

## **CHAPTER VIII**

### **Indigenous Perceptions of the New Arrangements in Indigenous Affairs**

In an assessment of the Government's new arrangements from the perspective of Aboriginal and Torres Strait Islander people, the Murdi Paaki Regional Assembly (the Assembly) sought to improve the way the new arrangements were being implemented in the interests of the key stakeholders whose continued participation was necessary to make the arrangements work.<sup>159</sup>

The Assembly's observations, assessments and perceptions of the new arrangements were put into a comprehensive briefing paper, using the government's own language of reform as guide posts. The Assembly's aim was to relate actual results to the Government's own expectations as the Assembly believed that the arrangements were far from having achieved their rhetorical intent. It saw its assessment as being consistent with the statement of the Minister for Families, Community Services and Indigenous Affairs, Mr. Brough, that:

The place-based approach will involve the Australian, state and territory governments continuing to work directly with Indigenous communities in the future, but on the basis of ensuring a better understanding amongst all parties of what is being sought and how practical and important outcomes can be achieved.<sup>160</sup>

Overall, the paper argued that the Assembly's perceptions and experience with the implementation contrasted with the policy vision of the Ministerial Taskforce on Indigenous Affairs, 'to enable Aboriginal and Torres Strait Islander people to take responsibility for managing their own affairs'.<sup>161</sup> The Assembly stated:

We have yet to see what difference the arrangements have made to our lives, differences that might not otherwise have been achieved or were in the making, or which otherwise could have been made and which are now being portrayed as 'successes' of the new arrangements.<sup>162</sup>

The Assembly's conclusion was that there was a need for a change in direction to overcome the confusion and uncertainty that existed among Aboriginal and Torres Strait Islander people over the way the new arrangements were being implemented. It saw the need to strengthen leadership, responsibility, control

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<sup>159</sup> Murdi Paaki Regional Council, Briefing Paper, 'Towards a New Direction, Perceptions of the New Arrangements in Indigenous Affairs', March 2007.

<sup>160</sup> The Hon. Mal Brough, MP, Minister for Families, Community Services and Indigenous Affairs, COAG Indigenous Trials, Press Statement, 22 February 2007.

<sup>161</sup> Office of Indigenous Policy Coordination, Indigenous Affairs Arrangements, August 2006, p. 14.

<sup>162</sup> Murdi Paaki Regional Council, Briefing Paper: Towards a New Direction, Perceptions of the New Arrangements in Indigenous Affairs, March 2007.

and accountability in the delivery of government services. The way to do this was to improve the connection between Aboriginal and Torres Strait Islander people and government, with good governance arrangements seen as a vital link in the service delivery chain.

The paper observed that in outlining the new approach, Dr Peter Shergold had said it would not overcome the legacy of disadvantage overnight. Indigenous issues, he said, were far too complex for that. Though he stated, ‘... it does have the potential to bring about generational change.’<sup>163</sup> Similarly, the Secretaries’ Group on Indigenous Affairs had observed that, ‘... it will take generational change to achieve parity in the headline indicators of disadvantage.’<sup>164</sup> The Assembly felt that Aboriginal and Torres Strait Islander people should not have to wait for yet another generational change to achieve equity in the provision of government services.

The paper went on to argue that since the abolition of a legislative framework of accountability, a major deficiency in the current arrangements was the absence of a governance framework that both empowered and offered certainty of participation. The arrangements had slipped into a situation where Aboriginal and Torres Strait Islander people had become ‘clients’ of government services, reinforcing the ‘them and us’ attitude that led to ‘doing it to’ or ‘doing it for’ Aboriginal people rather than ‘doing it with’ Aboriginal and Torres Strait Islander people. The paper went on to rhetorically ask:

What is the ‘blueprint’ for government investment in crucial components of a community that give it a reason for being and hope for the future? What is the investment in social capital – infrastructure, the capacity of communities, and the capabilities of its people, all of which strengthen families and individuals, so that responsibility returns to being the tool for determining their own development. The ‘blueprint’ we have is a blueprint of government ideology, not a blueprint of public investment.<sup>165</sup>

A key factor identified by the Assembly in the new arrangements was the accountability of individual departments and their secretaries. The new arrangements had been ‘sold’ to Aboriginal and Torres Strait Islander people on the basis of this accountability and as ‘innovative new arrangements that have changed the face of Indigenous affairs.’<sup>166</sup> The paper noted that in describing the ‘bold experiment,’ Dr Shergold, had described it as ‘the biggest test of whether the rhetoric of connectivity can be marshalled into effective

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<sup>163</sup> Dr Peter Shergold, Secretary, Department of the Prime Minister and Cabinet, ‘Connecting Government: Whole-of-Government Response to Australia’s Priority Challenges’, Management Advisory Committee, Report No 4, 20 April 2004, p. 6.

<sup>164</sup> Secretaries’ Group Annual Report, 2005-2006, p. 6.

<sup>165</sup> The Hon. Mal Brough, MP, Blueprint for Action in Indigenous Affairs, National Institute of Governance – Indigenous Affairs Governance Series, Canberra, 5 December 2006.

<sup>166</sup> Secretaries’ Group Annual Report, 2005-2006, Foreword.

action.’<sup>167</sup> He went so far as to say: ‘It is an approach on which my reputation, and many of my colleagues, will hang.’<sup>168</sup> According to the first Secretaries’ Annual Report, the reform challenge extended far beyond structures stating that:

It requires a change of mindset and culture. Against every instinct of bureaucracy, we need to move away from the certainty, uniformity and control of one size-fits-all national programs that sit within a single agency. We are required to embrace approaches built on local responsiveness, community-based innovation and negotiation.<sup>169</sup>

As part of the accountability regime the performance of relevant departmental secretaries would be assessed, in part, by their success in overseeing a whole-of-government response to the disadvantage faced by Aboriginal Australians and Torres Strait Islanders.<sup>170</sup>

The best (and most concerning) information available on Secretaries’ and departmental performance was a report prepared for the Centre for Aboriginal Economic Policy Research (CAEPR),<sup>171</sup> stating:

In interviews with Peter Shergold and the Public Service Commissioner we were advised that in assessing the performance of the Secretaries within the SGIA, close consideration was given to the way in which Indigenous issues were managed by a Secretary within and across relevant portfolios. Assessment of Secretaries is undertaken on a financial year basis, with the 2004-2005 performance pay assessments being signed off by the Prime Minister in October 2005. Secretaries received either a 0, 10 or 15 per cent bonus following the decision of the Prime Minister. We did not obtain any further insight into the process than this.<sup>172</sup>

Of equal importance in assessing the outcomes of the new arrangements were the perceptions of departmental secretaries and their own understanding of the new arrangements. The CAEPR report identified a range of diverse and even

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<sup>167</sup> Dr Peter Shergold, Secretary, Department of the Prime Minister and Cabinet, Connecting Government, ‘Connecting Government: Whole-of-Government Response to Australia’s Priority Challenges, Management Advisory Committee, Report No 4, 20 April 2004, p.7.

<sup>168</sup> Dr Peter Shergold, Secretary, Department of the Prime Minister and Cabinet, Connecting Government, A speech to launch Connecting Government: Whole-of-Government Response to Australia’s Priority Challenges, Management Advisory Committee, Report No 4, 20 April 2004, p. 7.

<sup>169</sup> Secretaries’ Group Annual Report 2004-2005, Foreword.

<sup>170</sup> Dr Peter Shergold, Secretary, Department of the Prime Minister and Cabinet, Connecting Government, ‘Connecting Government: Whole-of-Government Response to Australia’s Priority Challenges’, Management Advisory Committee, Report No 4, 20 April 2004, p. 5.

<sup>171</sup> W. Gray & W.G. Sanders, Views from the Top of the ‘Quiet Revolution’: Secretarial Perspectives on the New Arrangements in Indigenous Affairs, Centre for Aboriginal Economic Policy Research, Discussion Paper No. 282/2006.

<sup>172</sup> W. Gray & W.G. Sanders, Views from the Top of the ‘Quiet Revolution’: Secretarial Perspectives on the New Arrangements in Indigenous Affairs, Centre for Aboriginal Economic Policy Research, Discussion Paper No. 282/2006, p. 16.

opposing opinions among secretaries with some seeing the new arrangements as a continuation of what they and their departments had been doing for many years, while others felt they were grappling for the first time with Indigenous issues. In summary:

Some saw Indigenous issues as very complex and needing to be dealt with sensitively and on a long-term basis on a number of different social and economic fronts. Others were more impatient and more simply focused on single actions, such as getting Indigenous people into jobs or increasing the police presence in Indigenous communities. Some saw current budget and financial accountability arrangements as restrictive and a problem, while others thought they already had the necessary degree of financial flexibility to do what was needed. Some were supportive and committed to having departmental staff in ICCs, while others saw these offices as less well matched to the mode of operation of their department.<sup>173</sup>

The Assembly's paper also argued that it had been the experience of the Murdi Paaki region that some departments took contradictory positions in relation to the delivery of 'joined up' government services, and their representation in Indigenous Coordination Centres.

Given the administrative focus of the new arrangements, it was not unreasonable for Aboriginal and Torres Strait Islander people, the key stakeholders, to know the outcome of the performance assessment of secretaries and departments and on what basis performance payments were made. It raised the question as to whether the assessment was benchmarked against implementing government policy objectives, as outlined in *Connecting Government*, that were in the interests of government; or against social and economic outcomes achieved for Aboriginal and Torres Strait Islander people. To some extent, the credibility of the new arrangements hinged on this accountability.

In the view of the Assembly, the new arrangements lacked logic in their implementation.<sup>174</sup> The consequence, whether intended or not, had been to disconnect Aboriginal and Torres Strait Islander people from responsible decision-making and to diminish Aboriginal leadership and institutions at a time when the focus was on collegiality and partnership, with the assembly viewing the 'bold experiment' as 'top down intervention'. In defining their hope for improved implementation, the Assembly's referred to Dr Shergold's statement:

Good policy will always be undermined by poor implementation. Bad policy will always result if it is not informed by the operational experience of those who deliver programmes and services at the front desk, in the call centre or by contract

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<sup>173</sup> W. Gray & W. G. Sanders, Views from the Top of the 'Quiet Revolution': Secretarial Perspectives on the New Arrangements in Indigenous Affairs, Centre for Aboriginal Economic Policy Research, Discussion Paper No. 282/2006, p. 26.

<sup>174</sup> Office of Indigenous Policy Coordination, Indigenous Affairs Arrangements, August 2006

management.<sup>175</sup>

The perception of the Assembly was that the Commonwealth and its agencies remained in control. While the Assembly saw the value in departments working together, and secretaries being accountable for the performance of their departments, the ‘silo mentality’ continued to thwart implementation of the arrangements.

Throughout the implementation process there had been significant changes in the language and policy approach. The changes had been subtle and had mostly aimed at achieving the Government’s own goal of dealing directly with individuals and families<sup>176</sup> without resourcing them to participate equitably in Shared Responsibility Agreements (SRAs) on the presumption that regional and community structures were unnecessary intermediaries in this relationship. What Aboriginal and Torres Strait Islander people now had was a new discretionary interventionist policy where the initiative resided with the Minister and government officers. ATSIIC has been replaced by a Ministerial and administrative ‘take over’ which had all the hallmarks of ‘the bad old days of mission management’.

The number of SRAs negotiated was not seen as a measure of success, but rather as a performance indicator for the reward of departmental secretaries who were set specific targets and could be satisfied when those target numbers had been reached.

Even the concept of SRAs was open to wide interpretation. They were inconsistent and contradictory in their application and defined by government as:

... Agreements between the government and Indigenous communities or groups, to provide a discretionary benefit in return for community obligations. These discretionary benefits may take the form of extra services, capital or infrastructure over and above essential services or basic entitlements. They can involve all or some of the people in a residential community. They can be developed in remote communities, regional areas or urban areas if Indigenous people locally decide they want to make changes in this way. The government wants to do business this way because SRAs are driven by community priorities and provide a mechanism to deliver services with much more flexibility to tailor to community needs than has been used in the past. SRAs are to contribute towards the long term vision and plans that Indigenous people have for their communities, their children and grandchildren. However, this does not mean they have to be complex documents that attempt to

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<sup>175</sup> Dr Peter Shergold, Secretary, Department of the Prime Minister and Cabinet, Connecting Government, A speech to launch Connecting Government: Whole-of-Government Response to Australia’s Priority Challenges, Management Advisory Committee, Report No 4, 2004, p. 7.

<sup>176</sup> The Hon. Mal Brough, MP, Blueprint for Action in Indigenous Affairs, National Institute of Governance – Indigenous Affairs, Canberra, 5 December 2006.

address all issues facing a particular community at the one time.<sup>177</sup>

From the Assembly's perspective, SRAs were basically single issue funding arrangements. What regional councils had previously called 'letters of offer' and which incorporated 'discretionary benefits' beyond normal services if communities were prepared to enter into mutual obligation arrangements, such as 'the no school, no pool' syndrome. The 2005-2006 Commonwealth budget guaranteed \$12 million for these in funding.<sup>178</sup> Engagement arrangements involved a series of ad hoc, random structures designed to meet the needs of government based on one-off funding agreements incorporating not citizen rights, but administrative and political discretion where up to \$100,000 in funds for single projects could be offered as a bargaining chip in dealing with families and individuals.

The Assembly could not recognise the distinction between discretionary benefits and normal citizen entitlements. In many instances, it argued, a pool or air-conditioning was not an 'add on' but an essential community facility. In this way, the concept of SRAs had inevitably led to a separation of rights and administrative discretion, based on the contrived distinction between citizen entitlements and discretionary services.

Elsewhere, the Assembly argued that it did not recognise the difference between discretionary benefits and normal citizen services. For example, the Assembly asked, 'where do you draw the line in the sand between what is discretionary and what is not?'

While the Government had entered into 180 SRAs, there was still at the time only one substantive Regional Partnership Agreement. There was no Murdi Paaki Regional Agreement, despite months of negotiation.

More mainstreaming had not meant the removal of red tape, but more red tape. It had not meant Indigenous self control but disempowerment. Indigenous Coordination Centres continued to fight among themselves, requiring the Secretaries Committee to issue guidelines telling them how they should work together. The Assembly argued:

We seek a genuine 'normalisation' of services in accordance with Australian standards where investment is based on comparative need. We should not continue to be diverted by a lack of political will, a search for the softer options, and piecemeal prescriptions for the patient. We must be able to take responsibility for our own wellbeing and reduce the incidents of government interventions and control that are generated by false perceptions of our being dysfunctional.

Therefore, governance remained an issue for the Assembly as indeed it did for the

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<sup>177</sup> Secretaries' Group on Indigenous Affairs, Bulletin, 6 April 2005.

<sup>178</sup> Secretaries' Group on Indigenous Affairs, Annual Report, 2005-2006.

government. There was a strong body of opinion that public sector governance was about both the vertical relationships within an agency and the horizontal relationships that increasingly underpinned effective and productive administration. This involved connecting agencies across jurisdictions to develop and deliver public policy in a whole of government manner. Horizontal governance was equally important between public servants and stakeholders...

... particularly when the private and community sector organisations who share an interest in public policy are not just advocates and lobbyists but, increasingly, the outsourced providers of government services. Governance is not just about managing contracts: it's about managing relationships over the long-term.<sup>179</sup>

Greater emphasis was now needed to be given to governance at the regional level and resourcing of a policy and planning capacity. Otherwise, the new arrangements would remain short-term and project oriented, rather than providing a new direction.<sup>180</sup>

The Assembly argued that it was taking so long to negotiate RPAs because there was a lack of government commitment to them in favour of the more limiting SRAs to keep pace with government performance requirements. The slow pace of reform in this area impacted on the participation of Aboriginal and Torres Strait Islander people at all levels – regional, community, family and individuals – and in all functional areas.

The delay and perceived reluctance in signing RPAs was seen as being inconsistent with the government's own focus on the need for strong leadership both within government and from Aboriginal and Torres Strait Islander people.

The paper argued that the government's policy commitment under its 'regional engagement and intensive interventions – making government work more strategic' framework, was largely reliant on RPAs to provide leadership and accountability to the people and communities they represented.<sup>181</sup>

From the perspective of the Murdi Paaki, it was time to implement and structure these commitments so that Aboriginal and Torres Strait Islander people could have certainty and security in the implementation of the full dimension of the new arrangements, rather than what it saw as the current piecemeal approach.

### **Lessons Learned?**

The Assembly, from its own experience, saw a fully developed governance and service delivery framework incrementally involving:

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<sup>179</sup> Dr Peter Shergold, Secretary, Department of Prime Minister and Cabinet, *Foundations of Governance in the Australian Public Service*, Canberra, June 2005.

<sup>180</sup> Secretaries Group on Indigenous Affairs, Annual Report 2005-2006, p. 33.

<sup>181</sup> Office of Indigenous Policy Coordination, Indigenous Affairs Arrangements, 2006, p. 9.

- Coordinated regional budgets identifying all Departmental inputs;
- Greater coherence and clarity in the way individual departments operate;
- Benchmarks for transparent responsibility and accountability;
- The setting of performance targets;
- A balance between mainstream funding and local initiatives, what the government calls strategic interventions and discretionary services;
- Greater flexibility to allocate funds across boundaries to meet identified community priorities;
- Regional Budget outcomes determined by the communities themselves within which Departmental outputs are aligned;
- Regional Partnership agreements which define roles and responsibilities and accountability to Aboriginal and Torres Strait Islander people, what the Murdi Paaki Regional Assembly has described as establishing jurisdiction;
- The development of cultural skills among staff responsible for implementing the reforms; and
- A willingness to adapt and develop structures and processes to make them relevant to communities within a legislative framework that invokes both community engagement and government accountability for service delivery.

The planning function would have a major role to play and forward planning in its fullest sense must inform the further implementation of the new arrangements. A synopsis review of the evaluations of the eight COAG trial sites had concluded that a major lesson learned was ...

... the need to recognise that government personnel need to understand Indigenous culture as it affects the development and maintenance of partnership; and Indigenous leaders and communities need to understand government culture and constraints.<sup>182</sup>

Another important observation was that the governance of Indigenous communities needed to be able to engage in effective partnership based on a sense of shared ownership and responsibility.<sup>183</sup> The evaluation of one site, in which capacity building and governance were the agreed priorities, concluded that the community was very clear that in order to work differently they needed to develop their capability to engage with the trial and with governments generally.<sup>184</sup> Some of the common lessons learned of relevance to the Murdi Paaki Region included:<sup>185</sup>

- Community governance structures and processes need some capability building and some resourcing of the participants if communities are to engage effectively;
- Using existing structures where these are working and building on existing strengths will foster trust and respect between governments and communities and is more likely to be an element of a successful community engagement strategy;
- Most of the community partners are quite capable of engaging with joint government processes and could do even more if they are well supported;
- The importance of leadership by both government and Indigenous leaders was a

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<sup>182</sup> Synopsis Review, p. 13.

<sup>183</sup> Ibid.

<sup>184</sup> Synopsis Review, p. 20.

<sup>185</sup> Synopsis Review, pp. 20-21.



- significant lesson; and
- From a government perspective the leadership provided by Indigenous communities was an important part of engaging differently.

From these lessons learned the Assembly continued to promote its case for a White Paper on Indigenous affairs to give some shape and strategic coherence to an understanding of the government's policy and what the future held for Indigenous people as 'a constituent component of mainstream Australia'<sup>186</sup> and to give substance to the Minister's 'blueprint for action in Indigenous affairs'.<sup>187</sup>

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<sup>186</sup> Ken Henry, Secretary to the Treasury, *Managing Prosperity*, address to the 2006 Economic and Social Outlook Conference, Melbourne, 2 November 2006.

<sup>187</sup> The Hon. Mal Brough, MP, *Blueprint for Action in Indigenous Affairs*, National Institute of Governance - Indigenous Affairs Governance Series, Canberra, 5 December 2006.