

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

**By**

**Yamatji Marlpa Barna Baba Maaja Aboriginal  
Corporation**

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## EXECUTIVE SUMMARY

The Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation (YMBBMAC) is a native title representative body (NTRB) for the purposes of the *Native Title Act 1993*, and is incorporated under the *Aboriginal Councils and Associations Act 1976*. We represent native title claimants and their families in the Yamatji and Pilbara regions. Our service region covers an area of approximately 889,000sq/km. in the Yamatji and Pilbara regions of Western Australia. An appreciation of its scale can be derived from Figure 1.

Our corporation made an initial submission to the Committee on 30 July 2004<sup>i</sup> and we indicated that at that time we would make a further and more comprehensive submission. This supplementary submission provides the Committee with:

- A brief response to the Committee's Terms of Reference;
- Additional detailed information on the key elements of our first submission; and
- Some recommendations for the Committee's consideration.

We are concerned that the passage of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 will result in:

- A hiatus in regional Aboriginal governance and representation; and
- A repetition of past neglect and failures as mainstream agencies assume responsibility for service delivery to Aboriginal communities.

YMBBMAC is confident of its past performance and its relationship with its members, clients and regional stakeholders. We believe that the corporation is in a position to assume some of the functions of ATSIC regional councils. We also believe that our systems of governance and consultation provide an opportunity for government service delivery agencies to achieve a level of connectedness and beneficial articulation with the region's traditional owners that has been missing in the past. Opportunities for expansion of the corporation's role are discussed.

We present an outline of the socioeconomic status of Aboriginal people in our operational region. We expand on the corporation's operational and governance systems including the development of working groups as a way of placing real decision making power in the hands of traditional owners at the grass roots level.

The operations and successful track record of the working group structure in delivering beneficial and enduring outcomes for traditional owners and regional stakeholders are expanded upon. The potential of the working group model as a vector for connecting government to traditional owners in our region is discussed. We conclude our submission with some recommendations for the Committee's consideration and these are reproduced below.

## **Recommendations**

We make the following recommendations for the Committee's consideration:

1. The Committee should take note of the potential for the creation of a hiatus in regional Aboriginal governance and representation as a consequence of the passage of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004.
2. The Committee should take note of the potential for a repetition of past neglect and failures in service delivery to Aboriginal communities.
3. The Committee should recognise the governance approach and working group model developed by YMBBMAC:
  - For its success as a method of delivering empowerment and responsibility to traditional owners at the community level;
  - For its success in providing a system of engagement with traditional owners; and
  - For its success in delivering enduring and beneficial agreements with regional stakeholders across all spheres of government and the private sector.
4. The Committee should recognise the potential for YMBBMAC to assume some of the functions of ATSIC regional councils and to act as an agent for government service delivery agencies to achieve a level of connectedness and beneficial articulation with traditional owner communities.
5. The Committee should recommend that trial schemes testing the working group system be put in place in selected areas of the Yamatji and Pilbara regions. The trial schemes could test the system as a method of assessing regional Aboriginal need, negotiating and delivering services and measuring outcomes. The trials should be conducted as collaboration between YMBBMAC and selected government agencies and the corporation should be resourced at an agreed level to provide administrative support and field expertise.

## Introduction

The Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation (YMBBMAC) is a native title representative body (NTRB) for the purposes of the *Native Title Act 1993*, and is incorporated under the *Aboriginal Councils and Associations Act 1976*. We represent native title claimants and their families in the Yamatji and Pilbara regions. Our service region covers an area of approximately 889,000sq/km. in the Yamatji and Pilbara regions of Western Australia. An appreciation of its scale can be derived from Figure 1. Our operational environment is characterised by remoteness, great distances and low client population density.

Our corporation made an initial submission to the Committee on 30 July 2004<sup>ii</sup> and we indicated at that time that we would make a further and more comprehensive submission. This supplementary submission provides the Committee with:

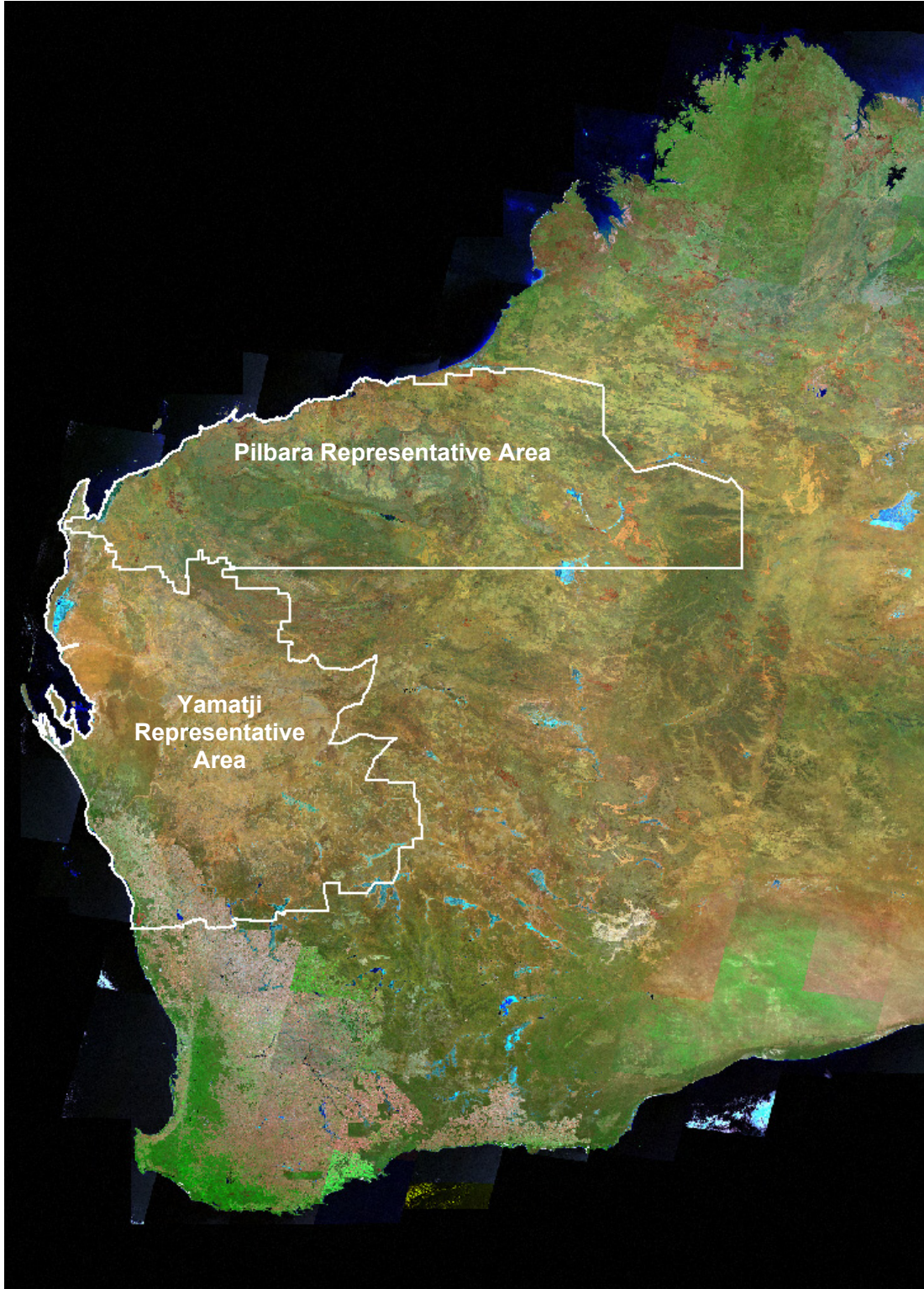
- A brief response to the Committee's Terms of Reference;
- Additional detailed information on the key elements of our first submission and;
- Some recommendations for the Committee's consideration.

YMBBMAC exists to serve its members, the traditional owners of the Yamatji and Pilbara regions, and to represent their interests. The changes that will be brought about by the abolition of ATSIC and the establishment of new systems of service delivery for Aboriginal people will have significant impacts on our members' interests and the daily lives of themselves and their families. For these reasons we are compelled to represent our members' views to the Committee on issues that fall within the Committee's Terms of Reference.

The submission is structured as follows:

- A brief response to the Committee's Terms of Reference;
- A portrait of the socioeconomic status of Aboriginal people in our operational region including discussion of key indicators of disadvantage and comparisons with Aboriginal and non-Aboriginal socioeconomic indicators at the national level;
- A discussion of areas of potential expansion for YMBBMAC's activities, including a brief summary of the Aboriginal service delivery landscape in our region;
- Additional information on the operation of our organisation, its roles and responsibilities and governance structure including the fundamental structural element of community based working groups;
- An account of the operations of working groups and detail of the outcomes that the working group model has delivered to regional stakeholders;
- A discussion of the potential of the working group model as a method for connecting government to the Aboriginal community and determining community needs and priorities for service delivery and resource allocation; and
- Some recommendations for the Committee's consideration.

Figure 1. The YMBBMAC representative area.



## A Response to the Terms of Reference

We make the following comments with respect to the Committee's Terms of Reference.

### **TOR 1. *The Aboriginal and Torres Strait Islander Commission Amendment Bill 2001***

We have read the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 and its Explanatory Memorandum and paid attention to parliamentary debate and other discussion to date. An element of the Bill that we believe is of critical importance to our members is the creation of a hiatus in regional Aboriginal governance and representation.

We note that the Bill provides for the abolition of ATSIC regional councils from 1 July 2005. ATSIC regional councils currently have a level of recognition with service providers and agencies of the three levels of government in our region of operation. Regional councils' have had responsibility for making resource allocation decisions for the limited funds that were within the control of ATSIC.

### **TOR 2 *Mainstreaming of Aboriginal services and programs***

The mainstreaming of Aboriginal services and programs should incorporate:

- Realistic understandings of what Aboriginal communities require;
- Planning that is derived from sound consultation with communities;
- Acceptance of the importance of traditional decision making processes taken at the grass roots local level; and
- Sound systems of governance and management of financial resources and assets.

### **TOR 3 *Related matters – the future of Aboriginal representation, governance and service delivery in the Pilbara and Yamatji regions***

YMBBMAC is a stable, well governed and managed, efficient and effective Aboriginal corporation. With a limited resource base we have delivered very substantial outcomes for our constituents over a very large service region. We have demonstrated that the responsible and accountable management of public funds can be achieved in conjunction with the empowerment of Aboriginal people to manage their own affairs and to take informed community based decisions across a range of complex issues. We have developed a track record of responsible, trustworthy and fair negotiation and agreement making with the private sector and government over a range of important land management and resource development projects in our region. We have a robust history

as an institution and a level of success that is rare in remote Aboriginal Australia. We understand our constituents and our region and have the confidence and trust of our constituency and regional stakeholders. Most importantly, we have a vision for the future.

It is our view that, subject to the allocation of appropriate resources, our corporation could assume some of the functions currently undertaken by ATSIC regional councils in our operational area and that we have in place culturally appropriate and proven systems of consultation, representation and governance to fulfill this role.

YMBBMAC also believes that the systems of governance, consultation and decision making that the corporation has developed and proven over a decade provide an opportunity for government service delivery agencies to achieve a level of connectedness and beneficial articulation with the region's traditional owner groups that has been missing in the past.

We expand on the potential for an extended regional role for YMBBMAC in the following sections of our submission. We also expand on the success of the systems of governance and locally based decision making that we have established and explore how they could be used by service delivery agencies to guide program delivery and resource allocation.



## Aboriginal socioeconomic status in the YMBBMAC operational region

The following section presents an outline of the socioeconomic status of Aboriginal people in the corporation's service region. YMBBMAC believes that it is important to have a sound baseline understanding of the socioeconomic status of the region's Aboriginal people as a basis for:

- Understanding the social context of our members' situations and the importance to them of regaining access to land;
- Establishing priorities for community development and service delivery; and
- Assessment of outcomes in an accountable system of performance measurement for service delivery programs.<sup>iii</sup>

The corporation places a high level of importance on the collection of statistical information on its constituents and performance and intends to expand its data collection strategies going forward and to develop its in-house research capacity.<sup>iv</sup>

The Yamatji Marlpa Barna Baba Maaaja Aboriginal Corporation (in this profile, the area serviced by this corporation will be called the 'Yamatji' region for short) services two ATSIC regions, the Geraldton and South Hedland ATSIC regions, but also offers coverage to a small part of the Warburton ATSIC region (hereafter the ATSIC regions will simply be called Geraldton, South Hedland, and Warburton).<sup>v</sup> This statistical profile provides a detailed description of the two main regions and provides a map on the distribution of income that covers sub-areas within Warburton. The Aboriginal profile for the Yamatji region is contrasted to the profile for Aboriginal Australia in Table 1 (page 9), while the analogous non-Aboriginal statistics are presented in Table 2 (page 10).

The economic geography of the area is dominated by mining and related activities, which provide a major component of the regional employment. The main mines are serviced by three main ports Port Hedland, Karratha, and Onslow, all in the South Hedland area. The mining towns and ports tend to be company towns where the relevant mining companies provide subsidised rental accommodation and other services. At the time of the 2001 census, South Hedland has one of the highest concentrations of the regional labour market in the mining sector, with around 4,000 jobs directly employed in mining — however, only 131 of these jobs were held by Aboriginal people. Geraldton is less dominated by the mining sector but there is still a significant number of jobs associated with that industry (in 2001, 1,586 mining jobs of which only 64 were held by Indigenous people).

**Table 1. Indigenous statistics for Yamatji region, 2001**

	ATSIC region		Australia
	Geraldton (Yamatji)	South Headland (Ngarla-Ngarli- Yarndu)	
Indigenous population (a)	6,490	5,460	458,520
Per cent Indigenous (% regional population)	9.0	12.8	2.2
Less than 15 years of age (%)	41.2	35.3	39.3
Median age	20	23	20
<b>Labour force status (% 15+):</b>			
Employed	37.7	42.5	40.4
Unemployed	11.7	8.8	10.7
Not in the labour force	50.5	48.7	49.0
CDEP scheme employment	28.2	21.9	10.9
Private sector employment	19.1	22.9	23.1
<b>Education</b>			
Attending educational institution (% 5-14)	87.3	82.3	87.3
Highest level of schooling completed (% 15+):			
Year 10 or below	66.0	61.0	62.8
Year 11 to 12	26.4	26.3	28.4
Still at school	4.1	3.6	5.5
Never attended school	3.5	9.1	3.2
Post-school Qualification (% 15+)	28.2	30.3	27.9
Computer use (%)	10.4	11.7	18.6
Speaks English only (% population)	89.1	68.5	79.8
<b>Housing and income</b>			
Median weekly rent	\$50 - \$99	\$50 - \$99	\$100 - \$149
Median weekly individual income	\$200 - \$299	\$200 - \$299	\$200 - \$299
Median weekly household income	\$500 - \$599	\$700 - \$799	\$1,000 - \$1,199
Mean household size	3.6	3.7	3.4
One parent families (% families)	36.3	34.4	30.2
Home ownership (% households)	24.4	15.1	33.4

Note: Estimated residential population at 30 June 2001 adjusted for the net undercount in census counts. (ABS 2001) <sup>vi</sup>

## Demography

The estimated resident population (ERP) for the Yamatji region in 2001 was around 115,000 people of whom around 12,000 were Indigenous. The estimated ERPs for Aboriginal population living in South Hedland and Geraldton were 6,490 and 5,460 respectively. If these populations grew at the average annual rate that they did between 1996 and 2001 (approximately 3% p.a.), then the current population would be around 7,090 and 5,970 in the respective regions.

**Table 2. Non-Indigenous statistics for Yamatji region, 2001**

	ATSIC region		Australia
	Geraldton (Yamatji)	South Headland (Ngarla-Ngarli- Yarndu)	
Non-Indigenous population	72	43	19,413
Less than 15 years of age (%)	20.5	22.5	20.4
Median age	38	33	35
<b>Labour force status (% 15+):</b>			
Employed	56.9	74.3	58.9
Unemployed	5.0	3.0	4.5
Not in the labour force	38.1	22.7	36.6
<b>Education</b>			
Attending educational institution (% 5-14)	96.0	96.4	94.8
Highest level of schooling completed (% 15+):			
Year 10 or below	54.3	45.4	43.6
Year 11 to 12	42.7	51.9	51.8
Still at school	2.4	2.3	3.6
Never attended school	0.6	0.5	1.0
Post-school Qualification (% 15+)	40.5	50.9	44.7
Computer use (%)	36.9	47.4	44.5
Speaks English only (% population)	93.9	91.8	82.7
<b>Housing and Income</b>			
Median weekly rent	\$100 - \$149	\$50 - \$99	\$150 - \$199
Median weekly individual income	\$300 - \$399	\$600 - \$699	\$300 - \$399
Median weekly household income	\$600 - \$699	\$1,200 - \$1,499	\$1,000 - \$1,199
Mean household size	2.6	2.8	2.6
One parent families	12.9	8.3	15.1
Home ownership (% households)	67.2	44.1	72.7

Note: See note for Table 1. Private sector employment data for non-Indigenous population not provided by ABS by ATSIC region to date.

Around 10 per cent of the regional population are Aboriginal (9 per cent and 12.8 per cent in Geraldton and South Hedland respectively — compared to the 2.2 per cent for Australia as a whole).

The South Hedland Aboriginal population is relatively old compared to both Geraldton and Aboriginal Australia as a whole (all are young relative to non-Aboriginal norms). The median age for Aboriginal people in South Hedland was three years older than that for the average Aboriginal person. The converse of this is that four per cent fewer Aboriginal people in South Hedland are aged less than 15 compared to the rest of the Aboriginal population. In contrast, the non-Aboriginal people in South Hedland tend to be older than those in Geraldton or the rest of Australia.

## ***Labour force status***

Aboriginal people in South Hedland tend to have higher employment and labour force participation rate and lower unemployment rates than experienced by Aboriginal people in either Geraldton or the rest of Australia. However, the Aboriginal differences in labour forces between regions and the Australian average are far less prominent than is evident for the non-Aboriginal population. Obviously, Aboriginal employment and labour force participation rates are far lower than non-Aboriginal rates in the respective areas.

However, the differential between Aboriginal and non-Aboriginal population is greatest in South Hedland, where the labour market is particularly strong. Almost three-quarters of non-Aboriginal adults were employed in South Hedland compared to marginally less than 60 per cent of non-Aboriginal adults in Geraldton or the rest of Australia. Similarly, half of the Aboriginal adult population participated in the labour force in areas examined in Table 1—non-Aboriginal adults are far more likely to be involved in the labour market especially in South Hedland (77.3 per cent).

Aboriginal employment in the private sector in South Hedland is 2.1 percentage points higher than the national average for Aboriginal adults (42.5 per cent and 40.4 per cent respectively). On the other hand, Aboriginal adults in Geraldton are 2.7 per cent less likely to be employed in that sector than the national average. Given the economic geography of the region, this pattern is to be expected. Both South Hedland and Geraldton fare relatively well compared to Aboriginal outcomes in comparable areas in similarly remote areas.

While some of the non-Aboriginal employment advantage is due to the fact people move to the region to take up specific jobs in the mining sector, it is reasonable to assume that Aboriginal people do not have adequate access to the regional labour market. One explanation for the differential in employment opportunities may be the relatively low level of educational attainment among Aboriginal residents.

## ***Education***

As with the patterns in Aboriginal labour force status, Aboriginal education is generally better in South Hedland than in Geraldton, or even the rest of Aboriginal Australia. However, Aboriginal educational indicators are uniformly worse than the comparable non-Aboriginal outcomes, especially in South Hedland. For example, Aboriginal attendance of children at school in the compulsory education age group (i.e. aged 5 to 14) is five percent lower than in Geraldton or the rest of Australia (82.3 per cent and 87.3 per cent). The educational attendance of non-Aboriginal children in the Yamatji region is much higher at more than 95 per cent.

There were similar patterns in the highest level of schooling completed and post-school qualifications. For example, South Hedland has 30.3 per cent of Aboriginal adults who

have post-school qualifications—slightly more than in either Geraldton or the rest of Australia (28.2 per cent and 27.9 per cent). Non-Aboriginal adults are more likely than Aboriginal residents to be qualified, especially in South Hedland, where just over one-half of adults have a post-school qualification (50.9 per cent).

One noteworthy observation is that the proportion of the Aboriginal population who speak English only is far less in South Hedland than either Geraldton or Aboriginal Australia as a whole (68.5 per cent, 89.1 per cent and 79.8 per cent). Consequently, the relatively strong involvement of Aboriginal people from South Hedland in the formal educational system is despite the apparent greater familiarity with English in Geraldton or elsewhere in Australia.

Computer use by the Aboriginal population is much lower than among the analogous non-Aboriginal residents. For example, more than 10 per cent of Aboriginal people in South Hedland and Geraldton use computers, compared to the 47.4 per cent and 36.9 per cent of the analogous non-Aboriginal residents. That is, the differential between Aboriginal and non-Aboriginal usage is much greater in the Yamatji region than elsewhere in Australia — a finding that cannot be explained by remoteness alone. One explanation is that non-Aboriginal residents get greater access to computers through the type of work they are employed in (e.g. in company mining towns).

### ***Housing and income***

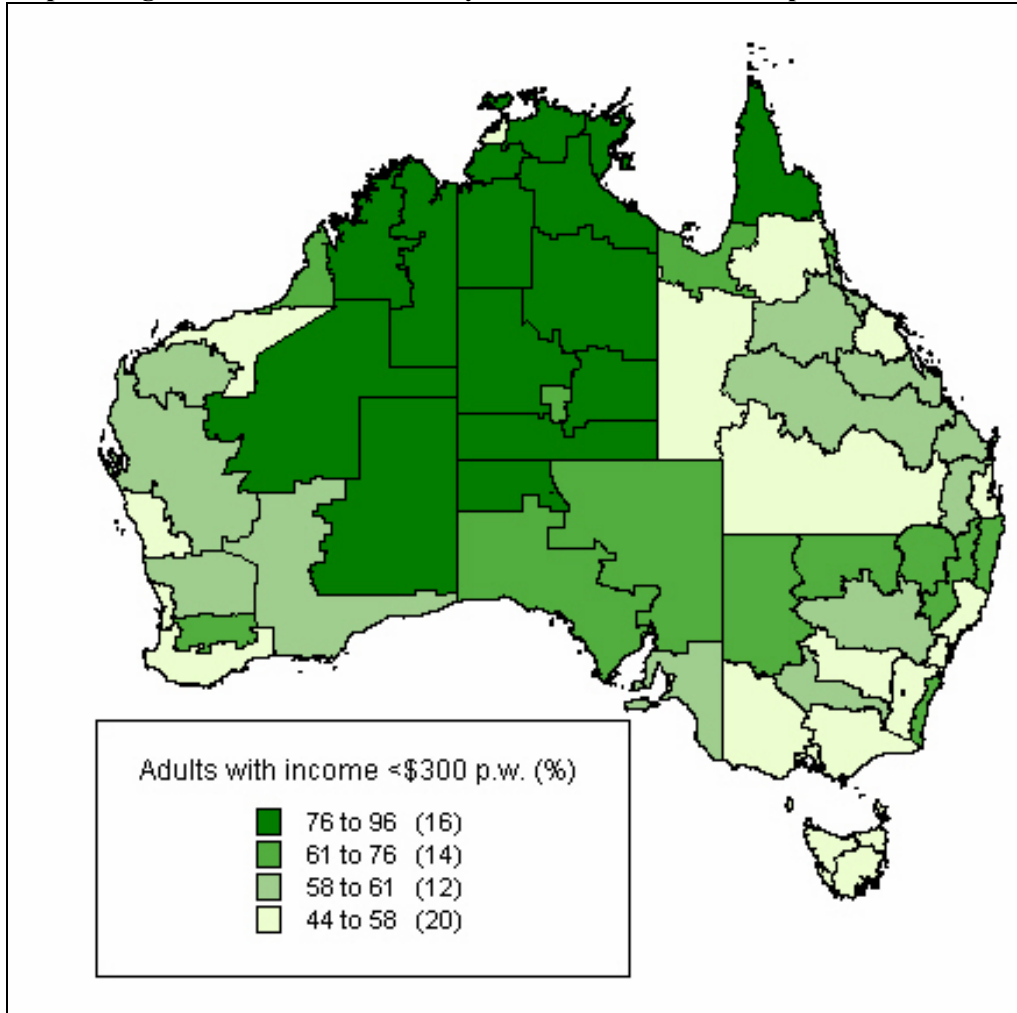
The existence of company towns where housing is either provided or heavily subsidised, in combination with plentiful supply of cheap land, means that all residents in the Yamatji region have relatively low weekly rents and low home ownership rates compared to the rest of Australia, especially in South Hedland.

The economic opportunities in South Hedland for non-Aboriginal residents mean that median weekly individual incomes are around twice as high in South Hedland as in the rest of Australia. In contrast, median Aboriginal income lies in the same income range for residents in all the Yamatji areas represented in Table 1 (page 9). Median incomes for Aboriginal households in South Hedland lie in a higher income bracket than those in Geraldton (but it is less than in the rest of Australia). The differences in household incomes for the various areas are not explained by the household sizes which are generally higher than in the rest of Australia. The pattern of household income for the non-Aboriginal households follows the pattern of economic opportunities rather than the patterns for rents or household size, with South Hedland having a median household income twice that for Geraldton and higher than that for the rest of the Australian households.

Map 1 uses the geographic unit of Consolidated Indigenous Areas (CIAs) — a classification developed especially for the Macquarie Atlas of Aboriginal Australia that exploits the smallest areas for which census data is published. Arthur and Morphy (forthcoming) created an alternative geography by subdividing ATSIC regions into two

or more parts (and by delineating areas for Adelaide and Melbourne). In their final analysis, 62 CIAs were created, but the following analysis focuses on the five CIAs that are serviced by YMBBMAC and are contained within the three ATSI regions: South Hedland, Geraldton, and Warburton.

**Map 1 Indigenous adults with a weekly income of less than \$300 per week, 2001**



Note: CIAs derived in Arthur and Morphy<sup>vii</sup>

Map 1 describes the proportion of the adult population that has low income. Given the inflexible format of census income data, and that welfare payments are generally set at less than \$300 per week for individuals, this map sets this value as the threshold for 'low income'. The legend for the map divides CIAs into four groups, of more or less equal size. The dark green areas represent those areas where more than three quarters of the adults have low income. That is, most adults receive less than \$300 per week in the

remotest parts of Australia, where Community Development Employment Projects (CDEP) scheme and welfare based incomes are most prevalent. This map corresponds with most other indexes of socio-economic disadvantage which show that Aboriginal people living in remote areas are the poorest.<sup>viii</sup>

Table 1 demonstrates that Indigenous incomes are relatively low in South Hedland and Geraldton. However, the above map illustrates that there is a considerable diversity within the relevant ATSI regions and certainly within the Yamatji region as a whole. While Warburton CIAs both have an incidence of 'low income' typical of remote areas, South Hedland and Geraldton have CIAs in the two separate categories with the least number of low-income adults. Notwithstanding the fact that parts of South Hedland and Geraldton are faring relatively well compared to analogous remote areas in Aboriginal Australia, the above statistics indicate that Aboriginal people in the Yamatji region also experience significant disadvantage in socioeconomic terms relative to non-Aboriginal Australians.

## **An expanded role for YMBBMAC – potential roles and regional relationships**

YMBBMAC believes that there is potential for the corporation to expand its role in a post-ATSIC environment. Our concern is not to enlarge our organisation and its responsibilities for their own sake. We are particularly concerned that Aboriginal people in our region are provided with a reasonable level of service and there is no disruption in its continuity. We also want to ensure that Aboriginal people in our region can continue to develop their capacity to manage their affairs, take their own decisions about their lives and their communities, and share in the economic development opportunities that our region offers.

In this section of our submission we discuss:

- Service delivery to traditional owners in the YMBBMAC operational area;
- Potential expansion of YMBBMAC activities;
- Our relationships with other agencies and stakeholders in our operational region.

### ***Service delivery to traditional owners in the YMBBMAC operational region***

The service delivery landscape in the YMBBMAC service area is, like that for all Aboriginal communities and populations, very complex. This complexity is compounded because our service region is so very large and generally sparsely populated. In addition, because the Aboriginal residents of the region live in a variety of situations from the urban areas of towns such as Port Hedland to the most remote homelands and outstations associated with small Aboriginal communities. Aboriginal people in our region follow a variety of lifestyle choices and pursue a range of employment options to support themselves and their families. The population is regionally mobile as people respond to the need to meet cultural and ceremonial responsibilities, maintain contact with kin and country, or to seek educational opportunities for children or specialised medical services for family members.

Aboriginal residents and community organisations in our region will typically interact with a vast range of programs and service agencies in the course of their daily lives and the conduct of their business. Table 3 (page 16) is a non-exhaustive list of agencies in the three tiers of Government that are key players in the service delivery landscape in YMBBMAC's region. Each of these agencies will have discrete service and program units that operate independently and deliver stand alone programs.

Additionally, the operational regions and service locations of government agencies in our operational area do not coincide and are not intuitively rational.<sup>ix</sup> The confusion that this causes in client Aboriginal communities has been noted both by researchers<sup>x</sup> and Federal ministers.<sup>xi</sup>



**Table 3. Some of the Government agencies involved in service delivery in the YMBBMAC region**

<b>Level of Government</b>	<b>Agency</b>
Commonwealth	Centrelink, Family and Community Services, Employment and Workplace Relations, Health and Ageing, ATSIC/ATSI (now DIMIA)
State	Health, Housing, Indigenous Affairs, Community Development, Education, Police, Justice, Conservation and Land Management, Industry and Resources
Local	Shire and Town Councils

There are numerous Indigenous organisations involved in service delivery in our region at the community level. These agencies provide services across a broad spectrum including:

- Community governance;
- Employment and training, especially through the Community Employment Development Program formerly managed by ATSIC;
- Community health care;
- Legal services;
- Child and aged care;
- Women's services;
- Natural resource management;
- Community and economic development;
- Support and administrative services for decentralised homeland and outstation communities on traditional lands;
- Broadcasting and media services

There is a pressing need to ensure that in the post-ATSIC environment the level of coordination of service delivery at the regional level is maintained and improved. There is an opportunity to enhance the level of coordination and the degree to which service delivery is negotiated with Aboriginal communities and targeted to their needs and aspirations. YMBBMAC believes that it is in a position to help all stakeholders to take advantage of this opportunity.

### ***Potential expansion of YMBBMAC's activities***

In our initial submission we set out our view that there are two ways in which our activities could expand in the post-ATSIC service delivery environment. The first is in direct delivery of services at the regional level in areas such as:

- Governance training and community development;
- Economic development; and
- Management of natural and cultural resources and country.

Our work as a native title representative body already involves us in these fields and as our role matures and as our client groups move through the native title claim and agreement making process, we are increasingly being required to provide additional services in these areas, against a background of limited financial and human resources.

The second, and we believe most critical, area in which our role could expand is in the provision of brokering and consultation services that connect service providers to traditional owners at the grass roots level.

### **Governance training and community development**

Our role as an NTRB extends beyond the provision of legal advice. We form part of a jigsaw of community governance and representation and serve both to channel and manage the interpolation of native title within the existing networks and decision-making processes of claimant groups. We welcome this role and we have taken an active part, to the limit of available resources, in assisting our client communities to develop their internal governance systems. YMBBMAC's identity as a community institution is formalised in its establishment as an Aboriginal corporation and in its constitution (rules).xii

We believe that our activities to date have made a significant difference to the development of governance institutions and capacity in Aboriginal communities. The members of our governing and regional committees have demonstrated significant leadership in sponsoring and encouraging the development of the governance institution of community based working groups. We are capable of expanding our role in this critical area in our operational region if we have the appropriate level of resources.

### **Economic development**

The Council of Australian Governments has identified forging greater links between the business sector and Aboriginal communities to help promote economic independence as a priority area for government action in Aboriginal affairs.<sup>xiii</sup> YMBBMAC has placed significant emphasis on supporting economic development for traditional owners in our region. As an example of our initiative in this area we are currently working on an approach to Aboriginal tourism for our region in consultation with the WA Government.

The region is the site of major mineral resource development activity and we are determined to ensure that our members and their families derive an equitable level of sustainable economic development opportunity from activity on their lands. We place emphasis in our agreement making processes with the minerals industry, other private sector groups and government on employment outcomes and business opportunities for our constituents.

## Management of natural and cultural resources and country

This is an increasingly important element of the work of regional Aboriginal organisations across Australia. As the rights of traditional owners in land and sea resources have gained some recognition across Australia, non-Aboriginal resource management agencies and academics are coming to recognise the critical value of Aboriginal ecological knowledge to cultural resource management. The lands for which traditional owners have legal responsibility are often remote and relatively undisturbed in an ecological sense. Our corporation is abreast of developments in this field and key natural resource conservation and management issues in Western Australia. YMBBMAC is a member of the Conservation Council of Western Australia.

The Aboriginal commitment to maintenance of the cultural, ecological and biodiversity values of Aboriginal lands is a public good that coincides with the Australia's national priorities.<sup>xiv</sup> Many Aboriginal communities are now involved in land and resource management, supported by regional Aboriginal resource management organisations. Some are looking to the development of sustainable businesses on their lands based on their natural resource values and their desire to reoccupy their traditional lands either permanently or on a temporary or seasonal basis. These businesses include tourism, sustainable harvesting of plants and animals and bioprospecting joint ventures.<sup>xv</sup>

YMBBMAC, with its extensive experience and focus on land and sea country in the region, is poised to expand its role into what we believe will become a very important sphere for Aboriginal people in our region in the future.

## ***Our relationships with service agencies and other regional stakeholders***

YMBBMAC has a mature relationship with all major stakeholders in its service region. This has been achieved through our network of regional offices and local staff, the comprehensive consultation processes and negotiations our team have been engaged with on native title matters over many years, and the 32 working groups that represent the views and interests of our members and their families.

YMBBMAC's commitment to agreement making is not limited to the immediate outcomes associated with the native title future act regime. Instead, YMBBMAC understands that a mediatory approach is fundamentally about relationships between stakeholders in the native title process. YMBBMAC works to build long term and constructive relationships which enable government, industry and Aboriginal communities to work as partners to establish goals and agree their shared responsibilities for achievement. As a consequence, YMBBMAC has been able to negotiate innovative agreements beyond the confines of native title which provide a framework for the development of lasting relationships.

YMBBMAC's commitment to building relationships with key participants in the native title process is reflected in its associate membership of the Chamber of Mines and Energy. YMBBMAC also participates in the Chamber's Aboriginal Affairs Committee (AAC). Other members of the Committee include Rio Tinto, Argyle Diamonds, BHP Billiton, and Newmont Australia. The purpose of the AAC is to:

- Formulate and implement Aboriginal affairs policy;
- Develop programs to build positive relations with Aboriginal communities; and
- Advise members on issues affecting the industry.

We have a working relationship with numerous State and Commonwealth agencies at the regional level and we deal regularly with local government. We are engaged with community Aboriginal organisations as well as broader Aboriginal service providers in the fields of health and legal services. We have a cooperative relationship with current ATSIC regional councils in our region and we are currently developing broader relationships with mainstream agencies to which ATSIC programs are being reassigned. YMBBMAC has long term relationships with the major private sector players in the region including major mining companies.

We are confident of our ability to build on these relationships as a basis for an expanded role for the corporation in the future. Testimonials that go to our relationships with regional stakeholders can be made available to the Committee on request.

## YMBBMAC's operations and governance

In this section of the submission we present additional material on the corporation's operational arrangements and governance.

### *Operations*

The operations of YMBBMAC are structured with a focus on regional service delivery. The Perth office provides a focal point for trans-regional services with the management of the organisation revolving around the Geraldton office in the Yamatji region and the South Hedland office in the Pilbara region. Sub-regional offices for the Pilbara are located in Karratha, Roebourne, and Tom Price. A regional focus facilitates efficient and effective service delivery integrating YMBBMAC into the communities it serves and ensuring its responsiveness to their individual needs. Our organisational structure is set out in Figure 2 overleaf.

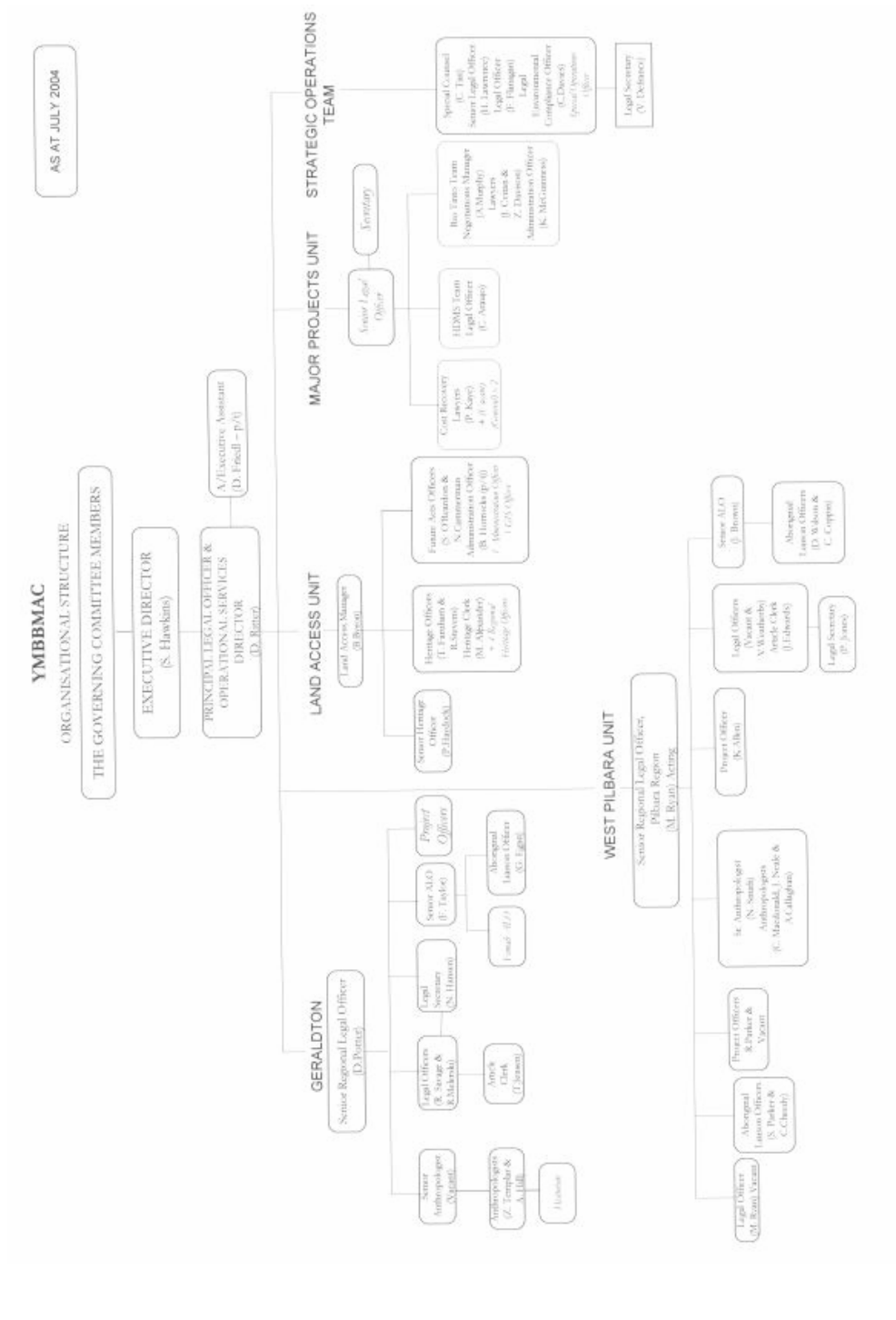
YMBBMAC has a strong record in consistently retaining key staff members for significant periods of time. This strengthens our ability to preserve the corporate knowledge gained through hands-on experience. The preservation of this knowledge is particularly important for an organisation with limited resources, as its loss requires extensive re-training, mentoring and monitoring in order that it be re-established by new staff members. We have a staff complement of 60 team members, of whom 15 are Aboriginal people.

The retention of key staff members over extended periods of time also contributes to the high degree of skill YMBBMAC's staff possess in terms of effective and appropriate cross-cultural communication. These skills are not easily re-trainable, and develop with time spent working in the field. YMBBMAC's capacity to retain staff on a long-term basis is also a major contributor to its in-house capacity.

Staff dedicated to work in relation to regional issues and communities are also based in our Perth office which provides a base for access to the Federal Court, National Native Title Tribunal, government departments and company headquarters, which are located in Perth.

YMBBMAC's success as an organisation has been achieved as a direct result of mutual trust and respect between the organisation, its staff, members and clients and other organisations in the region. YMBBMAC staff have extensive cross-cultural knowledge and effectively communicate with Aboriginal people. Our Aboriginal staff (and some non-Aboriginal staff) speak a variety of the regional Aboriginal languages. This is an essential tool in communicating with our constituents as many speak English as a second language and many do not read or write.

**Figure 2. YMBBMAC's organisational structure**



## Governance

The governance of the organisation is achieved through two regional committees and a governing committee. Both the Yamatji and Pilbara regions have elected regional committees, which make decisions on policy and operations in their areas. At the heart of the corporation is our Governing Committee, which is comprised of members of the regional committees. Six members of each committee come together to form the 12-member governing committee. The Governing Committee provides the overall policy direction for the organisation.

YMBBMAC staff respect our clients' traditional decision-making process, law and culture and recognise that respect is vitally important in developing long term and trusting relationships with Aboriginal people. Consultation with traditional owner groups must have a culturally meaningful basis to enable real input into the process. Non-Aboriginal people must not assume that they know who has authority to speak for an area or issue but must instead consult with the traditional owners who will advise who has the authority to speak.

Aboriginal people who have authority to speak on a particular issue may live outside the area but still need to be consulted. In fact, it is often these people who live in regional centres, away from their traditional lands, who are frequently overlooked in the consultation or decision making process. YMBBMAC is aware of the difficulties which arise when such people who have relevant authority are excluded from the consultation or decision making process and we are active in ensuring that these people are included.

The need to ensure that our operations are responsive and accountable to our members has led to the development of working groups. This development was based on a similar and very effective concept in the Kimberley region. It has been our experience that this structure has been successful in facilitating the decision-making process in native title claimant groups.

Members of working groups are authorised by the native title claim groups at community (or claimant) meetings. Community meetings are widely advertised so that all claimants have the opportunity to actively participate in the decision-making process. Each working group consists of individuals who represent the claim group and give informed instructions and advice to Yamatji. Commonly, a working group will consist of a dynamic mix of young people and elders, men and women.

The working group has authority from the community to make decisions on its behalf about most native title matters, subject to the ongoing supervision and instructions of the wider claim group. Often, working groups will delay a particular decision so that members can canvass and consult with the community before reaching a decision.

It is important to distinguish the working group system from the ATSIC model of regional governance. Unlike the ATSIC model, where candidates were elected by wards

of Aboriginal constituents in accordance with Western principles of representative democracy, the working group system integrates representation with the community's own traditional system for decision making. An appreciation of the difference in process is critical to understanding the durability and robustness of the working group system. Where ATSIC imposed a non-indigenous model of governance on traditional owners, the working group system taps into the traditional systems of decision-making that are already there. Community consultation is meaningful because it is undertaken in a manner that is meaningful to traditional owners. Community decisions are long-lasting because they are made and are enforced by traditional law. The approach mirrors anthropologist David Martin's view that it is desirable for native title corporations to:

*'Leave as much of the social and political process as possible within the informal indigenous realm, and do not attempt to codify it within formal corporate structures or governance mechanisms.'*<sup>xvi</sup>

Our working groups are cohesive, functioning, and autonomous decision-making structures. Negotiated outcomes reflect the particular needs of each community. Each group is in control of the decision-making process and receives legal, technical, and secretarial support from lawyers and other consultants, rather than the other way around.

We have demonstrated that the working group model succeeds in our region in our native title role and we are confident that it can work in the broader context of service delivery in the post-ATSIC environment.



## Working groups in action – operations and outcomes

A typical working group meeting will involve legal consultation and advice, consideration of the progress of the claim, notifications and negotiations under the *Native Title Act*, selection of cultural heritage survey teams, and dealing with resource companies and government. As the structure of native title business is remarkably broad the working groups become far more than just instruction-giving mechanisms.

Aboriginal leadership is developed through a reflexive process in which legal officers are required to obtain instructions from working groups, but in which the groups with growing experience become familiar with the relevant law and procedure. This working group space simultaneously develops an ever-increasing capacity in Aboriginal people to bear responsibility for the management of native title issues.

Working groups provide YMBBMAC with advice on issues of significance to the Yamatji and Pilbara communities. Working groups foster self-management because they both increase traditional owners' knowledge of law and procedure, while also recognising and incorporating Aboriginal systems of knowledge into non-Aboriginal legal systems.

The structure of working groups ensures that claimant groups and proponents are able to engage in effective cross-cultural exchange. Transactions that take place in the group meetings can be beneficial and transformative in terms of the relationship between parties. Rapport built in a meeting between a proponent and a group can shave months or years off project approval timeframes and is a vital factor in the success of government initiatives.

Our approach has resulted in outcomes that have redefined the parameters of native title agreements, addressed the distinctive needs of particular Aboriginal communities and engaged all stakeholders within a partnership approach to native title. An emphasis upon relationships, within a long-term perspective, has resulted in YMBBMAC moving outside of conventional native title agreements to pursue constructive relationships with government and industry through a variety of agreements and protocols.

We set out below a brief selected list of the agreements and other outcomes that have been achieved through the working group system.

- **Mining and Cooperation Agreement; Puutu Kurnit Kurruma Pinkura People and St Barbara Mines Ltd**

In October 2002, the Puutu Kurnti Kurruma Pinikura (PKKP) native title claimants finalised a mining and co-operation agreement with St Barbara Mines Ltd and its subsidiary Taipan Resources NL. Taipan Resources NL owns the Paulsen's gold mining project 200 kilometres east of Onslow.

The agreement includes a process ensuring the Aboriginal heritage concerns of the PKKP native title claimants are addressed in a manner minimising disruption to the exploration and mining activities of Taipan Resources NL. The agreement provides for compensation for the effect of Taipan's mining operations on the Aboriginal heritage and native title rights and interests of the PKKP native title claimants.

▪ **Pipeline Agreement; Kariyarra, Ngarla, Njamal, Warrarn and Birrimaya People and Newcrest Mining Ltd**

After two years' consultation, in June 2003, the Kariyarra, Ngarla, Njamal, Warrarn and Birrimaya native title claimants each finalised an agreement with Newcrest Mining Ltd regarding the construction of a gas pipeline and communication facilities between Port Hedland and Newcrest's gold mine at Telfer. The pipeline will provide additional energy for the purpose of power generation in the expansion of the Telfer mine.

The agreements address the individual heritage concerns of each of the native title claim groups. Monetary compensation and community benefits were provided for the effect of the grant of land tenure and the effect of the gas pipeline on native title rights and interests including Aboriginal heritage of the native title claimants. In addition, Newcrest Mining Ltd, in conjunction with Pundulmurra College in Port Hedland, is providing training programs that will enable the native title claimants to maximise employment opportunities during construction of the gas pipeline.

▪ **Tallering Peak Iron Ore Project Agreement; Wajarri Elders and Mount Gibson Mining Co.**

Negotiations between MGM and the Wajarri Elders working group were held and concluded with a series of meetings held in Geraldton between 31 May and 26 June 2002. The Wajarri Elders applicants who were not members of the Wajarri Elders working group were invited to attend and participate in the final meeting. The agreement became operative in March 2003.

Tallering Peak is a significant site and the greatest concern of many Wajarri people was that Tallering Peak would be destroyed or damaged. MGM agreed to conduct a heritage survey with senior Wajarri men to identify culturally significant areas. After the survey, MGM agreed that Tallering Peak was not to be disturbed or knocked down and exclusion zones were placed around other culturally significant places.

The agreement includes:

- Protection of Tallering Peak and other significant sites/areas on the tenements;
- Heritage monitoring;
- Royalty payments for the life of the mine;
- Employment, training, and economic development opportunities;
- Support for education of Wajarri people;

- Support for Wajarri law and culture;
- Development of an ongoing relationship between MGM and the Wajarri Elders;
- Recognition of Wajarri traditional ownership.

## The potential of the working group model – connecting government to the Aboriginal community and assessing and determining service delivery needs and priorities

### A top-down approach to service delivery

Traditionally, government has provided services to Aboriginal communities through a ‘top down’ approach. Administrative structures, whether mainstream or even specific to Aboriginal people, are often imposed upon communities. As a result, with few exceptions, there is no consultation with communities about their needs and their communal objectives. People are not asked what are the most appropriate governing structures and processes for them and there is no real involvement of community members in making decisions about service delivery.

It is a problem of government that urgently needs to be addressed – not because it is a new or escalating problem, but because it has gone on for so long without anything effective being done. The problem has now been recognised and articulated in a number of significant reports and forums. It has also been well documented by researchers:

*However, agencies still frequently rank the need for and benefits of interagency coordination low on their list of priorities. Community leaders, members and organisations express frustration at not being able to address their community concerns in an integrated manner because agencies are solely focused upon their own programs. Matters of content, quality of delivery and coordination with community plans and structures of agency activities cannot be addressed because agencies report to their regional and higher authorities first and the community as an entity last. When agencies deliver their services within the authority of a regional Aboriginal organisation, this indifference to community priorities is diminished.<sup>xvii</sup>*

The problem has also been incorporated into the recommendations of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs report on capacity building and service delivery in Aboriginal communities. The Committee called for

- *A shift in emphasis in service provision to a regional or location specific basis (in full consultation with the Indigenous communities involved);*
- *Enhancing communication and developing partnerships both with Indigenous communities and families, and between governments;*
- *The creation of frameworks for service delivery that are familiar and acceptable to Indigenous people.<sup>xviii</sup>*

The Minister for Immigration and Multicultural and Indigenous Affairs has espoused the approach in a recent address to senior bureaucrats:

*It starts with a partnership with the community. That means listening to the people on the ground. It will mean listening to Indigenous communities. Working in partnership with communities. Being in step with their priorities. And following through on commitments. It will mean breaking down silos and promoting teamwork across traditional agency boundaries.<sup>xix</sup>*

Moves to reduce red tape and simplify the bureaucratic processes are always to be welcomed. Not only can this minimise the waste of valuable government resources and funds, but it should also make the process of government more efficient and effective.

But this is still not happening in our region. Government is still saying to communities: “This is what we believe you need” and “This is what we are going to provide for you,” without consulting or including local people in the process. Important decisions about meeting the administrative requirements of a community, as well as its growth and development, are more often than not made without consideration for the community’s specific needs.

There are few, if any, examples of communities in our region that have been consulted about the particular needs and preferences of their area and the ways in which management and service delivery decisions need to be altered, or adapted, to best meet these needs.

While consulting local communities would be a big step forward, it would still not be enough. Aboriginal people also need to be involved in the ongoing implementation and operation of their own government. They need to be part of the process. But they also need to take responsibility for their own governance.

## **COAG**

The COAG Indigenous Communities Coordination pilot scheme has been proposed as a solution. However, there are a number of issues with the scheme, and so far these issues have illustrated how big the challenge is for government. Three issues stand out for us.

The first is fundamental - the process of imposing government from above. Despite the best intentions of the COAG scheme participants, the pilot scheme is not necessarily an initiative driven by individual communities; it has been brought to them from distant governments and it suffers from the perception of paternalism.

Secondly, the communities themselves are often not set up to deal with the COAG initiative. Very often there is no management structure in place that allows the community to focus on the scheme – no administrative system that, at least, genuinely

includes traditional owners, or at best, is run by them. Without this, the community has no formalised structure that gives them a decision-making framework, or allows them to speak with one voice. Added to this, many communities have little experience in dealing with bureaucrats, lawyers, accountants or other such professionals. Without a history of self-government or some sort of real involvement in the administrative process, a community will not be equipped to deal with the system.

The third reason, in some cases, comes down to a lack of what can be called bargaining chips or leverage. Aboriginal communities are highly dependent on all three tiers of government. They have few resources of their own; generally no alternative sources of funding; and no other access to services. They are not in any position to bargain or to argue, because they are dependent on the various layers of government for the management and administration of their communities. They simply have no choice.

We are not convinced that the outcomes of the COAG trials will be usefully comparable to each other and nor are we convinced that they are capable of assessing outcomes and monitoring performance at the regional level.

### **Working groups**

Working groups mean that governments do not have to reinvent the wheel to develop a comprehensive system for negotiating with the Aboriginal community and coordinating service delivery. In the YMBBMAC region, government would need to invest a relatively small sum to enable the existing working groups and our corporation to take on the role of negotiation, consultation, and performance measurement with service delivery agencies.

In other words, government can tap straight into the successes of our working groups at little marginal cost. This is a unique opportunity for improving the connection between government and Aboriginal people. Government can hit the ground running - by tapping into an established network of representative and experienced people who are skilled in handling complex issues and working for sustainable and rational outcomes for their communities.

Our working groups are a powerful voice for Aboriginal people to participate in decisions that affect them and their communities and their country. They have proven their success over the past several years through their achievements in native title negotiations. They have also gained the trust and the backing of Aboriginal communities who have acknowledged the value and genuineness of their representation.

Since the abolition of ATSIC, the government has indicated its preference for mainstreaming service provision to Aboriginal communities. We are particularly keen to see that mainstream agencies who inherit service delivery responsibilities from ATSIC make appropriate use of the working group system in our region.

Effective mainstreaming must involve consideration of regional need and regional planning. Regional need can be most fairly determined through the use of community consultation and representation mechanisms required by the working group model. The groups ensure meaningful and effective community consultation so that regional plans reflect the particular needs of a region and its communities. Working groups will also allow a greater degree of flexibility in service provision. The structure allows the particular discrete needs of communities to be considered within program guidelines.

The working group structure also enables for greater accountability requirements to be placed on government service delivery agencies and communities. Working groups and government are obliged under the structure to ensure negotiation and consultation operates effectively. If negotiation between working groups and government fails, there is no intermediate body on which to shift accountability. At the completion of the negotiation process there is a clear understanding of the deliverables and the responsibilities of each party.

Perhaps the most effective aspect of the working group structure is that it enables Aboriginal leadership to act collaboratively with proponents of negotiations, in this case, government. This is vital for the autonomy and self-determination of Aboriginal communities, and for effective allocation of resources to meet self-identified Aboriginal needs. It is the most effective approach to the 'joined-up' concept of government service delivery to Aboriginal communities that is widely advocated but seldom achieved.

YMBBMAC is in a position to act as a coordinator and broker to link government into the working group system in our region. This will require a level of resourcing to support the additional fieldwork and administrative tasks that will be required.

Trial schemes using the working group system could be immediately put in place in selected areas of the Yamatji and Pilbara regions at significantly less cost than elaborate COAG pilot schemes that are obliged to waste precious time and money establishing systems and methodologies and striving to ensure representativeness in an unfamiliar social landscape.

YMBBMAC will continue in its role as an advocate for the Aboriginal people of our region but we urge government to take advantage of the potential for our organisation and our regionally based working groups to facilitate the process of regional service delivery to Aboriginal people.

- i Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation. 2004. Submission to the Senate Select Committee on the Administration of Indigenous Affairs.
- ii Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation. 2004. Submission to the Senate Select Committee on the Administration of Indigenous Affairs.
- iii The Commonwealth Grants Commission's Report on Indigenous Funding (2003) takes particular note of the problem of lack of data for the measurement of outcomes for Indigenous service delivery programs.
- iv . The material in this section was prepared by Dr. Boyd Hunter of the Centre for Aboriginal Economic Policy, who was commissioned by YMBBMAC to prepare this statistical profile B.H.Hunter. 2004. A statistical profile of the Yamatji region in WA. Unpubl. report prepared for Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation.
- v. Note that the Yamatji region in this profile does not refer to the Geraldton ATSIC Region, which is sometimes referred to as the Yamatji ATSIC Region.
- vi ABS 2001. Health and Welfare, Aboriginal and Torres Strait Islander Peoples. Cat. No. 4704.0. ABS, Canberra.
- vii Arthur, W. S. and Morphy, F. (eds) forthcoming. Macquarie Atlas of Indigenous Australia, Macquarie Library Pty Ltd, Sydney
- viii CGC 2001. Report on Indigenous Funding, Volume 1, 2 and 3, CGC, Canberra.
- ix Data Analysis Australia Pty. Ltd. 2003. Statistical Report to Support the Mapping and Gap Analysis for Port Hedland. Report to Department of Indigenous Affairs. p.45 et seq.
- x Gerritsen, R. Crosby, J. Fletcher. C. 2000. Revisiting the Old in Revitalising the New – Capacity Building in Western Australia's Aboriginal Communities – A Discussion with Case Studies. Final report to WA Department of Aboriginal Affairs - Building Capacity Through Improved Management and Administration of Aboriginal Communities. NARU. ANU Darwin. p.30.
- xi Senator the Hon Amanda Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs. 2004. Address to the Australian Government Executive Forum (SA), Friday 20 February 2004
- xii. The YMBBMAC's Constitution is attached at Annexure 1
- xiii Commonwealth Grants Commission. 2003. Report on Indigenous Funding. Commonwealth of Australia. Canberra. p.1.
- xiv See for example J.C. Altman and M. Cochrane. Innovative institutional design for sustainable wildlife management in the Indigenous-owned savanna . Discussion Paper 247. CAEPR ANU Canberra ([http://www.anu.edu.au/caepr/Publications/DP/2003\\_DP247.pdf](http://www.anu.edu.au/caepr/Publications/DP/2003_DP247.pdf))
- B.R. Smith and D. Claudie. Developing a land and resource management framework for Kaanju homelands, Central Cape York Peninsula. Discussion Paper 256. CAEPR ANU Canberra. ([http://www.anu.edu.au/caepr/Publications/DP/2003\\_DP256.pdf](http://www.anu.edu.au/caepr/Publications/DP/2003_DP256.pdf))
- J.C.Altman. 2003. Economic Development and participation for Remote Indigenous Communities : Best Practice, Evident Barriers and Innovative Solutions – presentation to Ministerial Council for Aboriginal and Torres Strait Island Affairs. (<http://www.anu.edu.au/caepr/Publications/topical/altman%20mcatsia.pdf>)
- xv See for example J.C. Altman. Sustainable development options on Aboriginal land: The hybrid economy in the twenty-first century. Discussion Paper 226. CAEPR ANU. ([http://www.anu.edu.au/caepr/Publications/DP/2001\\_DP226.pdf](http://www.anu.edu.au/caepr/Publications/DP/2001_DP226.pdf))
- xvi Martin, DF. 2003. Rethinking the design of Indigenous organisations: The need for strategic engagement. p.10 Discussion paper 248, CAEPR.ANU ([http://www.anu.edu.au/caepr/Publications/DP/2003\\_DP248.pdf](http://www.anu.edu.au/caepr/Publications/DP/2003_DP248.pdf))
- xvii Gerritsen et al 2000. p.31.
- xviii House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Committee. 2004. Many Ways Forward. Report of the inquiry into capacity building and service delivery in Indigenous communities. Parliament of Australia. Recommendation 7.



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xix Senator the Hon Amanda Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs. 2004. Address to the Australian Government Executive Forum (SA), Friday 20 February 2004