

CHAPTER 8

Developing a Regional Governance Proposal

With the prospect of greater regional autonomy hovering on the national agenda, Stage Two of the consultation process involved the Regional Council developing more concrete proposals for regional autonomy that might involve the establishment of a Regional Authority. An adviser prepared a further discussion paper to assist the Regional Council in its deliberations and future actions.¹

The Murdi Paaki Regional Autonomy Project specified two principal aims:²

- To develop an acceptable model of regional organisation that would lead to a Murdi Paaki Regional Authority able to exercise autonomous powers within its region; and
- To produce a context within which the autonomous Regional Authority would either be a party to regional service agreements with State and Commonwealth departments or would act as the agent of those departments in their service delivery to the Aboriginal people of the region.

For this purpose, the Discussion Paper outlined some international and Australian systems of Indigenous governance to assist in the design of the proposed Regional Authority by looking at practice elsewhere and considered a model of a Regional Authority constructed from elements of four other Indigenous governance systems. These systems were:

- The Torres Strait Regional Authority;
- Community governments of the Northern Territory;
- The Navajo Nation in the southeast of the United States; and
- Tribal Councils of Canada.

The consultant emphasised that only those aspects of these systems that were acceptable to the Aboriginal communities of the Murdi Paaki region should be taken in designing the proposed Murdi Paaki Regional Authority. The final Regional Authority model to be recommended would have features unique and appropriate to the Murdi Paaki region and acceptable to the Aboriginal people of the region.

The discussion paper considered that the Torres Strait Regional Authority was possibly the major model for the Murdi Paaki Council to copy in seeking regional autonomy. This was because it served as a model of how the Murdi Paaki Regional Council could be excised from ATSIC and given its own

¹ Rolf Gerritsen, *Regional Autonomy Discussion Paper for Community Consultations*, Murdi Paaki Regional Autonomy Project, 2001.

² Rolf Gerritsen, *Regional Autonomy Discussion Paper for Community Consultations*, Murdi Paaki Regional Autonomy Project, 2001, p.2.

one-line budget. The paper then went on to outline the structure of the TSRA.

Because Community Governments in the Northern Territory were essentially local governments, and funded as such, they were not considered appropriate models for any Murdi Paaki Regional Authority.

There were, however, four elements of the NT example that were relevant in formulating any proposals for a Murdi Paaki Regional Authority:

- The Council decides its own system of elected representation to reflect local realities;
- The Council determines its own operational procedures;
- The Council decides which functions it performs and how these are to be implemented; and
- The Council is empowered to conduct – on behalf of agencies of other spheres of government – such functions as it sees as needed by their communities.

The consultant considered that these aspects of the Community Government system were worth incorporating into any model for the Murdi Paaki Regional Authority.

Recognising the differences between the Murdi Paaki Region and the Navajo Nation operating on its own sovereign land and to a financial scale not really comparable to the situation of the Murdi Paaki Regional Council, the discussion paper identified elements of the Navajo situation that provided pointers to any Murdi Paaki drive for regional autonomy.

These were that the autonomy that the Navajo had established had been a result of treaty and intergovernmental relations. In addition, the Navajo had actively addressed the issue of non-resident Navajo rights by allowing them to maintain tribal membership. Finally the Navajo had been committed to securing State and Federal specific purpose program funding to augment their own government's efforts to better the lot of their people.

A significant distinction between the situation of the Murdi Paaki Regional Council in its quest for greater regional autonomy and Tribal Councils in Canada was the constitutional recognition of self government for Indian territories and their treaty relationship with the Federal government.

Against this background of Australian and international experience, the discussion paper examined suggestions for the structure of a possible Murdi Paaki Regional Authority.

The paper sought to define autonomy. It argued that achieving regional autonomy was more than simply achieving a greater degree of administrative separation from ATSIC. It required two things:

- A formal agreement (effectively as expressed in legislation) by the Commonwealth to allow the Murdi Paaki Council to re-constitute itself as a Regional Authority with its own internal (and locally-determined) policy and operational processes; and
- Recognition of the Regional Authority by State and

Commonwealth governments through negotiated participation by it in the delivery of whole-of-government services to the Aboriginal people of the region. This may include the Authority receiving monies to act as the agent of these other governments.

This would follow virtually the same processes by which the Navajo Nation achieved autonomous self-governing status.³

The discussion paper proposed that the Murdi Paaki Regional Council could be converted into a Regional Authority in one of three ways: grant of status, ministerial direction, or legislative amendment.⁴

Grant of Status:

The simplest means for converting the Regional Council into a Regional Authority would be for the Aboriginal and Torres Strait Islander Commission to simply grant that status to the Murdi Paaki Council. The *ATSIC Act* allowed ATSIC to create Regional Authorities, but without clearly defining either what these would be or how different their powers would be from those of exercised by a Regional Council.

Ministerial Direction:

The Minister could direct the ATSIC Board of Commissioners to act to grant Regional Authority status to the Murdi Paaki Council.

Legislative Amendment of the Act:

The *ATSIC Act* would have to be amended, either by amending Section 92 and repealing Section 94 or by strengthening the provisions under Section 95 to allow for the special case of the Regional Authority. The TSRA has its own Section of the Act. Murdi Paaki might need a similar section or a model section that would allow each Regional Authority to be constituted in such terms as it wished.

³ Rolf Gerritsen, *Regional Autonomy Discussion Paper for Community Consultations*, Murdi Paaki Regional Autonomy Project, 2001, p.13.

⁴ Rolf Gerritsen, *Regional Autonomy Discussion Paper for Community Consultations*, Murdi Paaki Regional Autonomy Project, 2001, p.13.