documented in various instructions and so on. In the ATSIC experience—although I have not experienced that directly—I understand that board members were dabbling in specific funding decisions and so on. In the TSRA experience that just would not happen.

CHAIR—Will the TSRA members before us now be the ones who set the four-year plan for the region?

Mr Fordham—There is an executive committee, which is portfolio members—health, housing et cetera—and it has developed a draft plan. This afternoon or tomorrow that will come to the full board for adoption and that sets a broad policy direction. Beyond that, of course, if there are, for example, changes in the home loan policy or changes in something specific, a paper would be brought back to the board by the administration to suggest a change and to put some options forward. The board then stamps it and says yes, and it goes away for the administration to implement.

CHAIR—How often would the authority meet?

Mr Fordham—At least four times a year, but as an executive much more often than that, and, of course, the chair is a full-time position. The other thing that is important to note is that all of the administration staff work for the general manager and do not take day-to-day direction from board members.

Mr Nona—I have a different view of TSRA. The members who come from ICC and then are appointed to TSRA have a much stronger foundation. I speak because, along with my colleague the member for Port Kennedy, we are the only two democratically elected representatives of TSRA. We do not get elected through ICC; we get elected from our community on to the board. What I find difficult is that I am a representative for two communities—Ngurapai and Muralug—and yet there is no administrative support in my community. There are no technical resources so that my community can be serviced and their needs can be identified. For 10 years, since the evolution of TSRA, there has been nothing in my community. I am struggling, as it is, to try to convince my fellow board members that I have a problem in my community. I believe that the two entities need to be separated. The ICC is always going to be the local government, the political arm. If we are going to have a regional voice in the Torres Strait, we need to have a democratic election where members to the board are elected by the whole of the Torres Strait. Then you have a democratic voice.

CHAIR—How do members get on to the authority? Are they elected by each community?

Senator O'BRIEN—As I understand it, the island community elect a representative and then the minister appoints that representative. I do not know if it has ever been the case that an election has not led to an appointment. Mr Fordham or someone may be able to tell us if that has happened. But there is a break in the democratic process, as I understand it, between the election of representatives to lead a community and then the ministerial appointment from the leadership of that island community to the TSRA.

CHAIR—So is that one change that you would like to see: that once people are elected they do not need the minister's signature or tick to get them there?

Mr Nona—TSRA should be an entity so that we have a proper democratic election. If you have a board sitting here it should be elected by the people. The chair of the board should also be elected by the people. Then we would have a democratic voice. Through this system I find it difficult in my community. That is why I say that if I am to serve my constituents I should be given the same mandate as my colleagues but that cannot be achieved until we have a separate election. ICC should stand on its own feet and TSRA should be a separate entity so that a proper process is in place.

Mr Kris—I would like to make a quick comment; it is a notice for the Senate committee. In previous years we looked at structures for moving to self-governance and at the issues that have been mentioned by members around the table. We are now in the process of meeting the Greater Autonomy Steering Committee, which has been developed out of a public forum that looked at moving towards a structure of self-governance and the gaps in the structure, which will be voted on by the people. After we meet with the Greater Autonomy Steering Committee our new board will come up with some structure which will be looked at by the board, endorsed by the region

and then given to the relevant ministers so that they can look at the wishes and needs of the people of our region.

Senator McLUCAS—Mr Elu, you talked about the TSRA being a conduit for funding but from my understanding there is a policy overlay. The TSRA receives the money but it makes decisions about how it should be allocated. Mr Fordham has well explained the separation of powers. Would you agree that there is a policy overlay—that the board has power to prioritise? The needs are so huge in the Torres Strait that it is not hard to work out where you would put the money, but does the board prioritise?

Mr Elu—Yes, but as I said, the people who make up TSRA are, in the end, the program deliverers on the ground—the bulk of them. That is where the member for Kaiwalagal has a problem. As he said, he does not have a base to work from.

Senator McLUCAS—That is right.

Mr Elu—We come from island cultures that have a base and we know what our communities need. I know what the need is at Seisia, Rocky knows about Stephen Island and so on. The chairs of those islands deliver those programs. When we make policy we go back and—it is as the general manager said—we have our own community development plans. They dovetail until we have the regional development plan.

Senator McLUCAS—At the TSRA board level you have all the community development plans sitting there on the table. How do you make a decision to do a pipeline at Stephen Island or a road? Mr Kris will want his road and I am sure he will argue very strongly.

Mr Elu—We break them down to wider groupings as we did with the sports field and sports things. We are going to put \$2 million into that every year. We prioritise which communities will have them because they cannot all get them in one year. The same thing happens with the MIP—the major infrastructure programs. People put up proposals for what they need with respect to roads, sewerage, airports and landing facilities, and then the executive, along with the administration, prioritise the needs. The greater needs come forward in the first year and others in the second year—and so on and so forth.

Senator McLUCAS—Is it at that point that the board agrees or disagrees with the recommendation from the administration arm?

Mr Elu—That is what I am saying. The administration arm sits with the chair and all that. It comes forward with a recommendation. If the board disagrees, then we can change that. We have changed some communities and drawn back when one community says, ‘We have a greater need. They did not look at this, this and this.’ I think one time I gave my backhoe to the chairman of Yorke Island so that he could build his sports things, then I got my backhoe the following year. So that happens in this room. People forgo that year’s funding so that somebody else can do theirs first. What we are getting at is that what needs funding—MIP, housing and those types of things—we prioritise as per buckets of money. What the chairman for Yorke said is that although we want to put more into economic development we cannot because there are other, greater needs. He is the portfolio member for economic development; he sees the frustration in his portfolio. People are saying, ‘We need the landing strips or the airstrips

prioritised first,' which is obviously right, but then economic development is right too. That is where the TSRA comes to the fore. It is all done in this room—not in Canberra and not in Parliament House. It is done in this room.

I would like to go back to what the member for Kaiwalagal said—that is, that Kaiwalagal has not got that base because it comes under the Torres shire, whereas TRAWQ has a community organisation that does what the island cultures do on the islands. If we go back to being a democratically elected regional authority and somebody outside my council at Seisia gets elected, then there will be me with the council and there will be somebody sitting in this room as a TSRA member. He will get the money; I will get the power. That is what happened at Yarrabah. They never saw eye to eye. So there are two organisations running in the community: one run by ATSIC and one run by the local council.

Senator McLUCAS—For the record, TRAWQ runs its own CDEP. Is that correct? Mr Nona, what happens on Horn Island?

Mr Nona—I will pass over to Mike. He will explain about the CDEP.

Mr Fordham—On Horn Island, through the Horn Island Aboriginal Corporation, we run CDEP. For other infrastructure programs—for example, there is money currently allocated for sewerage—that money is allocated to the Torres shire, and that is the distinct difference. Of course, with the others we work directly with councils and board members in those councils. In this case, there is a disconnect.

Mr Day—After the abolishment of ATSIC, people have been wondering why. We have been operating under a foreign structure. When people are talking, there are different voices from the grassroots, different voices from politics and different voices from religion—from all different groups—and everybody has got different perspectives on what is happening in the region. The Senate inquiry is here to gather information on what TSRA is doing. I think we have made it clear that it fits into the government structure. But if you look at the grassroots structure, it is a totally different thing and that is where the concerns come from. If you could detour and look at different areas, you need to identify why, firstly, ATSIC went down and what we are going to do about TSRA. There are concerns and I am sure that on your visit to Thursday Island you will hear the concerns from people. Everybody will probably be pointing the finger at the TSRA. At the same time, the TSRA—members are here today—are as frustrated as the people themselves are. Maybe you need to consider that there is a problem.

We need to have more empowerment for the people to run their own affairs. Self-determination and self-management have been painted in black and white. We do not want to talk about self-management; we want to talk about self-determination. Where we want to determine our future, we will do it our way. We would expect the government to play an advisory role to assist us in that. So far, yes, we have got at least some power to make decisions. There is a difference between TSRA and ATSIC, but there is not enough difference. When it comes to the cultural perspective, you might see funding designated to meet needs, but it does not do so because of misinterpretation, misunderstanding and misconceptualisation of the whole system. Maybe you could look at it. I request the Senate to look at it from all the different perspectives rather than from the government's structural perspective. Thank you.

Mr Gela—I am the member from Hammond Island. I want to support what the member for Seisia mentioned. I personally think that the voice at this regional level is a mandate from the Torres Strait region itself, because each island council's election is held separately. Through the Community Services (Torres Strait) Act, they are automatically appointed to these two levels. In terms of, I guess, being involved at this level, each member not only is a member of the executive and involved with the amendment of a development plan or inputting into the development plan itself but represents and sits on different committees that discuss, for example, the joint Torres Strait housing infrastructure committee. Portfolio members sit at that level as well. That is where all the planning and coordination is done in terms of infrastructure development throughout the Torres Strait region.

In terms of assisting the Torres Strait in going forward and in terms of the regional governance vision, I think we should not throw away the TSRA. It would be like throwing the bathwater out with the baby. TSRA will be similar to ICC in terms of being a supportive arm and in terms of getting its voice throughout the Torres Strait region. As we all know, we are geographically isolated from the rest of the world. This is the opportunity that each member from each given community has to actually sit not only at this level but on ICC's board as well to voice the opinions and needs from within their given community.

Mrs Mau—I am the member from Dauan Island. The reason why TSRA works for my community is that there is that one line of leadership that everyone recognises. The TSRA is transparent in its service delivery and its policy making. Communities like Dauan, with a population of about 120 people, and, say, Stephen Island, which has even fewer, are heard at this level in this area. Any changes that will happen to this body will mean that we will not be heard and we will be suffering.

Mr Nona—I guess I could say that we need to really identify what the ICC, the Island Coordinating Council, is. The way I see it, it is the political arm of the Torres Strait. The TSRA is the funding organisation of the Torres Strait. If you are going to have strength within the TSRA, you need to include the executive members in the legislation to empower us so that we are not just tokens and rubber stamps, used to implement the framework of the regional policy studies for the organisation. We need to have the authority, in our own roles and in our responsibilities to be carried out, to do it. This is why I am asking: how come, after 10 years of evolution of the TSRA—this Friday is going to be an anniversary of the TSRA—we have just developed the policies? How come we have such an organisation, which did not even develop the policies eight years ago? That is the question I ask.

Mr Kris—I would also like to mention one of the things we identified since I became a board member that should really help each individual council through the delivery program of the TSRA's economic development. We have some councils around the table who are successful at economic development. When we do our regional plan, DOFA gives us the funding and it is already quarantined to each specific program of the area. The whole board—the 20 councils—are then left with \$1.5 million which we have to bargain for to deliver economic development to other programs in our community, to help subsidise wages or housing or other issues we have that are identified under each individual council's community development plan. We have been saying this over and over, as I said before, since I became a board member: we need that particular bucket of funding in that specific area to boost each council and give them strength to build economic development within their community—to help us achieve autonomy, I suppose.

CHAIR—In your submission on page 11, where you have major items in the budget, your total operating budget for this year and next year is \$52 million. Are you saying that the government does not give you \$52 million and you decide the break-up of the money; the government gives you the money as a line item? For example, if you develop your plan and instead of spending \$1.5 million on airstrips you believe that \$2.5 million should be spent on airstrips and marine upgrade projects, are you saying you do not have that flexibility in your budget to do that?

Mr Fordham—The money comes to us effectively untied, other than the native title allocation—and, of course, CDEP, in that we know how many places we are going to have and how much on-costs and so on, but even that we can vary. The difficulty for the board, as Senator McLucas pointed out earlier, is that the demands are so great and, in many ways, so obvious that it becomes difficult. In terms of economic development it is the end of the chain, to be honest. This year, though, it was boosted to about \$2 million for the year. Out of that there is additional money coming back in, in terms of loan programs—business loans, individual loans and home loans. That is quite a successful program.

The other thing that has not come out—and I think it is important for the committee to note this—is that much of the work of the administration is in working with other agencies. In that regard, we try hard in developing a variety of framework agreements or partnership agreements—whatever you would like to call them. As an example, this year in economic development we have been able to work with the Department of State Development in Queensland and bring in approximately \$700,000 worth of funding. So we generally leverage our funding to get money out of other agencies, whether Commonwealth or state. For example, the airstrip and marine upgrade funding of \$1.5 million a year is matched by the state now, and that is an agreement over three years. So there is a lot of ability to use that money to leverage other money.

The legislation that the TSRA operates under, if you look at it closely, is really quite powerful. The board has a lot of powers in being able to coordinate delivery of other agency programs and so on, and that is something that has not been fully exploited to date.

CHAIR—Your housing program comes under the major infrastructure program? Is that where it is?

Mr Fordham—No, the way that we work with housing in Torres Strait is that the Commonwealth gives all of the money to the state and then it is jointly administered under a Torres Strait housing infrastructure framework agreement. It is simply a matter of who holds the money. It is irrelevant who holds it; it is how it is spent that is important. The MIP money, for example—that is our \$5.3 million—is matched by \$5.3 million, but we hold that money. That is purely for sewerage, water supply, drainage, road upgrades and so on.

Senator O'BRIEN—What proportion of your budget is spent on administration?

Mr Fordham—In terms of a percentage, about seven per cent of the budget is in administration at the moment. We can give you copies of the annual report, and it is all pretty specific.

Senator O'BRIEN—I am sure it is all specific. I just wanted to get some idea, against that expenditure budget of \$52 million, of how much of that was actually needed to keep an organisation like this running properly.

Mr Fordham—That seven per cent includes operating the board, policy information and so on.

Mr Elu—The history behind it is amazing. When TSRA split from ATSIC back in 1994—I know this because I was the commissioner then—they took into account what was already being spent in TSRA and just increased that a little and moved that across. What I argued with the then chair—who was Lois, and Pat Turner was the CEO—was that TSRA over time would change its methodology of funding and all of that. That is where the economic development budget was given to us. It was only about \$750,000 back then, and we actually pumped it up by moving money from other places. I was told that, if the government put more money for Indigenous affairs into certain areas of economic development or whatever, TSRA would get its fair cut. But that has never happened. Every time money is added to the Indigenous portfolio from the federal government, we do not get a cut of it.

This budget has just been CPI increased—and we moved money ourselves—except for the MIP. MIP is extra funding that the TSRA got out of the federal government above that 1994 split. Where our problem lay—and still does—is that, even though TSRA gets separate funding, the application goes in with the ATSIC application to the minister and to DOFA when it goes to the ERC. ATSIC still holds that paper. If the ERC tells the minister there has to be a cut, you can guess where the cut happens. Historically, with the split from ATSIC, we were left with a budget that was determined from what was happening in this area in 1994. I think you have heard that the Torres Strait has moved to an ideology of going more into economic development. But we cannot attract that funding. When the tourism minister announces Indigenous tourism money, or the minister for DEWR announces money for Indigenous whatever, we do not get that. TSRA gets none of that. The Torres Strait does not get any of that federal money coming up here.

Another thing I want to say regarding the AMA announcement that Indigenous health needs an expansion of \$400-odd million is that we argued that case in 1994. When the government took health out of ATSIC, we were saying that we do not get enough funds to deliver health services. But, of course, someone said we were not using them right. Now the AMA have found out that when the health department try to run things with that budget they cannot. That is the same reasoning behind what happened in TSRA: land tenure is different and transport costs are too high. Senator O'Brien knows that Tasmania gets a subsidy on the *Spirit of Tasmania*, so why can't we get a subsidy on Torres Strait shipping?

Senator O'BRIEN—Do you want me to answer that now?

Mr Elu—No. We just want that here—

Senator McLUCAS—Be assured that I have raised that on many occasions.

Mr Elu—because we are twice as far from Cairns as Tasmania is from Melbourne. But we do not get those subsidies. And, as I said, with our land tenure we cannot attract normal financial

institution funding. Everything for development here has to come from government. Loan funding is very hard because you cannot secure anything.

Senator O'BRIEN—Was there some desire to say some things that required the staff not to be here?

Mr Kris—I was just about to ask the chair if we could go in camera with the committee and members only.

CHAIR—Before we do that, I think Senator Scullion has some questions.

Senator SCULLION—I was holding back because the questions I am going to ask are associated with that.

CHAIR—Would you like the staff to leave now?

Mr Kris—Yes, thank you.

CHAIR—Before the staff leave, I have to tell you something. The session we have just had from nine o'clock until now was in camera. We will send you the *Hansard* and you can have a look at it. You need to know that, if you decide to keep it all confidential, no-one in this room can give it to anybody; you cannot release it. It is actually a criminal offence to give a confidential piece of paper of the parliament to somebody who was not in this room. If you read what we have said today, you might make a decision that all of it is okay for the public record. That means it will go on the web site and get tabled in parliament, and anybody else can read it. But until you make the decision that it is going to be public, it is a piece of paper that needs to stay amongst only the people who are here. The Senate has determined that it can be a criminal offence if it is sent, leaked or given to organisations or to the media. I needed to provide that warning.

Mr Nona—But you are going to table this in the parliament?

CHAIR—No, we will not be tabling any of this session unless you tell us now that you want to do that.

Mr Nona—I think I have got it wrong; I was expecting this to be tabled in the parliament.

CHAIR—That is why I tried to make it very clear in the beginning that an in-camera session is in confidence—unless you tell us otherwise now.

Mr Nona—Board members, I feel that this should be tabled in the parliament, because this should not be—

CHAIR—We do not need that decision now—that is fine—because we have got quite a while before we report, and we are probably going to have an election in there somewhere. What we will do after we leave today is send you the *Hansard* and you can have a look at it. Having listened to you, I think there are many things you have said today that lots of Indigenous people I know in the Territory would be very interested to hear. If you make a decision that everything

you have said today is fine—and I personally think nothing you have said today would offend anybody or would not be fine—and you make a decision to publicly release your evidence, that is what will happen: it will get tabled in the parliament and released publicly.

Senator McLUCAS—Can I make a suggestion that might just make things happen a bit quicker. Why don't we break for a little bit—and I am worried about the time—so that your board can make a decision to keep public what we have had up to this point in time. That will then release all these people from potentially being in contempt of the Senate or that sort of thing. Like the chair, I think that nothing we have talked about up to now is offensive or hurtful and that it all should be on the public record. But that is not my choice; it is your choice. It would be easier if we could make that decision to keep everything public up to this point. We will then go in camera, and that is a different question.

CHAIR—I just want to clarify something. The issue you raised, Mr Nona, about payment of your position: if you decide that you would like to make that section public, this committee can then perhaps write to the minister and ask for a clarification—the reasons for that.

Mr Nona—I would appreciate that.

Senator SCULLION—Just in a practical sense, for the people who need to discuss that, it would probably be great if we had a break. If Hansard and Senate staff have a break, go outside and get some fresh air, it might give the witnesses the opportunity to discuss that as a group, and when we come back in later you may or may not have made a decision on that matter. We will have a bit of a break and you can discuss it.

CHAIR—If you decide that what you have said this morning is fine, you can tell us now to make it public and that will be okay. So we will have a break for a couple of minutes.

Senator McLUCAS—We will leave and let you have that discussion.

Proceedings suspended from 10.18 a.m. to 10.35 a.m.

CHAIR—I understand that you have authorised us to consider this session, from 9.05 a.m. until this point, as public evidence.

Evidence was then taken in camera, but later resumed in public—

Senator McLUCAS—I want to thank the TSRA board. I have known many of you for a long time, but I want to formally thank you. The session has been very useful to the Senate. We have probably gained much more than you, but hopefully you have gained something as well. Mr Kris, an issue that we did not get to today is that of Torres Strait Islanders who live on the mainland. Mr Elu talked about a resolution of the TSRA board. Would it be possible for that resolution to be provided to the committee?

Mr Kris—Yes.

Senator McLUCAS—Thank you. I would like to pursue that. I get a lot of representations from Torres Strait Islanders who live on the mainland. Thank you.

CHAIR—On behalf of this committee, I put on record our thanks to all of you for making yourselves available today. We certainly appreciate the evidence you have given us. There are certainly a number of Indigenous people and communities that will be interested to read in the transcript of the session we had this morning about what you do and how you go about it. I want to thank you very much for your time. We look forward to handing down our report. Hopefully you will appreciate the outcomes.

Mr Kris—In reply to Senator McLucas, regarding Torres Strait Islanders who live on the mainland, the conduit between the TSRA and the people on the mainland is the commissioner's position. We need that to be resolved and finalised by the minister. Thank you.

Proceedings suspended from 11.14 a.m. to 12.13 p.m.

BANI, Mr Gabriel, Member, Greater Autonomy Steering Committee

KENNEDY, Mrs Florence, Resource Person, Greater Autonomy Steering Committee

LUI, Mr Getano Belford.Jr, AM, Member, Greater Autonomy Steering Committee

MILLS, Mr Phillip, Resource Person, Greater Autonomy Steering Committee

NATANIELU, Mrs Bertha, Member, Greater Autonomy Steering Committee

STEPHEN, Mr Napau Pedro, Chairperson, Greater Autonomy Steering Committee

SAGIGI, Mr Robert Conwell, Chairperson, Tamwoy, Rosehill, Aplin, Waiben and Quarantine Community Council; and Chairperson, Island Coordination Council

ABEDNEGO, Mr John, President, Torres Strait Islander Media Association

GUISE, Mr Michael, (Private capacity)

SAVAGE, Mr Kevin, Local community member

CHAIR—I welcome members of the Island Coordinating Council and the Greater Autonomy Steering Committee. The committee prefers all evidence to be given in public, but if at any stage you want any of your evidence or answers to be given in confidence you can ask us for that. We will tell you about how we do that and the implications of that. Mr Sagigi, I invite you to make an opening statement. When you are finished, we are going to go to questions.

Mr Sagigi—Thank you. Before I start, I would like to acknowledge Father God for us sitting here and talking about our livelihood and our future to come and the future for our kids.

I will make an opening statement on a green paper that is going to be produced in October by the state on governance and how to look at things. We have had a forum of all islands and all leaders. ICC and TSRA—everyone—came to Badu on the 12th and 13th of this month. Another forum was held out on Yorke Island on 23 August, which was last Monday. Resolutions were passed at the Kuiku Mabaigal Forum on Badu. I will explain Kuiku Mabaigal for you. Kuiku Mabaigal, in our lingo, means all aid people from each region. If you are an elder, if you are an older brother to your sisters, you are an aid people of your family. So everyone came to Badu. We had a big forum on Badu for two days, and then one on Yorke Island on the 23rd. I will pass to Gabriel, who will read the resolutions. He was a facilitator out on Badu. He will give you the resolutions. You can make them public or take them with you. I will pass to Gabriel Bani from the Greater Autonomy Steering Committee.

Mr Bani—Thank you, Mr Sagigi. I am going to read out the resolutions from the Kuiku Mabaigal Forum on Badu Island which were unanimously endorsed at the forum at Yorke Island on Monday, 23 August. The resolutions from day one follow. Recommendation No. 1 is:

The Kuiku Mabaigal Forum resolves by consensus to reserve the rights of the people of the Torres Strait to retain Island Councils and to maintain their current status.

Timeline to achieve: December 2004.

Recommendation No. 2 is:

The Kuiku Mabaigal Forum resolves by consensus to form the Federation of Island Councils 'Zenadh Kes' to absorb responsibility of Department Aboriginal and Torres Strait Islander Policy and Department Local Government and Planning, in terms of state funding and Policy and Torres Strait Regional Authority in terms of Commonwealth funding and policy responsibilities.

Timeline to achieve: June 2005.

Recommendation No. 3 is:

To advance greater autonomy, the Kuiku Mabaigal Forum move that the Queensland Government implement full parliamentary membership representing the Island Coordinating Council boundaries as part of its hands on parliamentary, constitutional, administrative, legislative reform.

Timeline ... June 2005.

Recommendation No. 4 is:

The Kuiku Mabaigal Forum resolves by consensus to achieve Territory status by 2008 in accordance with the 1997 "A New Deal" Commonwealth Parliamentary Report.

Timeline ... 2008.

Recommendation No. 5 is:

The Kuiku Mabaigal forum resolves by consensus to endorse the Island Coordinating Council becoming the legitimate Non-Government Organisation representative body at the United Nations and international forums where all matters relating to the interests of Torres Strait Islanders are considered and dealt with.

Timeline ... not stated.

There are two actions linked to the recommendations. The first one is:

The Greater Autonomy Steering Committee and the Island Coordinating Council to form a Tri-partite Committee with State and Federal ministers to implement the recommendations arising out of the Kuiku Mabaigal Forum.

The second action is:

The Kuiku Mabaigal Forum endorses there be a full and independent review of the operations and accountability of the Torres Strait Regional Authority.

There were three resolutions on day 2. The first one was:

The Forum resolved by consensus that:

1. A vote of no confidence be passed in the draft TSRA Native Title Strategic Plan, and strongly repute and reject it's endorsement and implementation, dated to apply for the period 01 July 2004 to 30 June 2007, on behalf of traditional land owners.
2. A newly established (Zenadh Kes) Land and Sea Tribunal develop and incorporate an appropriate Land Ownership Strategic Plan for the region and absorb the functions of the representative body.
3. The Native Title Office surrenders its mandate, functions and operations, to the newly established land and sea tribunal.

Resolution No. 2 was:

The Forum resolves by consensus that an Independent Torres Strait Islander Authority be established to control and manage fisheries in the Torres Strait, on behalf of Torres Strait Islanders ...

Resolution No. 3 was:

This forum resolves by consensus that the resolutions from the Kuiku Mabaigal Forum held on Badu Island 12-13 August 2004 are formally tabled at the annual conference held on Masig—

that is, Yorke Island—

23 August 2004 as the official position of its delegates for endorsement.

CHAIR—Does anyone else want to say anything?

Mr Sagigi—I will continue on that. All leaders of ICC and TSRA were at Yorke Island and it was fully endorsed.

CHAIR—Does someone else want to say something?

Mr P. Stephen—I want to endorse the recommendation which has been tabled, which came from the forum held at Badu and was endorsed at Yorke. One of the actions in the recommendation is that the steering committee works with the Island Coordinating Council in a tripartite partnership with the state and the Commonwealth to implement the recommendation. This recommendation really reflects the issues and endorses other recommendations that have been tabled prior to the community consultation in this region, leading up to the tabling of the endorsement of 'A New Deal', which was endorsed in August 1997.

This deal, as part of the Greater Autonomy Steering Committee, was formed to complete the community's response to the recommendation that was tabled from this new deal. From the community perspective, we believe that this paper or report is an unfinished report. It was really unfair, whilst it was an initiative of the federal government, that the community was not appropriately resourced to complete its response back to the parliamentary committee that was formed to oversight the report.

What has been said—and said in other recommendations—is that, if this report were implemented, we would have a better and a more culturally and administratively transparent organisation that could be accepted as being an organisation that belongs to the people as well as the government. You can see the frustration that we have. If I could say something through the chair, this region has always been subjected to processes—processes that bring us on, where we are asked for our input and our directions. At the end of the day, when we have a final report or the actual recommendation that comes back from government, it is very rare that we see that the recommendation or the desire of the community has been implemented.

In relation to this report this morning and the way that the government comes and speaks to the community in terms of coming to hear the community voice, this morning the committee meets with the TSRA and it is a closed meeting—closed to the public. It is never the desire of this community to face a two-pronged approach or two views from this region. This region has always been—from our forefathers—strong in standing with one voice and moving with one accord. The way the processes are carried out always divides us. We have a concept of talking. There is a perception in the community that throws doubt and distrust. The community thinks that here we have a body that supposedly has been favoured by the government and already endorsed by the government as an appropriate regional body on behalf of the Torres Strait Islanders. There is a different way that the government approaches it. I want to make the committee aware of it. This is the way that the administration creates a wall of division between the body that is supposedly representing the people and the people themselves. In the process this morning, there is a view among us that we want to know what the TSRA said to you. What we will say to you is this: is this the one accord, the one view, that we bring forward on behalf of our people?

CHAIR—Let me make some responses to that. First of all, this committee is actually a committee of the Senate of the Australian parliament; we are not here representing the government. We have been charged with a task by the Senate: to inquire into the ATSIC Amendment Bill. The ATSIC bill has been through the House of Representatives. It came to the Senate, and Senator Kerry O'Brien, on behalf of the Labor Party, moved a motion that the bill be referred to a committee so that we could travel the country and get Aboriginal and Torres Strait Islander people to tell us what they think about the bill and what they think ought to happen with the administration of Indigenous affairs in the future.

There are eight members of this committee: there are three members of the Labor Party—Senator McLucas, me the chair and Senator Kerry O'Brien; three members of the Liberal Party—Senator Scullion is here, but Senator David Johnston and Senator Bill Heffernan could not be with us today; Senator Kerry Nettle from the Greens; and Senator Aden Ridgeway from the Democrats. So when the whole committee sit in the parliament there are eight of us. We travel around the country and take evidence from people, and then the senators on this committee write a report. Sometimes the report's recommendations will be endorsed by all of us, but sometimes different parties have different views. The Liberal Party might have a different view from the majority report; the Democrats and the Greens might have a different view as well.

We then table that report in parliament, and the government is expected to provide a response to that report. Sometimes it takes months, sometimes it takes years and sometimes the government never responds to a report. It is not under any obligation to implement any of our

recommendations, although we would like to think that, after the work we have done, the recommendations we make are taken very seriously and government actually looks at them. What happens to our report and whether its recommendations are implemented is really out of our hands. We are charged with the task of inquiring into the bill and reporting back to the Senate before the Senate vote on the bill. The Senate want to know what the country thinks about this bill before voting on it.

With regard to this morning, originally the Torres Strait Regional Authority had asked us to have a session that was totally in camera. After an hour and a half, when we had had the session, we asked them to reconsider, because it was our view that they had told us stuff that was not confidential and could be put on the public record. The TSRA have decided that most of the evidence they gave us this morning will be made public. I am sorry that they did not make that decision before starting at nine o'clock, so members of the public could join them, but I think they were a bit unsure of the process and they wanted to be a bit cautious about what they said. But by half past 10 they were fairly confident that they were happy to have what they said made public.

So within about a week or so we will, through Senator McLucas's office here, provide you with a copy of the words that were said today—we call that the transcript. What they said will be made available to the public, and you will be able to read it within a couple of days. There was a session, though, for about half an hour, where they wanted to talk to us in confidence about some issues, and we cannot pass on what they said then.

But the majority of what we talked about, which will be made public, was to do with the committee trying to find out about the Torres Strait—the way it works, the way it is administered and how the TSRA functions. We really asked more questions of them than they asked of us, because most communities we have been in have said to us, 'If ATSIC is being abolished, we as Indigenous people want to put something in place and we're looking at what happens in the Torres Strait.' So we were keen to find out why most Indigenous people—certainly in the Northern Territory—are pointing to the Torres Strait and saying, 'If we can't have ATSIC, we'd like what they've got.' We wanted to know what it was that you had that other Indigenous people had confidence in.

Mr P. Stephen—The steering committee came out very strongly straight after the announcement of the abolition of ATSIC, saying publicly that that process should also lead to the abolition of TSRA as it was under similar legislation. The recommendation that was tabled here this morning is a follow-up. The recommendation that first came out said that to have a better, cohesive administration body for the Torres Strait there would be the amalgamation of the ICC and the TSRA administrations. If that had been done straight away, in 1997, you would have had a better organisation, but it was left undone because you had a political aspiration and you had the administration perspective—and never shall the two become one.

I would like to use this morning as an example. The elected arm assured us that they wanted open and transparent accountability and that they wanted to have the public sitting there and listening, but the administration said no. We rang as late as yesterday afternoon to see if the public could come and sit and listen to our leaders addressing the forum. The administration said no. That is a clear indication of what has been happening for so long. Here you have the political aspiration of the people to walk in oneness and to move as one, and you have an action and

interpretation from the administrative body that does not implement that. That we are still sitting here is the perfect example, seven years later, of a recommendation that came from the government, because the federal representative body on the ground, the TSRA, has not implemented a Commonwealth initiative to see that we have an appropriate, efficient and effective administration or a regional representative body.

For me, personally, in terms of the words ‘effective’ and ‘efficient’, when there is a review or the restructuring of governance in terms of representation of our people it has only come from the efficiency of how the administration works. The other word that comes with ‘efficient’ is ‘effective’. The effectiveness of how it actually impacts on our community is left out. So that is the frustration that you see—the community are forever forming community groups to bring out what they perceive as being the real community voice.

CHAIR—Am I understanding you correctly? You are saying that, when a decision was made to abolish ATSIC, it was your preferred position that the TSRA should have been abolished as well, but consultations occurred to replace it with something different, something else?

Mr P. Stephen—In the recommendation that came out since the steering committee was formed in 2002, it was identified that there are two peak Indigenous bodies within the Torres Strait where federal and state governments still channel their funds in terms of recognising which one of those two bodies is really the people’s representative body—the TSRA or the Island Coordinating Council. The recommendation that you see that has been tabled by the chair of the ICC has been the people’s choice. There should have been a bigger ICC. There would have been a greater autonomy impact if the amalgamation of administration came under the Island Coordinating Council rather than the TSRA. That has been reflected through the recommendation here. So you still have an effective regional body but the regional body is set really close to the elected arm of the people, which is the Island Coordinating Council.

CHAIR—I see. So your view is that you would bring the ICC and the TSRA together and give that body a new name. Is that right?

Mr Mills—Yes. I think what Pedro is explaining is that you have systemic problems with the TSRA at the moment, insofar as TSRA members are not elected; they are appointed. The body that is elected is the ICC. So, if you are talking about governance, you are talking about the body that is closer to the community—it has been democratically elected—which is the ICC. If you are talking about continual funding from the state and the Commonwealth, you would be looking at an administration that supports a governance body that is being elected but is a recipient of both Commonwealth and state funding. So the structure that Mayor Stephen is talking about as chair of the steering committee is a body that is representative of the democratic right of the people of the Torres Strait—and that is the body that is being elected.

If the Indigenous community are looking to the TSRA as the body, they are looking at a body that has already divested power within the administration by default over a period of time. So in fact what you are basically saying is that the TSRA is the appropriate model of government, but its appropriateness is based on powers being vested in the administration to determine what policies and funding priorities should be taking place in this area. Furthermore, if you are looking at the delegation responsibility and the discretionary powers within the TSRA, you see that there are no discretionary powers at all that sit with the appointed arm. All the discretionary

powers are with the administration. So what you have in place is another government department basically implementing things.

CHAIR—Mr Lui, do you want to say something?

Mr Lui—Yes. I would like to make some comments on what has been said so far. I will start with the recommendations that have been read out as to the resolutions that were passed. I will put in a nutshell what we are talking about. It really boils down to the total management and control of our land, seas and resources in Torres Strait. Without that you would not be talking about self-determination. I hear that our Aboriginal brothers and sisters are looking towards Torres Strait as an example or a model of what they could implement in their own communities. We have in fact been thinking—it is 10 years since the establishment of TSRA—of bigger and greater things for Torres Strait, so one cannot look at Torres Strait as it is now and say this is good for the rest of Australia and that that can be done because we are not standing still; we are moving ahead. I am hoping that, whatever the outcome will be, we will not be held back—simply because people want to see us as a model for the rest of Australia, particularly for the Indigenous people of Australia—and therefore not achieve our aims and aspirations as to where we are heading.

One thing I want to also mention is that behind the new deal itself is a bipartisan document that was supported by both major parties. When it was first proposed for Torres Strait, we thought it fell short of what our expectations really were. All we have been trying to do over the years since 1997 is reorganise it to such an extent that it would be more responsive to us rather than governments. At the end of the day you would have had a regional assembly established anyway with the amalgamation of the two arms of the state and Commonwealth, which are the Island Coordinating Council and the Torres Strait Regional Authority, into one. What we have in Torres Strait at the moment is a two-tiered structure of governance. One is local councils, which we want to maintain. What we want to do with the regional level is not just pick it up and throw it away; we really want to strengthen it. We want to move forward in the direction that we feel will give us a greater capacity and authority to make decisions that affect our lives and to manage our own affairs in our communities.

At the moment Torres Strait is so overregulated because of different acts of parliament that we are finding it very difficult in our everyday lifestyle to be able to try to do the things that we want to do for the sake of our communities and our children. The problem at the moment is that we are not moving forward, simply because government either does not want us to or does not intend to do anything for us, for whatever reason. What we are really saying is that something needs to happen that will make government sit up and realise, because from my past experience and my experience as the inaugural chairperson of the Torres Strait Regional Authority I know that the Torres Strait Regional Authority was never set up to be what it is today. If you have a look at the legislation that you have been talking about, you see that the ATSIC Act takes into consideration the Torres Strait Regional Authority provisions. It does state that the Torres Strait Regional Authority is supposed to be only in a transitional phase and that it will move forward into greater autonomy, so anything that we are talking about now is nothing new; it has all been embedded in the legislation.

The simple reason the TSRA bill has not moved ahead as well is that all the consultation and whatever action that was taken really did not change what the future of Torres Strait would be.

That is why that bill never went ahead. There were no provisions embedded in there about the future framework or the constitutional framework for what Torres Strait should become. When the Torres Strait Regional Authority was first set up in 1994 I made the comment that, in 2001, when Australia would be celebrating its centenary as a federation, Torres Strait should be moving down our own path. We should have been saying, 'Thank you very much; we now want to do our own thing'—not breaking away from Australia or Queensland but remaining part of them and being in total control and management of our resources, our sea and our land. We are not making any headway simply because all the different regulations that have been placed on us do not allow us to move to do anything that we want to do. People say they are trying to provide us with self-determination; it is falling very short of that.

CHAIR—I need something clarified. Can someone explain to me how members of the Island Coordinating Committee get there and, if they are elected, how they are elected? It was my understanding that the members of the Island Coordinating Committee are also automatically members of the TSRA, and two more are appointed. I am a bit confused when you say you want a committee that is democratically elected. I thought the ICC members and TSRA members were one and the same, except for two additional people.

Mr Lui—As a former chair of the Island Coordinating Council, I want to say that we have local government elections which are held in the normal elections throughout Queensland. At that election, the community elect their representatives—the chairs and the councillors. Under the community services act, the chairpersons of those community councils automatically are members of the Island Coordinating Council. To move on from there to the Torres Strait Regional Authority is really by appointment, where the minister signs an instrument saying, 'I now declare that these are the members of the Torres Strait Regional Authority Board.'

This is why we are saying that it is not democratically done. There has not been a proper election like ATSIC had with regional councils. People are saying that they should be, and we are saying that there should be a clear delineation of responsibilities between the local and regional levels. If you have a local council election, people that are elected to those councils should remain having that responsibility for the local councils. Then you look at an election for the regional level where you would have a structure in place that would encompass regional issues.

CHAIR—And how are the chairs of the TSRA and the ICC appointed or elected?

Mr Lui—The only election that you have is through the Island Coordinating Council process, which is that you are elected through your local community councils. If you are the chairperson, the Community Services (Torres Strait) Act automatically says that you are a member of the Island Coordinating Council. That is a process in place. The Commonwealth have amended their legislation to say that the elected representatives from those communities—which, in this case, are the chairpersons of those communities—automatically become members of the Torres Strait Regional Authority.

CHAIR—I meant: how do you become a chair of the ICC or the TSRA?

Mr Lui—Through the process of election by the members.

CHAIR—I see. The members of the ICC?

Mr Lui—The members of the ICC.

Senator SCULLION—I have a couple of questions of clarification. Thank you, Mr Bani, for your very concise framework for the future. There are a couple of terms I am not completely familiar with which you could explain to me. I understand the process of native title would be handed over to the land and sea tribunal office. How would that work in the new context and what sorts of responsibilities would it have? If we do not have sufficient time to answer that here, I am happy for you to take that on notice and get back to me.

Mr Mills—I am sorry; can you repeat the question?

Senator SCULLION—In the statement Mr Bani read out, he mentioned that the responsibilities of the Native Title Office would somehow be amalgamated or taken over by the land and sea tribunal office. I am interested to see how that would work. Would you still be operating under the Native Title Act? I am not sure how you envisage that would generally work.

Mr Mills—The Native Title Office is created under the Native Title Act, and it refers to a rep body that presides over the management of the Native Title Office. Basically what has happened in the Torres Strait is that the TSRA has nominated itself as the rep body which means that the Native Title Office sits under the administration of the TSRA, which is a Commonwealth authority. When it comes to individual landowners, not all landowners are represented on the TSRA. In fact, the TSRA is probably the most inappropriate body to represent the landowners. Basically what you have is a disjointed structure where native title landowners or TOs, traditional owners, are being represented by a Commonwealth statutory body whose interest is to regulate the native title under the 10-point plan anyway. What is being suggested is that an independent body made up of traditional landowners be set up to preside over the Native Title Office outside of TSRA to implement the Native Title Act.

Senator SCULLION—Thank you. You went on to talk about the management of the land and sea resources being taken over by this new body. I understand that the management of your marine resources is currently contracted out to the Australian Fisheries Management Authority under the PZJA act. Under that arrangement, it could be anyone—it could be Queensland or private people—but it has been given to the Australian Fisheries Management Authority to manage. So it is the Commonwealth, the state and currently a TSRA member—but it could well be a regional body; I am not quibbling about the membership—but do you foresee that changing under the new PZJA arrangement to fit in with the general change in management of the resources?

Mr Lui—I think we need to break it into two parts. There is that package of resolutions and there is another one which mentions an independent fisheries authority, so that would be the one that would be looking at the management of our marine resources. Within the relationship of the PZJA and under the treaty arrangements, that would be an independent body made up of fishers to do that. The sea and land tribunal still falls short of what we are talking about, and it is really ownership of our land and the seas that we are talking about. After the native title issues, we are talking about sea claims and that is something that we need to address. The reason for setting up

that tribunal is to ensure that we have people in there who will look after the interests of our people when you start to negotiate all of these things.

Let us face it: with all due respect to the native title legislation that has been passed, it has still not given us the full impact of what the Mabo decision is all about and not what the legislation means to us. This is where we are coming from. We say that it seems to fall short because the native title legislation has been watered down so much now that it is not really giving us the true ownership that we are talking about. And bear in mind that native title was born here in Torres Strait.

Senator SCULLION—Because all of the statements were not read in context, would it be possible to provide all of those resolutions to the secretariat? I can put them in context later in the framework rather than just the ones that you have read out. Obviously, there are some parts that we would need to get in our heads to have a better understanding. Would that be okay?

Mr Lui—Yes.

Senator O'BRIEN—On the question of the resolution expressing no confidence in the draft native title plan, was that because of the inappropriateness of the TSRA fulfilling that native title rep body role, or were there other reasons?

Mr Lui—For a start, if I can draw that comparison with Aboriginal communities on the mainland, land councils were formed to be representative bodies. What we have here is a totally different situation. We are saying that we want to be able to get away from the situation that we now have and have that independent body being responsible for all the land matters and so on, because we have only five communities left in Torres Strait to receive their determination. As we see it, there really is no need for the office after that anyway. You will see that part of the resolutions also talk about their strategic plans and things like that. That is when they act without consultation with the traditional owners. Therefore, we are saying that everything should stop. Let us review the position of that office. We feel that it is about time that it comes out of TSRA and becomes a stand-alone, independent structure that is going to cater for that.

Senator O'BRIEN—Regarding the TSRA and the Island Coordinating Council positions, you say that you do not want to tear everything down, as I understand it; you want to build on what is there. Is one solution to have an alignment between the Queensland legislative processes and the election in each of the island communities and having an election for the TSRA position at the same time, or are you saying that we should forget about the TSRA and do something different?

Mr Lui—When we spoke about the federation of island councils, as I said before, we were saying that it clearly separates the roles and responsibilities of the local community councils from the regional level. So by having a federation of island councils, each council would then be, for want of a better word, a sovereign entity in their own right, which they are now. They make their own decisions and they have a certain amount of autonomy in those communities. They make the decisions and live by those decisions and neither the TSRA nor the Island Coordinating Council would interfere with those decisions. That is clear. We want to maintain that status quo with the community councils. At the regional level, that needs to be different in the sense of saying, 'How can we best have an elected arm that will be representative of the region and, looking at the Commonwealth side of it, will also have that joint relationship?' In

effect, you would have—and, again, this is only throwing the word around loosely—a regional assembly, for instance, where you would have an election for the regional body which will meet periodically with the federation of island councils. That is when everybody will come together to talk about budgets for the area and make estimates and things like that that are needed for the communities and so on. That is where we see the two interlock.

We would possibly have mirror legislation between the Commonwealth and the state, where one would complement the other—there would be no differentiation between Commonwealth and state monetary assistance; it would be us doing it. The programs and services that would be delivered by the state and the Commonwealth would come to this one organisation that would be responsible, in consultation with the communities, for the delivery of those services and programs to the communities.

Senator O'BRIEN—In terms of the focus that others may have on the TSRA because the government has decided not to abolish it, whilst at the same time abolishing ATSIC and, by 30 June next year, the ATSIC regional councils, what is your organisation saying that the committee should be recommending? Are you saying we should make changes to the bill with regard to the TSRA or should that be a separate process to these considerations? If so, why?

Mr Lui—Through the chair, I would like to say this: I saw your questions at Senate estimates to the general manager and to Senator Vanstone about the future of the TSRA. I think that the way it was promoted was construed in such a way that everyone seemed to think that everything was going fine up here. As you can see, the underlying frustrations of our people are still very much there. As I said before, we need to look at the structure as it is now and do something about it to strengthen it further—do something about it rather than just leave it as it is now. It is becoming more and more withdrawn from people and communities, whereas when we first set it up its focus was supposed to be on getting closer to the communities. One example has been given already: it was supposed to be a public hearing and we were told it was closed.

Senator O'BRIEN—That may or may not be relevant to the consideration. My question really was: are you suggesting that we recommend changes to the legislation as it affects the Torres Strait Regional Authority, in the process that we are going through now, or are you saying that we should recommend some other process? If so, why?

Mr Lui—A paper on regional governance was provided when we were board members of the Torres Strait Regional Authority during the last term. I am not sure whether they have given you a copy of that, but we sent it to the minister. We wanted the election to take place. Part of the whole change to the structure at the election was that you would have one local government election and a separate TSRA election. The changes that we wanted to see happen were spelled out quite clearly.

Senator O'BRIEN—If I am interpreting you correctly, you are suggesting that you want the legislation changed so that the minister does not appoint any longer and that the positions are elected. What is the consequence if the positions on the Island Coordinating Council do not correspond with the people elected to the TSRA from particular communities? Are there any problems with that?

Mr Lui—Not necessarily, because, as we have said before, there are clear roles and responsibilities of community councils, which are to look after the wellbeing and good governance of those communities—essential services and so on. Those are really the roles and responsibilities of local government. At the regional level you would be looking at better coordination of programs and services, ensuring that the funding that is arranged with the state and the Commonwealth goes to the areas that it is supposed to go, and then it is up to the region to determine its priorities and how it distributes the funds to the various programs in place.

Senator O'BRIEN—So the TSRA should not be considering the community's plans in its allocation of funding? Are you saying that it should just be allocated money?

Mr Lui—This is what is happening at the moment. There are community development plans that were to be developed by communities that have now been given to TSRA, and there seems to be no funding for those development plans. It is simply because you have this dual role being played by local government and the regional council: the same people are sitting on them. It is very difficult to manage it in such a way that you clearly have two separate roles and responsibilities—as opposed to if you had a regional structure in place where they were responsible for ensuring that they had a dialogue with the state and the Commonwealth in terms of what resources were available and what should be coming to the Torres Strait; and then, in consultation with those communities, they sat down and talked about how best to meet priorities in the region.

Mr K. Savage—I am a member of the local community. What we are talking about is: when do the bureaucrats give us control of our own affairs? We are talking about abolishing the TSRA because it is not doing any good for us. We want control over our own affairs and that is the bottom line. I talked to John Cherry in a council office, when he last visited, about self-determination. He told me a lot of things about self-determination for Indigenous people, and we are not getting that through the TSRA. That is why the talk is about abolishing the TSRA—because we want to run our own affairs, not have them run by the bureaucrats. Thank you.

Senator McLUCAS—A few points of clarification: Mr Mills, you spoke earlier about there being no discretionary powers held at the board level. I might ask you to restate what you said, but I think what you are telling me is that you feel that the administration of the TSRA is essentially making the decisions about how money should be applied and that the board has very little role in making those decisions. Is that what you meant?

Mr Mills—Yes, I was saying that. I was saying that about the members elected onto TSRA—in terms of the separation of powers—not having any power at all when it comes to discretionary powers over the allocation of funds and delegations of authority to approve funds. Basically, what you are talking about is a model of governance where people are seemingly given a level of authority, but when they actually preside over the formal meeting they have no control over what happens anyway.

Senator McLUCAS—I will make sure you get a copy of the *Hansard* of this morning's proceedings, because we did talk about that issue at some length and I would be interested in any follow-up commentary you might have about that once you have read it. There was another thing I wanted to clarify. I know Senator O'Brien talked about the native title role. Mr Lui, I think it was you who said that, once the land claim—the five islands that still have not had their claim

finalised—is finished, the job is done. Please ensure that that is correct and I have got it right. There is a sea claim that is being developed. Is the concern with the native title strategic plan about that sea claim? Tell me what you think about the sea claim, how you think it is going and what should happen.

Mr Lui—After those determinations were done, the proposal by the Native Title Office was really to justify their existence in terms of the continuity of then going into the sea claims and so on. We are saying that, after those determinations, and sitting back and looking at what we achieved through those determinations, we really have not got anywhere in that sense, because of the deeds of grant in trust in the communities which prevail over these native title determinations anyway. If we are talking about ownership then it needs to come back to the people to be in charge of running it. With the determination of native title and the way we are heading with the sea claim, once again, it seems that we will be compromised, unless we start doing things for ourselves. That is why we wanted to take the reins and run with it, rather than letting it be run by others who really do not feel as passionate as we do about our land and seas.

Senator McLUCAS—I do not know the answer to this question, but is the problem you are identifying a problem with the Native Title Act rather than the structure?

Mr Sagigi—I will elaborate a little on that one. For years, we have had lawyers after lawyers coming here. Our elders have passed on. For years, we have talked about sea rights, land rights and claim rights, until three years ago when we held a sea mountain summit. We had all the traditional people come to Thursday Island. TSRA paid everyone to come. We had a big consultation at the community hall. All the resolutions came from there; everything was passed. Every consultation was made, but nothing was done. Then we had a big land summit the year before last, and it was the same thing again. On those resolutions, the traditional owners spoke. The legal officer under the TSRA administration is accountable to the general manager, not to the traditional owners, in advising where our rights are. So everyone said, ‘No, we need that officer to stand outside so that our concerns can be heard.’ But they came in and out—all the lawyers and anthropologists. They are playing big games using our interests. All the bureaucrats are feathering their own nests around the place here. We need a total review of every service delivery in Torres Strait to clear the air, because we are going nowhere. We are struggling, and that is why we are complaining. It should not be happening.

Senator McLUCAS—Thank you, Mr Sagigi.

Mr P. Stephen—It is because of this office that we actually have taken a long time to have a determination made on these five islands. All the state and federal government organisations are based on Thursday Island. We went through a court procedure which was a waste of our funding. We were frustrated with the Native Title Office, as well as with the two peak bodies—the TSRA and DATSIP, the Department of Aboriginal and Torres Strait Islander Policy. The TOs, the traditional owners, knew that the Native Title Act specifically says how you get your recognition. In terms of the different land tenures that actually overlap each other in the Torres Strait, we said that the Native Title Office itself did not actually clearly identify more secure land tenure. That is what the people were asking for.

Instead, we went through the court system, because at the end of the day the frustration and the confusion of our people because of the legal costs and the legal jargon have been specifically

caused by what has been happening inside the Native Title Office. As Phillip Mills said before, if the Native Title Office was sitting under the TSRA you would expect that, for an outsider or the traditional owners, there should have been a much clearer process whereby everybody talked to each other. No-one should have gone to court anyway, because people on the islands did not give the okay to build hospitals and roads which take away their inheritance or the ownership of their land. Therefore, when this office misinterpreted it—and the state blamed the Commonwealth and the Commonwealth blamed the state and the people were caught in the middle—and said that public works now extinguish native title, there was an outcry from the community. That problem could have been solved if everyone knew what they were doing in the first instance by understanding where the people were coming from and talking to each other at that particular level. That is frightening.

Mr Mills—The Native Title Office and the management of the Native Title Office under TSRA takes on a different meaning in the implementation of the Native Title Act because TSRA is a Commonwealth authority at the moment, compared to the land council, in which the legal officers are involved under the Native Title Act. The problem with the legal advice that we are getting up here is the management of that legal advice. If that legal advice were being managed by the traditional owners, you would have a different system and different procedures in place. But currently, where it sits at the moment, you have the problem with the Commonwealth interpreting the law one way and the state interpreting the law another way, and the Native Title Office, which is supposed to be representing the traditional owners, is caught up between the Commonwealth and the state legal advice. It is doing battle on legal problems rather than on finding the solutions that we want for the place up here.

What Pedro is saying is that one of the outcomes of the public work extinguishing native title problem between the Commonwealth and the state is that it had nothing to do with the traditional owners; it was more the Native Title Office interpreting that this was a legal problem that they had to take on board. They made representation for and took some discretion of power of attorney over traditional owners and talked to government on their behalf. Where you have lawyers talking to government you have a problem, simply because the people who are supposed to be representing the interests of traditional owners are supposed to be talking to the government themselves directly, rather than having legal people interpreting what their needs are and speaking to government and then confusing the issue in the first place.

Mrs Kennedy—When we first started the court case, I said to Ron Carston, ‘You fight this case the way you would fight it for the Jews.’ I did not know he was a Jew. He asked, ‘Why the Jews?’ and I said: ‘Because their religion is their politics and their politics is their religion. It is the same with the Murray Islanders. Their religion is their politics and their politics is their religion.’

Now we are sitting here talking to you it is clear that we are two different peoples talking about different things. You do not understand what we are trying to say. Most of these boys are elders of their family, so they know what land they own and what sea they own. It is bred into them. They still say, ‘That stone is ours.’ They still know. Native title is not giving us that. John Howard’s 10-point plan is bad. It does not give us anything. In fact, it was put in to spoil our individual ownership of lands. That is all we know; that is all we believe in: individual ownership. The land we own was divinely given to us.

When we try to fix anything up about our lands we know we are not going to have it for long. In fact, most of our land has gone now. We do not think our land is gone but the government have taken a lot of our lands away from us through their legislation. The last time they made a piece of legislation I said, 'Now there is nothing more they can take from us.' Every time they make a piece of legislation we lose something. We only have our lands now. I do not think that you can understand exactly what we feel in our hearts about our lands and our seas. They belong to us. We know exactly how much we own. When it comes to our boundaries, they are the horizon. When we see our enemies come over the horizon we go out and meet them. So the horizon is our boundary. But each owner here knows where their sea stops, too.

It is very hard for you to understand what we feel in our hearts and what we want. I can tell by your questions that you do not understand a lot of the things that we are saying—especially those two gentlemen there; I know you do not understand what the boys are trying to tell you. I live in a man's world. I like it, because the men know what they are doing. They listen to us; I have my say. I am satisfied living in this world, because I still get heard. All these boys here excepting one—my cousin—are my piccaninnies. Try and understand. I do not know how we can fix this up. But I will leave it to the boys. If they need any advice, I will give it to them—if I have any. But I know that you do not understand what we are trying to say. We want our lands and our seas.

CHAIR—We do not have any more questions. I am wondering if there are some last things people want to say before we close. It will have to be quick.

Mr Guise—With the TSRA, people want to develop economic plans. I wonder how much they really know about what is happening on the outer islands. The outer islands do not seem to be getting involved in contracts and things like that. There are big things developing here but there is not much participation from the island people and that needs to be addressed and looked into. That is the main concern that I wanted to raise here today.

CHAIR—I do not know if we have an answer for that.

Mr Abednego—I would just like to make a comment rather than put a question. We appreciate the presence of the committee on a bipartisan level. I have some words on the problem. I think it was demonstrated through the action of one of the brothers here who left. It is important when you visit us to give us sufficient time to put our views across. Flying in and out is something that we are used to from the past, but we have not seen any benefit. Being so far away, we would like you to take the time to listen to us properly when you visit us. I do not know how accurate the report is going to be and whether it will reflect the views of all sectors of this area or just of some sectors. We recognise the importance of the bipartisan representation here and we appreciate it.

We are talking about a modified governance framework. There has to be a comprehensive restructure to accommodate culture. That is one of the main principles that we are applying in this restructure. Others in Australia are looking at us as an example, but we need to move on because we are finding other problems. People who hold the purse strings, especially representative bodies from this area, have some control over us when we want to progress. That needs to be addressed. We would like to be dealing directly—the more directly, the better. We

have federal, state and local government here. We do not need more than two or three peak bodies. It is confusing and it is not beneficial. Thank you.

CHAIR—On behalf of the committee I want to thank you for giving up your time today and for giving us evidence. I take on board what you said, but this is the seventh place we have visited. We have gone to Broome, Alice Springs, Darwin and Gove, we have come here and we are going to Cairns tomorrow. We still need to go to another seven to 10 places around the country. We have not been anywhere south of Brisbane yet, and we intend to go right around the country and hear from people.

Mr Abednego—We have more water mass than land mass, so spend a little bit more time here than on the big island down south.

CHAIR—I appreciate that. Once again, thank you for your time and thank you for coming to give us some evidence in this inquiry.

Proceedings suspended from 1.28 p.m. to 2.10 p.m.

MYE, Mr George, MBE, OAM, Leader, Veteran Island Councillors Elders Group

CHAIR—On behalf of the Senate select committee, I welcome you, Mr Mye. Will the person next to you be saying something to us as well?

Mr Mye—I will be doing all the talking. Joseph Mosby, who is here with me, is my 2IC. We are together in the Veteran Island Councillors Elders Group. He has had 35 consecutive years—year after year—as a councillor of the Torres Strait Islands, and he is the chairman. I have had 10 years more experience than him. I have got 45 consecutive years—year after year.

CHAIR—This committee has been asked by the Senate to inquire into the ATSIC changes proposed by the federal government—that is, the proposal to abolish ATSIC, to leave ATSI in place until July next year then abolish ATSI, and for a number of other changes to the act. The committee is also charged with the task of looking at the future of Indigenous administration and any other related matters. We are travelling around the country and we need to report back to the Senate by the end of October. Would you like to begin by giving us a statement or by saying something to start with, and then we will go to questions.

Mr Mye—I am from Darnley Island in the Torres Strait. I did not know that there was a committee put together in Canberra to go on a visit throughout the country, as you just explained. I think it was a couple of weeks ago when I phoned to chase up my Queensland senators, and I think Senator McLucas here put me on the path, saying that there was a committee visiting—something I did not know about when I inquired. I was looking for Senator Kerry O'Brien, because he was the chairman of a Senate committee then. There was something I was very sore about in the federal Indigenous administration in the area, and I thought that only a Senate inquiry could do justice to this matter. I was going to ask for it. That was when I phoned and started looking for people. I thank you very much, Senator McLucas, for putting me on the path. Then I contacted Tim Watling and they said that you were coming. I did not know that you were coming. So here I am.

That business I was sore about is the CDEP expenditure—and I must admit that that is only looking from the outside of the operations of the CDEP. When a few village youngsters came up to me and said, in our language, 'To fish for breakfast,' I said, 'What are you doing at this time of the day, when everybody else is reporting for CDEP work?' They said, 'No, there is no more space.' I said, 'Who took up the spaces? Surely you've got a few hundred spaces—or some very hefty numbers like that—to take up?' They said, 'All the ladies of the village.' 'What ladies?' I asked, and they counted the wives of chairmen, the wives of councillors and the wives of people who were already on the job. I said, 'Good heavens, what are we coming to?'

I brought in CDEP originally, as an NAC member, with Clyde Holding. I asked for it when they had the very first one in Central Australia. I have been with the NAC from go to whoa. I was the only person who was ever elected for three or four consecutive terms—whatever the period was—for the outer Torres Strait Islands. They were all my constituents, from Murray in the east to Boigu in the west, for four consecutive three-year terms—or whatever the length of the period. I asked Mr Holding, and the NAC at the time, whether there were any other CDEPs

coming on. He said, 'No, this is the first one.' I said, 'I want two straight away for the Torres Strait, because we could use one out there in the sticks.'

I brought CDEP down and talked to all the councillors. The first two were on my own, in Dauan and Darnley Island, because none of them would take it on. They said: 'We're not going to work for the dole. This is our money.' I heard about it from Central Australia. I said, 'I'm going to turn this into something for the Torres Strait.' That is where the second CDEP started: on Darnley Island and on Dauan. We would bill back to Australia from up here. It was not working in the spirit when I had it introduced to the Torres Strait, and that has got me pretty sad. It was not made for somebody who already had a job, whose wife could get onto it just because he was in the council on the island. I knew nobody would listen to me if I went and knocked on some doors here on Thursday Island, because everybody would be hush hush. But if we know nothing out there, we do not know what is going on here. If I had my way, I would have split up the whole thing that is known as the TSRA and give it all to the communities out in the islands and let them handle it in their own ways—if it were mine to do that. Unfortunately, it is not.

I have already called for the abolition of the TSRA. It is so remote from the people. If it is for the people, it should be out there where the people are and not here on Thursday Island. We know nothing. We cannot continue the way we are now. I am recommending to the Senate inquiry: please see that something is done about it. An organisation that was elected to serve the community out there must not be given an additional role to move into the TSRA.

They must be either a good TSRA member or a good local government council for the communities. That is what I have been harping on about all along. I was the inaugural chairman of the Island Coordinating Council. I have been everything for the Torres Strait in my time. I started the Island Coordinating Council. I put the thing together for the benefit of the communities on their respective islands, and somebody else came after me under the policy of 'one boss'. I sat at the meeting, but I was invalided out of the council, and I spent some time in hospital in Brisbane. When I got out of there, I felt that I should take some time off. I do not know what you call it in parliament: maybe 'taking a back seat'. I have been playing in the back seat. And I am telling you: you are going to be bloody sorry for it one day. You all voted for 'one boss'. I was the only johnny who said: 'You cannot do that. You must have a mandate from the people, not as the ICC but as a truly elected body.' It was the same: ATSIC elect their own people—a democratic election right around. We have suffered at the hands of the island council, TSRA and ATSIC for all this time. There are people who come from Canberra and say, 'This is good for you.' But is it? You have asked me if it is good for me. You cannot do that. There must be prior consultation.

Today we are cut off. I was looking for the thing I started in Canberra—the Office of Torres Strait Islander Affairs. I was the first chair of TSIAB, which is what we called it, and that was my base and office. I went for a ride around Canberra, saw all the embassies and said, 'This is the Torres Strait embassy, because from here you can look all around Australia and see how the island people are doing. You can connect us from here back to the Torres Strait so we know how our people are faring down in the diaspora.' They were not being looked after as well as we expected them to be. We do not want them to be completely cut off from us. We want somebody to maintain contact, because they have traditional lands back home, and they worry about what has happened to their lands. So the connection must be made. It is up to them to decide whether to live on the mainland or on the islands, but we would like to have that bridge from the Torres

Strait to the mainland that we had with the commission but not a commissioner. We want people who know about the straits. We would like that contact to be opened up again so we can talk to our people on the mainland.

Before, when ATSIC was there, we had that line with the commissioner. It is a bridge. But, as I said before, there is too much wastage of time and money with a commissioner. Somebody paid from here to go down there—it is a periodic thing—some guy who can ask what the island has done or somebody who is a dinky-di person from Torres Strait chosen by all the people and respected by all the people once or twice a year should maybe exercise the same expenses we have been giving. It would be a more worthwhile thing for the people than getting the commissioner down here to meet all the other commissioners who then goes through and nothing is done for the people. I suppose with a little bit more time I could go into more detail but time is of the essence here. My time is limited. Yours is the same.

CHAIR—What we can do, though, is go to questions.

Senator McLUCAS—I want the record to be very clear, Mr Mye, about what you mean when you say you are calling for the abolition of TSRA. Given the context of our inquiry, we are talking about what the government is proposing for ATSIC. The government is proposing that ATSIC and ATSIIS be abolished, that ATSIIS be wound up by the end of this financial year and that all of the services that are currently provided by ATSIIS go back to mainstream government departments. I do not think that you are suggesting that that is what should happen in the Torres Strait. You are suggesting to us that the Torres Strait Regional Authority be abolished but replaced with something.

Mr Mye—It should be replaced with something—

Senator McLUCAS—Right. We just have to be very clear.

Mr Mye—but more in line with what the people want and with consultation in the process from start to finish.

Senator McLUCAS—I just wanted to make the record crystal clear.

Mr Mye—I can answer all the questions.

Senator McLUCAS—You said earlier that we know nothing about certain things. I think what you are saying is that we do not know what is happening in the TSRA. Is that what you meant there?

Mr Mye—Yes. For example, what are the womenfolk doing?

Senator McLUCAS—What is the problem there? Why is it that people in the Torres Strait, in your view, do not know what is going on in the TSRA?

Mr Mye—I just do not know. I am left in the dark. I cannot swim from my island—

Senator McLUCAS—It is a communication problem?

Mr Mye—It is if it is not anything else.

Senator McLUCAS—Do they use the *Torres News* or the radio to tell people what is happening?

Mr Mye—They get things written up in the *Torres News*. *Torres News* is one of the most popular pieces of reading matter for the people to find out news about the straits and what is happening on the other islands. I suppose they come across things in there. But Torres Strait Islanders generally are not people who sit down and read books. If they come across them and they have nothing else to do, they flip through the pages. But I know, from my experience as a council member, that we stuck libraries on all the islands but nobody cares about the libraries.

They do not read; they listen. I have been making a proposition lately. I saw an ad in the paper that you can start up a private radio station with the SBS. Whatever they do in the village, even if they are fishing, if they have a little handset then they can listen to the radio: news and other things—TSRA this, TSRA that. But there is only one station on TI, and that is a station that has a talkback period. There is only one hour in the morning and then it is finished. They have other programs but people are not interested.

Somebody told me recently that the best thing is having people on the island talking while the other people are listening to what they are saying. There are five divisions in the Torres Strait. We have the eastern island people; they talk the Meriam language. On the western islands, they speak in different tongues. I have not spoken to any people from the media apart from the guy that runs the station here on Thursday Island. He said: 'We could have conferencing. The state government is going to hand it over to us.' I do not quite understand; I cannot follow the language. But I have suggested to him that I think very strongly that we should have a station between York Island, Darnley, Murray Island and Stephen Island. They can talk about anything at all—medical issues or anything. They can earbash people. That is the best way if you want things to get home to the people on the island.

CHAIR—Senator O'Brien, do you have any questions?

Senator O'BRIEN—I apologise; I was caught on the telephone and missed the start of Mr Mye's presentation. I think I have gathered some of his presentation from what I heard at the end and from the questions. What is the best way for a Torres Strait regional authority—either the current one or one in the future—to maintain connections? Are you suggesting it should run its own radio station?

Mr Mye—Say there was a station for Badu, Mabuiag and that, because they speak the same language. Not all the customs of the Torres Strait are the same. They are slightly different here, slightly different there. I am a consultant to the RMA. They tell us down there that you cannot say the names of deceased persons. That belongs down there, not here. A lot of things are being dubbed 'Indigenous'. We do not agree with that. It has to be 'Aboriginal' and 'Torres Strait Islander'. We are not happy with those two being lumped together. We have two distinct, separate cultures.

Senator O'BRIEN—I have heard that argument and I have heard the reverse argument. I must say there is not unanimity about that position around the country, but I respect that people have strong views on using the term 'Indigenous'.

Mr Mye—I know my business here.

Senator O'BRIEN—I am not saying you do not. What I am saying is that, when the issue of the use of that terminology is raised, there are different responses from different people in different parts of the country. It is a difficult one.

Mr Mye—For what it is worth—are you taking down what I am saying?

Senator O'BRIEN—It is all being taken down.

Mr Mye—I am saying without fear of contradiction that I am my own man.

CHAIR—Mr Mye, you were previously on the NAC.

Mr Mye—Yes, I was.

CHAIR—Part of the proposal from the federal government is to actually abolish ATSIC—that is, the commissioners, the elected national arm that has set national policy and provides advice to the minister.

Mr Mye—I agree with the government in this respect.

CHAIR—Yes. I want your opinion about whether you think there should be a nationally elected body or not.

Mr Mye—Up here I am a man for democracy—that is, by the people and for the people. Why does Australia go away from these shores and drum it into the Pacific islands and everywhere else about democracy?

CHAIR—So you think that if there is to be a peak body it should be elected?

Mr Mye—I repeat again: mainland is mainland and Torres Strait is Torres Strait. You have two distinct Indigenous groups. They must be treated according to that. We cannot help it if our brothers on the mainland choose to live down there. I think the government should go a bit slowly on that. I do not know if 'slowly' is the right word because I am talking in language now. I mean 'beber beber' in our language—that is, don't ride roughshod over our people there. Respect them. Ask them what they want down there. I respect that. Our people complained when I went around on my visit as the inaugural ATSIC commissioner for the Torres Strait. There were tears on my shoulder north, south, east and west—across the country. They need something of their own because they are always last in the queue for anything down on the mainland. If they wish to stay down there that is their business and their prerogative. I look at it this way: if something is of their choice, whatever they choose—the government has come frequently and said that it will cost too much for this and too much for that. I leave it with the government. Australia has a democratic government, and I have preached, whenever I have had the

opportunity, that we have the best governments in the world in Australia. My people can bear me out on that. Whether it is a coalition government or a Labor government, they are doing things in the best interests of all Australians. I say nothing else after this: I am neither a Labor man nor a coalition man. I do not believe in either. But I go for help where there is help, for what it is worth, and I must be fair with that.

CHAIR—Thank you, Mr Mye.

Mr Mye—I would like to add that one of the many things that TSRA has been doing, and it has been condoned by the government, is to run the native title from TSRA. That is a big no-no for this country. Native title business is supposed to be with an islander organisation of the choice of the people and not run by TSRA. That is an insult to our people, because you have them running it and we do not know where we stand—in our own land, we do not know.

Senator McLUCAS—We heard that message very strongly this morning as well.

CHAIR—Thank you very much, Mr Mye, for giving up your time and for your evidence before the committee today.

Mr Mye—Thank you, Senators.

[2.44 p.m.]

LUI, Mr Getano Belford.Jr, AM, Torres Shire Council

MILLS, Mr Phillip, Torres Shire Council

STEPHEN, Mr Napau Pedro, Mayor, Torres Shire Council

CHAIR—Welcome. The committee prefers all evidence to be given in public, but should you at any time wish to give part of your evidence or answers to any questions in confidence you can request that and we will consider that request. I invite you to make an opening statement or some comments, and then we will go to questions.

Mayor Stephen—Thank you, Chair. First of all, thank you, Senators, for the opportunity that you have provided to us to give evidence to your inquiry. I would like to identify, for the sake of my colleagues as well, the actual terms of reference that your committee has and also where the views that have been expressed by our constituents will end up.

CHAIR—I have got a copy of the terms of reference if you would like to have a look at them now or take them with you. The secretary will hand them over to you if you would like that. They are quite simply to inquire into:

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

which is before the federal parliament, and to look at:

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

(c) related matters.

I will give a copy of those to you.

Mayor Stephen—Thank you, Chair. First of all, I would like to make a statement on behalf of the Torres Shire Council. We are the only local government authority within the Torres Strait and the only organisation that is representative of all sectors of our community in terms of the multicultural diversity that actually makes up our shire. Since the early 1990s the shire has been very proactive in supporting a form of regional governance that will act as a conduit for measures to stop any duplication in terms of service delivery and the funding that comes into the region for all the so-called local councils. That includes the Torres Shire Council and the island council under the Community Service Act. We have been very proactive in all the different reviews and restructures that have taken place. Even right down to now—and my understanding is that you are looking at the bill—we have been working very closely with the TSRA on the proposed bill that has been tabled in the Commonwealth parliament.

As for the only concern that the Torres Shire had, we said in the first instance that we support regional governance as long as regional governance encompasses and represents everyone in the

shire. We understand—and we support this—that the ATSIC bill was the only federal legislation that was in place that was used as an instrument to actually review and as an instrument of foundation to get us, as a stepping stone, much closer to what we deem to be an appropriate regional governance body in the Torres Strait. We supported that bill in the sense that it is a stepping stone. We thought that if that were going to be a proposed act that would then stand alone, not under the ATSIC umbrella, and that it would certainly be legislation that would enshrine the uniqueness of the region we are part of, then we would support it.

I made a comment earlier in my role as chair of the steering committee that the first recommendation of the *Torres Strait Islanders: a new deal* report did come to the community and was received by the Torres Shire Council as a shock. The recommendation supported appropriate governance, but it called for the amalgamation of TSRA, ICC and the Torres Shire Council and for the 17-island council to be left intact. We responded very promptly and stated that we supported the amalgamation of ICC and TSRA but that we wanted the Torres Shire Council to be left as is—to be a big brother council to the other local councils in the region.

The reason we took steps to support that is that we thought it was an opportune time to give the constituents of this region their democratic rights in voting for their representative. When we tabled that early proposal, the Torres Shire Council had three divisions and we used that particular division as a model to say that the constituents can go to the polls from the different sectors and zones. My understanding is that the present ATSIC Act talks about zones and wards. That would then be open for not only Indigenous but also for non-Indigenous people. We identified that our islands make up a very diverse multicultural society—and that is the entire region. That is the support that we have given to a concept of change.

The reason for my asking for the terms of reference is that we in the Torres Strait will always talk about governance. TSRA is only an administration instrument. The frustration for the people is that you need to have appropriate governance and the administration should fit to serve that governance. I think the desire and aspiration of the constituents of the local government is that you would have appropriate governance and then the administration would serve that.

The main thing—and I think it was stated earlier—is that we are in a great position to set up a model of two-tier governance that can operate in a very effective and efficient way. It could be a role model for this country. My personal view is that three-tier governance in the country is overgovernance.

CHAIR—There would probably be many people who would share that view with you.

Mayor Stephen—Therefore when the earlier recommendation that we supported was tabled by the chair of the ICC and we talked about a federation of island councils, I took on board what you said—it was just the same; it has changed names—but I also believe that the legislation needs to be there. Because when the recommendation did come out on the new deal, we were told that after you finish we need to see what the state will say about your aspiration for regional governance. I thought it was an appropriate time, because the state is looking at the legislated change through the green and white papers. At the same time, we want to put forward a motion that one of the actions that came out of the recommendation tabled here today is that a tripartite committee be set up that would comprise the steering committee, the Island Coordinating

Council and state and federal representatives. It would look at an appropriate way to set up the governance structure that would best serve both people and government.

Senator SCULLION—Whilst I know discussion today has dealt principally with a variety of people giving evidence on the same issue of the new governance arrangements, there are some aspects of the Torres Strait Shire that I am interested to compare and have an understanding of. I am particularly interested in what the percentage of participation is in a lot of work that is done on the island. Perhaps you can take this on notice if you do not have those sorts of figures to hand. I am very interested to know what sort of percentage of the employees are actually Torres Strait Islanders, if you have some sort of policy to ensure that that is the case, and what sort of percentage the contracts that you release for work from the Torres Strait Shire are actually owned by Torres Strait Islanders. Do you have a policy to ensure that that is the case?

Mayor Stephen—Yes, we do. We can provide the committee with a more accurate percentage. The Torres Strait Shire Council is made up of, I think, a 98 per cent Indigenous work force. The most frustrating time I have had since I have been the Mayor of Torres Shire Council has been justifying who we are and where we are to the state. The state says that we are a normal mainstream local government. Therefore when we apply for Indigenous funding they say, ‘You are not an Indigenous council. You’re a mainstream council.’ Therefore the only way that we can attract Indigenous funds is through Indigenous organisations that are in our area. Virtually all our policies that have been set for employment or for the way that we deliver services are for the majority of our clients. Full-time employment leans towards Indigenous people, mainly because that is the makeup of our community. At the same time we understand that under the local government act we cannot discriminate, so all the positions are open to everyone, but the way that we are made up is that three-quarters of our constituents are Indigenous.

Senator SCULLION—To go back to your principal evidence about the new structure, you speak passionately about ensuring—and so many people who have given evidence have said that it is so important to ensure—that Torres Strait Islanders have a say in what happens in a direct and democratic sense. After spending a day here I recognise and understand the structure and process of representation through the ICC and the TSRA. At the end of the day, if you agree—and I suspect that is the way you are going pretty steadily—to a new structure, will you simply rely on the fact that the representatives have consulted reasonably with the people to ensure that is the case or will you actually put it to the people of the Torres Strait Islands again? Will you say to them: ‘We have decided this as your leaders. We are now going back to all of you as people to say that this is what we are proposing.’ Can you have a vote on it? Will you have some sort of a plebiscite, because it is such a substantial change, or will you simply say, ‘Look, we are the leaders; we have been democratically elected and we have taken the views of the people forward’?

Mayor Stephen—This is where I suppose I need to make it clear that when the democratic leaders do come together to make the decision for the region, the Torres Shire Council—the elected arm—is not represented in the TSRA. The fact is simply that the legislation says it is actually Indigenous. What I said much earlier was that the legislation that puts in place pits parts of the community against each other and divides our community. Our desire is to have one voice. We live on an island of five square kilometres. There is so much confusion this morning. We want to dot the i’s and cross the t’s to ensure that when you leave our shores you are not confused—that you leave our shores knowing that this is what the community wants for their

future. I think this region has never been backward in coming forward in stating its desire very clearly in any forum and placing it on any table.

Senator SCULLION—I have a clear understanding from much of the evidence that has been given about the sort of governance model that is required. My question was simply: when you have decided that, and not necessarily through the TSRA or the ICC, in principle—the same way as other policy principles—because it is such a major decision about governance, would you take that back as a complete model to the people, or would you simply say, ‘We are representatives of the people and we have made this decision as leaders of the people’?

Mr Mills—Could I just say that there has been a progression of consultation over a period of time—and I think Mayor Stephen and probably Getano can attest to this—basically on the issue of governance in the Torres Strait. One thing Mayor Stephen has pointed out is the difference between Indigenous regional governance and Torres Strait regional governance. I guess people are at the stage now where they are saying that the affairs we are looking at are about Torres Strait governance, and that takes into consideration not only Indigenous issues in the Torres Strait but also a whole range of issues that sit out of Indigenous affairs up in the Torres Strait. To go back to the model of governance and whether you have to go back and consult again, I think that what you have heard, through the evidence that has been put before your table, is that people have been consulted to death and, to date, we have not seen a structure that represents the issues that we have put forward.

We continually come back to this table with similar ideas—probably saying the same things—to try to get a governance structure that is representative of the people but that coordinates Commonwealth, state and local government functions in the Torres Strait. If you set up three different structures, all competing for the same funding from the same group of people, it does not in any way stand to reason and support what happens on the ground—simply because of the duplication involved. Basically people are saying the same thing that they said probably 10 years ago. It is getting the message across, I think.

Mr Lui—To add to that, we would not be sitting here as witnesses if we were not confident of the views of our people—simply because of past consultation and the number of years over which that has been done. We have done all the groundwork to gain that support, hence the reason we are here. The question that you asked about whether we would consult—obviously we will refer the consultation. But let me say that, when Commonwealth and state governments have had to enact legislation on our behalf, there has never been any consultation. We have been surprised only at the fact that our legislation has been amended or rushed through. And we have got to cop it—without consultation. For example, the reason why the TSRA bill stopped in its tracks is that we stopped it simply because of that lack of consultation. We have had departments telling us, ‘This is what we feel the act should be for Torres Strait.’ And we said, ‘What gives you the right to make that decision on our behalf and to plot the destinies of our children and grandchildren? That is the simple reason why the TSRA bill has stopped until such time as hat we have a look at it. It needs to reflect how we see the future direction of Torres Strait.

If I can go on, there are a couple of urgent amendments. I do not know whether they can happen outside of your brief, but it is a simple process, as I understand it, to get it through. That is to move as soon as possible and have a separate election for the Torres Strait Regional Authority which would see a reduction in the numbers that you have. Instead of having 20

members on a board you would reduce it to about six or seven, which would be more manageable. That can be done; I am not sure whether it can be done by an instrument of the minister—call an early election and at least be genuine about whether the governments really want changes to happen up here. That is No. 1.

No. 2 is that certain amendments need to go through the TSRA bill, which I see in your terms of reference. As it stands now, under the TSRA bill, the minister can reduce the number of members to no fewer than six and can increase it to no more than 23. It can be done—and it should be done as soon as possible—without waiting for the whole legislation to change. It could be done even as early as next year, as we move towards the end of ATSIC. We may need to look at changing the old elected arm, the way we are at the moment, and that is all part of the regional governance that we proposed to the minister. We never see what happens, because of the elections that we have had up here. I urge you look into that and to have that in place.

With the new deal, one specific clause, agreed to by both governments, stated that, if we have greater autonomy, it must be an inclusive process so that no part of this community, be it the Torres Shire or the outer islands, or any people be disenfranchised because of this whole process. Everybody has to be included, and that is something that we have agreed to. Hence that is the reason why we want to see the Torres Shire become a part of the federation of island councils. It is a unified approach, a holistic approach, if you like, a regional approach to government. We would hope that the government in return would do the same thing at both the Commonwealth level and the state level and try to have a holistic approach to our affairs up here, rather than just speaking to individual departments and not getting anywhere.

Senator O'BRIEN—I was going to ask about consultation, and obviously the answer that has just been given touched upon the level of consultation about the proposed reforms between the current government and the community. There was a meeting at Bamaga a couple of years ago supporting the concept that you are advancing now. It has been suggested to me that there was a subsequent public meeting at which disquiet about this proposal was expressed. What can you tell me about that?

Mayor Stephen—The position came around in 2002, when the Bamaga Accord was presented. There was public consultation, but people saw that the Bamaga Accord was not going to deliver the region the empowerment and the decision making that they needed. The Bamaga Accord was only just moving furniture around the existing structure. It did not really empower people. The question that came from the community was that, if the Bamaga Accord was the answer or the expression of greater autonomy, was that greater autonomy just taking authority from one pocket and putting it into the other pocket. It was not giving you the greater control that we have spoken of before.

Over the last 20 years, the reason for the frustration has been from seeing a lot of restructuring in terms of governance, of people, but the people themselves have not just sat back. So many positive initiatives have been taken by the community to form NGOs in their own community. Rumina Fuji, the President of the Port Kennedy Association, is present here. Community organisations such as the PKAI and Mura Kosker, the women's group, were formed to deliver services. The frustration was that government departments had as their core business and responsibility the delivery of those services but, because of duplication, no real outcomes were

happening on the ground. When the community took initiatives, the government did not empower them in terms of resources, to enable them to deliver those resources.

The biggest government peak body at fault was TSRA. They gave piecemeal funding, and that and the structure that was set up doomed the organisation to failure. Not only had they to deliver the services they also had to set up their own administration. You have a peak body that spends about \$2 million in administration but it did not really react to and support these NGOs until it was sometimes too late. All these things were happening.

There have been many reviews of the structure of organisations that represent our people. The way that government, whether state or Commonwealth, upholds the accountability of organisations that service our community whenever the community pinpoints a state or Commonwealth organisation or agency is to carry out a restructuring. They restructure. To answer your question, in 2002 the proposal, the concept, that came forward was rejected by the community. In May 2002 the community at a community forum elected and appointed the steering committee of which I am the chair. Getano is a member. That steering committee was formed mainly because we saw that with every constitutional change and restructure within this region there was an independent secretariat set up to implement that change. Even when the new deal was set up there was a support mechanism of a secretariat to support that change.

I was one of the first in the task force when it was set up. We were told to go back with cap in hand to TSRA to get funding. TSRA said that we had to prove to them where we fitted into the program funding for this region. The people's aspiration to form regional governance has been interpreted by bureaucrats such that our aspiration to set up our organisation for control and empowerment has to be in line with some program—the CDP program, the health program or the education program. The most frustrating time of my four years as a member with TSRA last term was to try to convince administration that the concept of regional governance is not a program. If you establish proper governance then you do have the horse before the cart. If you are trying to prop up service delivery all around you, you are putting the cart before the horse.

Mr Lui—Senator, you commented on the disquiet at the public meeting. With all your political experience you would know that not everybody will agree with what you propose, and it is no different with us. Please do not expect us to get 100 per cent support. There are some people who can understand what we are aiming for and we are pretty sure they are in the majority. It is a learning process for all of us and of course we will make mistakes. We are not saying that the model we will come up with or the structure we will eventually develop will be the perfect solution for Torres Strait. As we go along there will be times when we call for amendments to legislation. We will look at the different mechanisms that we have put in place and trim them so they are beneficial and culturally appropriate to our people. That is what it amounts to. Dissension in the past amongst our people over where we are heading is all part and parcel of being in the political game. In community meetings people will not agree 100 per cent with the proposals and ideas you put up. We go through the same thing as well.

Senator McLUCAS—Mayor Stephen, could you put on the record what the structure of the TSRA board is in terms of your shire? We have TRAWQ, Port Kennedy, Horn and POW. Can you—in your words, because I think it is important that it come from you rather than me—explain to the committee what is in existence, how it works and how it fits within the boundaries of your shire? The two really important questions that have come through today are the question

of representation and the question of services. Where are the faults in the current model for the people you represent?

Mr Mills—The mayor can talk about the actual structure. On the service side, the social needs in the community up here stem from the fact that people are dying 25 years younger than the rest of the country. Basically you have a situation in the Torres Strait and NPA where people are dying 25 years younger, at twice or three times the rate of other people in Australia and in Queensland. You have a growth factor of two per cent in this area, which is quite significantly above that of the rest of the country. SEIFA, which is the measure of socioeconomic status, measures people on a rating scale from one to five. One is for people who are well off in terms of access to services, and five is the lowest. Torres Strait is actually the lowest. Basically, in terms of needs and the measure of needs from a socioeconomic point of view, you have one of the greatest need groups in the country with the highest population growth. The cost of living in the Torres Strait is inflated by 40 per cent, so you have one of the highest levels of inflation in the country. The other thing you need to take into consideration is the fact that most of the families in this area are on CDEP, so their income is well below the average wage of the rest of the country.

When you have that scenario, you are looking at services required in this area that are way in excess of what is being provided at the moment. So, talking about the peak organisations responsible for policy reform from the Commonwealth point of view, one would say that a lot of this information is not being reflected in any way in terms of the policies and the programs that are being structured. Consequently, you have seen no growth in the funding from the Commonwealth to this area to reflect the two per cent growth in this area. I am not sure what was given to you as the performance basis for saying that TSRA is the best model of governance; but certainly in terms of social policy development there has been nothing, looking at native title, fisheries and all the social aspects of development in this region that have been put forward. There has been no adequate representation as far as funding and the policy priorities of this area go.

Mayor Stephen—The current structure is that the outer islands board is appointed and the constituents of Horn and Prince of Wales elect their representative to sit as a member for Horn and Prince of Wales on the TSRA board. The constituents of the Port Kennedy area elect their representative to sit on the TSRA board. There is no representative from the Torres Strait council.

Mr Lui—When we negotiated the TSRA board, at the time, it was because of the non-Indigenous component of the shire. Not only that, you have Indigenous specific legislation that says ‘Aboriginal and Torres Strait Islander’, which is Commonwealth government policy, which excludes non-Indigenous, non-Islanders and non-Aboriginals. For that reason, at the time we were advised that the shire could not be part of the TSRA because of the way it is structured—it is multicultural and it has to look after the interests of everyone, not specific classes of people. Although, as we have heard the mayor say, the majority are Islanders, they still could not access it, simply because of the way it has been worded. So unless you change ‘Indigenous specific’ to be more open, then you cannot include everybody, including the shire itself.

Senator McLUCAS—Thank you. That is what I wanted on the record.

Mr Mills—Could I just mention one last factor. The Torres Strait borders another sovereign country—namely PNG. Basically, in terms of national and international policy coordination through TSRA, there is not that level of socioeconomic analysis of the impost and cost to this region by managing the activities under the treaty. Because of the spirit of the treaty, I think this community is being saddled with the added responsibility of incurring costs that would otherwise be picked up by Commonwealth services through this area.

CHAIR—We do not have any further questions, so I want to take this opportunity to thank you for your time today, for appearing before the committee and for providing us with your evidence.

Mayor Stephen—We might put in a written submission to accompany the Port Kennedy Association's submission.

CHAIR—That is fine; thank you.

Proceedings suspended from 3.22 p.m. to 3.39 p.m.

KEELING, Mr Alan James, Coordinator, Land and Sea Project, Kaiwalagal Aboriginal Corporation

WASAGA, Mr Elizah, Chairman, Kaiwalagal Aboriginal Corporation

WASAGA, Reverend Doctor Roney, Committee Member, Kaiwalagal Aboriginal Corporation

CHAIR—The committee would like to acknowledge and pay its respects to the traditional owners of this island. I understand that your corporation is the representative of the traditional owners of the Torres Strait, and we would like to again acknowledge your presence formally and to thank you for allowing us to visit you and hold our hearings here. Are there any additional comments you would like to make about the capacity in which you appear before the committee today?

Mr Wasaga—The Kaiwalagal Aboriginal Corporation is the native title body for the Kaiwalagal region, whose land you are sitting on.

CHAIR—The committee prefers that all evidence be given in public but, if you want any part of your evidence to be given in confidence, you may request that of the committee and we can facilitate it. If you would like to begin your evidence with a statement or by providing us with a summary of the issues you want to present before us, I invite you to do that now. When you have finished doing that, we will ask you some questions.

Mr Wasaga—The issue I want to talk about—and you may have heard of it—is one of the Kaiwalagal boundaries. We know it has to be moved to Bramble Channel, which is north of Thursday Island. That is our traditional homelands. We are Aboriginal people, descendants of this Kaiwalagal region. Earlier this year a review to move the boundary was put to a panel, which said that boundary is untouchable. We just want our traditional rights recognised, as this is our country.

In terms of administration, it is difficult for us to source funding from the Torres Strait Regional Authority because of our Aboriginality. Even though we are of island descent, we tend to be referred to ATSIC, which is in Cairns on the mainland. Now that ATSIC and ATSI have been abolished we want to know, in terms of funding, where we go: are we accepted with the TSRA? Also we do not have a council on our island of Ngurapai or Horn Island, and we really have nothing besides what we have through native title. Also, as you might have heard, the Kaurareg people do not have representation on the TSRA with its current structure. Its structure is made up of chairs of the outer Torres Strait Islands, and they are appointed by the minister. Two representatives are democratically elected, and they are from Horn and Prince of Wales and from Port Kennedy.

CHAIR—We will now go to questions. Would you outline for me the issue in dispute with the boundaries. Is there is a claim over an area of pipeline or seabed? Can you clarify that for me? I am not from here, so I need a bit of background on it.

Mr Wasaga—Basically we just want recognition that our traditional boundary exists to the north to Bramble Channel. We wanted that reviewed by a review committee earlier this year and they said that this boundary is untouchable.

CHAIR—So your boundary extends to where, the mainland?

Mr Wasaga—From Cape York to Bramble Channel, which is Hawkesbury to the north from TI.

CHAIR—Who told you that it could not be reviewed?

Mr Wasaga—A review committee from ATSIS was set up earlier this year to review that.

CHAIR—From ATSIC or from ATSIS?

Mr Wasaga—ATSIC. They came up here and consulted with the community and put out a report that it was unmovable, basically.

CHAIR—What authority did they have to do that? Are they part of the Native Title Tribunal?

Mr Wasaga—It is a separate committee that was set up to look at all the boundaries throughout Australia and it did a review in this region.

Senator McLUCAS—Perhaps I can say it in my words and you can tell me if I have it right. I understood that the Kaurareg people had asked for their land and their people to be included in the Cape York Land Council and that the review was a review at your request to move away from the native title rep body that is in the TSRA to the Cape York Land Council. That review occurred and the request was rejected. Is that what you are saying?

Mr Wasaga—Yes.

CHAIR—So now, with ATSIC and ATSIS being abolished, you are asking for the boundaries to be reviewed again. Is that right?

Mr Wasaga—Yes, whether they could review it. If you are talking about administration, it is very limited for my people to access administration. If the current government is going to lift the profile of TSRA, we want to know where we stand in terms of representation in that structure.

CHAIR—We do not have any answers about that for you. We need to refer that on to the minister's office and deal with it as part of our inquiry.

Mr Wasaga—I just ask you to inquire about that for me; thank you.

Senator McLUCAS—Mr Wasaga, you have said that you have been referred to ATSIC for funding in the past when you have requested support from the TSRA. Do you have any evidence of that? What were you asking for when you were referred to ATSIC? Just give me some examples so we can understand that.

Mr Wasaga—We asked for operational funding so we could have a facility for administering our services with getting our people to move back to their communities and to have a sense of services in assisting people with health and education and all the stuff that comes with social services, even in terms of building facilities to cater for housing elders and rangers and an administration centre where Kaurareg people can go. We have just been denied that. Just recently we put in an application requesting, for outstation movement, an administration vehicle. Out of the four or five that we have put in I think they have only accepted two, but they are in the pending box.

Senator McLUCAS—Do you have any correspondence about that?

Mr Keeling—We have a direct referral from Cairns ATSIC saying, ‘Go and see the TSRA.’ We have had no luck except for this last application; we were not eligible for council funding, but they had a bucket of money that they said they may look at. We just want to maintain our office and our operational structure so we can talk to people and maintain a facade of doing something. But so far we work on Natural Heritage Trust funding and we have problems getting recognition as an organisation. You can see all the islands—that is their land—but nobody wants to support them, ATSIC or TSRA, to get back and do something.

Senator McLUCAS—Mr Keeling, you say that you asked ATSIC Cairns for that funding.

Mr Keeling—Yes.

Senator McLUCAS—They then referred you back to TSRA.

Mr Keeling—They just said, ‘That’s your local body; go and see them.’ We have that in writing.

Senator McLUCAS—Has that happened the other way? Have you ever been referred from TSRA back to ATSIC?

Mr Keeling—No, we have not.

Senator McLUCAS—I just need to be clear on that.

Senator SCULLION—When we talk about the movement of this line I understand that it is to be between Hammond Island and Thursday Island?

Mr Wasaga—Further north.

Senator SCULLION—I did not catch what you said. You said there was a channel?

Mr Wasaga—Bramble Channel.

Senator SCULLION—Fine, I know where it is. Is there much resistance from those people who currently live outside of your area of jurisdiction regarding where the line would be? What do a lot of those people there think? Do you have a lot of support from the people who live within that prospective area for the moving of the line?

Mr Wasaga—There is nobody living in that area. The furthest place people live is Hammond Island. They come under the Island Coordinating Council. They would probably be opposed to the line moving because if we move the boundary it will have a lot of effect on the islanders because this is the main administration centre for Torres Strait. All the agencies here are based on Waiben—TI. It is not going to work overnight. In the process we need to sit down and have long discussions. All we want is recognition because that is our boundary.

Senator SCULLION—You speak of the TSRA being reluctant to service some of your communities. You have indicated that there have been applications. Can you think of why that might be the case?

Mr Wasaga—I do not have any idea. It is not only affecting us up here; it affects the mainland Torres Strait Islanders. They tend to get the same sort of lashing down there when they go to ATSIC. They get referred to TSRA.

Senator SCULLION—How long have these circumstances been in place? How long has this been happening?

Mr Wasaga—I was elected just last year but back in my brother's time he had similar problems—and that is going back to the early eighties.

Senator SCULLION—Have you, as an organisation, had discussions about this with TSRA in a forum? Have you had a forum to talk about these issues?

Mr Wasaga—No.

Senator SCULLION—Have you made an attempt to speak to the TSRA about having a forum to discuss those issues? Have you talked to them about it?

Mr Keeling—I would like to add to this. We lobbied very hard to get a person—the Horn Island-Prince of Wales Island rep—into the TSRA and we are relying very heavily on him to lobby for us and to let people know that the Kaurareg are out there. They are traditional owners and they should be involved in every aspect of governance in this area, whether it is fishing, land management or decision making within council land on their traditional lands. So we are hoping that things will change but there have been 100 years of dispossession and 100 years of not acknowledging the Kaurareg people. That is what it is all about and that is what the native title claim was all about. Now we are trying to move.

Senator SCULLION—I am trying to get to the bottom of this, Mr Keeling. I understand that those are central issues; I am just wondering whether attempts to resolve them have been resisted. I am looking at why we may not have had a forum over that time to discuss this very important issue. Have you, for example, written a letter from your organisation to the TSRA asking for a joint meeting to discuss this particular issue?

Mr Keeling—We have asked for support on a whole range of issues and we lobbied to get a voice in the TSRA, which we now have. We only hope to build on that.

Senator SCULLION—I guess the answer to my question is, 'No.'

Senator McLUCAS—I think it is fair to say that many discussions have been held between Kaurareg peoples and the TSRA about a range of issues. Is it fair to say that there have been discussions over time?

Mr Wasaga—There have been discussions but nothing in this arena for this. I think the movement for the boundary to move actually started mid last year. They formed an interim committee to review it. This is a newly elected board here but the previous board would not come to the table to discuss it with us. I do not know the view of this new board. With a representative in there for our region it might help some things across, taking into account that he sits up against 12 Alyangula people.

Senator SCULLION—Do you think that generally service provision that you receive from whatever aspect you receive it from is not quite as good a service as is delivered by the TSRA in other areas? You say that you would like to extend your current area of jurisdiction. Do you think that the delivery of services that you have there, because you do not have the same access to the TSRA, is at the same level? Are your services in your area of jurisdiction as good as those in other parts of the Torres Strait?

Mr Wasaga—No. We have only got an organisation that runs a CDEP program and in terms of community development it is limited. The current town precinct that we have on the island is governed by the shire, the Torres Strait Council.

Senator SCULLION—So you do not have a CDEP program?

Mr Wasaga—We have a CDEP program but it is limited in terms of economic development and training pathways. There is really less that you can do with the amount of money that you get and if we are to create alliances or partnerships, and maybe that is the way to go, there are still other hurdles.

Mr Keeling—We do not have CDEP. The organisation does have CDEP. We are trying to create partnerships where we can access CDEP. Prince of Wales Island has no services apart from this little fringe here, and this is the area of land that people want to get back to. We have got seven islands under native title and there are no services to them. Horn Island is Aboriginal freehold—we are not talking about that one. We are talking about the seven native title islands that people want to get back to as their homelands. We are going around in a circle trying to get anybody to recognise that there is a need to support the Kaurareg to get back there. I have made a submission here, which I would like to present.

CHAIR—Yes, that will be all right. Thank you, Mr Keeling.

Mr Keeling—I would like to talk to it before we wind up.

CHAIR—All right. I will invite you to do that now, if you like.

Mr Keeling—The demise of ATSIC is probably the major hurdle that is confronting the Kaurareg. ATSIC basically provided the support for the outstation and homeland movement. ATSIC is going or gone. The Kaurareg do not really know where to go to seek support to get back to their lands. The TSRA is not in a position to support us. ATSIC is not in a position to

support us. The Queensland Department of Natural Resources says no. Indigenous land management says no, that we do not meet the criteria. We do feel that the granting of native title should have some obligations with regard to the providing of resources for people to get back to their land.

It is not only the Kaurareg that have this problem. We have spoken to a number of groups and everywhere around Australia people get native title rights and get a whole assortment of things that they are entitled to but there is absolutely no way of ever doing them. Dr Wasaga has a homeland on the other side and has been fighting for four years to get support to go back there. His attendance today is to try to make the point that native title without the capacity to go back and do something is valueless. I guess that is it in a nutshell. Everything that I wanted to say is recorded in there and we have given the native title determination booklet and maps for reference.

CHAIR—Senator Scullion, Senator Jan McLucas and I sit on another committee of the parliament, the Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Fund. With other hats on in another committee inquiry, we are looking at the funding of native title representative bodies. What has also come up is exactly the situation that you have described. We are finding that once people get native title and body corporates are set up to manage that native title, there is no funding to assist them. That is exactly the issue you have raised here. With your permission, this committee can send the transcript of your evidence today across to the joint native title committee so that it also becomes part of the paperwork they gather for the work that they are doing. This is an issue that has come up time and time again. Once people have been granted native title the wheels seem to fall off the train, and they are left to continue afterwards.

I assume that in the granting of your native title there is no flow-on of income. I will clarify that. Let me give you an example from Alice Springs. The Lhere Artepe people in Alice Springs got a grant of native title. They are about to sell off a couple of hundred hectares of land, which will be developed into a housing estate. Although they have the native title claim, they have had no income for about two years. They are saying they want some sort of income to help them exist for this period, but both the state and the Commonwealth governments are saying to them, 'In time you're going to get income because you'll be selling the land you've been granted.' I am assuming the native title success here does not necessarily lead to any further economic development. Is that correct?

Mr Keeling—There is no possibility of doing anything on our land unless we get joint partnerships and funding coming with them.

CHAIR—I see.

Mr Wasaga—I cannot believe it. We are given the land back basically with nothing. We have the rights that our forefathers have practised from time to time, but now we are fighting the struggle and then our children will be fighting the struggle. All we want to do is get our people back on the land, in contact with nature and living off the land and the sea so our children, as they grow up, can continue that practice. When we are compressed in a community, we adopt new things, new cultures, and we forget about the importance of who we are—our identity—and we have all the social implications that are tagged onto us. All we want is some sort of support—

and this is not only our cry but everybody's cry—to just go and eat and live off the land. We just want the basic essentials, like power and water. That is all. We would not have to buy meat or vegetables. We will grow vegetables and live off the land with fish and whatever meat is on the land.

CHAIR—We do not have any other questions. We will take your evidence and consider it in our report, because you have highlighted that, with the demise of ATSIC, there are some issues about who you now turn to for funds. As I said, we will also send the *Hansard* for today across to the joint native title committee. Three of us sit on that committee, so we will make sure it becomes part of the work that committee looks at as well. Thank you very much for your time today and for appearing before the committee. We appreciate it.

Subcommittee adjourned at 4.04 p.m.