

**Select Committee on the Administration of
Indigenous Affairs**

**Inquiry into the Administration of Indigenous
Affairs**

Submission No: 107a

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Mr Jonathan Curtis
Committee Secretary
Senate Select Committee on the Administration of Indigenous Affairs
Department of the Senate
Parliament House
Canberra ACT 2600

Dear Mr Curtis

Invitation to hold a Senate Select Committee Hearing in the East Kimberley

As you are aware the Senate Select Committee have been discussing, among other things, Indigenous representation post ATSIC. This issue is of great importance to the Wunan Regional Council and the people of the East Kimberley and we have been working for some time now on new models of representation. We have also been involved in the work that has been done on developing a model of representation for the whole of the Kimberley region.

The Council and the people of the region are very keen to discuss representative models, both regional and Kimberley-wide models, with the Senate Select Committee and we would like to extend an invitation to the Committee to hold a hearing in the Wunan Region in the near future. Ensuring that our people continue to have a voice and are able to negotiate with government at all levels, with the aim of achieving real outcomes for Indigenous people, is an absolute necessity. This is especially important now given the recent changes in the government's approach to Indigenous affairs. If the Committee are unable to travel to the East Kimberley, we ask that consideration be given to a telephone or video conference.

Please find enclosed for your information a copy of our Discussion Paper, titled *A New Way Forward, Options for a New Model of Regional Governance in the East Kimberley*, which details the various models being proposed.

Please feel free to contact either myself or George Hamilton (Wunan Regional Council Chairperson), who returns to the office on 25 January 2004, if you would like to discuss this invitation or our availability.

Yours sincerely

Ted Carlton
Acting Chairperson
Wunan Regional Council
20 January 2005

Encl (1)

DISCUSSION PAPER

A NEW WAY FORWARD

*OPTIONS FOR A NEW MODEL OF REGIONAL
GOVERNANCE IN THE EAST KIMBERLEY*

Wunan Regional Council

15/11/04

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1. THE NEED FOR A NEW DIRECTION

Before the recent election the government announced its intention to close down ATSIC and divide up its responsibilities between mainstream government departments. Now the Howard government has been re-elected this will almost certainly go ahead. Mainstreaming of ATSIC programs has already happened. The ATSIC Regional Councils will be abolished at the end of June 2005, while the national ATSIC Commissioners will go almost immediately. This will leave Indigenous people around the country without a voice in government and without a representative body to put forward our point of view.

This is a matter of great concern, especially to our people in the East Kimberley. The remoteness of our communities means that we will have few opportunities to access decision-makers in mainstream departments such as Immigration, Multicultural and Indigenous Affairs, Employment and Workplace Relations etc. who will now control former ATSIC programs.

Another major concern is that the partnership approach that ATSIC developed with State and Federal agencies in many areas will be lost. In particular, we do not want to lose the constructive relationship that was developing with the State government through the Statement of Commitment

This is the reason that we need a new direction in the Kimberley. We need to find a new form of regional governance that will give us a voice of our own and a representative body that will allow us to work in partnership with government for improvements in the lives of the Aboriginal people of the region.

State and Federal governments have indicated that they are willing to consider a proposal for a new local model of regional governance in the Kimberley, but to be accepted, it must have the support of the community. This discussion paper has been put forward by the Wunan Regional Council as part of a process to consult widely with community groups, organizations and individuals to develop a model of Aboriginal governance that can build a strong future for the Kimberley.

There is some urgency about this process. Once the ATSIC Regional Councils are axed there will be no representative bodies to promote the grassroots point of view. We need to consider the options and make a commitment to a new way of doing business in the East Kimberley.

2. A NEW WAY FORWARD

The circumstances under which the need for a change in governance has come about are regrettable, but there are many reasons why we should take this opportunity to make a new start. There is much work to be done.

Our communities in the Kimberley are some of the most disadvantaged in the country. The problems that face our people, especially our children, are enormous. Every day we see the consequences of unemployment, poor health, poverty and lack of opportunity in our communities. Things need to change.

Governments and their agencies control the resources and services that can provide some of the answers. But we have to take responsibility for our own future. Without community participation and cooperation service providers will never find the answers to our problems. Without our grass-root input, policy-makers will be unable to design appropriate programs or use resources efficiently.

This is our challenge – we need to develop community based representative structures that can speak clearly to governments, providing ideas and objectives, setting priorities and goals and harnessing the energies and talents of those good people in the communities who are prepared to work for the betterment of our people. We need to build a model of representative governance that is capable of working cooperatively with government to develop a vision for the Kimberley at local, regional and Kimberley wide levels.

The Wunan Regional Council has endorsed a three tiered model of governance for the Kimberley (see next section). The purpose of this Discussion Paper and consultation process is to seek community endorsement for the establishment of **regional and community based representative** structures in the East Kimberley.

This is a new development that needs careful thought. We invite your input to this process. As a starting point, some options are presented in section 5 (p.15) We ask you to consider which of these options you think is the best, or if you have other ideas, to tell us how you think the models could be improved.

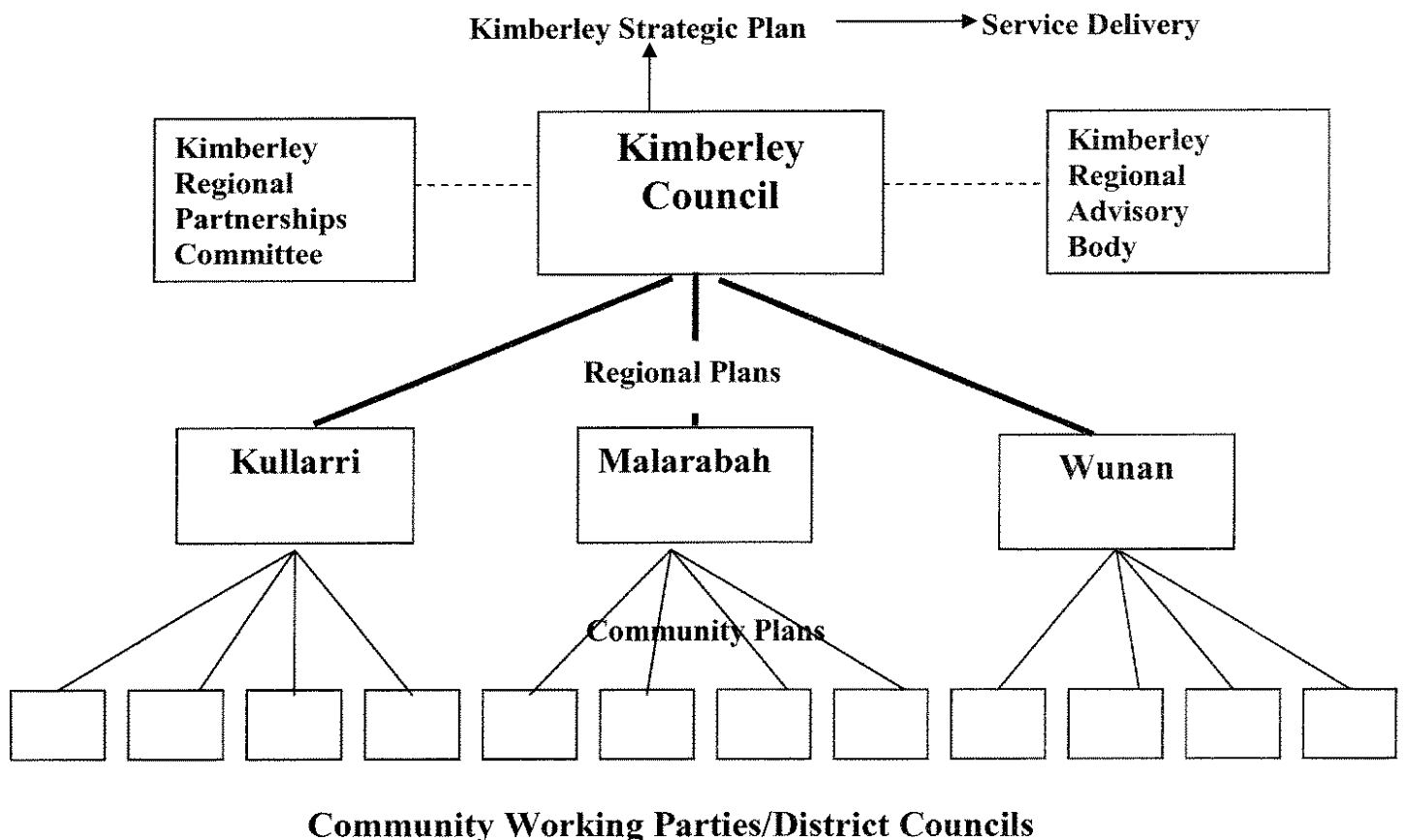
Before considering the options, however, we invite you to read section 3, which provides some background to the decision we are making.

3. A THREE TIER KIMBERLEY WIDE MODEL

Over the last few months Commissioner Trust, the ATSIC Regional Councils and the Kimberley zone executive have been working with a number of other Aboriginal organizations to develop a Kimberley-wide model of regional governance. A working group has been set up to drive the community consultation process and to lobby government for support.

The current proposal is for a 3 tier model of regional governance across the Kimberley, consisting of a central Kimberley Council, 3 Regional Councils based on Broome, Derby and Kununurra and a third tier of community based bodies or District Councils.

Diagram 1. Proposed 3 Tier Model of Regional Governance



In summary:

The aim of this three-tier model is to create an effective planning process that reaches from grass-roots communities and Regional Councils to government, with the Kimberley Council as key negotiator and coordinating body.

The three-tier structure reflects the vast geographical size of the Kimberley Region. Local communities need to have real opportunities for participation and the chance to propose relevant priorities: the Community Working Parties/District Councils will provide this. There is also a need for local analysis of social and economic conditions and the identification of key indicators and targets. This is best done at Regional Council level. At the same time, the Kimberley needs a peak body – the Kimberley Council- which can represent the interests of the whole Kimberley and which has the authority to negotiate with governments.

In brief, the responsibilities of each tier would be as follows:

Kimberley Council

The core purpose of the Kimberley Council is to develop a Kimberley Strategic plan, identifying regional priorities and proposing responses to address regional needs. It will establish links with Commonwealth and State agencies and develop an interface through which integrated strategies and partnerships can be implemented in line with the Kimberley Strategic plan. It will work to identify appropriate goals and performance indicators, working within a framework such as the Key Indicators suggested in the document *Overcoming Indigenous Disadvantage*.

The Kimberley Council will also develop forums in which other Indigenous organisations and non-Indigenous organisations can participate to work cooperatively in planning for the region. It will seek opportunities for partnership arrangements or regional agreements which provide an effective foundation for strategies to reverse Indigenous disadvantage. It will also promote an agenda of community development and capacity building in the region.

Regional Councils

This tier is based on the existing ATSIC Regional Council structure. The Regional Councils will be representative bodies with a board of councilors and a salaried Chairperson. These are bodies that are familiar to the Aboriginal communities of the region and have authority and legitimacy. They also have a considerable record of positive achievement that it is important to preserve.

In the three-tier model the Regional Councils will have a new emphasis and role. Their primary function will be to work with community bodies to produce an integrated Regional plan. They will support the Community Working Parties in the identification of local needs and facilitate the establishment of initiatives for community development.

There will be a strong focus on research and planning to identify regional opportunities for social and economic development. Local partnerships and agreements will be sought with appropriate local bodies, such as Shire Councils, to improve the quality of services delivered to Aboriginal people in the local area.

Community Working Parties/District Councils

Regional Councils will establish a number of Community Working Parties or District Councils to form a 'grass-roots' tier of participative community based forums that can develop local plans and priorities. This will feed into and strengthen the regional planning process.

Community Working Parties could be established on a range of bases, depending on local circumstances. They could, for example, be based on significant localities or communities, or on Prescribed Bodies Corporate (PBC), representing Traditional Owners, or on family, linguistic or clan groupings in a region. A different concept is to establish Community Working Parties on the basis of expertise in service issues such as health, education or housing. The representatives may be chosen through traditional structures of decision-making or by election.

The Community Working Parties will provide easily accessible forums for local participation – a 'grass-roots' concept. They will provide a focus for local issues to be identified and channeled into the Regional Councils' planning processes. They will be encouraged to pursue opportunities for community development and capacity building, encouraging community partnership activities with the support of the Regional Councils.

This discussion paper presents some options for the establishment of District Councils and the structure of the Wunan Regional Council.

A Whole of Government Approach

In order to enhance the Kimberley Council's capacity to perform its planning, advocacy and partnerships work, one of its priorities should be to establish forums in which it can engage with other key players in the region. These are:

Kimberley Regional Advisory Body

The Regional Councils and the proposed Kimberley Council are not the only significant Aboriginal organisations in the Kimberley. There are many key bodies with important roles such as KAMS, Law and Culture bodies, Women's organisations, Garnduwah, KLC, CDEP organisations, Kimberley Group Training, Wunan Foundation, Leedal to name but a few. Effective planning and goal setting can only be possible if the Kimberley Council develops effective channels of communication with these bodies. In order to share views and develop cooperative action it is proposed that a regular forum be set up in which Kimberley community organisations can meet with the Kimberley Council.

Kimberley Regional Partnerships Committee

A primary aim of the Kimberley Council is to work in partnership with governments both at the level of Kimberley-wide regional-agreements but also with individual service providers on specific projects at local level. To enhance these cooperative activities it is proposed that a regular forum be established in which government agencies meet with the Kimberley Council to identify strategic goals, along the lines of the current Inter-Agency Committee.

The Kimberley Regional Partnerships Committee will provide an interface with government in which the Kimberley Council can explain its strategic vision for the Kimberley and negotiate a coordinated partnership approach to achieving outcomes.

This forum will also allow the Kimberley Council to develop a monitoring and reporting role in respect of the responsibilities of government agencies to meet objectives.

Further details of the **Three Tier Model of Regional Governance** proposal can be found in the Discussion Paper *Building a Future Together*, available from Wunan Regional Council, Kununurra.

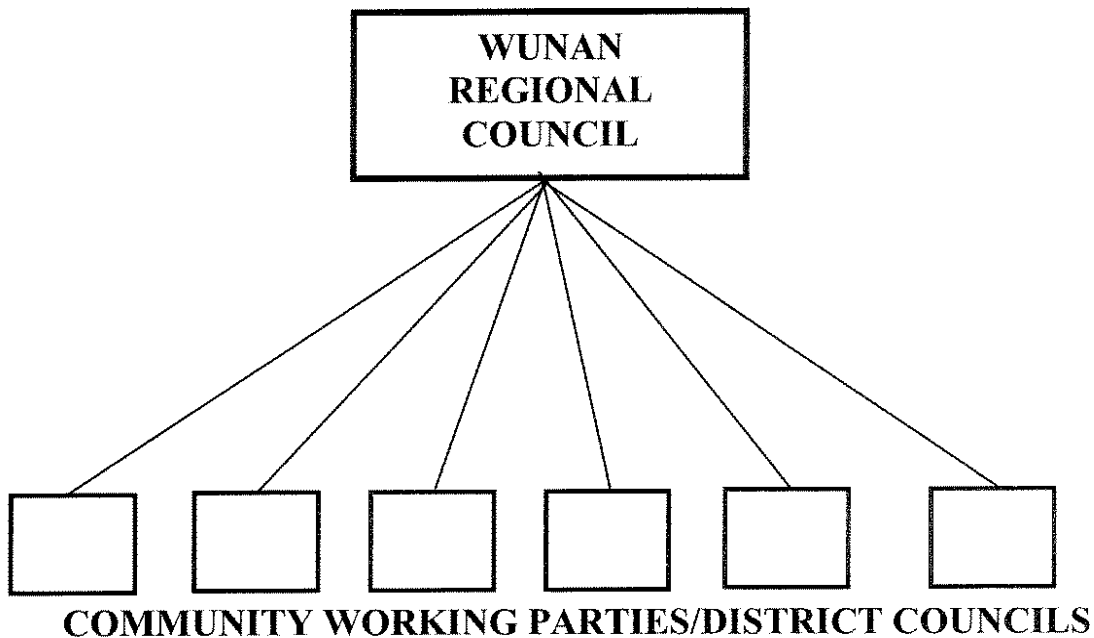
Tel. 08 91682350

or email meegan.schell@oipc.gov.au

4. DEVELOPING AN EAST KIMBERLEY MODEL OF LOCAL GOVERNANCE

The main focus of this discussion paper is to canvass support for a model of local/regional governance – that is, the two bottom tiers of the diagram on page 3.

Diagram 2: Wunan Regional Council and District Councils



The Regional Council Structure

The Regional Council has been one of the strengths of the ATSIC structure and should be seen as a strong foundation on which to build new structures. The ATSIC Wunan Regional Council is well-known and has a good track record of achievements. It is therefore proposed that as far as possible its role and functions should be preserved.

There are many good reasons for this. It makes sense to preserve the legitimacy and authority of the current Wunan Regional Council and to continue the positive role that it has played in the region. Where possible the new Regional Council should simply take over the functions of the previous Wunan Regional

Council, including membership of committees etc. A smooth changeover will provide stability and allow existing partnership arrangements to be continued.

Community Working Parties/District Councils

This is a new element of the model and is intended to make stronger links between the Regional Council and the communities it serves. One of the strengths of the proposed model of governance is that it creates significant opportunities for community participation. It seeks to give local people the authority to speak for themselves and their communities and to have real input to planning processes and priority setting. In the options that follow some different ways of doing this are suggested. The reason that this level is given two names (Community Working Parties/District Councils) is that until a model is chosen it will not be clear what role they will take – the name will reflect the model that is decided.

DISCUSSION:

When considering the options a number of key principles need to be considered. When choosing between the options we should make sure that these new arrangements reflect the way our region is structured and the way that we make decisions within our communities and local areas. Some issues which need to be considered:

Representation:

- What principles should be used to select representatives?
- What geographical areas should be represented?
- Are there special groups that should be represented?

Role and responsibilities of District Councils/CWPs:

- What should they be asked to do?

Composition of the Regional Council:

- Should the Regional Council be chosen independently from the District Councils, or should it be composed of representatives from the District Councils?
- What method of representation should be used to select Regional Councillors?
- Should any special groups have representation on the Regional Council?

A. REPRESENTATION

In the next section (p. 15) a number of different options are presented to suggest ideas about how the Regional Council and the Community/Working Parties or District Councils should be set up. When considering the different options one issue which needs consideration is how the members of the Community Working Groups/District Councils should be selected. In other words, who should be represented and how should they be chosen. Several aspects of representation need to be given thought:

1. Election:

One of most important choices is whether the method of selection should be by election, or by some alternative method.

The current method of choosing ATSIC Regional Councils is by election, based on adult voters on the Australian electoral roll, voting on the basis of a geographical ward based system. Some of the criticisms of ATSIC have been that certain groups of people did not achieve representation using this open approach to selection, for example women and young people. In a new model representation could be based on different principles, if we choose. We should consider the options.

An electoral system based on geographically based electorates is generally believed to provide representatives who reflect the people's choice of leader, someone they respect or have confidence in and a spread of representation from different **places**. It doesn't necessarily ensure that all the different **types of people** in the area are represented, such as women, youth, older people or language groups.

A representative system can be based on other systems, rather than a **geographical** voting system. For example it could be based on clans or language groups, each voting for an agreed number of representatives on the Council. There could also be a system where men and women had votes for their own representatives, or there could be a specific vote for a young people's representative. These places could be specified in addition to a geographical electoral system, or perhaps within it, for example, a man and a woman from each ward.

2. Delegates:

Not all representative systems use elections. Sometimes the principle of choosing delegates is used. What this means is that nominated groups or organisations are given the right to appoint a representative to a designated place on the Council.

This approach could be used to create a Community Working Party or Council based on local expertise, for example designating a nominee from the health service, from the school, from the Mothers' group or youth group etc.

It could also be used to ensure representation for specific groups within the region, for example, including a delegate from nominated Traditional Owner groups (TOs). It would be possible to specify that the chair of a particular group should be a delegate, or the choice could be left to the group itself. If this option is chosen some thought needs to be given to how the group will be defined and how the choice of delegate will be authorised.

3: Boundaries:

Another important issue of representation is the boundaries that define electoral districts. At the moment the ATSIC Regional Council boundaries include most of the East Kimberley. We should think about this carefully and decide whether these boundaries make sense for our communities. If there are groups or communities who are currently included in the Wunan Regional Council who believe they should be in another Regional area, then this is the time to speak out.

Similarly we should consider the ward arrangements. At present there are three wards in the Wunan Regional Council: Yawooroong (north), Yarleyel (central) and Kutjungka (south). The wards have been used as separate voting districts in ATSIC elections to ensure a spread of elected representation on the Wunan Regional Council.

If we choose an option with elected representatives, we need to consider whether we wish to preserve those same ward boundaries in a new system of representation. If we decide to keep a ward system, are the current three wards enough? Are there communities who think they are in the wrong electoral division?

It is possible to have more wards – for example, each ward could be based around a reasonable sized community and the outlying groups that have links with it. There could be, for example, up to ten or twelve wards, each with a District Council, each of which sends a representative to the Regional Council.

B. ROLE AND RESPONSIBILITIES OF COMMUNITY WORKING PARTIES/DISTRICT COUNCILS

As discussed previously, the proposal to set up a level of governance below the Regional Council is a new one. It is intended to use this tier, if adopted, to strengthen the links between grassroots communities and the Regional Council – to provide a firm basis for wide participation in setting strategic direction and drawing our communities ‘into the loop’ of planning and monitoring outcomes.

To some extent the way we set up these bodies will influence the way they operate. We need to think carefully about the role we wish them to play and what responsibilities they will be given. They could be set up in various ways: as District Councils, as Community Working Parties, or another option is for the Regional Council to establish Portfolio bodies. Each of these options is discussed below.

Option 1. District Councils

A District Council would create an additional layer of community representation at local level. It could be an elected body or a mixture of elected and nominated places. For example a District Council could be set up for the Desert region. It could consist of elected representatives from each of the significant communities in the area (or another possibility would be to have nominees such as the Community Council Chairperson instead). There could also be places for youth, women, elders or TO representatives.

It would function as a body that could speak for a wide range of community views and have an on-the-ground knowledge of local issues. These new representative bodies would be in a strong position to identify grass-roots issues and work on a local plan for priority action. Members would have a good knowledge of their local communities and be able to act as liaison between planners/service agencies and strong people in the communities who could help to develop good initiatives to improve local outcomes.

Many people see this as an improvement on the ATSIC model, where the gap between communities and the Regional Council was too wide. Especially in remote areas like the East Kimberley, ordinary people were unable to participate in the Regional Council processes because of huge distances and the difficulty and expense of traveling to town. Setting up a community-based tier of participation will help to improve communication and participation by community members.

Option 2. Community Working Parties

A Community Working Party Model is different to the District Council concept in that it is not based on a third tier of broad community representation, but

instead, sets up local working parties of **delegates** from community organizations or groups with particular expertise or knowledge.

This model would emphasise the involvement of people with skills and relevant background in planning and monitoring service delivery in the communities. A Community Working Party could be set up in each ward or electoral area. The elected Regional Councillor for that area could chair a Community Working Party that consisted of a number of delegates from designated areas such as health, justice, youth, women's groups, aged care etc. These Community Working Groups could contribute expert knowledge to the development of community and regional plans.

A possible drawback of this model is that expert members of Community Working Parties would be expected to play a monitoring and planning role in relation to service delivery and outputs in the local area. It is quite likely that as experts they may have some professional involvement in existing local service delivery and hence a conflict of interest.

Option 3. Portfolio Bodies

Portfolio bodies are another way of including community level expertise through delegates. They do not require any additional representative tier at the community level, but could be attached to the sort of Regional Council structure that is currently in place with the ATSI Regional Council.

In addition to the representative arm of the Regional Council, portfolio bodies could be established to reflect important areas of strategic planning such as education, housing, health, women's issues, economic development etc. Now that ATSI's programs have been mainstreamed there will be a need to develop a strong position at Regional Council level across the full range of policy and program areas. Portfolio bodies would help the Regional Council to develop effective plans to improve the way business is done at community level.

Each portfolio body would consist of a delegate from each of the wards or electorate divisions in addition to a Regional Councillor Chairperson. The delegates would be expected to have relevant expertise in the field. This would often mean a professional position in the portfolio area, such as a teacher in the education portfolio, a health worker in the health portfolio etc. The difference between Community Working Parties and Portfolio bodies is that the Community Working Parties bring together experts from **all** policy areas **within** a local area, while the Portfolio bodies set up **specialized expert** groups on a Regional basis.

When considering these different ways of establishing a third tier of governance, we need to consider what role we want these bodies to play. The objective of the new system of Regional Governance is to provide a basis for a strong partnership between Aboriginal people and government. We want to be able to participate in identifying problems, setting objectives and monitoring effective service delivery and goal achievement in our communities. Will this be best achieved by developing additional opportunities for general community participation (through District Councils, for example) or is it better to encourage additional participation by ‘experts’ such as health workers, youth workers and people with demonstrated skills in our communities (for example through the Community Working Parties or Portfolio bodies?).

C. COMPOSITION AND ROLE OF THE REGIONAL COUNCIL

Although there is support for the retention of the Regional Council structure as the foundation stone of a new model of Regional Governance, this does not mean that it is impossible to change some of the current arrangements.

Some of the models that follow for discussion propose new and different ways of setting up the Regional Council. At present, Councillors are elected directly to the Regional Council on the basis of geographical wards. This does not have to be the case.

For example, in some of the models that follow, the voters elect or choose representatives for the District Council based on their local area. The chair of the District Council then becomes the local representative on the Regional Council. This would create a strong linkage between the local District Council and the Regional Council. This could improve the ability of the Regional Council to develop sound community plans and to advocate on the behalf of communities for better recognition of their needs.

Another issue that should be discussed is whether there are some important groups in the community who should be recognized by establishing designated places on the Regional Council. The ATSIC method of election has been criticized for not producing significant representation for women, for elders or youth. This could be addressed by nominating women’s places (or youth, or elders) on the Regional Council.

Another important issue is whether TO groups should have designated places at either the Regional Council or District Councils level. This could be also achieved by nominating places for such groups. One difficulty with this is that the number of TO groups is not fixed and ongoing Native Title cases might lead

to further bodies being established who would not have representation in the constitution of the Regional Council. This needs some thought.

Another principle reflected in some of the options that follow is the direct election of the Regional Council chair. At present the chair of the ATSIIC Wunan Regional Council is elected by the councillors from amongst themselves. This could be continued, or another idea, reflected in some of the models, is the option of all voters in the region directly electing the chair. This could be done first, before the other elections, to allow the candidates who don't succeed to stand for other places. The advantage of having a directly elected chair is that the successful candidate would have to have a broad base of support and not be identified with one particular region or community. He or she would be elected on the votes of the whole region and would have strong legitimacy as a leader.

In Section 5 that follows you will see a number of models for consideration. These are not set in concrete but are intended to promote discussion. They can be 'mixed and matched' or new components can be added.

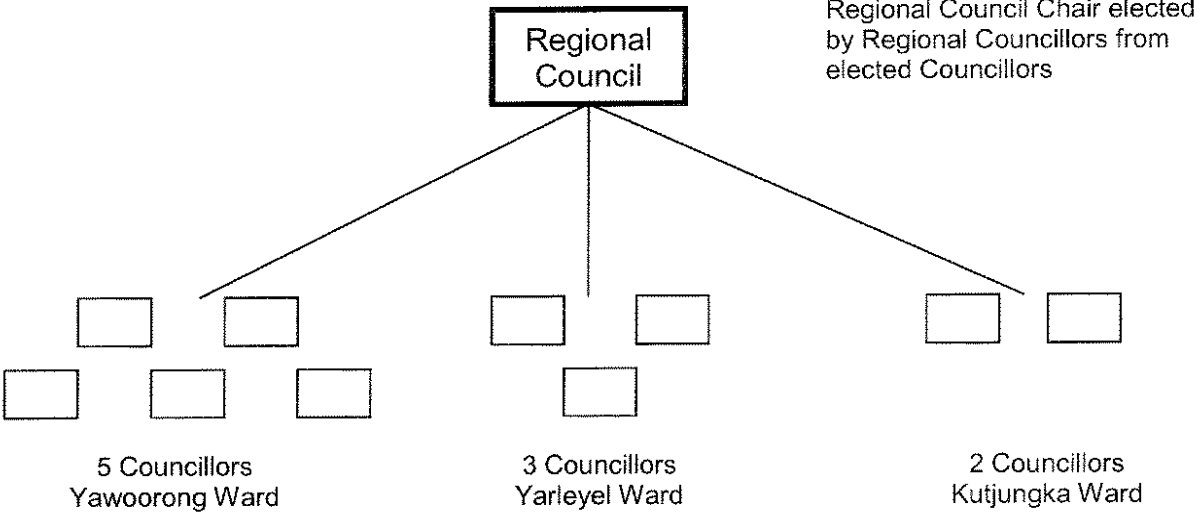
Comments should be forwarded to Wunan Regional Council Chairman, Chairman George Hamilton or ATSIIC Commissioner Ian Trust by contacting:

**Wunan Regional Council
PO Box 260
Kununurra WA 6743**

Tel. 08 91682350

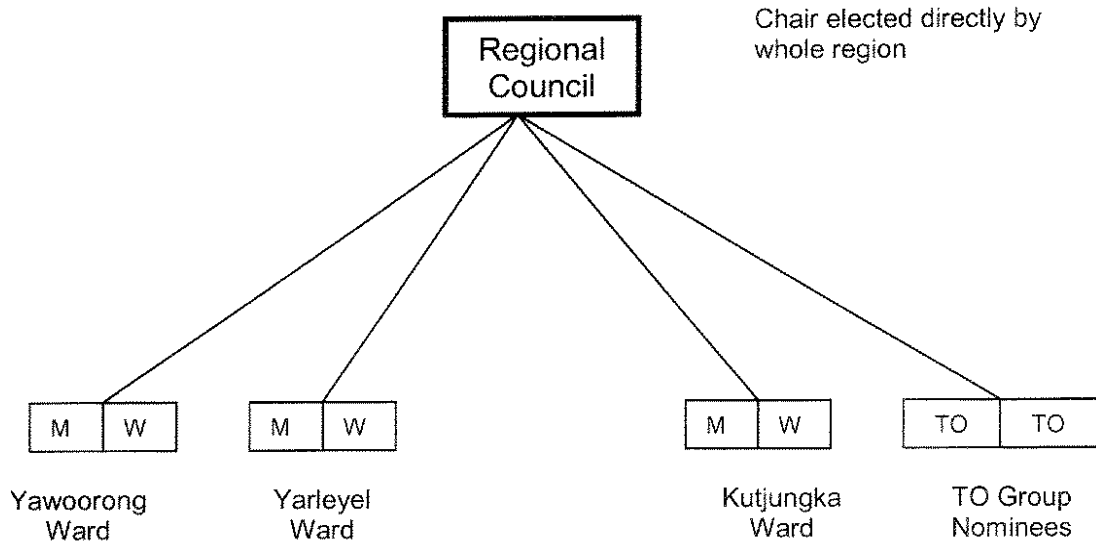
email meegan.schell@oipc.gov.au

A. CURRENT MODEL



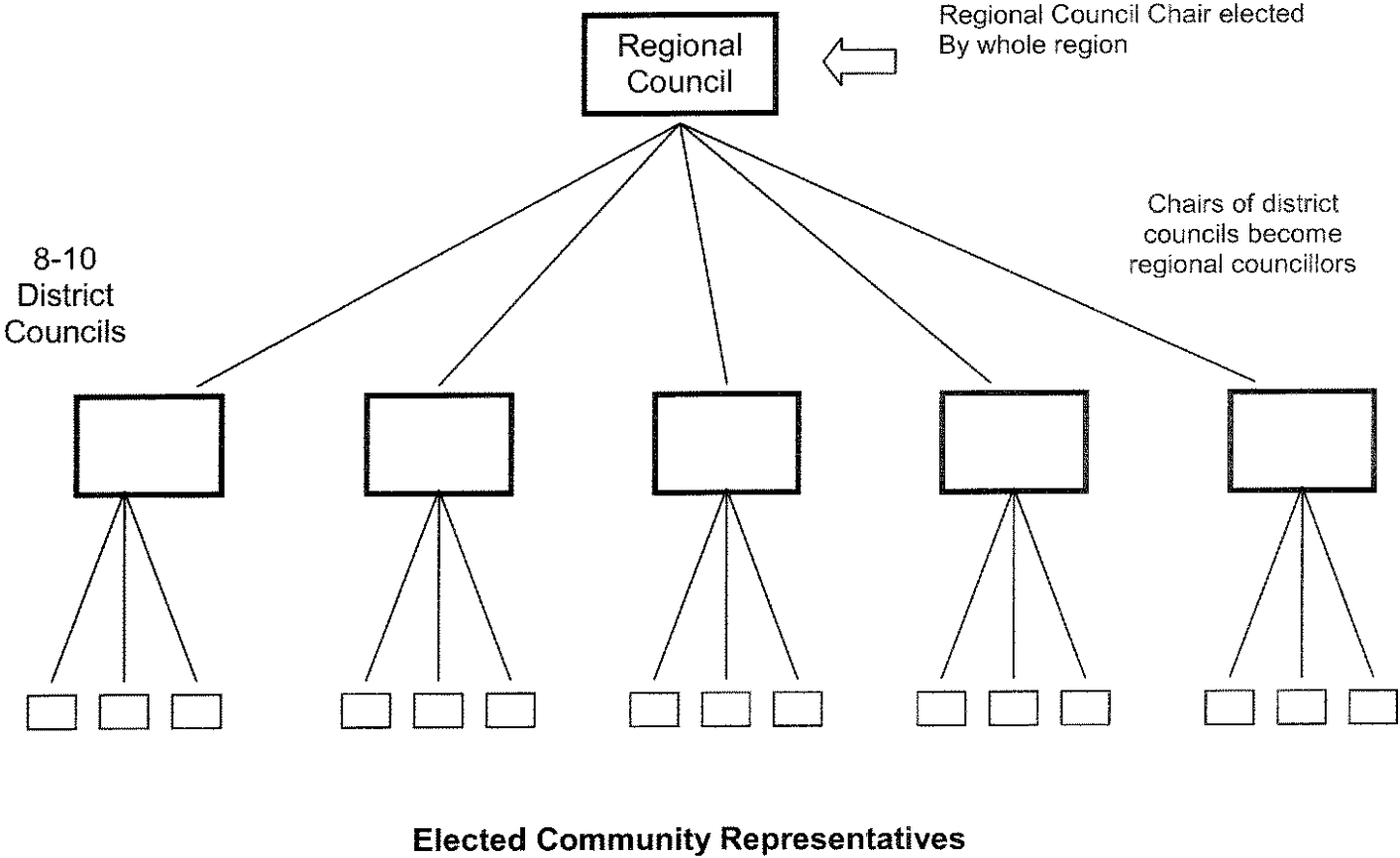
In this model there are no District Councils/Community Working Groups

**B. Current Model
with Men/Women/TO representatives**



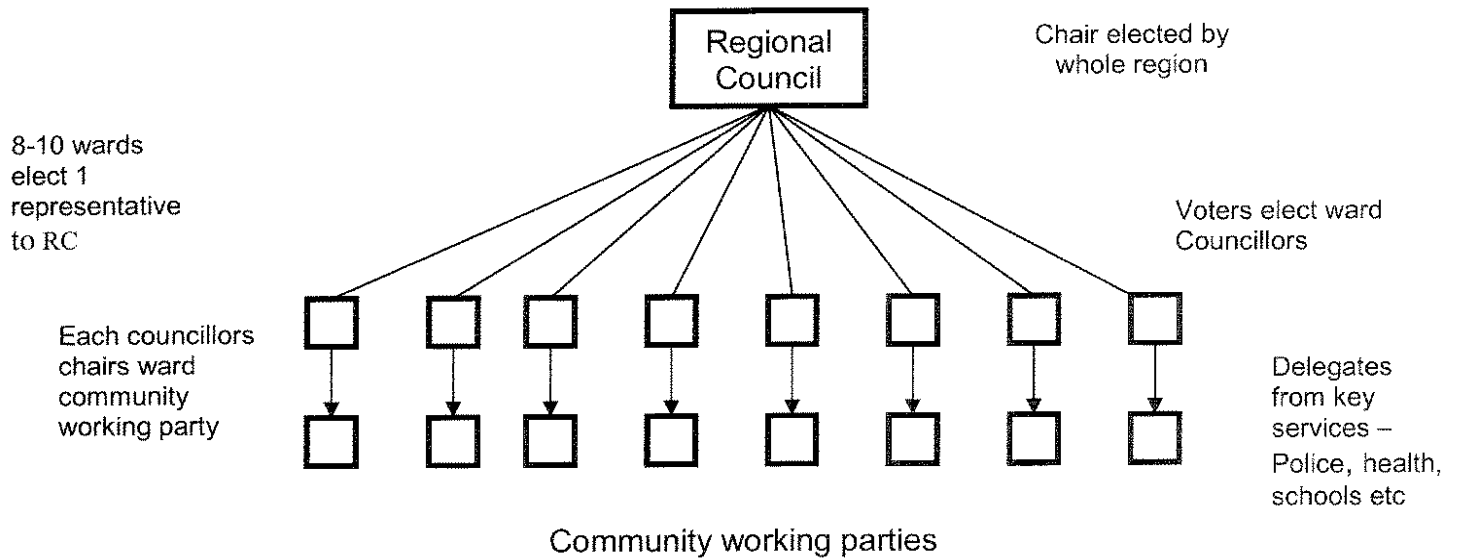
Electors within each 3 wards choose M & W representatives who become members of Regional Councils. In addition TO groups send delegates to regional council. The Regional Council chair is elected by the whole group.

C. District Council Model



District Councils could be based on larger towns/communities –Wyndham, Kununurra, Halls Creek, Balgo, Forrest river, Kalumburu, Warman

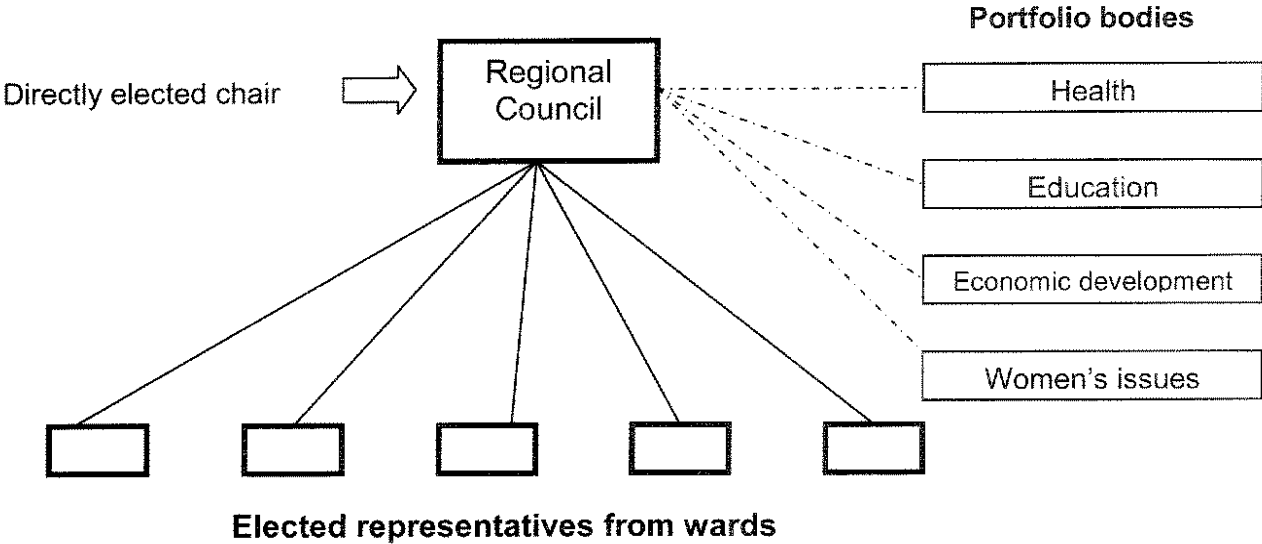
D. Community Working Party Model



Note: If desired, positions could be created on Regional Council for a women's representative or youth representative or nominees from TO group

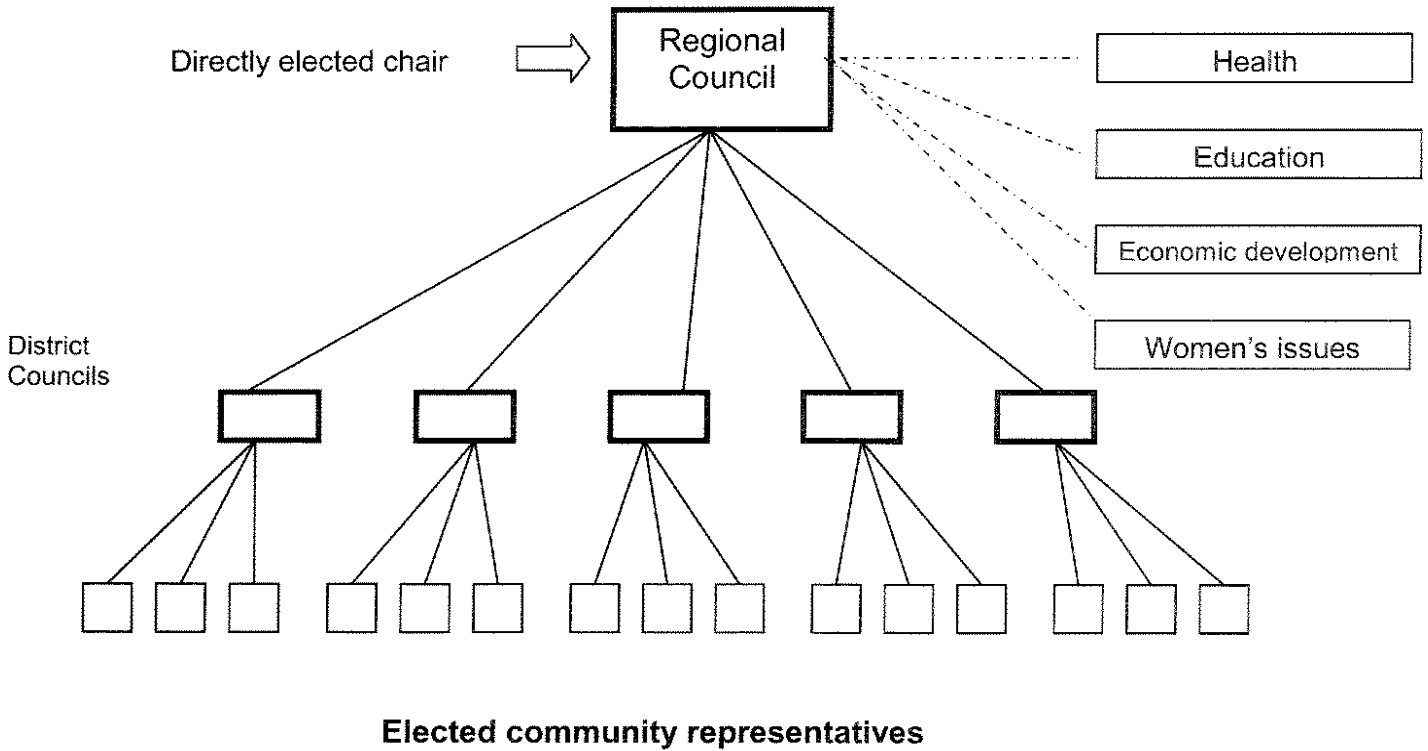
E. Portfolio Model

Regional Council sets up bodies chaired by Regional Councillors, with expert delegates from each ward.



The Regional Council would be elected on a ward or community basis. Separate portfolio bodies of experts would be set up. Each portfolio body would be chaired by a regional councillor and consist of nominated experts from each ward who could develop policy & monitor service delivery in strategic program areas.

**F: Combined Model:
Community Councils & Portfolio Bodies**



Elected/ nominated representatives from each major community within each district.
Chairs of District Councils become Regional Councillors

This model combines the District Council elected representatives with
Portfolio bodies at Regional Council level