



South West Aboriginal  
Land & Sea Council



File Ref: GRE.049

9 August 2004

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

Dear Mr Curtis

The South West Aboriginal Land & Sea Council (SWALSC) offers the attached submission to the Inquiry into the Administration of Indigenous Affairs. It is noted that the Inquiry has been convened as a result of the discussion in the Senate on the following matters:

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

In addressing the appropriateness of South West Aboriginal Land and Sea Council speaking on behalf of Noongar people, the following credentials are offered:

- The South West Aboriginal Land and Sea Council became the Native Title Representative Body (NTRB) in December 2001, for the area known as the South West of Western Australia.
- The Land and Sea Council advocates on behalf of 28,000 + Noongar people. The Noongar people are traditionally and historically associated with this region and comprise almost half the Indigenous population of the State of Western Australia.
- The SWALSC Native Title Representative Body comprises the area of the existing two ATSIC Noongar Regional Councils and is the only totally regional organisation representing the interests of all Noongar peoples.

The South West Aboriginal Land and Sea Council would welcome the opportunity of making a verbal submission and supporting presentation. We would like to be able to follow up our submission with Inquiry Committee Members, to complement our proposal for a Regional Authority model to replace the existing ATSIC structure. Such meeting would enable SWALSC to outline our proposal in far greater detail and to be able to answer any questions Members may wish to clarify.

SWALSC looks forward to hearing from you on our submission.

Should you have enquiries relating to any aspect of the letter or the attached submission, please do not hesitate to contact the Chief Executive Officer, Mr Darryl Pearce, on Phone 08 9284 2400 or Mobile 0407 703 680.

Yours sincerely

**South West Aboriginal Land & Sea Council**



**Ms Lyn Lund**  
**A/Chief Executive Officer**



**Mr Ted Hart**  
**Chairperson**

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

from the  
**South West Aboriginal Land & Sea Council**

*“Fringe dwellers no-more - Moving from a disadvantaged past to a new future- a Noongar Regional Authority Model”*

South West Aboriginal Land & Sea Council (AC)  
7 Harvey Street (PO Box 4112)  
VICTORIA PARK 6979  
Phone 08 9486 2400  
Fax 08 9486 2499  
[www.noongar.org.au](http://www.noongar.org.au)

Contact person for Submission: Roger Cook, Phone 9486 2403

## Table of Contents

<b>FOREWORD</b> .....	<b>1</b>
▪ <i>Context of this submission</i> .....	<i>1</i>
<b>EXECUTIVE SUMMARY</b> .....	<b>2</b>
<b>1. INTRODUCTION</b> .....	<b>4</b>
<b>2. PRIMACY - TRADITIONAL OWNERS</b> .....	<b>6</b>
▪ <i>Looking Back: A brief overview of the legislative frameworks for the Administration of Indigenous affairs in the Noongar region</i> .....	<i>6</i>
▪ <i>A demographic profile of Noongar Nation. A brief analysis of the ABS Statistics in the Noongar Region</i> .....	<i>8</i>
<b>3. BACKGROUND TO THE ESTABLISHMENT AND STRUCTURE OF THE SOUTH WEST ABORIGINAL LAND &amp; SEA COUNCIL (SWALSC)</b> .....	<b>9</b>
▪ <i>History of SWALSC formation</i> .....	<i>9</i>
▪ <i>Objects of SWALSC</i> .....	<i>9</i>
▪ <i>SWALSC appointed as NTRB in December 2001</i> .....	<i>10</i>
▪ <i>Structure of SWALSC</i> .....	<i>10</i>
▪ <i>Membership</i> .....	<i>11</i>
<b>4. THE SINGLE NOONGAR CLAIM STRATEGY</b> .....	<b>13</b>
▪ <i>SWALSC: Native Title Representative Body Area</i> .....	<i>13</i>
▪ <i>Extensive Consultation Processes</i> .....	<i>14</i>
▪ <i>SWALSC Ward and Working Party Structure</i> .....	<i>15</i>
<b>5. OTHER MAJOR INITIATIVES UNDERTAKEN BY SWALSC AND OUTCOMES OF THESE INITIATIVE AND REGIONAL GOVERNANCE MODEL</b> .....	<b>16</b>
<b>6. DEALING WITH STATE GOVERNMENT</b> .....	<b>17</b>
▪ <i>Comprehensive Regional Agreement</i> .....	<i>18</i>
▪ <i>Developing Indigenous Land Use Agreements an extensive project</i> .....	<i>19</i>
▪ <i>Recognition of SWALSC Activities</i> .....	<i>20</i>
<b>7. THE FUTURE DIRECTION AND POTENTIAL FOR A NOONGAR REGIONAL AUTHORITY MODEL – WHY THIS MODEL MAKES SENSE</b> .....	<b>21</b>
▪ <i>Limitations of the ATSIC Regional Council Structure</i> .....	<i>21</i>
▪ <i>Future for Noongar Governance</i> .....	<i>22</i>
▪ <i>Regional Authority Structure Best Fit for Noongar Region</i> .....	<i>23</i>
▪ <i>Regional Authority is needed to provide stimulus and direction for the Noongar community</i> .....	<i>23</i>

*“..It’s not only for us but for everybody – it gives us all a sense of belonging”*

Doolan Leisha Eatts – Noongar Elder  
June 2003

## **Foreword**

The notion of “fringe dwellers” people living on the fringes of Australian society is one that has long formed part of the “mental landscape” of Aboriginal and Non-Aboriginal Australians. Living on the fringes of society however is not just about the physical location of camps and marginalised communities living on the edges of our cities and towns. For too long Aboriginal Australians have also been the fringe dwellers of economic, social and political advances and benefits enjoyed by their non-Aboriginal counterparts.

This submission is not about apportioning blame or despairing about why, for so long the Administration of Indigenous Affairs has seemingly failed to address and meet the needs and aspirations of Aboriginal Australians.

This submission is about proposing positive solutions and models. It seeks to share the experiences of the Noongar people of the South West of Western Australia as they have come together to find a new way forward *“not just for us (Noongars) but for everybody.”*

The South West Aboriginal Land and Sea Council (SWALSC) thanks the Select Committee for providing the opportunity to make submissions to its Inquiry into the Administration of Indigenous Affairs.

### **▪ Context of this submission**

The Federal Government’s announcement to abolish ATSIC and dismantle the existing model of elected Indigenous representation intersects with a unique and historical time for the Noongar people of the South West of Western Australia. The last three years have heralded a time of great positive change and shifts with the Noongar community.

Whilst acknowledging the feelings of disappointment and uncertainty that the decision to dismantle ATSIC has caused, SWALSCs view is that the timing of the Federal Government’s announcement and the terms of reference of this Select Committee presents Governments (at both Federal and State levels), the Noongar people and the broader community a unique opportunity to jointly develop and implement new and sustainable directions in the administration of Indigenous Affairs.

In this regard, SWALSC presents this submission to the Select Committee outlining the initiatives, programs and models undertaken by SWALSC and the Noongar people over the last three years, which go directly to the fundamental issues which arise from the proposed changes to the Administration of Indigenous Affairs.

## Executive Summary

The fundamental propositions that SWALSC puts forward are as follows:

1. The administration of Indigenous affairs under the ATSIC model has failed to address systemically the fundamental disadvantages of the Noongar people;
2. There is an urgent need to re-define and re-develop the current relationship between Noongar and non-Noongar constituents;
3. There is an urgent need to direct, commit resources and to “re-think” the establishment of new processes and representative structures in the administration of Indigenous affairs;
4. Such processes and structures need to be culturally appropriate, accountable and robust. They must permit and encourage meaningful dialogue and joint engagement both within the Noongar community as well as between Noongar and Governments;
5. A model which encourages the development of joint partnerships and initiatives which address social, economic, political and governance issues at both policy and administrative levels is required;
6. SWALSC is working towards and strongly endorses the establishment of a Noongar Regional Authority structure as the most appropriate model to achieve the above outcomes

The Noongar nation is a single cultural bloc. Noongar culture has continued to thrive despite the impact of colonisations, past legislation and policy practices, which sought to divide Indigenous peoples. Noongar families continue to live on and care for ‘their country’.

SWALSC was formed as a regional organisation and exists as the only whole of region Noongar organisation. Its structure which is inclusive and representation is drawn from fourteen (14) Wards across the entire region. The structure of the organisation is based on the concept of Traditional Ownership and empowering the ‘right’ people to speak for country.

SWALSCs governance structure for native title and non-native title components of its operations enables strong regional consultation, providing forums, where the community can discuss a range of issues that impact on the lives of Noongar people.

Through the establishment of such structure SWALSC has been successful in facilitating a significant number of outcomes including but not limited to:

- The Single Noongar Claim strategy;
- The negotiation and implementation of a number of MOU with key stakeholders;

- The joint commitment by SWALSC and the Western Australian Local Government Association on behalf of the 105 local governments across the region to negotiate Indigenous Land Use Agreement (ILUAs).

Such outcomes encourage and lead to a fundamental shift in the engagement between Noongar nation with the wider non-Indigenous community and creates opportunities for economic and social advancement.

SWALSC sees the establishment of a Noongar Regional Authority, which builds upon the representative and governance structure developed by SWALSC as the next essential step.

A Noongar Regional Authority, which builds upon existing foundations of a culturally relevant and appropriate Noongar governance structure, has the potential to become a platform for:

- The re-definition of the relationship between Noongar and non-Noongar constituents in the South West;
- The establishment of new processes by which Noongars and Government can jointly engage to address social and economic development issues at both a policy and administrative level;
- The establishment of a representative structure which provides the interface between Noongar, Government and other stakeholders; and
- The establishment of a structure that houses Noongar governance structures, community mechanisms relevant and appropriate to Noongar decision making and other internal structures designed to hold and protect Noongar cultural, community and economic interests.

We seek the Select Committee to understand the consequences of more than one hundred and seventy five years of colonisation:

- To recognise the Noongar community as a diverse Noongar community of 28,000 + people.
- A community that has been discriminated against, both economically and socially, yet, despite adversity, has maintained its cultural and social networks.

SWALSC endeavours to form the basis of a Regional Authority is the cornerstone of empowering Noongars to shape their own future rather than a future shaped by others. The Committee's support for a Regional Authority model of Indigenous representation will be an important step in this process.

SWALSC sees the establishment of a Noongar Regional Authority as a cornerstone in empowering Noongars to share their own future rather than a future shaped by others. The Committee's support for a Regional Authority model of Indigenous representation will be an important step in this process.

## **Submission to the Senate Select Committee on the Administration of Indigenous Affairs**

### **1. Introduction**

The South West Aboriginal Land & Sea Council provides this submission to the Select Committee on the Administration of Indigenous Affairs and makes the following introductory comments on issues of Administration of Indigenous Affairs in the Noongar Region.

This submission will explain why SWALSC was incorporated in June 2001. Later being recognised as a Native Title Representative Body (NTRB, in December 2001, the identification of Traditional Owners and the further identification of Noongar families and the appointment of their representatives to speak on their behalf has been the cornerstone initiative undertaken. Asserting the primacy of doing business with the 'right' people has been an important and fundamental principle.

The representative structure of SWALSC enables the organisation to cover the entire Noongar Region.

SWALSC is the regional representative & Native Title Representative Body for the Noongar region and represents claimants for the Single Noongar Native Title Claim. The exhaustive consultation phase in developing the Single Noongar claim, replaced over 18 existing native title claims and, has had the effect of unifying the Noongar peoples who have withstood colonisation and repressive laws, yet are still practicing traditional culture, laws and customs as carried out pre-colonisation.

The consultation phase provided the necessary authorisation for SWALSC to represent Noongar interests. SWALSCs ability to be responsive to identified needs has only been limited by the availability of the necessary resources able to carry out the objects of its charter.

Some progress had been negotiated with the two ATSIC Regional Councils that comprise Indigenous interests within the Noongar region. In recent times, many efforts to work together on regional issues have been frustrated by ATSI staff.

SWALSC views the development of the Noongar region in a holistic way. The core tenet of this philosophy is that land, culture (including language) and spiritual beliefs cannot be viewed as separated entities.



The following sections provide an overview of:

- The demographics of the Noongar Nation
- Background to the establishment and structures of SWALSC
- Why a Noongar Regional Authority?
- Engagement with the Noongar Nation and the development of new governance models
- Major initiatives undertaken by SWALSC
- Outcomes of these initiative and the regional governance model
- The future direction and potential for a Noongar Regional Authority Model

Members of the Select Committee are invited to read in more depth on each of these matters, to appreciate a better understanding of the Noongar region and its Indigenous people.

## 2. Primacy - Traditional Owners

### *The Noongar People - Speaking for country*

*SWALSC has spent the past two years identifying the appropriate people to speak on cultural and spiritual matters associated with their country. SWALSC has identified core family groups that form the basis of the Noongar Nation. By acknowledging and formally recognising traditional lines of authority SWALSC has embraced the cornerstone of Indigenous governance for Noongar people – the primacy and legitimacy for Traditional Owners to be heard and have their goals and aspirations understood.*

In the past Aboriginality was largely seen by the non-Aboriginal community as a generic distinction. Typically Government agencies have tended not to draw upon the experience and knowledge of Traditional Owners, but continue to use a network of people known by those agencies. In understanding key components to the successful administration of Aboriginal Affairs it is vitally important for all to “know their clients”. Use of established networks by Government Departments and agencies rather than consultation with Traditional Owners and their authorised kinfolk undermines the Aboriginal community.

Subsequent structures to assist Aboriginal people to be represented within a particular region reflected this attitude of drawing upon all Aboriginal people who live within a particular electoral boundary, rather than emphasising the primacy of those that had the right to ‘speak’ for that country.

Recently, and particularly since the development of the Native Title regime, there has been a growing appreciation of the concepts of Traditional Ownership and to identifying the ‘right’ people to speak for country. Much of this has extended directly from the Native Title Act but increasingly the Non-Aboriginal community is seeking to consult with Traditional Owners across a wider policy spectrum. The consultation process is playing an increasingly important role in the relationship between Indigenous and Non-Indigenous Australia.

It is not possible to know our clients, or their experiences and consequences of insidious legislation, without gaining an appreciation of the effect of colonisation and a description of the Noongar community is provided to this Inquiry.

### ▪ **Looking Back: A brief overview of the legislative frameworks for the Administration of Indigenous affairs in the Noongar region**

The commonly held view by Europeans of Noongar people at the time of colonisation were as ‘Noble savage’ or ‘debased man.’ By the second half of the Nineteenth century theories of evolution including Social Darwinism provided a new perception and Aboriginal people were viewed as a relic from a primitive stage in Man’s early development. Accordingly many Europeans believed Aboriginal people were dying out. Legislation was enacted accordingly: The 1886 *Aboriginal Protection Act* provided for the

'better protection of the physical well being' of Aboriginal people and the restraint of violence against them. This Act established *The Aboriginal Protection Board* which was kept in the hands of the British as they were not convinced the Aboriginal people were being treated justly. Following the establishment of self government in 1890 this board came under intense criticism from the Western Australian (WA) Government and was abolished in 1897.

As European settlement expanded further into Noongar country many Europeans commenced relationships with Noongar people producing offspring. Many of these offspring were sent to missions to be 'civilised and Christianised.' The rise in the number of children being born to supposedly 'mixed-races' led to harsh legislation being enacted. Noongar children had been informally removed since first settlement however, in 1874 *The Industrial Schools Act* legislated one of the first Acts allowing for the forced removal of Aboriginal Children from their families.

The most insidious legislation was the 1905 Aborigines Act.

The 1905 Aborigines Act was similar to the infamous apartheid laws of South Africa where enforced segregation of different races occurred. Marriage between Aboriginal and non-Aboriginal people had to be approved by the 'Chief Protector of Aborigines.' Noongar families were separated from the wider community into institutions and reserves. The Chief Protector became the legal guardian of every Aboriginal and 'half caste' child to the age of 16 having the power to take a child from their family and place them in institutional care anywhere in the state. Police could, on their own initiative, remove children as could Missionaries. In keeping with an informal system of surveillance and control, police were instructed to conduct regular patrols of camps and report on possible removals. Coded telegrams were forwarded to police instructing them to remove certain children. They were coded so as to avoid the possibility of someone pre-warning a family. Noongar families would often hide their children for fear of having them taken. This practice continued as recently as the 1950s and early 1960s.

Aboriginal administration took on various forms from the early twentieth century, all characterised by an extensive bureaucracy and unprecedented control over Aboriginal people. The Aborigines Department existed from 1905-1936; the Natives Affairs Department from 1936-1954, and, the Native Welfare Department 1954-1972. Noongar people born during this period may have a 'personal file' of documents as thick as a telephone book detailing every aspect of their lives from birth to old age.

The effect of this legislation was that over time it sought to control the Noongar people and their population but in reality the Noongar people and their culture still thrived keeping intact their traditions and culture. Noongar families have adapted to colonisation and stayed on 'their country' and it is often possible to trace their heritage back to before the Europeans arrival. Older Noongars and Elders still transmit Noongar culture to the younger people who carry on their traditions and are as familiar with many aspects of their culture as the Noongars of 1829 were.

▪ **A demographic profile of Noongar Nation. A brief analysis of the ABS Statistics in the Noongar Region**

In 2003 SWALSC undertook a detailed analysis of the 2001 Australian Bureau of Statistics (ABS) Indigenous Census material for the purpose of developing a greater understanding of our client base so that SWALSC could be more cognisant of community needs to be considered when developing ILUAs. The Report<sup>1</sup> reviewed ABS statistical data from the Noongar region, the area covered by the two ATSIC Regional Councils. Briefly key statistics indicated the following observations:

- **Indigenous population** in the Noongar region represents about half the State's Indigenous population. People not stating Indigenous Origin understates the true Noongar population which means that less 'Indigenous dollars' come into the region.
- **Median Age:** The Indigenous median age in the Noongar region is 19, compared to a non-Indigenous median age of 34. This statistic highlights that future employment opportunities and strategies need to be urgently created.

**Unemployment:** The 2001 WA State average for unemployment was 7.5%. Country statistical collection districts indicated Indigenous unemployment figures ranging from 15% in to 34.9%. Metropolitan Indigenous unemployment indicated unemployment was from 16% to 38.5%. (Generally Indigenous unemployment is considerably higher than the National average).

Also of concern were the high numbers of people classified as 'not in the labour force'. Furthermore, other literature suggests that the CDEP program could effectively mask Indigenous unemployment.

- **Education:** School retention rates for secondary students to complete their schooling to Year 12, or its equivalent, is a critical factor to successfully obtaining employment.
- **Health:** Noongar people die at a younger age than other Australians (average age of 56 years for men and 61 for women). This is 20 years younger than the non-Indigenous community.

**Studies into Indigenous health, housing and WA imprisonment rates demonstrate that in every significant social and economic indicator, the Noongar people are severely disadvantaged, warranting an immense effort by Government agencies to focus on the Noongar region and develop better service delivery models than exist at present.**

*"...The economic profile of the region indicates current Noongar economic participation is caught in the casual low paid and emerging industries part of the economy which is not delivering an increase in household wealth."*<sup>2</sup>

<sup>1</sup> Rutherford, P. Report 'Noongar Community Statistics and Social Trends', South West Aboriginal Land and Sea Council, July 2003.

<sup>2</sup> Final Report: the Impact of the Noongar people on the Western Australian Economy, report completed for the South West Aboriginal Land & Sea Council (SWALSC), by the Cooperative Education for Enterprise Development Office (CEED) Research Project, 2003, Graduate School of Management, University of Western Australia (UWA), p51.

### **3. Background to the establishment and structure of the South West Aboriginal Land & Sea Council (SWALSC)**

SWALSC became incorporated in June 2001 and was recognised as a Native Title Representative Body (NTRB) in December 2001, commencing trading in February 2002.

#### **▪ History of SWALSC formation**

The Noongar Land Council (NLC) was formed in 1995/96. The NLC was a recognised NTRB until 1998, at which time all NTRBs were required to apply for re-recognition. Following applications to be re-established as an NTRB the Minister for Aboriginal Affairs refused the NLC Representative Body status due to the constitution not being representative and members refusing to agree to the suggested areas he had indicated warranted amendment.

At the time the NLC had been acting on behalf of 18 claims which were later reduced to 6 separate Native Title claims. Following numerous general meeting being held to consider the Minister's required amendments a petition was eventually circulated throughout the Noongar region by Elders and community members who wanted the Noongar community to be able to progress beyond the impasse. The outcome was the formation of SWALSC in June 2001.

#### **▪ Objects of SWALSC**

The Objects of SWALSC are to provide direct relief to all Noongar Peoples from poverty, suffering, destitution, misfortune, distress and helplessness caused directly or indirectly by their involvement with the laws of the Commonwealth or States of Australia and all matters ancillary thereto including, but without limiting the generality of the foregoing, the provision of services and advocacy directed towards:

- (a) securing land;
- (b) protecting the spiritual and physical connection to land of members and their extended families in accordance with their traditions, laws and customs;
- (c) supporting the maintenance, development and advancement of Noongar culture, language and society; and
- (d) promoting Aboriginal reconciliation as a basic tenet of Australian society.

At the time of incorporation, one of the stated functions of SWALSC, should it enjoy representative body status, was to carry out the functions required of representative bodies pursuant to the Native Title Act.

**Asserting the primacy of doing business with the 'right' people has been an important and fundamental principle in the operation of SWALSC.**

**SWALSC views the development of the Noongar region in a holistic way. The core tenet of this philosophy is that land, culture (including language) and spiritual beliefs cannot be viewed as separate entities.**

▪ **SWALSC appointed as NTRB in December 2001**

Following SWALSC being incorporated as an Aboriginal Association under the Aboriginal Councils and Associations Act (1976) a submission was forwarded to the Minister for Indigenous Affairs for NTRB status. Hon. Philip Ruddock granted NTRB status in December 2001 and SWALSC commenced trading on 1<sup>st</sup> February 2002 with a new Interim Executive Committee and staff mostly from the former NLC.

The new SWALSC Executive committed itself to the highest standards of professionalism. This included clear separation of powers between the elected and administrative arms of the organisation and the recruitment of a senior and experienced Land Council Chief Executive Officer, Darryl Pearce.

▪ **Structure of SWALSC**

SWALSC is a large effective regional organisation drawing upon representatives from the traditional area of the Noongar Nation also covering the area of the two ATSIC Regional Councils.

SWALSC governing structure comprises an elected Full Council of 56 Members, plus a Chairperson. The inaugural elections (conducted by postal ballot) were held in June 2002. Members are elected from 14 Wards, with four members elected per Ward. These positions are:

- Executive Committee member (who form the Governing Committee)
- Ward Representative
- Women's Representative
- Older Person (55 years and older)

The dedicated Women's Representative position is an endeavour to actively boost women's representation across the Noongar region. Will Sanders<sup>3</sup> of the Australian National University has also commented the low percentage of women being elected to ATSIC Regional Councils. In the Noongar region the Perth Noongar Regional Council has 3 elected women representatives out of 13 elected members whereas the Country Noongar Regional Council only obtained 2 elected women members out of 11 elected members.

SWALSC has been able to achieve a 50% 'power' ratio of women to men with women being elected to 28 positions on its 56 member Full Council.

The SWALSC Chairperson is elected by the members of the Full Council. The Chairperson presides over both the Executive Committee and the Full Council. The Executive Committee appoints the Chief Executive Officer, who has responsibility for the day to day administration of the organisation.

---

<sup>3</sup> Centre for Aboriginal Economic Policy Research, titled *Participation and representation in the 2002 ATSIC elections*, Discussion Paper No 252/2003.

SWALSC has an existing governing structure in place and also a clear operational structure, which consists of:

- Land Management, overseeing land access and heritage protection and Natural Resources and environmental management.
- Culture and Language, overseeing Research and Project Officers' interactions with the Noongar community.
- Legal, pursuing the Single Noongar Claim
- Government Relations, overseeing strategic policy.
- Corporate Services, working in the areas of Corporate Governance, Finance & Administration.

The Full Council and the Executive Committee have formed a number of Sub Committees to advise the organisation on community and economic development issues on the following areas:

- Economic Sub-Committee
- Language & Cultural Advisory Committee
- Women's Advisory Sub-Committee (comprising the 14 elected members from Wards, who meet to discuss issues – including traditional women's business).
- Older Person Sub-Committee (comprising the 14 elected members from Wards)
- Youth Leadership Sub-Committee
- Noongar Governance Committee
- Finance & Audit Sub-Committee

**The broadly based representative structure of SWALSC provides an integrated consultative regional body.**

In addition to the above structure, **Regional Working Parties** have been formed through the Native Title process, which offers further opportunity to reach well into the Noongar community. Each identified extended Noongar family has 'appointed' representatives on the regional working parties.

The initiative to form the **Youth Leadership Sub-Committee** was taken by the Full Council in May 2003. The Youth Leadership Sub Committee is responsible for empowering and educating the next generation of Noongar leaders about governance, native title, and land, as well as about social, cultural, environmental and economic development. This emphasis will benefit both the Noongar and non-Indigenous people and the community.

#### ▪ **Membership**

Whereas SWALSC was incorporated in June 2001 with 250 members, membership drives have progressively built up membership to almost 2000 members.

These members are out of approximately 13,000 'voting aged' Noongars. A member must be 18 years or over. (It should be remembered that the Noongar median age is 19).

Members have the option of taking up either 'Traditional Ward' or 'Residential Ward' membership. Members take part in elections, which are conducted by postal ballot. The percentage of members voting in the inaugural election for contested positions resulted in a higher poll response than for many local government elections conducted in WA.

**With a representative base of close to 2000 SWALSC represents the largest Noongar representative organisation in the South West region.**



#### **4. The Single Noongar Claim Strategy**

A major Native Title strategy of the new Executive Committee was to consult with the Noongar Nation regarding the potential for existing claims to combine into a Single Noongar Claim.

In a climate of a limited resources and a litigious attitude towards Native Title applications a Single Noongar Claim was seen as the best strategy to advance the native Title aspirations of Noongars.

##### **▪ SWALSC: Native Title Representative Body Area**

An extensive Community consultation campaign was undertaken across the Noongar region to determine whether there was support for this strategy. . *See Attachment 1 on NTRB area.*

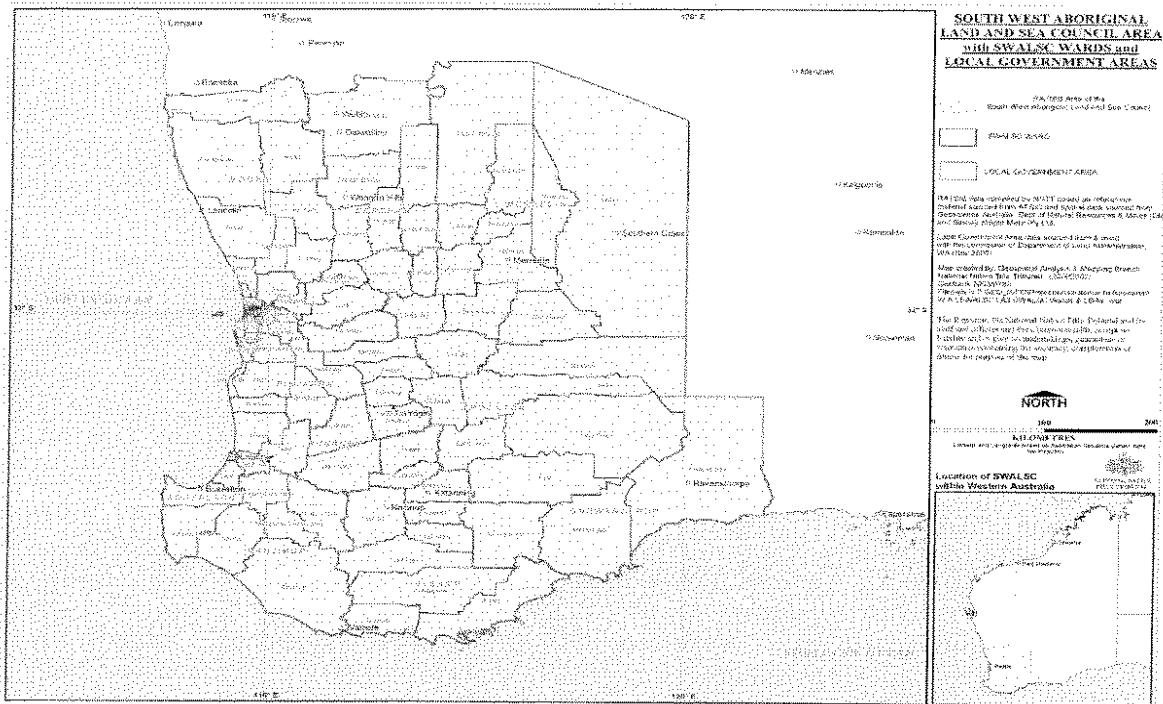
The Noongar region and SWALSC NTRB area comprises lands that stretches south from Eneabba, taking in the northern boundaries of the Shires of Coorow, Dalwallinu and Mount Marshall; east including Shire of Yilgarn; south to include Ravensthorpe to Albany on the lower south coast and along the Indian Ocean coastal cities and towns, including the Perth metropolitan area and north to Leeman (see map over page).

The Noongar region also spans five Western Australian Government economic regions:

- Perth
- Peel
- Wheatbelt
- South West
- Great Southern.

Area Consultative Committees (Commonwealth) are established across the Noongar region and reflect the above listed State economic regions.

**Noongar Region (and SWALSC NTRB area)**



▪ **Extensive Consultation Processes**

SWALSC has implemented the most extensive community consultation program ever undertaken in the Noongar community in developing and seeking authorisation for the Single Noongar Claim. After SWALSC commenced trading in February 2002, a series of meetings were held with the newly elected Full Council and Executive Committee together with the existing Working Parties. The proposal was also canvassed at the inaugural AGM where Members endorsed the concept of the Noongar Nation.

In early 2003 a round of Community meetings were held in seven (7) regional centres to obtain authorisation to proceed with the Single Noongar Claim. Through this consultation 80 Named Applicants were appointed at the meetings to act as signatories for the Single Noongar Claim.

The Noongar Nation is made up of core family groups. A series of family meetings were held with each family and over 116 meetings were convened by SWALSC in the second half of 2003. Community meetings have also been held. This exhaustive process has involved over 4000 people meeting at various times in the biggest consultative exercise ever undertaken in the Noongar community. The family meetings elected family representatives and documented traditional country ‘runs’ leading to the formation of new Regional Working Parties.

The first part of the Single Noongar Claim was filed in September 2003. In October 2003, in programming the claim into mediation the Federal Court made the following comment:

*“The South West region of Western Australia has been bedevilled for many years with intra-indigenous conflict which has effectively prevented meaningful progress in the mediation of native title determinations...it (SNC) does emerge from what appears to have been a serious attempt to provide a mechanism for the management of differing views and interests of the Aboriginal people of the South West...It also presents an opportunity to give new impetus to the development of a comprehensive resolution of native title issues...” His Hon Justice French at p*

While the Single Noongar Claim remains in mediation SWALSC continues to work on the technical process of seeking to combine remaining underlying claims into a Single Noongar Claim.

▪ **SWALSC Ward and Working Party Structure**

SWALSC has developed a structure in its Wards and consultative Working Parties, which effectively enables it to consult on a range of issues across the entire Noongar community.

The Single Noongar Claim is governed by equal representation from all families across the region. This new and unique governance structure is bringing people together in a durable and legitimate regional authority body.

The Regional Working Parties meet on a six weekly cycle and involve over 200 people in the decision making process. This extensive consultative process enables SWALSC to discuss issues; obtain necessary authorisations; and provides a forum for responses to any queries. With the regular reporting back through the six weekly meeting cycles there is a high degree of accountability and transparency of decision making.

Regular quarterly reports are provided to the elected arm of SWALSC through reports to the Executive Committee, who meet on not less than four occasions a year and the Full Council which meets on not less than two occasions per year.

**There is no other single entity that has the capacity to represent the Noongar people as a whole as SWALSC has undertaken. This is an especially important factor in relation to the proposed demise of ATSIC structures.**

**5. Other major initiatives undertaken by SWALSC and outcomes of these initiative and regional governance model**

SWALSC is increasingly being called upon by the Noongar community, as the only Noongar representative organisation, to advocate and organise on behalf of the Noongar people on a range of policy issues affecting Noongar people.

**SWALSC is pursuing a range of strategies to advance the Noongar community. These include:**

- **Negotiating to resolve the Single Noongar Claim with WA State Government to reach a consent determination over the entire South West;**
- **Negotiating a Comprehensive Regional Agreement with the WA State Government to provide for the ongoing negotiation and agreement of a series rolling sub-agreements across policy and portfolio areas;**
- **Implementing a Noongar Economic Development Strategy with the assistance of the Office of Aboriginal Economic Development; and**
- **Providing a focal point for discussion around service delivery for Aboriginal services in the South West.**
- **Facilitating negotiations for the establishment of various MOU and ILUAs.**

## 6. Dealing with State Government

### Statement of Commitment

In October 2001 the State Government agreed and signed with Aboriginal peak bodies in Western Australia a Statement of Commitment on the relationship between Government and Aboriginal people.

The Agreement stated in part:

“...The purpose of this statement is to agree on a set of principles and a process for the parties to negotiate a State-wide framework that can facilitate **negotiated agreements** at the local and **regional level**.

The partnership framework aims to enhance negotiated outcomes that **protect and respect the inherent rights of Aboriginal people** and to significantly improve the health, education, living standards, and wealth of Aboriginal people.

In working to achieve these objectives the parties are committed to the following principles:

- recognition of the continuing rights and responsibilities of Aboriginal people as the first peoples of Western Australia, including traditional ownership and connection to land and waters;
- legislative protection of Aboriginal rights;
- equity with respect to citizenship entitlements;
- regional and local approaches to address issues that impact on Aboriginal communities, families and individuals;
- a commitment to democratic processes and structures; inclusiveness;
- the need to address issues arising from past acts of displacement;
- a commitment to improved governance;
- capacity building and economic independence

**The parties agree that the most effective means of translating the above principles into meaningful action and outcomes is by way of *regional agreements* based on partnerships”<sup>4</sup>.**

The Single Noongar Claim has been recognised by the Western Australian State Government as an important opportunity to engage with the Traditional Owners of the South West as a single negotiating bloc.

---

<sup>4</sup> *Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians*, Government of Western Australia and ATSIC, October 2001.

In Parliamentary Estimates in 2003 the Director General of the Department of Indigenous Affairs stated:

*“This is one of the most exciting things happening around the State. As members know there is a strong push for a Nyoongah (sic) nation, and the South West Aboriginal Land and Sea Council is attempting to bring all the claimants into one native title claim. Emerging from that is a sense of a strong governance body for the Nyoongah (sic) nation...*

*...At the moment it is very difficult to do business down there because we are dealing with a range of different people, disparate groups and competing interests. If they can organise themselves in that way, the advantages to the Government are enormous. We are at the stage now of working with the South West Aboriginal Land and Sea Council as it begins this process to decided how we should organise our [the Department of Indigenous Affairs] regional structure alongside that.”<sup>5</sup>*

Although the Single Noongar Claim had its genesis in the Native Title process, it has emerged as a vehicle for Noongar governance. SWALSC is playing the role of a regional authority for Noongar people and has the potential to complement or replace existing Aboriginal representative structures. The difference is, however, that Noongar people own the process and the structures and it is mandated by strong cultural authority extending from the rights of traditional ownership.

#### ▪ **Comprehensive Regional Agreement**

Arising from the Western Australian government’s commitment to a framework for a Comprehensive Regional Agreement with the South West Aboriginal Land & Sea Council and the Noongar people, SWALSC and DIA have commenced negotiating an ‘Umbrella Agreement’, which will include:

**Recognition:** To establish the basis for a new relationship between Noongar people and the government of Western Australia, including recognition of the status of Noongar people as the first people of the South West;

**Noongar Governance:** to commit Noongars to the highest standards of public governance and accountability and to articulate the potential scope of Noongar autonomy and authority.

**Delivery of Services and Programs:** to provide a framework for the transfer of responsibility for the provision of certain services and programs from the State to the Noongar People, including a detailed process for determining the transfer of funds for delivery services in accordance with the priorities and capacity of the Noongar people;

**Settlement :** To provide for the establishment and growth of the autonomy of Noongar people through a financial settlement;

---

<sup>5</sup> Legislative Assembly- Estimates Committee, Wednesday, 21 May 2003, Page 211b - 213a 1

**Sub-Agreements:** To provide a framework for the development of further Agreements in particular program and policy areas that can be negotiated over time according to the priorities and capacity of the Noongar people.

**Implementation and protection:** To ensure that the Agreement provides the security and certainty for Noongar people and the State through robust provisions for ratification, protection and implementation.

▪ **Developing Indigenous Land Use Agreements an extensive project**

Developing Agreements with governments is proving to be a great opportunity for constructive engagement for Indigenous and the non-Indigenous community. An ILUA is a voluntary agreement about the use and management of land between the Native Title Group and other people.<sup>6</sup>

An ILUA may be a stepping stone on the way to a Native Title determination or it may suit the parties better than a Native Title determination.

**SWALSC has actively been engaging in negotiations for an ILUA with the Central Country Zone (comprising 16 local governments) in the Wheatbelt area of the Central West.**

The advantage of an ILUA is its flexibility – it can be tailored to suit the needs of the people involved and their particular land use issues by making agreements; Indigenous Australians may gain benefits such as employment, compensation and recognition of their Native Title.

The key feature of the Central Country Zone ILUA sets out to replace and simplify all future act procedures under *the Native Title Act 1993* proposed by Stage Government departments and local governments within the Zone.

Additional features of the ILUA includes:

- A process for land management consultation
- Heritage Protection processes
- Formation of Liaison Committee. Management of the ILUA will be by the Committee, which will comprise 3 Noongar representatives, 3 Council representatives and 1 representative from both SWALSC and the State.
- Employment. Councils, where practicable, to employ and contract claimants and nominees, and parties (including the State) will work on an existing employment, training, contracting and business opportunity strategy via the Liaison Committee.
- Social development
- Participation in community events and involvement in Local Government elections
- Awareness raising of Noongar culture and priorities for local governments.
- Awareness raising of local government processes and priorities for Noongar peoples.

---

<sup>6</sup> Native Title Tribunal Fact Sheet

It is hoped that resources can be found for ILUAs to be developed with each of the other 9 local government Zones in the SWALSC Region. An Agreement to this effect was signed with the Western Australian Local Government Association (WALGA) in July 2003. The WALGA represents the 143 WA local governments, of which 105 are located within the SWALSC NTRB area.

**The commitment by SWALSC and the 105 local governments to negotiate Indigenous Land Use Agreements (ILUAs) will encourage and lead a fundamental shift in the engagement with the wider non-Indigenous community and opportunities for economic and social advancement.**

▪ **Recognition of SWALSC Activities**

SWALSC has already been complimented on the role it is carrying out in the Noongar Region.

The following Awards are acknowledged:

- ATSIIC 2003 Native Title Representative Body Achievement Award.
- Prime Minister's 2003 Encouragement Award – awarded to Jacobs Sverdrup Australia (JSA) and SWALSC.
- Prime Minister's State & Territory Business Awards 2004<sup>7</sup> – Awarded to Jacobs Sverdrup Australia – WA Medium Business Winner – for Excellence in Community Business Partnership with SWALSC; Office of Aboriginal Economic Development and the two ATSIIC Noongar Regional Councils.

The study undertaken by JSA, funded by the WA State Government Office of Aboriginal Economic Development (OAED), in consultation with SWALSC, identified a project aimed at the development of an Aboriginal investment strategy for the South West region. The project examined how an investment strategy could operate in the Noongar region.

Pivotal to the strategy of looking forward to a future with promise is dependent on the following pillars:

- negotiating effective outcomes
- close engagement with governments and other stakeholders
- development of effective economic structures and opportunities for Noongar people.

SWALSCs work with JSA has laid the foundation for identifying an economic model suited to the Noongar region.

---

<sup>7</sup> Being a WA Medium Business winner puts this JSA Award in contention for the National Award in August 2004.



**7. The future direction and potential for a Noongar Regional Authority Model – why this model makes sense.**

**The regional and representative models developed by SWALSC in conjunction with the Noongar community have been a key element in promoting regional consultation with Noongar Nation in these key initiatives and outcomes.**

▪ **Limitations of the ATSIC Regional Council Structure**

The existing ATSIC Regional Council structure comprises the two Regional Councils that fit within the SWALSC NTRB area.

Although Noongars represent almost half of the Aboriginal population of Western Australia the structure of the ATSIC WA State Council was such that the political reality was that when it had control of determining funding priorities, the two ATSIC Regional Councils from the Perth and Country Noongar regions were out voted and desperately needed funds were directed to the north of this State. The two Noongar Regional Councils were constantly out voted by the 7 other Regional Councils representing the interests of the regional and remote constituencies. *See Attachment 2 - ATSIC WA Regional and Indigenous population.*

The other limitation relates to the failure of these structures to effectively tap into grass roots and culturally appropriate governance consultative model premised on the fundamental principle of **“speaking for country”**. This together with the resource and bureaucratic limitations have effectively stymied the development and implementation of regional plans.

A further problem limiting the effectiveness of ATSIC Regional Councils being able to help to address issues that improve the well-being of the Indigenous peoples is that following changes made from 1996 the ATSIC/ATSI administrative arm moved to more of a compliance role rather than a community development role.

SWALSC has been frustrated by the actions of ATSIC/ATSI which recently resulted in a situation whereby funding of a Noongar Language and Culture program was granted to another body not representative of the Noongar Region.

SWALSC very early on understood the need to develop an effective and co-operative working relationship. At the local level there has been cooperation between SWALSC and the Perth Noongar Regional Council. Earlier this year the Perth Noongar Regional Council passed the following resolution:

- *“In Partnership the Perth Noongar Regional Council endorse the work being undertaken by SWALSC to secure the traditional rights and interests of Noongar People through the Comprehensive Regional Agreement, which also shall be identified in their Regional Plan, plus the Zone Plan.”*

- *“The Perth Noongar Regional Council will join in partnership with SWALSC and the Noongar Country Regional Council to develop a Noongar Comprehensive Regional Agreement for negotiation and sign off with the WA Government.”*
- *“The Perth Noongar Regional Council in partnership with the Noongar Country Regional Council and SWALSC shall work towards having an in principle agreement with the WA Government in regards to the Comprehensive Regional Agreement...”*

▪ **Future for Noongar Governance**

SWALSC is well placed and well advanced to take on the role of a Regional Authority as the organisation has developed such a structure within the Noongar region.

It has emerged as a result of the Native Title regime but underpins the governance of the Noongar community. This governance structure is based on the enduring cultural values of the Noongar community centred on the role of the family as the traditional source of authority and social organisation.

The studies by Cornell and Kalt at the Harvard Project on American Indian Economic Development examined the success factors of North American Aboriginal communities. **The study concluded that the single most important determinant for success was the capacity to develop nation like structures that recognised and incorporated the community’s traditional cultural values in the governance structures of the community and embraced the sovereignty of the nations they represent.** These communities had a greater and more cohesive sense of purpose, governed effectively (the decisions of the councils were respected because they drew upon the values of that community), and were able to follow through with strategies and goals.

Cornell and Kalt conclude:

*“It is increasingly evident that the best way to perpetuate reservation poverty is to undermine tribal sovereignty. The best way to overcome tribal poverty is to support tribal sovereignty...At the tribal level, the lesson is that those tribes that build governing institutions capable of the exercise of sovereignty are the one that are most likely to achieve long-term, self-determined economic prosperity. They are the ones who will most effectively shape their own futures, instead of having those futures shaped by others. For tribes nation-building is the only game in town.”<sup>8</sup>*

In a similar way the success of the regional authority approach of SWALSC can be found in the value systems that are incorporated into their governance structures and the legitimacy with which they are viewed. The basis for the Noongar Nation is the collective of smaller family or clan groupings across the region, based on family runs or traditional country. These family groupings have formed the basis of the Single Noongar Claim and underpin its governance.

---

<sup>8</sup> Cornell, Stephen and Joseph Kalt, 1998 “Sovereignty and Nation-Building: The Development Challenge in Indian Country Today”, Malcolm Weiner Centre for Social Policy, Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University, PRS 98-25

The Single Noongar Claim embraces the traditional lines of authority that provide appropriate cultural authority to community governance and is the foundation stone for the Noongar Nation.

▪ **Regional Authority Structure Best Fit for Noongar Region**

Several political parties have put forward different models for the future administration of Indigenous Affairs, ranging from mainstreaming in entirety; retaining ATSIC regional councils and the third suggested strategy is to move to Regional Structures.

SWALSC has already demonstrated that it has an elected Full Council of 56, with members representing the whole Noongar region, together with a regional working party structure which provides further capacity for consultation.

SWALSC has been involved in investigations into the development of an authority model that will allow Noongar governance to control how assets are managed and benefits are delivered. The current role, function and activities of the two ATSIC Noongar Regional Councils can be easily accommodated within the existing SWALSC structure. *See Attachment 3 – Noongar Representative Body Model.*

While SWALSC does not presume to suggest that a Regional Authority model may be the most appropriate model for all Aboriginal communities; it is however imperative for the Noongar people, and other like communities, that a regional structure is implemented.

As a Regional Authority, SWALSC would work in partnership with Government to ensure the effectiveness of service delivery agencies and submit findings to funding agencies. There is an enormous need for such evaluation as Noongar people have among the worst social indicators in the nation.

▪ **Regional Authority is needed to provide stimulus and direction for the Noongar community**

Pursuing economic development and taking advantage of economic opportunities have been identified as the means of overcoming the current severe economic disadvantage – and poverty - in the main, caused by high unemployment and resultant dependence on welfare.

Coordinating government departments, agencies and entities such as the Indigenous Land Corporation (ILC) could offer a range of opportunities currently not being accessed for Noongar peoples.

As a recognised Regional Authority a number of opportunities could flow utilising resources from existing entities to assist in the following areas of need:

- Establishment of a Noongar Land Bank for land acquisition
- Economic development of acquired land

- Business investment and opportunities for communities and individuals, which leads to employment.
- Education and training opportunities
- Expansion of Noongar home ownership (currently much lower than the non-Indigenous community)
- Coordination and evaluation of services, such as health.

As referred to earlier SWALSC already has the existing governing and organisational structure in place. The SWALSC Chief Executive Officer oversees each of the above components of the operational structure and is accountable to the Executive Committee and Chairperson, together with an elected Full Council of 56 members. *See Attachment 4 Governing Structure.*

SWALSC is fully accountable to external agencies, through meeting contract obligations, and also to its members.

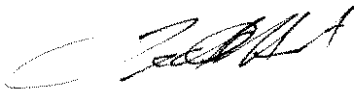
SWALSC is required to report annually to Government and must table its Annual Report in both Houses of Parliament.

It would be anticipated that Economic Business Enterprises, developed as separate entities, would also be accountable to the elected arm, which represents the Noongar region.

Funding of the Regional Authority should be undertaken on a pro-rata Indigenous population basis.

SWALSC commends the concept of establishing Regional Authorities to the Select Committee on the Administration of Indigenous Affairs, and establishing such Authority in the Noongar region of Western Australia.

This Submission is signed by:

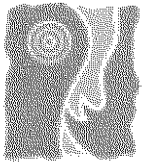


Ted Hart  
SWALSC Chairperson

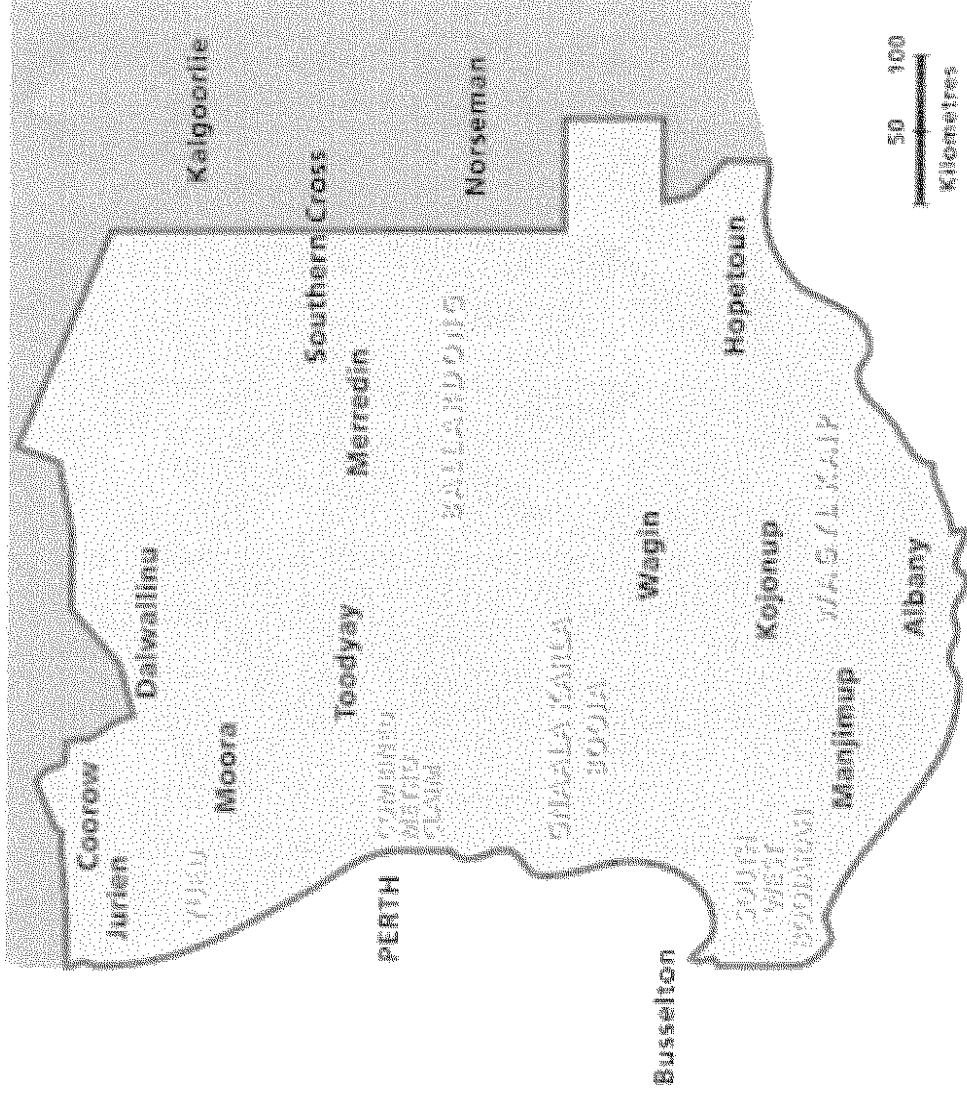


Lyn Lund  
SWALSC A/Chief Executive Officer

Dated 10 August 2004



South West Aboriginal  
Land & Sea Council

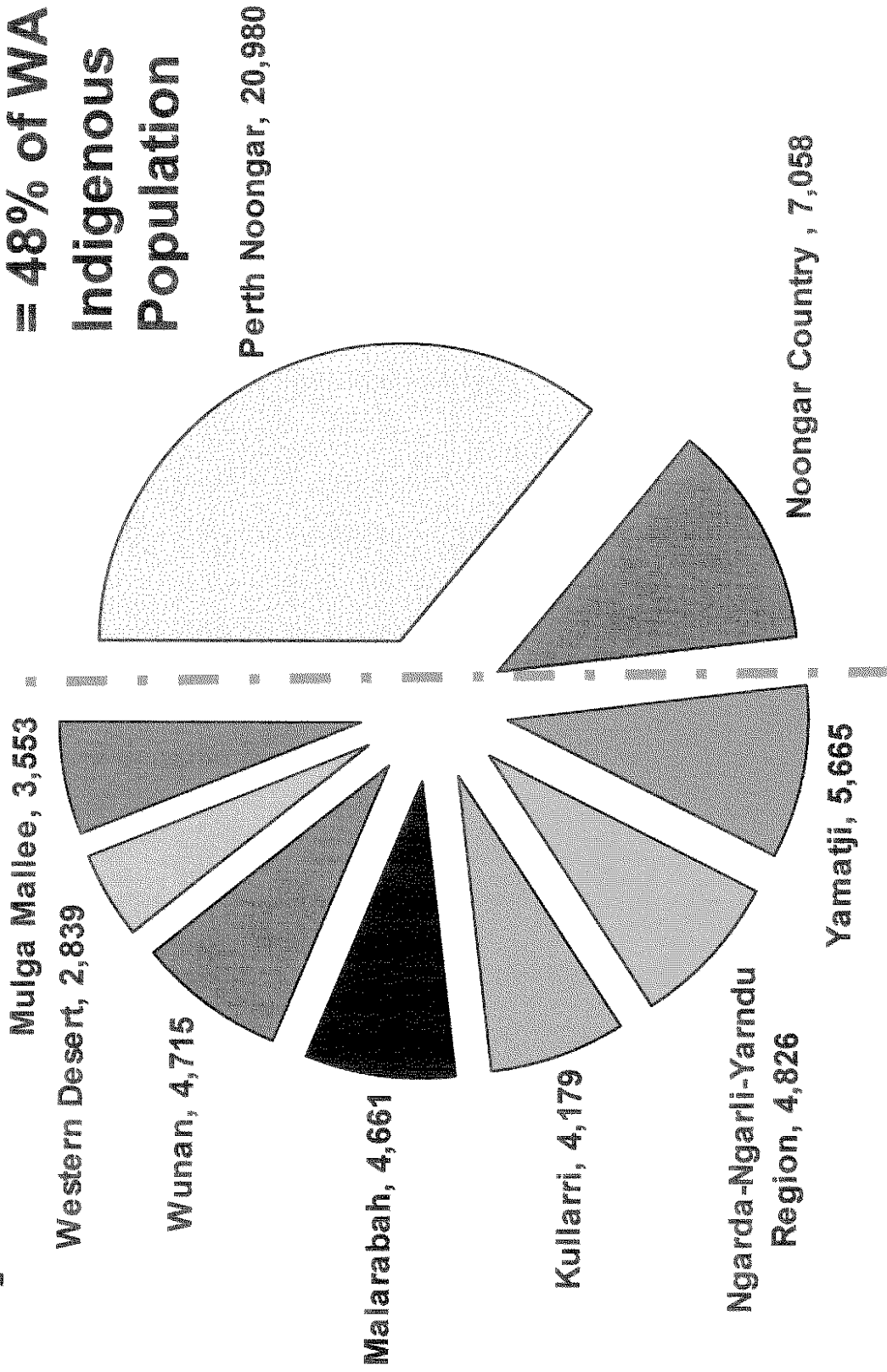


**NTRB Area  
granted to  
SWALSC in 2001 -  
indicating the  
existing 6 Native  
Title Claims**

One Noongar Country  
One Noongar Future

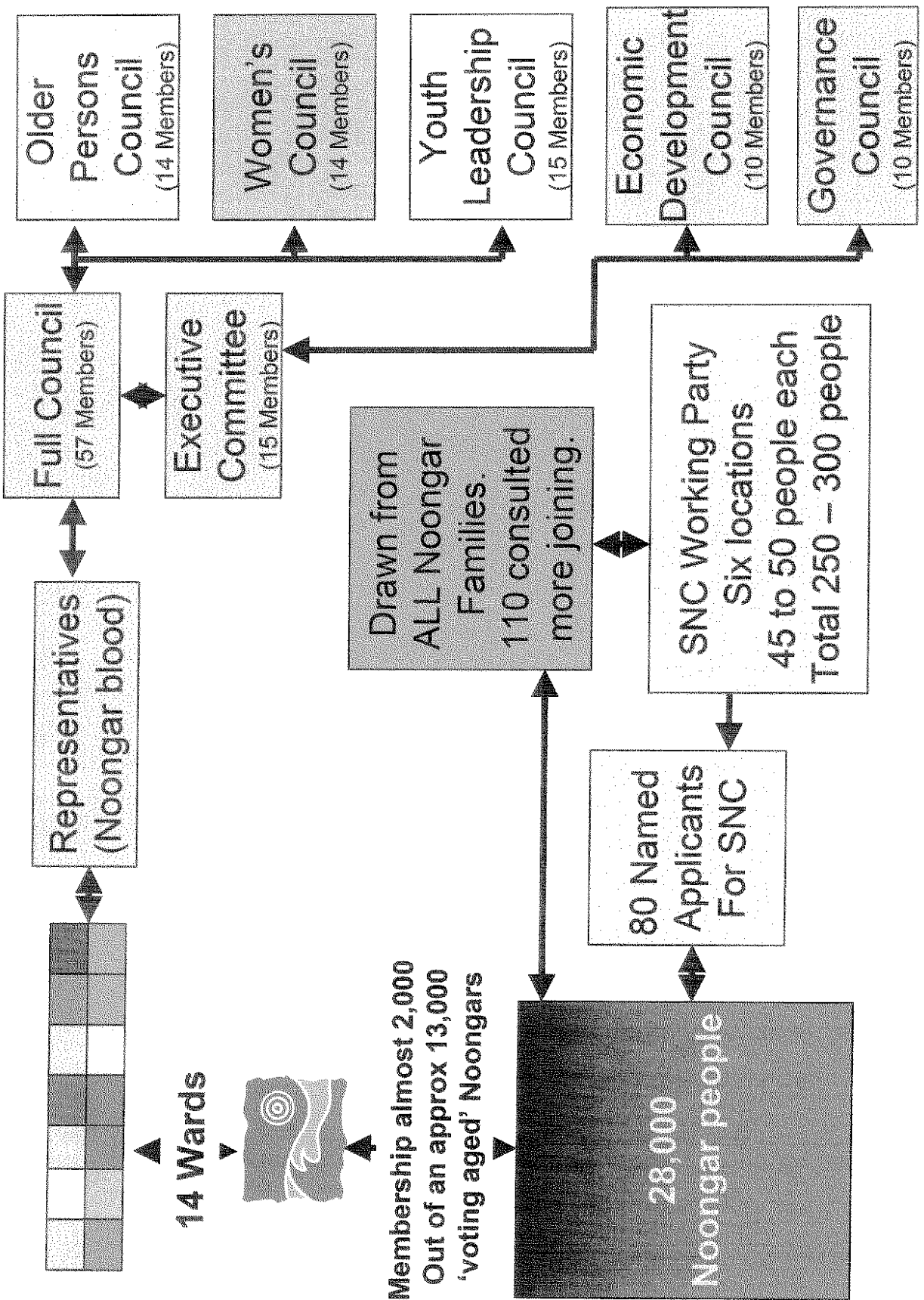
# ATSIC WA Regions – Indigenous Population

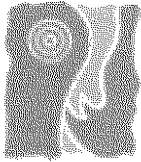
Noongars  
= 48% of WA  
Indigenous  
Population



Source ABS 2001 Census

# SWALSC – A Noongar Representative Body

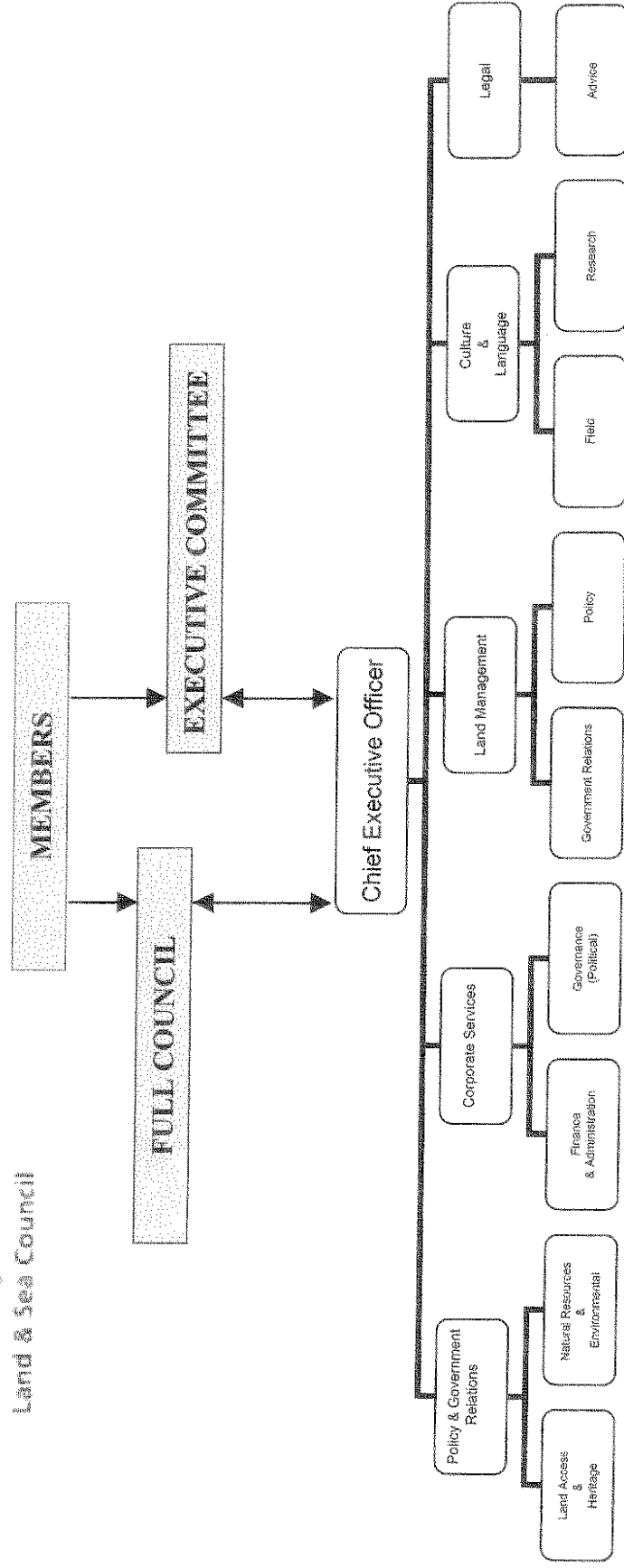




South West Aboriginal  
Land & Sea Council

# Oganisational Structure

Attachment 4



One Noongar Country  
One Noongar Future