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REVIEW OF DEVELOPMENTS, Working Group on Indigenous Populations, 16th session, July 1998

Delegates
Madame Chair

I am proud to be addressing this forum on behalf of the Aboriginal and Torres Strait Islander Commission.

ATSIC is both a body representing Australia's Aboriginal and Torres Strait Islander peoples – through 35 elected Regional Councils around Australia and the ATSIC Board – and the main agency providing supplementary funding for Indigenous programs.

For eight years now the Commission has been at the heart of the Australian Government's effort to meet its obligations to its Indigenous citizens.

ATSIC is an important organisation in Indigenous affairs world-wide. In fact, it is the only organisation of its kind. It is a vehicle for self-determination based on modern democratic principles.

ATSIC is therefore uniquely placed to present this review of developments – as the main policy-making body in Indigenous affairs, the main advocate of Indigenous interests in Australia, and the agency responsible for monitoring the efforts of other government agencies on behalf of their Aboriginal and Torres Strait Islander citizens.

At this important forum, we may – to quote from the speech made last year by Australia's Minister for Aboriginal and Torres Strait Islander Affairs – "speak freely of [our] concerns and aspirations".

Madam Chair, it has been a very mixed year for us.

Australia's domestic political agenda has been dominated by the issue of native title and our national Government's intention to legislate to reduce our rights enshrined in the *Native Title Act 1993* and our common law rights arising from the High Court's Mabo and Wik decisions.

The Wik decision, made in December 1996, determined that native title may survive on pastoral lease land. As about 40 per cent of Australia is under pastoral lease, this decision was very important for the possible continued recognition of native title rights in Australia.

Only very recently has there been a resolution of this issue in the Australian Parliament.

It was settled, however, without reference to Indigenous peoples. It was settled by a non-Aboriginal political process which neither understands nor is sympathetic to the importance to land to Indigenous peoples.

The winding back of our native title rights reflects a more general retreat from Indigenous rights in Australia, and from the national government's historic role as protector of these rights. These developments are made all the more alarming by a hardening of attitudes in some sections of our community.

Madam Chair, you will no doubt have heard reports of disturbing political developments in Australia.

At the Queensland State election, held on 13 June, a new political force, Pauline Hanson's One Nation Party, won about 24 per cent of the vote and 11 seats.

Pauline Hanson is an independent member of the House of Representatives first elected in March 1996. She had been a Liberal Party candidate but was disendorsed by her former party following comments about Aboriginal people.

She has since acquired a new party organisation, made up of ultra-right-wing elements. The One Nation Party is opposed to immigration and to Indigenous rights, and offers very simplistic answers to complicated questions.

The party platform includes the abolition of ATSIC and of all special programs for Indigenous Australians. Its policy on native title is simply to legislate it out of existence.

One Nation's success at the Queensland election disrupts politics as we have known it in Australia, and has grave implications for our country's international reputation.

According to the opinion polls, One Nation's national support currently stands at around 14 per cent, which means it will be a force in federal politics and in States other than Queensland.

There can be no doubt that popular misconceptions about Indigenous funding have contributed to the rise of One Nation.

A minority of Australians resent programs for Indigenous people because they see them as extra benefits, as privileges they don't have.

These perceptions are wrong. Most Indigenous programs substitute for entitlements that other Australians receive as a matter of course. In many areas – such as health services and the provision of housing and infrastructure – Indigenous Australians remain gravely disadvantaged. Government spending on these areas has never been commensurate with the need.

We can take some hope, however, from evidence that the more racist elements in the One Nation party political platform were important for only a minority of those who supported them at the ballot box.

It seems that many people voted One Nation as a protest against conventional politics, economic rationalism, and the decline of services in rural Australia.

The tragedy for contemporary Australia is that there is now divide and rule among the disadvantaged.

Indigenous people can relate to the alienation that is growing in regional Australia. It is unfortunate that we are perceived to be a cause of it.

The rise of the One Nation Party increases the pressure on mainstream politicians to explain their own policies and to explain the rationale for the Australian Government's budget on Aboriginal and Torres Strait Islander affairs. Australian governments have never adequately done this.

It is also important that they do not give this new party legitimacy.

But I am afraid that is precisely what happened in Queensland.

The former State government, a coalition of the National and Liberal Parties, decided to give preferences to the One Nation Party ahead of their traditional political rivals, the Labor Party.

Coalition preferences helped the One Nation Party over the line in at least eight of the seats they won.

Perceiving the dangers in this strategy, I wrote to Senator Herron, the Minister for Aboriginal and Torres Strait Islander Affairs, asking for his and the Prime Minister's support in overturning the preference decision.

I repeated the request after the Queensland election – and after my first approach had elicited no response.

The Prime Minister has now announced that One Nation will be placed last on how-to-vote cards in his seat, and various Branches of the Liberal Party, including the Queensland party, have said they will do the same.

Madam Chair, we are disturbed at One Nation's temporary success.

I still view Australia as a fortunate and enlightened country, but one that, buffeted by the forces of globalisation and rapid economic and social change, has for the time being lost its way.

The year in review has also seen developments that are more promising for Aboriginal and Torres Strait Islander people.

Many in our country are engaging with the need for reconciliation between Indigenous and non-Indigenous Australians. Reconciliation has ceased to be a government-sponsored initiative – it has become a popular movement.

In the months leading up to 26 May one in every 18 Australians signed Sorry Books to apologise to the Stolen Generation – the many Aboriginal children taken from their families in the name of assimilation during the first half of this century.

This groundswell of public support also saw thousands of Australians demonstrating against the Native Title Amendment Bill as it made its tortuous way through Parliament.

In February seven Indigenous people, including myself, were delegates at a National Constitutional Convention to discuss whether Australia should become a republic. In fact, three of our delegates were elected by the Australian people.

Almost unanimously the Constitutional Convention recommended that any preamble to a new Australian Constitution should include acknowledgment of the original occupancy and custodianship of Australia by Aboriginal people and Torres Strait Islanders.

A majority of delegates to the Convention also voted that Australia should become a republic, a course supported by ATSIC since it opens up the possibility of further constitutional change in the future.

ATSIC followed up the mainstream event with its own Indigenous National Constitutional Convention, which drew delegates from around Australia.

Under discussion were the eight aspirational goals for constitutional reform adopted by the ATSIC Board last year, as well as ways to encourage and co-ordinate Indigenous participation in any constitutional reform process.

In another constitutional forum, however, we did not feel so welcome. I and other Aboriginal delegates were dismayed at how our issues were treated at the Northern Territory Statehood Convention in late March-early April. At this convention a draft constitution was presented containing no recognition of Indigenous rights or acknowledgment of the fact that Aboriginal people make up about one third of the Territory's population.

We walked out of the proceedings once it became obvious that the convention would oppose a Charter of Rights for Northern Territory citizens, a charter which included many of the specific measures Aboriginal delegates had sought in return for supporting Statehood.

Madam Chair, it is evident from this review that Australia is an increasingly divided country.

Aboriginal peoples are faced with contradictory developments in the national culture. The concept of Indigenous rights has a very different reception among different groups in our nation.

This ambivalence is reflected, too, in the performance of the national government.

The Australian Government wants to regard us as disadvantaged citizens, rather than as a special section of the population that has distinct rights.

I believe that, after two and a half years of this attitude, progress is being undermined.

The rights we have achieved through existing legislation – for example, the Native Title Act – are being wound back. At the same time funding for Indigenous programs is largely static.

The 1998 Budget

The national Budget brought down in May this year contained little in the way of new spending on Indigenous affairs.

Of the four Indigenous Affairs priority areas identified by the Government – health, housing, education and employment – only health received a significant boost. As I said in my reaction to the Budget, one out of four is simply not good enough.

In health, extra funding of $73 million over four years will improve primary health care, and enable initiatives in immunisation and screening, eye health, hearing services and mental health.

The Government, and in particular the Health Minister, Michael Wooldridge, are to be commended for making health a priority, and for maintaining a steady increase in health funding over the last three years.

Nevertheless, we must not lose sight of the fact that the extra commitment falls far short of the demonstrated need.

In June the publication entitled *Australia's Health* confirmed that roughly equal amounts have been spent on Indigenous and non-Indigenous health – even though Aboriginal people are three times as sick.

Life expectancy for Aboriginal men and women is 15-20 years below other Australians. Aboriginal and Torres Strait Islander people suffer a much higher burden of illness – for diseases such as diabetes death rates are 12-17 times higher.

Poor housing, overcrowding and inadequate water supplies all contribute to this situation, as does isolation from mainstream health-care facilities.

Indigenous Australians are comparatively low users of mainstream health schemes. This is offset to some extent by Commonwealth funding – through the Department of Health and Family Services – of a network of community-controlled Aboriginal Medical Services.

In general, however, limited access to basic primary health care results in higher hospitalisation rates. The greater use of hospitals inflates the funding that governments can claim is devoted to Aboriginal health, but points to a relative lack of resources at more effective points in the health system – for health promotion, disease prevention and early treatment.

There have been marked improvements in the health status of Indigenous groups in similar countries, such as the USA, Canada, and New Zealand.

Australia's governments must find the resources and the will to achieve a comparable improvement in our country.

The 1998 Budget did not lay the basis for a 'holistic' approach to better health as there was no equivalent boost in funding for other areas vital to health.

Expenditure on housing and infrastructure will be maintained at current levels, despite an estimated $4 billion deficit in housing and infrastructure in Indigenous communities across Australia.

The latter Government agency will be the home of a new Office of Indigenous Policies, which will work directly to the Minister for Aboriginal and Torres Strait Islander Affairs.

The ATSIC Board has grave reservations about this arrangement. We see the new Office as undermining our roles as the Government's principal adviser and as the primary policy-making body in Indigenous affairs.

The decline in ATSIC's share of Indigenous funding, and the establishment of an alternative policy agency, both point to a lessening of Indigenous control over how government handles our issues.

This is a development, Madam Chair, that should be noted at this forum.

In fact the Board's frustration has been so great that in March this year we felt compelled to record a vote of no confidence in our Minister, Senator John Herron. We did not take this action lightly, but in response to a perception that we were not being listened to and were being marginalised in the process of policy development. We were disturbed, too, by the Minister's failure to advocate for us on native title.

The ATSIC Board has since agreed that a core group of elected Commissioners will continue to negotiate with the Minister on a range of budget-related and other issues. We have suggested that the negotiation of a Memorandum of Understanding might establish a more workable relationship between the Minister and the elected arm of the Commission.

It is also obvious that, on a number of issues, the current Government has found ATSIC's advice uncongenial. But the Commission cannot stand by in the face of a Government intention to undermine Indigenous rights.

Most recently the Government responded without waiting for the facts to sensationalised reporting in the tabloid press of the costs of a conference organised by the Kimberley Land Council. It took the opportunity to justify a Special Audit of all ATSIC resourced conferences , seminars and meetings.

ATSIC is committed to accountability for public funds as was demonstrated by its cooperation with a Special Audit that the Government commissioned in 1996 even though the audit was held to be illegal in the courts. The new

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Special Audit has no parallels in mainstream departments and is an act of discrimination against Indigenous Australians.

Native title

Over the year under review the principal source of contention has been the Government's efforts to implement its 'Ten Point Plan' to amend the Native Title Act.

ATSIC has been part of an Indigenous coalition, known as the National Indigenous Working Group on Native Title, opposing the Ten Point Plan.

In essence, the Ten Point Plan would have drastically reduced the rights of native title holders under the Native Title Act, including in particular the Right to Negotiate enshrined in the Act.

The Right to Negotiate gives native title holders a say on exploration and mining in their traditional country. While not a veto, the Right to Negotiate has brought miners to the negotiating table with us.

In relation to mining projects it has led to agreements for employment and training opportunities for Indigenous people, encouragement for local Aboriginal businesses, financial compensation for disturbance, in addition to protection of sacred sites. The Right to Negotiate does not guarantee these outcomes, but it helps.

The Ten Point Plan and associated changes to the Native Title Act were given legislative form in the Government's Native Title Amendment Bill 1997.

This passed the lower house of the Australian Parliament in November last year, but was significantly amended in the upper house.

The upper house amendments ameliorated some of the effects of the Ten Point Plan, but gave the Government much of what it wanted.

The Government refused to accept most of the amendments, citing four sticking points between itself and the upper house:

- whether the Bill should be subject to the Racial Discrimination Act;
- the Government's proposed 6 year 'sunset clause' on lodging claims;
- the Government's proposed inclusion of a physical connection test as part of the registration test for claims; and
- whether the Right to Negotiate would be preserved on pastoral lease and certain other lands such as urban areas and national parks.

When the Bill was brought back into Parliament this year, there was a similar outcome, and the Bill then became a trigger for an election dissolving both houses of parliament. This type of election allows a joint sitting of both houses, where, the Australian Government hoped, their Bill would be passed.

The Prime Minister said in the House of Representatives on Thursday 9 April that "The bill as amended by the Senate gives special privileges to one group of Australians denied to others".

This is clearly an important argument for the Government. It is not an argument that impresses Indigenous peoples.

The interests of pastoralists and native title holders are different, and therefore the provisions to protect those interests will also need to be different. It is not a question of stronger and weaker rights – it is a question of appropriate and relevant rights.

Until very recently the Government was insisting they would not compromise on their Ten Point Plan, holding over us the prospect of a double-dissolution election based on Wik.

We had every reason to fear such an election and its possible effects on race relations, reconciliation, and Australia's reputation.

This threat has recently been removed, however, through a compromise negotiated with the Government by an independent Senator, Senator Harradine, who holds the balance of power in the upper house.

The immediate causes of this breakthrough appear to have been this Senator's concern for the moral damage a race-based election would inflict –

he described it as a 'fearful prospect' – and the Government's fear of the political damage One Nation might inflict on them at such an election.

It is important to note that no Indigenous people were party to the negotiations leading to the Wik compromise. As one commentator said, it was 'done in a self-interested party political way with Aborigines left in the dark'.

Overall, this compromise legislation is an improvement on the Government's Ten Point Plan legislation as originally proposed.

Nevertheless, the legislation read as a whole significantly reduces the ability of Indigenous peoples to have a meaningful say in what happens on their traditional country. It contains provisions which can potentially lead to extinguishment of native title rights where the common law of the country would recognise such rights. And, importantly, it provides for the administration of native title matters to be taken out of the hands of the Australian Government and given to the States and Territories. This is a development which, because of the often unhappy historical experience of Indigenous people with the States and Territories, is of serious concern to us.

In particular, the Bill's passage through both Houses of the Australian Parliament means:

- a reduction in the say that native title holders will have about mineral exploration on their land;
- native title holders will have less of a say in a whole range of government activities on their traditional country including management of national parks, forest reserves, public facilities and water resources;
- an opportunity for States and Territories to replace the Right to Negotiate on pastoral leases with alternative schemes. Although these schemes will have elements of the Right to Negotiate, the practical effect on native title rights will depend on what schemes are actually implemented by the various State governments. We are also concerned that the Government may try to exclude ATSIC from consideration of these alternative schemes;
- pastoralists will be able to undertake a wide range of primary production activities without negotiating with native title holders, even though such

activities might significantly affect the ability of native title holders to exercise their rights;
- State/Territory governments may be able to upgrade pastoral leases to freehold, thereby extinguishing native title rights; and
- statutory access rights to traditional country on pastoral leases are severely and unfairly restricted.

Although the extinguishment provisions have been ameliorated under the compromise legislation, there is still a significant potential for the legislation to extinguish common law native title rights.

This is not a full account of the problems which the legislation provides for us. The legislation package is complex. In fact some provisions we endorse. There are, nevertheless, many ways in which the recognition and protection of our rights has been reduced.

This is not a constructive way to deal with native title issues. The legislation will in fact increase uncertainty for all parties. It will lead to increased and drawn out constitutional challenge and other litigation.

The encouragement of State-based regimes will result in different procedures and standards applying from one jurisdiction to the next. Issues will not be resolved. Legal and political contention will be shifted to the State and Territory level.

I can only conclude that the handling of these issues, admittedly complex, has been less than satisfactory. The opportunity provided by native title to build co-existence and reconciliation for future generations has been squandered by a small-minded and excessively legalistic approach by government and some industry organisations in Australia.

This is a great pity for all of us.

Heritage

A related issue of Indigenous rights has been the protection of our cultural heritage. The national government has new legislation before the Australian

Parliament that will replace the existing *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

This Act was introduced to provide 'last resort' protection where State and Territory processes fail, and to encourage the States to improve their own heritage laws.

It has not really succeeded in the latter aim, and the national legislation has become the preferred recourse of many Indigenous groups. At the same time certain procedural flaws have become apparent over the history of the Act's administration.

Justice Elizabeth Evatt reviewed the Act and wrote a comprehensive report in 1996.

The Government's Aboriginal and Torres Strait Islander Heritage Bill 1998 is only partially based on Evatt's review, however. In its present form, it would in fact allow the national government to withdraw from the protection of Indigenous heritage except in the most exceptional circumstances – in cases involving what is called the 'national interest'.

Instead State/Territory heritage laws would be accredited by the Minister for Aboriginal and Torres Strait Islander Affairs, without seeking any real improvement in State laws or processes. The Bill sets the hurdle for accreditation at a very low level.

ATSIC is strongly opposed to the legislation as it now stands. Many of our concerns are shared by a Government-dominated committee, the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund. The Committee has examined the legislation and, on 1 June, tabled a report highly critical of aspects of the Bill.

In this report the Committee emphasised that the Bill does not provide 'a comprehensive last resort function'. The Committee believes, as we do, that protecting Indigenous heritage is in itself in the national interest. It also finds that the minimum standards for accreditation set out in the Bill are 'not credible'. The Bill should provide a 'more detailed and comprehensive Commonwealth Standard'.

Many Indigenous concerns would be appeased if the Bill were amended in the upper house along the lines of the Committee report.

ATSIC is very disturbed, however, that the Australian Government would countenance a retreat on such a vital issue.

NT Land Rights

Also under review by the national government is the most significant land rights legislation in Australia, the *Aboriginal Land Rights (Northern Territory) Act 1976*. The operation of this Act has enabled about half of the Territory land to be transferred to Aboriginal ownership under inalienable freehold title.

The review report is due this month, and I cannot anticipate its recommendations. Suffice it to say, ATSIC will do its utmost to ensure that there is no winding back of our rights enshrined in this legislation.

Bringing Them Home

Since my last report to this forum, the Government has responded to the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families.

The inquiry was conducted by the Australia's Human Rights and Equal Opportunity Commission in 1996. The report, *Bringing Them Home*, is one of the most powerful and important texts recently published in Australia. It brings to light a shameful episode in Australia's history of race relations – the practice of separating Aboriginal children from their families and culture so that they might be absorbed into the wider population.

The children were raised in institutions or fostered to white families. However, the intended assimilation did not happen, and the scale of the separations has produced a social crisis in the Aboriginal community. Many of the stolen generation are lost and angry; not ever having had a family, some have found it difficult to raise their own families.

The *Bringing Them Home* report contained 54 recommendations for action. In its response the Government has chosen to concentrate on a narrow range

of these recommendations. About $63 million will be provided over the next four years towards family initiatives. Most of funding will go the Department of Health and Family Services to expand the Indigenous mental health workforce.

ATSIC will receive an additional $11.25 million, over four years, to provide a single dedicated Link Up service in each State and Territory. Link Up assists people to trace and reunite with their families. This funding is, however, dependent on an independent evaluation of the existing services.

The Board is disturbed at the refusal of the Australian Government to issue a formal apology to the stolen generation, or to countenance compensation or reparations for those affected.

Despite the national government's attitude, many other Australian governments and institutions have issued apologies. Thousands of people have signed Sorry Books. A National Sorry Day, a privately sponsored event, was held on 26 May.

A national apology to the stolen generation has become integral to the process of reconciliation.

Deaths in custody and contact with the law

The stolen generation is not just an issue of the past, but of the present. Indigenous families continue to be separated through the actions of the criminal justice system.

Indigenous young people are many times more likely to be taken into custody than their non-Indigenous counterparts. In 1997 Aboriginal and Torres Strait Islander people comprised about 17 per cent of the adult prisoner population. Overall, my people continue to suffer contact with the law at a rate far in excess of the general population.

Ten years after the Royal Commission into Aboriginal Deaths in Custody and five years following all Australian governments' acceptance of its recommendations, these statistics should have begun to improve.

That they have not improved is in part a reflection of increasingly punitive policies on the part of State and Territory Governments. For example, under mandatory sentencing laws introduced last year in the Northern Territory, a magistrate or judge must impose a prison sentence on any adult found guilty of a property offence.

Alarming trends in Indigenous incarceration prompted the Minister for Aboriginal and Torres Strait Islander Affairs to call a summit of key State and Territory Ministers in July last year. The Ministers agreed to develop strategic plans covering aspects of the criminal justice system and to work towards multi-lateral agreements between the two levels of government and Indigenous groups to develop and deliver programs. A year later, however, no plans or agreements have been finalised.

Though ATSIC last year completed the fifth and last report on the Australian Government's implementation of Royal Commission recommendations, we have pledged to go on monitoring these issues.

Human rights

In this context, the abolition of the position of Aboriginal and Torres Strait Islander Social Justice Commissioner within the independent Human Rights and Equal Opportunity Commission is particularly disturbing. The former Commissioner, Mr Mick Dodson, had maintained an exemplary focus on human rights issues relating to Aboriginal and Torres Strait Islander people, and in particular how the operations of the justice system affected those rights.

The Race Commissioner within HREOC will now cover Indigenous issues, but there will be no focused annual reporting process.

As well as reducing the Human Rights Commission's capacity through budgetary measures, the Australian Government is also proposing further legislative amendments which would prevent the Commission from independently representing key human rights principles in court cases without prior consent from the Attorney General.

This dilution of the independence of the Human Rights Commission is in our view contrary to the 1991 Paris Principles which elaborated the key criteria of national human rights institutions. Such criteria include:

- guaranteed independence by statute; and
- autonomy from government.

Australia is a signatory to the major human rights covenants and wishes to be seen as championing the advocacy and protection of human rights in multi-lateral and bi-lateral forums.

When we reflect on Australia's performance at home, however, this self-image is cause for some concerned reflection.

Aboriginal and Torres Strait Islander Legal Services

The failure of State and Territory Government to implement properly Royal Commission recommendations makes the need for effective and targeted legal aid for Indigenous people as great as ever.

ATSIC currently funds a national network of 24 community-based Aboriginal and Torres Strait Islander Legal Services (ATSILS). ATSILS receive some $32.6 million of ATSIC's total law and justice expenditure of around $40 million annually.

Over the last five years the demand for these services has increased more than 25 per cent, while funding has remained fairly constant. It is estimated that in 1997-98 the legal services will handle around 55,000 clients and about 175,000 matters and charges. Their work is overwhelmingly focused on criminal law.

In recent years ATSIC has been responding to community and government demands for more effective legal services. In 1997-98 the Commission has implemented a major reform process within the services. The reforms include:

- the introduction of policy guidelines which, amongst other things, better target services by merit testing of clients and priority setting of cases;

implementation of a pilot round of projects under the Health Infrastructure Priority Projects (HIPP) scheme.

Under a Government initiative seven of ATSIC's projects use labour and equipment provided by the Australian Army. The Government has announced an extension of the ATSIC-Army Community Assistance Program in 1999. It is providing another $5 million in funding which ATSIC will match.

Negotiations have continued with State and Territory governments on housing and infrastructure bilateral agreements, which allow the pooling of funds from two levels of government and better coordination and planning of projects. Agreements are in place with the Northern Territory and Western Australia, and are imminent with South Australia and New South Wales.

The Commission funds the operations of the National Technology Resource Centre within the Centre for Appropriate Technology in Central Australia. The NTRC looks at new and different technologies that could be useful to remote communities, and provides information and a help-line.

This year ATSIC will be replicating the 1992 Housing and Community Infrastructure Needs Survey, which was the first national data base of Indigenous needs in this area, and will continue its review and reform of the Indigenous Housing Organisations.

Community Development Employment Projects

During the year Community Development Employment Projects, ATSIC's largest program, was the subject of a wide-ranging independent review. The reviewer presented his findings and recommendations to the Board at our December meeting. He praised the scheme, which currently accounts for one quarter of Indigenous employment, but said that more should be done to make CDEP a conduit to other employment.

Currently through CDEP more than 30,000 Aboriginal and Torres Strait Islander people – or 8.5 per cent of our population – volunteer to forego their unemployment benefits. Instead they receive roughly equivalent amounts as wages for part-time work on community projects. ATSIC's grant to the

implementation of a pilot round of projects under the Health Infrastructure Priority Projects (HIPP) scheme.

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community includes a wages component as well as an amount to buy tools and materials to provide real work.

CDEP puts decisions on community development in the hands of the community itself – more than 270 of them across Australia.

To quote the reviewer, CDEP 'operates as a unique partnership with Government, designed to achieve real outcomes for Indigenous communities and individuals'.

Since December the Board has been working to implement many of the review recommendations. In the Budget we achieved satisfaction of a long-standing equity issue – the fact that CDEP participants did not have automatic access to a number of social security benefits or the Beneficiary Tax Rebate.

As a result of our advocacy, and the efforts of a number of Australian Government ministers, the majority of the 30,000 CDEP workers will now have equity with other unemployment-benefit recipients.

The Budget did not allow for any real growth in the scheme, however. As I have already commented, this may be a short-sighted decision given CDEP's significance in providing work and training for a population faced with a looming unemployment crisis.

Economic development

The Government puts a high priority on economic development in Indigenous communities as the way out of welfare dependence.

To consolidate this emphasis the Minister for Aboriginal and Torres Strait Islander Affairs has issued a policy paper, *Removing the Welfare Shackles*, which, if implemented, would see the establishment of a new statutory authority, Indigenous Business Australia.

The proposed authority would take over ATSIC's commercial and housing loans programs and the equity investment responsibilities of the Commercial Development Corporation, as well as managing the investments of the

Aboriginal and Torres Strait Islander Land Fund and the Aboriginal Benefit Reserve.

In response to this paper, distributed in March, ATSIC is proposing a new approach.

The overall features of the proposed new approach are:

1. ATSIC tendering and negotiating with financial institutions for the delivery of its business and, possibly, housing loan programs;

2. ATSIC and other Indigenous bodies tendering collectively for investment management services, including through the establishment of an Indigenous investment fund in which Indigenous and non-Indigenous bodies could invest; and

3. ATSIC and other indigenous bodies tendering its general banking services.

ATSIC believes the new approach would enable commercial and social objectives to be pursued separately but in a way that ensures they can be effectively integrated. Importantly, the partnership proposed between ATSIC and the private sector in program management would ensure a linkage with CDEP and with development opportunities arising from native title in regional Australia.

ATSIC's submission on the new approach has just been given to the Minister, and we await his response.

While being positive about the potential for economic development, ATSIC's paper does underline the constraints and the complexity of the issues. There are limited economic opportunities in rural and remote Australia. My people have limited access to capital, and may not have business skills. We also live in a very different social and cultural environment to other Australians.

Moreover if economic development is the way out of government dependence, then native title and the Right to Negotiate are crucial to its achievement.

Review of ATSIC Act

In conclusion, Madam Chair, I would like to speak about the future of ATSIC itself. The Commission has a unique representative and advocacy role, as well as playing an important role in the administration, and evolution, of programs.

In February this year ATSIC completed a review of the operation of our founding legislation, the *Aboriginal and Torres Strait Islander Commission Act 1989*.

The review has been submitted to the Minister for Aboriginal and Torres Strait Islander Affairs, who must now decide which of the recommendations he will support.

ATSIC has been a world-leading innovation in providing a real measure of empowerment and self-determination to Australia's Indigenous peoples. The changes to the Act recommended by ATSIC will, if implemented, strengthen its operation and protect its vital role in promoting and defending the interests of Aboriginal and Torres Strait Islander people.

A positive and timely response from the Australian Government is therefore essential.

Madam Chair, we are receiving very mixed signals from our fellow Australians. The Australian Government's commitment to programs rather than rights has resulted in little or no additional resources except in the health area. Our relative disadvantage seems likely to be locked into place for some time. There is evil in the body politic, and the possibility that extremist agendas will be able to influence Indigenous policies.

The Australian Government must remain steadfast in its historic role as guarantor of Indigenous rights, and it must do this in real partnership with ATSIC.