



South West Aboriginal
Land & Sea Council



Annual
Report
2005

One Noongar People
One Noongar Nation



South West Aboriginal
Land & Sea Council

Senator, the Hon. Amanda Vanstone
Minister for Immigration and Multicultural and Indigenous Affairs
Parliament House
CANBERRA ACT 2600

4 October 2005

Dear Minister

In accordance with section 203DC of the *Native Title Act 1993*, I have pleasure in presenting the Annual Report for the South West Aboriginal Land and Sea Council Aboriginal Corporation together with the audited financial statements for the financial year ended 30 June 2005.

Yours sincerely

Ted Hart
CHAIRPERSON

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I am once again pleased to present the South West Aboriginal Land & Sea Council's (SWALSC) Annual Report.

The 2004-2005 reporting year has been one of many highs and lows and continues to be extremely active and one which has resulted in a massive upsurge of support for the SWALSC with our membership numbers now being well and truly up over the 2200 mark

SWALSC has continued to try to engage with government at all levels on behalf of our clients to facilitate better working relationships.

SWALSC's 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 including such things as heritage issue, development proposals, etc.

There is no doubt that at a time when the voice of Aboriginal Australia has been silenced, SWALSC continues to stand out as an independent voice for the Noongar People and we continue to believe we have the structure to take on the development of a Regional Authority model and have dedicated ourselves to move in that direction.

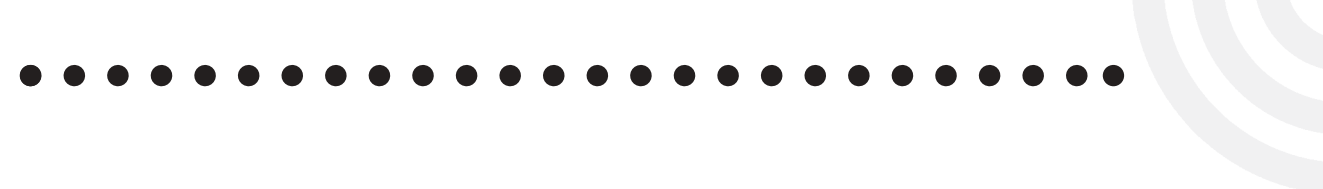
A Noongar Regional Authority will not only provide the foundation of a culturally relevant and appropriate Noongar governance structure. It will also provide the most effective and efficient model for engagement with Noongar People by governments.

We are the only Noongar organisation that also has an elected membership structure across the entire region. The Full Council has 14 Wards with 4 elected representatives per Ward. We continue to observe the proposed changes to the Council and Associations Act and it's possible implications for SWALSC.

SWALSC has continued to develop consultative mechanisms with the establishment and ongoing support of the Older Persons Council, Women's Council and a Youth Leadership Council.

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.

We continue to acknowledge that there are some Noongar People who do not support the development of a Noongar Regional Authority. But as I said last year and I will repeat here,



“This small minority of people continue to support government imposed structures. We had warned the two Noongar ATSIC Regional Councils that ATSIC was like a hire car ‘nice to drive around in but it belongs to someone else” and how prophetic our words were as the government wound up ATSIC.

It is time to move forward as a nation of people, the Noongar Nation has “always been and will always be”; it is time for us as a people to unite for our children and their children. For those people who desperately cling to the government committees I say it is time for you to work with your people to create a future.

I and SWALSC will continue to work for the benefit of Noongar people and their economic independence. To this end we supported a Noongar organisation with negotiations with an overseas company. I had the privilege of signing a Memorandum of Understanding with that company in the presence of the Malaysian Prime Minister and Minister for Commerce. I hope this will be the start of economic development for all Noongar people.

I encourage all Noongars over 18 years of age to join as a member and help our One Noongar People campaign. We are looking forward to the further expansion of the SWALSC membership in the coming year and the realisation of our dream of a Noongar Regional Authority.

Ted Hart
CHAIRPERSON



Continuing on from last year the 2004-2005 reporting period has been an ongoing time of change and of consolidation for the South West Aboriginal Land and Sea Council.

The Noongar community has continued to support the Single Noongar Claim (SNC) strategy and seek the combination of their existing claims into a SNC. The legal strategy was to file the first part of the SNC (Area 1) which was filed in September 2003 and then file the second component being SNC (Area 2) which was filed in November 2004. Significant research work was undertaken throughout the reporting period to prepare the

applications for Determination of Native Title as well as to continue to file applications seeking the combination of underlying claims into the SNC.

Negotiation and agreement making progressed substantially throughout the reporting period with all other parties except the State Government. The State Government, through the Office of Native Title, has chosen to change its negotiating tactics a number of times and therefore has been some what of a stumbling block and has been slow to progress claim wide negotiations. Smaller regional agreements or Future Act\heritage agreements continue to be made.

A number of state government departments, members of the Western Australian Local Government Association (WALGA) and a series of resource developers have eagerly participated in land access and land use agreements. The continued willingness of these groups to negotiate reflects a changing mindset, one that acknowledges the rights of Native Title applicants. Internally, SWALSC is moving from strength to strength. We have a strong and vibrant team that continues to provide a high quality service to our clients. The continuation of limited resources means that we cannot pay these dedicated people what they deserve, yet they continue to work diligently for the Noongar people in their quest for recognition of their Native Title Rights.

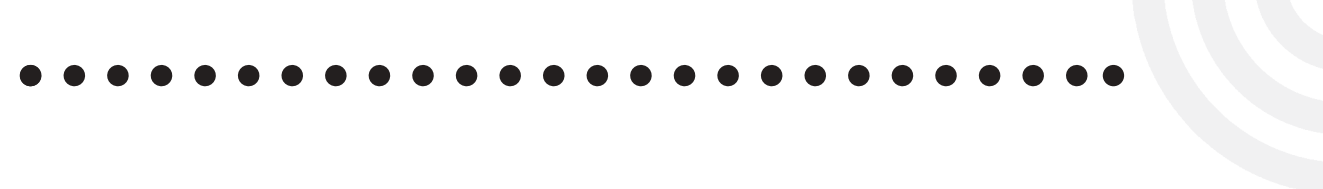
Summary of Significant Issues and Developments

I am pleased to report that SWALSC was able to achieve a number of its stated Native Title objectives for the reporting period. In most cases, performance exceeded expectation.

Native Title Claim Representation

The legal team has continued to be instructed to prepare an application for determination of Native Title for a Single Noongar Claim and to proceed with applications seeking the combination of underlying claims into a SNC.

Preparations continue for the development and filing of the Nulla Nulla Claim. The Nulla Nulla Claim covers the eastern portion of the Ballardong Claim where it overlaps with the Central West and Kalamia Gubrun Claims.



The State continues to insist that the Combined Metropolitan Claim proceed to trial, despite the applicants desire to join the SNC. SWALSC could only provide the applicants with limited assistance for the initial part of the proceedings.

Research

The research focus was on the preparation of Experts' Reports and preparation for trial for the SNC and the Nulla Nulla Claims. The Research Unit also produced several reports to progress SWALSC's existing Native Title applications and continues to conduct extensive research to identify witnesses for Native Title proceedings.

Agreements

Agreements continue to be a priority for SWALSC and the SNC. Negotiations for an Indigenous Land Use Agreement (ILUA) with 16 members of WALGA are finalised and we are now waiting on the State to sign off. Substantial progress continues to be made towards the development of an ILUA with CALM over the ownership and management of National Parks.

The Memorandum of Understanding (MOU) with WALGA has unfortunately gone into a bit of a holding pattern due to the lack of financial resources to employ a dedicated officer focused on negotiating agreements with the WALGA. MoUs with the Aboriginal Lands Trust, the Department of Indigenous Affairs, the Office of Aboriginal Economic Development and the Indigenous Land Corporation hopefully will be able to survive this lack of resource and continue in negotiation.

Future Acts

The Future Acts Unit processed 151 future act notifications. As a result of the successful introduction of the Regional Heritage Protection Agreement no objections were lodged during the reporting period.

Overview of Performance and Financial Results

The main focus for the year was on the creation and funding of the Single Noongar Claim. SWALSC continued to offer assistance to the existing community claims.

Outlook for the Following Year

During the reporting period, SWALSC prepared an Operational Plan to guide the organisation through the SNC process.

The Operational Plan was submitted to the Office of Indigenous Policy Coordination (OIPC) and will guide the organisation's strategic objectives for the 2005-2006 reporting period.

Darryl Pearce

CHEIF EXECUTIVE OFFICER

SWALSC OVERVIEW

Description of SWALSC

The South West Aboriginal Land and Sea Council Aboriginal Corporation (SWALSC) is the Native Title Representative Body (NTRB) for the South West of Western Australia.

It was recognised as a NTRB by the Minister for Immigration and Multicultural and Indigenous Affairs, Hon. Philip Ruddock in December 2001, to take effect on February 1, 2002.

SWALSC's boundaries generally correspond with those of the former Perth Noongar Regional Council and the Noongar Country Regional Council (Aboriginal and Torres Strait Islander Commission Regional Councils). It is estimated that approximately 27,000 Aboriginal and Torres Strait Islander people live in the region.

SWALSC has been funded by the Commonwealth Government, through the Office of Indigenous Policy Coordination ("OIPC") of the Department of Immigration and Multicultural and Indigenous Affairs ("DIMIA"), to perform its operations and functions.

The Governing Committee has 15 elected members who provide policy guidance to the organisation.

The day to day management of SWALSC is the responsibility of the Chief Executive Officer who is a salaried officer.

Role and Functions

Legislation

SWALSC is an incorporated association under the Aboriginal Councils and Associations Act 1976.

The objects of the organisation 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.

Provide 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.



Legislative Functions

As a NTRB, SWALSC has specific functions under Part 11, Division 3 of the Native Title Act 1993 (NTA).

These functions are:

- (a) Facilitation and assistance functions referred to in section 203BB.
- (b) Certification functions referred to in section 203BE.
- (c) Dispute resolution functions referred to in section 203BF.
- (d) Notification functions referred to in section 203BG.
- (e) Agreement making functions referred to in section 203BH.
- (f) Internal review functions referred to in section 203BI.
- (g) Other functions referred to in section 203BJ and such other functions as are conferred on representative bodies by the Native Title Act.

Section 203B(2) provides that the functions conferred on a representative body by the NTA are in addition to, and not instead of, any functions conferred on a representative body (whether in its capacity as a representative body or otherwise) by or under:

- (a) Any other law of the Commonwealth;

or

- (b) A law of the State or Territory in which it operates.

Section 203B (3) provides that except as mentioned at sections 203BB, 203BD and 203 BK, a representative body must not enter into an arrangement with another person under which the person is to perform the functions of the representative body.

Section 203B (4) provides that a representative body must, from time to time, determine the priorities it will give in performing its functions.

It may allocate resources in such a way as it thinks fit, so as to be able to perform its functions efficiently but must give priority to the protection of the interests of the Native Title holders.

Section 203BA of the NTA provides that a representative body must use its best efforts to perform its functions in a timely manner, particularly in regard to time limits set by the NTA and other relevant laws.

It must also perform its functions in a manner that maintains organisational structures and administrative processes that promote the satisfactory representation of its constituents, effective consultation with Indigenous people living in the area, and ensures fair structures and processes.

Corporate Governance Policies

Vision

SWALSC's corporate vision is to ensure that the native title rights and interests of Aboriginal people in the South West of Western Australia are recognised and protected.

This will be achieved through consultation, negotiation, agreement making and the exercise of procedural rights.

Values

To effectively perform the function of a NTRB, SWALSC has established a set of guiding principles under which it operates.

These are to:

- (a) respect Elders and preserve Noongar culture;
- (b) act in an honest, professional and accountable manner;
- (c) be sensitive to the clients' needs and aspirations;
- (d) be responsive to changing laws and government policies;
- (e) commit to achieving the best possible outcomes for Indigenous people;
- (f) be efficient, fair and transparent in the performance of its functions;
- (g) provide a safe, diverse and trusting workplace;
- (h) operate with integrity, loyalty and confidentiality.

Consultation

It is SWALSC's policy to consult widely with native title holders, those people who may hold native title and the wider Indigenous community within the South West region.

Policies and Procedures

SWALSC staff and officers are guided by the Rules of the Corporation and the policies that have been approved by the Governing Committee.

The organisation has almost completed the process of developing a new framework of procedures to meet the requirements of its Rules, NTRB functions and the strategic directions of its Executive.

Setting of Priorities

SWALSC has established a set of priorities that reflect the statutory and financial framework under which NTRBs are required to operate.

At all times, the organisation's priorities reflect the needs and the aspirations of the Noongar people.



Organisational Structure

Membership

SWALSC membership is open to all Noongar people aged 18 years and over (see Glossary of Terms - Definitions).

Full Council

SWALSC has a 56 member (57 with Chairperson) Full Council. Four members are elected from each of the 14 Wards. Each Ward elects an Executive Committee member, a Ward and a Women's Representative and an Older Person.

Members of the Full Council must be members of SWALSC and are therefore recognised as belonging to the Noongar community. Their services are provided voluntarily.

Elections, conducted by postal ballot, take place every three years. By-elections take place as required to fill any vacancies on the Full Council.

Governing Committee

The Governing Committee (Executive Committee) comprises 15 elected members, one from each Ward and the Chairperson who is elected from, and by, the Full Council.

The role of the Executive Committee is to ensure that the objectives of the organisation are carried out and that it performs the statutory functions of a NTRB.

The Committee provides general policy direction for the organisation and input into the development of state and national policy as it relates to Aboriginal and Torres Strait Islander people in the region.

Audit and Finance Committee

The Executive Committee has acted as the Audit & Finance Committee during the year. The Committee does not involve itself in the day to day financial management of the organisation.

Members of the SWALSC committees are covered for insurance purposes by an insurance policy which is for volunteers.

Internal Structure and Staff

SWALSC's day to day operations are the responsibility of the Chief Executive Officer who is appointed by the Executive Committee.

The organisation is divided into five units comprising, Policy and Government Relations; Corporate Services; Land Management; Culture and Language and Legal.

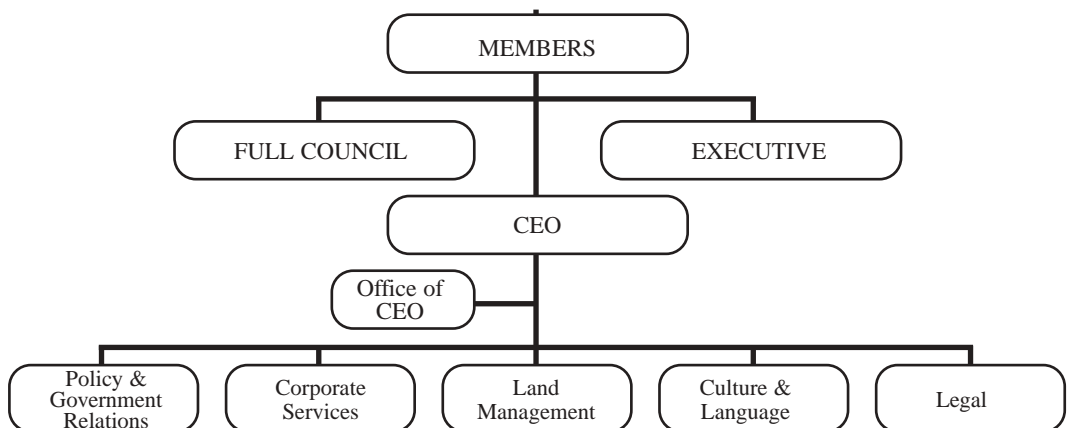
At 30 June 2005, SWALSC employed 22 full-time and 2 part-time staff.

Table 1: Executive Committee Meetings

Member	Postion	Meetings Attended	Possible Attendance	Notes
Ted Hart	Chairperson	8	8	Re-elected
Glen Colbung	Deputy Chair	8	8	Re-elected
John Hayden		6	7	
Trevor Eades	Treasurer	8	8	Re-elected
Jack Hill		5	8	Re-elected
Graeme Minter		8	8	Re-elected
Terry Cornwall		5	7	
Wayne Yarran		7	8	Re-elected
Fred Mogridge		7	7	
Albert Corunna		0	2	Rule 13.16 invoked in Oct 2004.
Winsome Kickett		6	7	
Charne Hayden		6	8	Re-elected
Ivan Lyndon		6	6	Resigned May 2005.
Oral McGuire		5	7	
Gerald Pryor		7	8	Re-elected
Fay Slater		1	1	Elected May 2005
Eric Hayward		1	1	Elected May 2005
Glenys Yarran		1	1	Elected May 2005
Wendy Williams		1	1	Elected May 2005
Bev Port-Louis		1	1	Elected May 2005
Dianne Taylor		1	1	Elected May 2005

* One Executive Committee meeting was held following the election held in May 2005.

Organisational Chart





Management Committee: Elected

The senior management committee is the Executive Committee.

The 15 member Executive Committee elects office bearers (with the exception of the Chairperson) and has responsibility for ensuring that the organisation complies with the requirements of the Native Title Act 1993 and the Aboriginal Councils and Associations Act 1976.

Senior Executive

Elections were held in May 2005 and a new Executive Committee was elected. As at 30 June 2005 the Full Council had not met and office holders, all of whom had been re-elected to the Executive Committee, continued in office. Ted Hart was re-elected as Chairperson by the Full Committee in July 2005. The Executive Committee will appoint other office holders at their first meeting in 2005-06. The office holders during the year 2004-05 were:

Chairperson

Ted Hart has been Chairperson since December 2003. He was born in Bunbury and educated at Darkan and Governor Stirling Senior High School.

Ted has had a long standing involvement with Aboriginal and mainstream employment. This includes, Chair of the ALS in 1983, Sports Officer, Aboriginal Advancement Council, Welfare Officer, Civil Rehabilitation Council, Youth Development Officer at Tharrawal Aboriginal Corporation at Campbelltown, Sydney.

For the last 9 years Ted has been a self-employed Aboriginal Heritage Consultant.

Ted chairs all Executive Committee meetings and works closely with the Chief Executive Officer to ensure that the organisation is operating in accordance with its rules.

Deputy Chairperson

The Deputy Chairperson, Glen Colbung, of Albany, assists the Chairperson and assumes his responsibilities in his absence. Glen is a former ATSIC Regional Councillor who has had a long standing involvement with native title and Aboriginal justice.

Treasurer

Trevor Eades, of Bunbury, is also a former ATSIC Regional Councillor. Trevor works in Bunbury with the Aboriginal Visitor Scheme.

Trevor had a major part in the formation of SWALSC.

Secretary

Charne Hayden has worked with Noongar youth and coordinated the Doorum Advisory Group. The group teaches Noongar language, music and dance to school age children.

Charne is a strong supporter of Noongar language, culture, heritage and land issues.

Public Officer

Darryl Pearce, is the SWALSC Public Officer and operates in accordance with Section 56 of the Native Title Act.

Management: Administrative

The senior management committee (administrative) includes: Chief Executive Officer, Darryl Pearce; Manager, Culture and Language, Lyn Lund; Manager, Corporate Services, John Hein; Manager, Legal Unit, Simon Blackshield; Manager, Future Acts, Etienne Van Tonder; Supervisor, Research, David Rafferty; Senior Project Officer, Kevin Fitzgerald.

Chief Executive Officer

SWALSC's Chief Executive Officer is Darryl Pearce. Darryl has had 20 years experience working in Indigenous Affairs. He was a member of the negotiating team that worked with the Keating Government to develop the Native Title Act 1993 and was formerly the Director of the Northern Land Council.

The Chief Executive Officer is the official spokesperson for the organisation and is responsible for its day to day management. Darryl oversees operations to ensure that SWALSC's approach to the resolution of native title applications is coherent and effective.

Darryl also takes an active role in lobbying for a better deal for the Noongar people of Western Australia. He represented SWALSC at national forums held to advance justice for Indigenous Australians.

The Chief Executive Officer is appointed by the Executive Committee and acts in accordance with the policies determined by that committee. He attends Executive Committee meetings and provides regular reports in reference to the operations of the organisation.



Manager Culture & Language

Lynette Lund has over 20 years experience working with Aboriginal people in ATSIIC, various government departments and Aboriginal organisations including 9 years in the native title field and working with Representative Bodies. Lyn has a Diploma in Management.

Legal Unit Manager

Martina Martelotta resigned during the year and was replaced as Legal Unit Manager by Simon Blackshield. Simon has been a lawyer for fifteen years and has extensive native title experience including with the New South Wales Land Council.

Simon's responsibilities are to oversee the day to day operations of the legal unit. The legal unit provides legal advice, guidance and assistance to the Chief Executive Officer on native title matters relating to the conduct of civil litigation and other documentary processes required in connect with native title and related litigation.

The legal unit also provides assistance and representation to clients in negotiations under the Native Title Act mediation conference process.

Future Acts Manager

SWALSC's Future Acts team is managed by Ettienne Van Tonder. Ettienne has practiced law for over 17 years. He has previously acted as a State Public Prosecutor and lawyer in South Africa and Australia. Ettienne has extensive experience in commercial and property law.

The Future Act unit processes notices of proposed future developments within the SWALSC claim areas. The unit is responsible for negotiating agreements with developers and drafting commercial contracts.

Corporate Services Manager

John Hein has 7 years experience in native title administration having held similar positions in the Goldfields and Victoria when each went through a major reorganisation.

John is both an accountant and Chartered Secretary and has more than 40 years experience in finance, accounting and general management.

John is directly responsible to the Chief Executive Officer for all matters relating to the effective administrative operation of SWALSC. His responsibilities include financial management, human resource management, resource management and funding compliance.

He also oversees the preparation of SWALSC's organisational policy, strategic and operational planning.

Research Unit Manager

Kate Morton resigned during the course of the year and was replaced by David Rafferty as Research Supervisor. David has seven years experience as an anthropologist in the native title and land rights fields.

The Research Supervisor's responsibilities to SWALSC's Research unit are to oversee the collection of the anthropological and historical data that is needed to determine the legal merit of a claim and to supervise the collection of anthropological, archaeological and historical data used in the preparation and conduct of native title claims.

Native Title Unit Supervisor

Kevin Fitzgerald oversees the preparation of native title land claims from the very first contact with claimants. Kevin has over 20 years experience in Indigenous Affairs and has been involved in native title for five years.

His responsibilities are to receive expressions of interest for claims by Noongar people, inform claimants of claim progression, undertake mediation between claimant groups and mediate between claimants and other parties to a claim.

Kevin provides briefs to SWALSC's legal officers and liaises with relevant agencies. He will also co-ordinate the organisation of Court hearings on country during the trial of the Single Noongar Claim.

Separation of Powers

As stated in the organisation's rules, it is the responsibility of the Executive Committee to ensure that the objects of the organisation are carried out and that it satisfactorily performs all of the functions of a Native Title Representative Body in accordance with the Native Title Act 1993.

The Executive can authorise the use of the common seal, make and rescind policies, constitute committees and make by-laws.

Clause 13.18(b) of the Rules states that the Executive Committee shall not concern itself with the day to day management of the offices of SWALSC, which is the sole province of the Chief Executive Officer.

Corporate and Operational Planning, Reporting and Review

In June 2004 a new Strategic Plan for 2004-07 was submitted to the Minister in accordance with the Native Title Act and this was approved by the Minister. An Operational Plan was also developed for the 2004 - 2005 year and performance is measured against this.

A similar plan has been prepared for 2005-06. The operations are fully costed and funding is provided against the specific parts of the operational plan. As with all Operational Plans it is a living document and will be amended periodically, with the agreement of the funding body, to ensure SWALSC keeps its direction as events unfold.

SWALSC is introducing additional management tools with the intention that individual staff can check their own progress against targets and can account and be held accountable for their performance. These planning tools will be designed to ensure that SWALSC can meet its targets and produce outcomes expected by its clients and members.

Risk Management

The nature of the planning tools which SWALSC has in place, and is introducing, ensure that risks to the organisation are identified and action can be taken to deal with any risks to plans or operations. The organisation's performance is measured against expected outcomes based on key performance indicators.

Managers report to the Executive Committee on their performance and regular reviews ensure that expected outcomes are realistic and that goals are being met. SWALSC also prepares reports for funding bodies and is subject to external audit each year.

External factors have continued to exert a negative influence on performance. While the State continues to talk about a negotiated settlement they have been determined to bring the Combined Metropolitan Claim to court instead of concentrating on resolving the Single Noongar Claim. The trial for the Combined Metropolitan Claim starts in October 2005. This results in SWALSC diverting scarce resources from the major goal of a negotiated settlement for the Single Noongar Claim.

Financial resources are inadequate for the statutory functions for which SWALSC is responsible. This inevitably restricts the service which can be offered to clients and increases the risk for all. Additional operational funding was provided by OIPC towards the end of the financial year and further funding specifically to prepare for the Combined Metropolitan Claim trial. The funding restrictions imposed by OIPC reflect the fact that the government provides OIPC with insufficient funds for representative bodies.

Despite the funding restrictions, SWALSC continues to concentrate resources on producing a satisfactory outcome for the Single Noongar Claim. Ultimately this will maximise benefits for the greatest number of Noongar people.

Ethical Standards, Policies and Practices

The Rules of the Corporation and the Policy and Procedures Manual, which are binding on staff and elected members, outline the ethical standards by which staff and elected members operate.

It is a requirement of the Corporation that:

- conflicts of interest be disclosed;
- all sensitive and personal information be treated as confidential;
- community protocols be respected;
- representatives of SWALSC act in a professional and respectful manner at all times.

Elected members are required to adhere to the process, outlined in the Rules, that deals with disclosure of interest.

If a conflict of interest is notified, it is minuted and the member is required to withdraw from debate and to forgo participation until a vote is taken and counted.

Members of the Executive Committee and Full Council are denied access to confidential information regarding the native title interests of traditional owners unless consent is given by those owners.

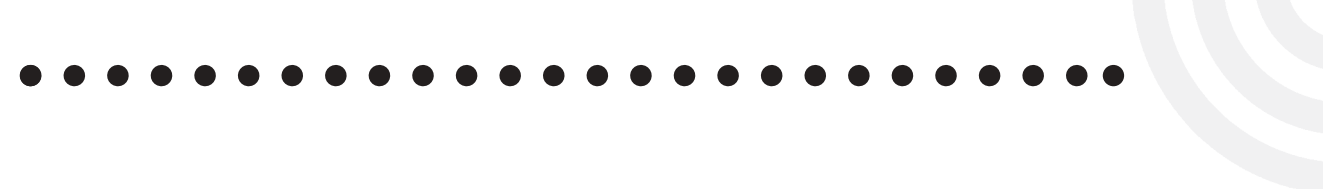
Human Resources

At 30 June 2005, SWALSC employed 24 staff, 22 full-time and 2 part-time. During the year there were 8 resignations and 9 appointments.

Table 2: Staffing Composition

	Indigenous	Non-Indigenous	TOTAL
Female	3	13	16
Male	2	6	8
	5	19	24

As a result of a combination of funding problems and the necessity for SWALSC to concentrate on litigation for the Combined Metropolitan Claim, it became necessary to retrench nine staff. It was not possible to provide alternative positions for the retrenched staff as only legally trained staff were being hired. The concentration on legal matters is expected to continue throughout the year to 30 June 2006.



Professional development was curtailed during the year because of funding restrictions. A limited number of staff, who partially funded themselves, attended the National Native Title Conference and some more general training and professional development was carried out. In conjunction with OIPC, which funded the project, a skills analysis was carried out and recommendations made for a training program. As a result of the retrenchments which had to be carried out, there will be a substantial revision of the recommendations before a professional development program is put in place.

A Corporate Governance Audit was carried out by external consultants. A program is to be developed, funded by the private sector, to improve the understanding and practice of good corporate governance throughout the Noongar Nation. Increasingly, both the public and private sectors expect high standards of governance and the training program will assist Noongar people update their skills.

The long term effect of the professional development program should be an increase in standards, knowledge and skill for SWALSC and the Noongar people as a whole.

In accordance with law, the Corporation is covered by workers' compensation insurance. SWALSC also maintains professional indemnity insurance for staff. No claims were made during the year.

Consultants, Competitive Tendering and Contracting

During the reporting period, SWALSC utilised the services of 22 consultants costing a total of \$330,993 with SWALSC adhering to the guidelines set out by OIPC for tendering and contracting.

It is the view of the organisation, however, that competitive tendering and contracting requirements do not always take into account the operational environment of NTRBs and a review by DIMIA is a matter of urgency.

Occupational Health and Safety Performance

SWALSC complies with the State legislation requirements of the Occupational Health and Safety Guidelines.

The Procedures Manual outlines the responsibilities of the organisation and its staff in maintaining a safe working environment.

Legal Overview

The tasks undertaken and performance of the legal unit over the last financial year have focussed primarily on preparing the Single Noongar Claim for hearing in October to December 2005.

The caliber and commitment of staff has been tested and proven, in its ability to simultaneously manage multiple significant and complex tasks, cases, issues and processes, with limited resources. This situation in itself raises issues about the long term sustainability for those workers at the “coal face” of native title practice.

Despite respondents stating that they seek to resolve native title application by agreement not argument, those parties have maintained a litigious attitude in the Court proceedings.

The multiplication of respondent parties in native title proceedings not only adds to the costs and litigious environment, but also creates greater obstacles in seeking to limit issues and to progress mediated outcomes.

Facilitation and Assistance Claimant Applications

Ongoing assistance was provided to the following Native Title Applications:

- WAG 6134/98 Southern Noongar native title claim group
- WAG 6286/98 the Wagyl Kaip native title claim group
- WAG 6279/98 the South West Boojarah native title claim group
- WAG 6247/98 the Gnaala Karla Booja native title claim group of the Nyungar People
- WAG 6192/98 the Yued families
- WAG 6181/98 the Ballardong People
- WAG 6006/03 SNC (Area 1)
- WAG 6012/03 SNC (Area 2)

Grants of Assistance provided on a “briefed out” basis to the following applications:

- WAG 6216/98 Kalamaia/Gubrun

Single Noongar Claim (Area 1)

On 1 April 2005, Justice Wilcox of the Federal Court ordered that the following question be “decided separately from and before any other questions” in the Single Noongar Claim proceedings:

“But for any question of [technical] extinguishment of native title by inconsistent legislative or executive acts...;

- (i) Does native title exist in relation to land and waters in the [Perth Metropolitan] area?*
- (ii) If the answer to (i) above is in the affirmative, who are the persons or each group of persons holding the common or group rights comprising the native title; and*
- (iii) What is the nature and extent of the native title rights and interests in relation to the area?”*

To enable Justice Wilcox to address these questions, a four-week hearing has been scheduled for the first half of the next financial year, and the hearing will involve the taking of evidence throughout SWALSC’s NTRB area, in relation to the communal laws and customs which (as it will be argued) provide the source of native title rights and interests in the Perth Metropolitan area.

Mediation of Single Noongar Claim

(Area 1), Yued, Wagyl Kaip, Southern Noongar, South West Boojarah, Single Noongar Claim (Area 2) and part of Gnaala Karla Booja

On 23 December 2004, the Federal Court made orders requiring the parties to prepare detailed programs for the mediation of these matters. As at 30 June 2005, however, the State of Western Australia and the applicants for these matters had not been able to agree on such programs.

This failure lies partly in differences in approaches to mediation by the parties, partly in logistical problems which arise from processes regarding the replacement of applicants remaining incomplete (with some confusion flowing from this fact, with respect to the status and authority of certain claimants) and partly from funding restrictions imposed on SWALSC which precluded SWALSC obtaining instructions on significant issues (these restrictions commenced in May 2005, and had not yet been lifted at the end of the reporting period).

Gnaala Karla Booja and Ballardong

The Ballardong application and the part of the Gnaala Karla Booja application which is not subject to overlaps (other than with Single Noongar Claim Area 1) have remained in mediation throughout the reporting period.

Combined Metropolitan Claims

During the previous reporting period, this matter was combined into the Single Noongar Claim. The forthcoming hearing in the Single Noongar Claim (discussed above) is essentially a hearing to resolve connection issues in relation to the area previously covered by the Combined Metropolitan Claims.

Bodney Appeal

In the previous financial year, Mr Bodney appealed a Federal Court decision striking out his applications. In this reporting period, the Full Bench allowed Mr Bodney's appeal in part, holding that he should have been granted leave to file replacement applications which met the requirements of the Native Title Act. As at 30 June 2005, Mr Bodney had not filed any further applications pursuant to that leave.

Kalamia/Gubrun

A grant of assistance remains on foot (on a briefed out basis) until overlapping interests with part of the Ballardong claim is resolved.

Preparation of Expert Reports

Extensive anthropological, historical and linguistic reports in support of the Single Noongar Claim have been completed and filed during the reporting period.

Non-Claimant Applications

Nil

Compensation Claims

Nil

Mediation and Negotiation Activities - Section 86F NTA

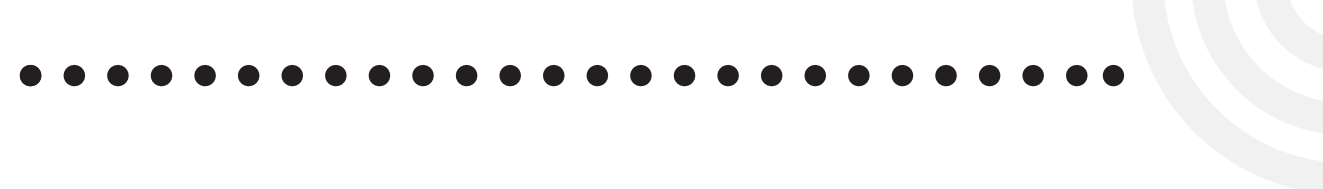
The Native Title Act represents an opportunity for governments and other organisations to enter into a dialogue with Traditional Owners on a range of issues and to resolve matters to the satisfaction of both parties. For governments and other respondents there are concerns to resolve the perceived uncertainty created by native title; for native title holders there remains a need to address land justice and the range of issues that contribute to their disadvantage as a dispossessed community.

These sort of outcomes are contemplated under Section 86F of the Native Title Act, which states in part:

“Some or all of the parties to a proceeding in relation to an application may negotiate with a view to agreeing to action that will result in any one or more of the following:

- (a) application being withdrawn or amended;*
- (b) the parties to the proceeding being varied;*
- (c) any other thing being done in relation to the application.*

The agreement may involve matters other than native title.”



Section 86F underscores the role of the Native Title Act as a framework for dialogue between interested parties and a mechanism for reaching an agreement sanctioned and enforced by the Federal Court.

This approach has also been endorsed by the Federal Court:

“...Mediation and negotiation covering a range of options which might lead to a resolution of native title determination applications in the area including non-native title outcomes could proceed...” French J. 2 October, *Bennell and Ors v State WA* @ para 25.

SWALSC remains committed to pursuing a comprehensive agreement with the State Government to complement the outcomes that might be contemplated as part of - or in substitution for - a native title determination. This agreement has been titled the Comprehensive Regional Agreement (CRA) and seeks to have an ongoing dialogue between a Noongar representative entity and the State Government across a range of issues of mutual interest to the Parties. SWALSC sees the CRA as a crucial opportunity in producing a realistic, manageable, and sustainable native title outcome.

States approaching the negotiation of native title from a narrow and legalistic perspective which seeks to limit outcomes to what is defined as “native title outcomes only” have the potential to miss real opportunities to give effect to sustainable social and economic outcomes which acknowledge the very real inter-relationship between native title processes and outcomes and broader indigenous policy objectives.

Research Overview

The Research Unit’s activities for 2004-2005 have been in accordance with SWALSC’s priorities as identified in the Transitional and Operation plan, that is, the implementation of the Single Noongar Claim.

Authorisation Meetings

Between July 2004 and June 2005 the Research Unit staff have assisted the Legal and Directorate Units in attempts to authorise the combination of existing underlying claims into the Single Noongar Claim. This role has required attendance at both Working Party and Claimant meetings, and research as directed. Whilst the bulk of the family meetings required were completed in the period outlined above

Research Program for the Single Noongar Claim and Preparation for the Single Noongar Claim Litigation

After commencing its research program for the Single Noongar Claim Anthropology Report in January 2004, the Research Unit concluded this research program in February 2005. The Anthropology Report was ultimately filed in the Federal Court in two parts - with a supplementary dealing with matters relating to genealogical issues. Staff anthropologists were engaged in an intensive period of office-based research from the conclusion of field work in late July 2004 right through to the filing of Anthropology Report in December 2004, and the report supplementary to this in February 2005. Again, these tasks were undertaken under extreme pressure due to the timelines imposed by Federal Court programming orders and mediation protocols. Nevertheless staff anthropologists have achieved this task according to the Research Program schedule developed in December 2003.

The Research Unit's staff Historian has completed his significant part in assisting in the preparation of the expert historical report for the Single Noongar Claim. This report was eventually filed with the Federal Court on May 30 2005.

Research Unit staff have continued to provide assistance to the legal unit in the preparation of documentation for the Single Noongar Claim application, and in the authorisation process for receiving instructions in relation to the Single Noongar Claim.

In February 2005 Kate Morton resigned as Research Manager. The position of Team Leader, Research has been assumed by David Raftery. Ms Morton's position has not been replaced, which has meant that the two staff anthropologists, David Raftery and Ophelia Rubinich, have taken extra research, field work and administrative responsibilities.

Between February 2005 and the end of July 2005, all staff in the Research Unit have become increasingly involved in assisting the Legal Unit in preparation for the litigation of the Single Noongar Claim, in particular the trial scheduled for October 2005. This support has been primarily logistical and administrative in its nature.

The Research Unit has continued to provide research services to SWALSC to the Legal, Directorate and Future Act Units as requested.



Future Acts Strategic Objectives

As in past years, the consultative processes under the Native Title Act 1993 remain a key focal point in the operational agenda of the Future Act Unit to (i) minimise the impact of future acts on native title, and (ii) maximise beneficial opportunities from future acts. This year, however, more emphasis has been placed on the development and implementation of “post native title determination procedures”. This encompasses processes that will ensure:

- continued acknowledgement and protection of Aboriginal Heritage; and
- ongoing consultation with Aboriginal communities within the region on issues such as land and water uses, land access, land development etc, regardless of outcome of native title determination.

Future Act Outcomes

During the previous reporting period the Future Act unit, in conjunction with the State and various industry bodies, have agreed and finalised a Regional Heritage Protection Agreement (“RHPA”) for the South West Region.

The RHPA holds significant advantages for Aboriginal communities in that: all future applicants for exploration and prospecting licences will be required to enter into a RHPA. There will be no need to lodge objections against the “expedited procedure” for the grant of these licences because native title rights and interests are now covered by the RHPA.

The Future Act unit has managed to put in place RHPA’s in respect of 56 Exploration and Prospecting Licences. A number of surveys had been conducted under the RHPA and it is expected that a significant number of surveys will continue to be conducted in the South West during the forthcoming year.

Under the Right to Negotiate processes, negotiations are underway with 10 mining lease applicants, some of which have reached the stage of finalisation. Representatives of the applicable registered claim groups continue to be involved in these ongoing negotiations.

Of continuing significance is that the Future Act unit has been engaged in initial discussions with the Main Roads Department of Western Australia and the Water Corporation who continue to support the concept of negotiating a standard Heritage Protection protocol that will apply across the South West Region and which will ensure greater recognition and protection of Aboriginal Heritage and Sites throughout the region.

During the reporting period, 149 new future act notices were received and processed. Of the 149 notices, some 113 notices were of a non-mining industry nature.

Whilst the Future Act unit remains committed to meet its obligations in processing these future acts as well as all additional functions required to be performed and which is a direct outflow of the implementation of the Regional Heritage Protection Agreement, the lack of sufficient funding and human resources continues and will continue to adversely impact on the proper and effective functioning of the unit.

Table 3: Other Activities

Description	Number
Applicant / Claimant Meetings	9
Family Meetings	17
Working Party Meetings	55
Newsletters	1
Preparation of Fact Sheets listing Noongar socio-economic indicators to assist negotiations with governments and agencies.	4
Membership	2209

Table 4: Function Costs

Function	2005
	\$
Facilitation and assistance	2,385,624
Certification	9,468
Dispute resolution	184,293
Notification	99,164
Agreement making	21,436
Internal review	5,913
Other	325,665
Administration	653,002
TOTAL	3,684,565

Natural Resource Management

In late 2004 and early 2005, the NHT Indigenous Engagement in NRM project delivered a series of successful meetings held between the Regions 1 - 6 Working Parties and various Catchments Council bodies (these are non-Government organisations delivering Natural Heritage Trust (NHT) funds for various natural resource management (NRM) projects).

These meetings have led to:

- Formation of the Ballardong NRM Working Group (6 x Region 2 members) working with Rod Garlett from the Avon Catchment Council (ACC), with 2 members of the Group sitting on the ACC Management Committee as Aboriginal representatives.
- Yued NRM Steering Committee being formed (8 x Region 5 members and Yued elders), to work with Patrick Mullaley from the Northern Agricultural Catchments Council (NACC). The Yued Working Party moved that the NACC create a position for an Aboriginal person on their management committee which will be discussed at the NACC AGM in September. In the meantime an Aboriginal representative position has been created on the Moore Catchment Council, a sub-regional body of the NACC.
- An MOU regarding appropriate consultation protocols for working with Noongars on NRM projects will be drafted and signed by representatives of the Regions 1 and 3 Working Parties, in association with Bill Bennell from the South West Catchments Council (SWCC).

These NRM groups will advise on issues arising, provide input to projects happening in their region, and can also take a proactive approach by proposing projects to address issues which concern Noongar people. A number of NRM projects are now coming to SWALSC for comment and input from Noongar people, which the groups and MOU will greatly assist in addressing.

Projects

NHT support, through the NACC, has been secured for a project called the Yued Booja Environmental Audit of Cultural-Spiritual Sites and Land Use Practices. This involves assessing the environmental condition of a number of registered Aboriginal sites, as prioritised by the Yued NRM Steering Committee, and providing management recommendations to protect their cultural, spiritual and environmental values. Enviro/cultural management plans will be written for some of the sites.

The SWCC will also deliver NHT support for a project called Goegrup/Black Lakes: A Best Practice Wetlands Management in the South West which will aim to write a culturally-informed environmental management plan for the Goegrup Lake and Black Lakes system near Mandurah, in association with the Region 3 Working Party and other key stakeholders.

SWALSC has continued its commitment to the provision of Native Title education to the community. During the reporting period, SWALSC produced broadsheet newsletters and information distributed to its members and native title claimants across the NTRB region.

Extensive reports on activities are made to Working Party members at meetings throughout the year.

SWALSC also maintains a website that provides:

- Noongar history and culture
- Corporate Governance listing elected members
- General information related to Native Title and the future act process.
- Map and description of the Native Title claims in the South West NTRB region
- electronic versions of Newsletters
- Application for Membership

The website has attracted thousands of visitors from all over the world.

SWALSC project officers have continued to conduct family and community meetings using the opportunity to educate members about Native Title processes and Agreement making.

Research officers have continued to liaise with community members in documenting and collating family history for the genealogical database.

In addition, reports and documentation have been compiled for intended litigation.



Other

Significant Changes in Principal Functions and Services

There have been no significant changes in the principal functions and services of the organisation during this reporting period.

SWALSC is carrying out all the functions of a Native Title Representative Body as defined by the Native Title Act 1993.

Financial Performance

The financial resources allocated to SWALSC for native title purposes for the period were insufficient to carry out its statutory responsibilities. Late in the period additional funds were made available for both operational and litigation purposes.

Prior to being provided with the additional funds, a review was carried out on behalf of OIPC by independent consultants. SWALSC supported this review as none had been carried out since SWALSC was recognised as a native title representative body. The review found that SWALSC's record keeping and financial records were in order.

The funding restrictions are partly caused by a lack of government funding for native title representative bodies and increasing pressure on representative bodies as a result of the number of matters before the Federal Court.

SWALSC's financial performance for the reporting period resulted in a surplus of \$45,843. However, all native title funds were committed to meet future activities and costs for the Single Noongar Claim litigation.

Developments Since the End of the financial year

There have been no reportable developments since the end of the financial year.

Judicial Decisions and Decisions of Administrative Tribunals

There have been no judicial or Administrative Tribunal decisions in relation to SWALSC during the reporting period, other than legal decisions concerning particular Native Title matters.

SWALSC was determined as the representative body for the Noongar region by the Minister for Immigration and Multicultural and Indigenous Affairs with effect from 1 February 2002. This determination is still in force.

No other directions or determinations have been made by the Minister in relation to SWALSC.

JOHN FOLEY & ASSOCIATES
CERTIFIED PRACTISING ACCOUNTANT

JOHN D FOLEY FCPA CP



INDEPENDENT EXAMINER'S REPORT TO THE MEMBERS OF THE
SOUTH WEST ABORIGINAL LAND & SEA COUNCIL ABORIGINAL CORPORATION

Scope

I have audited the financial statements of the South West Aboriginal Land & Sea Council Aboriginal Corporation for the financial year ended 30 June 2005. The financial statements comprise:-

- Statement by the Executive Committee and the Chief Executive Officer.
- Statements of Financial Performance, Financial Position and Cash Flows.
- Schedules of Commitments and Contingencies.
- Notes to and Forming Part of the Financial Statements.

The members of the South West Aboriginal Land & Sea Council Aboriginal Corporation are responsible for the preparation and presentation of the financial statements and the information they contain. I have conducted an independent audit of the financial statements in order to express an opinion on them to you.

The audit has been conducted in accordance with the Australian Auditing Standards to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Australian Accounting Standards and other mandatory professional reporting requirements and statutory requirements in Australia, so as to present a view of the entity which is consistent with my understanding of its financial position, the results of its operation and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Audit opinion

In my opinion:-

- i) the financial statements have been prepared in accordance with the Finance Minister's Orders made under the Commonwealth Authorities and Companies Act 1997;
- ii) the financial statements give a true and fair view in accordance with applicable Accounting Standards, other mandatory professional requirements in Australia and the Finance Minister's Orders, of the financial position of the South West Aboriginal Land & Sea Council Aboriginal Corporation as at 30 June 2005 and its performance for the year then ended;

INDEPENDENT EXAMINER'S REPORT TO THE MEMBERS OF THE
SOUTH WEST ABORIGINAL LAND & SEA COUNCIL ABORIGINAL CORPORATION

- iii) the financial statements are based on proper accounts and records;
- iv) the financial statements are in agreement with the accounts and records; and
- v) the receipts, expenditure and the investment of money and the acquisition and disposal of assets has been in accordance with the Native Title Act and the grant conditions imposed by Subsection 203 CA(1) of the Act.



JOHN EDWARD FOLEY
JOHN FOLEY & ASSOCIATES

Perth, Western Australia

Dated: 3 October 2005

South West Aboriginal Land & Sea Council Aboriginal Corporation
Statement by Executive Committee and Chief Executive Officer

In our opinion, the attached financial statements for the year ended 30 June 2005 have been based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the Financial Management and Accountability Act 1997, as amended.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Corporation will be able to pay its debts as and when they become due and payable.

This Statement is made in accordance with a resolution of the Executive Committee.

Signed.....



Ted Hart
CHAIRMAN

13 September 2005

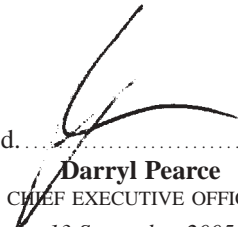
Signed.....



Trevor Eades
TREASURER

13 September 2005

Signed.....



Darryl Pearce
CHIEF EXECUTIVE OFFICER

13 September 2005

Statement of Financial Performance for the year ended 30 June 2005

	Notes	2004 \$	2005 \$
Revenues from ordinary activities			
Sale of Services	4	3,780,499	3,722,095
Interest		13,956	8,313
<i>Total revenue from ordinary activities</i>		3,794,455	3,730,408
Expenses from ordinary activities			
Employees	5.1	2,004,222	1,893,220
Suppliers	5.2	1,820,781	1,758,113
Depreciation	5.3	42,729	33,232
<i>Total expenses from ordinary activities</i>		3,867,732	3,684,565
<i>Borrowing costs expense</i>			
Bank overdraft	5.5	1,354	0
Surplus		(74,631)	45,843

The above statement should be read in conjunction with the accompanying notes.

Statement of Financial Position for the year ended 30 June 2005

	Notes	2004 \$	2005 \$
ASSETS			
Financial assets			
Cash	6.1	155,368	396,920
Receivables	6.2	346,957	381,937
<i>Total financial assets</i>		502,325	778,857
Non-financial assets			
Plant & equipment	7	166,159	132,927
<i>Total non-financial assets</i>		166,159	132,927
Total assets		668,484	911,784
LIABILITIES			
Provisions			
Employees	8	214,662	248,640
<i>Total Provisions</i>		214,662	248,640
Payables			
Suppliers	9	357,955	513,951
Other		652	8,136
<i>Total Payables</i>		358,607	522,087
<i>Total liabilities</i>		573,269	770,727
NET ASSETS		95,215	141,057
EQUITY: Members' Funds	10	95,215	141,058
Total Equity		95,215	141,058
Current assets		502,325	778,857
Non-current assets		166,159	132,927
Current liabilities		573,269	770,277
Non-current liabilities		0	0

The above statement should be read in conjunction with the accompanying notes.

Statement of Cash Flow for the year ended 30 June 2005

	Notes	2004 \$	2005 \$
OPERATING ACTIVITIES			
Cash received			
Grants received		3,437,681	3,399,632
Other income		86,832	287,482
Interest		13,956	8,313
Total cash received		3,538,469	3,695,427
Cash used			
Employees		1,952,841	1,859,242
Suppliers		1,611,551	1,594,633
Borrowing Costs		1,354	0
Total cash used		3,565,746	3,453,875
Net cash from operating activities		(27,277)	241,552
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment		0	0
Cash used			
Purchase of assets		8,351	0
Net cash from investing activities		(8,351)	0
Net increase (decrease) in cash	11	(35,629)	241,552
Cash at beginning of reporting period		190,997	155,368
Cash at end of reporting period		155,368	396,920

The above statement should be read in conjunction with the accompanying notes.

Schedule of Commitments for the year ended 30 June 2005

	Notes	2004 \$	2005 \$
BY TYPE			
CAPITAL COMMITMENTS			
Plant & equipment		0	
Total Capital Commitments			
OTHER COMMITMENTS			
Operating leases ¹		552,813	230,913
Funding committed but unexpended		0	173,871
Total Capital Commitments		552,813	404,784
COMMITMENTS RECEIVABLE			
		-	
Net Commitments		552,813	230,913
BY MATURITY			
Operating lease commitments			
One year or less		0	230,913
From one to two years ¹		552,813	0
From two to five years		0	0
Over five years		0	0
Net Commitments by Maturity		552,813	230,913

Please note: Commitments are GST inclusive where relevant.

¹ Operating leases included are effectively non-cancellable and comprise:

<i>Nature of lease</i>	<i>General description of leasing arrangements</i>
Leases for office accommodation	The two year rental agreement for office accommodation will expire on 14 March 2006. Extension is not applicable.
Agreements for the provision of motor vehicles.	No commitment rentals exist. There are no renewal or purchase options available.

The above statement should be read in conjunction with the accompanying notes.

Schedule of Contingencies as at 30 June 2005

	Notes	2004 \$	2005 \$
Contingent Liabilities			
Liability for income tax		0	0
Under expended grants ¹		279,885	0
Contingent Assets			
Over expended grants ²		(361,308)	0

Notes:

Over expended grants

- ¹ Grants from Commonwealth Agencies that may be reclaimed by the funding authorities if programs are not carried forward in to following years.
- ² The over-expenditure is in respect of the Native Title operations activities. During the 2003/2004 financial year SWALSC operated at a deficit primarily due to the extraordinary costs of facilitating the single claim strategy. It is anticipated that this deficit will be recovered through funding in later years.

The above statement should be read in conjunction with the accompanying notes.

**Summary of Notes to and forming part of the Financial Statements
for the year ended 30 June 2005**

<i>Note</i>	<i>Description</i>
1	Summary of Significant Accounting Policies
1.1	Objectives of South West Aboriginal Land and Sea Council Aboriginal Corporation
1.2	Basis of Accounting
1.3	Changes in Accounting Policy
1.4	Revenue
1.5	Employee Benefits
1.6	Leases
1.7	Borrowing Costs
1.8	Cash
1.9	Financial Instruments
1.10	Acquisition of Assets
1.11	Property, Plant and Equipments
1.12	Taxation
1.13	Insurance
1.14	Grants
2	Economic Dependency
3	Events Occurring after the Reporting Date
4	Operating Revenues
5	Operating Expenses
5.1	Employee Expenses
5.2	Supplier Expenses
5.3	Depreciation
5.4	Financial Assets
5.5	Borrowing Costs Expenses
6	Financial Assets
6.1	Cash
6.2	Receivables
7	Non-Financial Assets
8	Provisions
9	Payables
10	Equity
11	Cash Flow Reconciliation
12	Remuneration of Auditors
13	Remuneration of Officers
14	Reporting of Outcomes

Notes to and forming part of the Financial Statements for the year ended 30 June 2005

Note 1: Summary of Significant Accounting Policies

1.1 Objectives of South West Aboriginal Land and Sea Council Aboriginal Corporation (SWALSC)

As the Native Title Representative Body (NTRB) for the south west of Western Australia, the objectives 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
- to provide services and advocacy directed towards securing land, protecting the spiritual and physical connection to land of members, support the maintenance, development and advancement of Noongar culture, language and society and promote Aboriginal reconciliation as a basic tenet of Australian society.

1.2 Basis of Accounting

The financial statements are required by section 49 of the Financial Management and Accountability Act 1977 and are a general purpose financial report.

The financial statements have been prepared in accordance with:

- Finance Minister's Orders (being the Commonwealth Authorities and Companies Orders (Financial Statements for reporting periods ending on or after 30 June 2005) Orders);
- Australian Accounting Standards and Accounting Interpretations issued by the Australian Accounting Standards Board; and
- Consensus Views of the Urgent Issues Group.

The Statements of Financial Performance and Financial Position have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets, which, as noted, are at valuation. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

Assets and liabilities are recognised in the Statement of Financial Position when and only when it is probable that future economic benefits will flow and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an Accounting Standard. Liabilities and assets which are unrecognised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable or remote contingencies.)

Revenues and expenses are recognised in the Statement of Financial Performance when and only when the flow or consumption of economic benefits has occurred and can be reliably measured.

1.3 Changes in Accounting Policy

The accounting policies used in the preparation of these financial statements are generally consistent with those applied in the compilation of the financial statements for the year ended 30 June 2004. A major component of funding has been changed from a grant to a contract basis. The contract for the year ended 30 June 2005 requires that funds unspent or uncommitted at 30 June 2005 be carried as a liability. As at 30 June 2005 all funds had been legally committed subject to the funding agreement therefore no liability arose and there was no effect on the results for the year.

SWALSC will be required to comply with Australian Equivalents to International Financial Reporting Standards (AEIFRS) for the financial period commencing 1 July 2005. SWALSC has reviewed the impact of the adoption of AEIFRS and determined that they are unlikely to have a material impact on the information likely to be presented in the financial year for the year ended 30 June 2006.

1.4 Revenue

Resources Received Free of Charge

Services received free of charge are recognised as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised at their fair value when the asset qualifies for recognition, unless received from another government agency as a consequence of a restructuring of administrative arrangements.

Other Revenue

Revenue from rendering of services is recognised by reference to the stage of completion of contracts or other agreements to provide services. The stage of completion is determined according to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets.

Revenue from disposal of non-current assets is recognised when control of the asset has passed to the buyer.

Revenues, expenses and assets are recognised net of goods and services tax (GST)

- except for receivables and payables; and
- except where the amount of GST incurred is not recoverable from the Australian Taxation Office.

1.5 Employee Benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for wages and salaries (including non-monetary benefits), annual leave and sick leave are measured at their nominal amounts. Other employee benefits expected to be settled within 12 months of the reporting date are also measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Leave

The liability for employee benefits includes provision for annual leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has not been recognised. At 30 June 2005 SWALSC was in the process of executing an Australian Workplace Agreement with employees which does not include entitlements to long service leave.

Superannuation

SWALSC contributes to a superannuation fund of the employee's choice. Contributions are made at the statutory rate of 9 %. The liability for superannuation recognised as at 30 June represents outstanding contributions for the final quarter of the year.

1.6 Leases

A distinction is made between financial leases, which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of leased non-current assets, and operating leases under which the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at the present value of minimum lease payments at the inception of the lease and a liability recognised for the same amount. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expenses on a basis which is representative of the pattern of benefit derived from the leased assets.



1.7 Borrowing Costs

All borrowing costs are expensed as incurred except to the extent that they are directly attributable to qualifying assets, in which case they are capitalised. The amount capitalised in a reporting period does not exceed the amounts of costs incurred in that period.

1.8 Cash

Cash means notes and coins held and any deposits held at call with a bank or financial institution.

1.9 Financial Instruments

Financial Liabilities

Financial liabilities are recognised when a present obligation to another party is entered into and the amount of the liability can be reliably measured.

Trade creditors

Creditors and accruals are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.10 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken.

1.11 Property, Plant and Equipment

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the Statement of Financial Position, except for purchases costing less than \$500, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total, or where specific purpose grants have approved the items).

Property, plant and equipment acquired free or for a nominal amount are recognised initially at fair value.

Revaluations Basis

Land, buildings, plant and equipment are carried at valuation. Revaluations undertaken up to 30 June 2002 were done on a deprival basis; revaluations since that date are at fair value. This change in accounting policy was required by Australian Accounting Standard AASB 1041

Revaluation of Non-Current Assets

Property, plant and equipment, other than land, are recognised at its depreciated replacement cost. Under both deprival and fair value, assets which are surplus to requirements are valued at net realisable value. As 30 June 2005, the South West Aboriginal Land and Sea Council had no assets in this situation.

Frequency

AASB 1041 allows for the progressive revaluation of plant and equipment up to reporting periods beginning no later than 30 June 2005.

Plant and equipment assets, including assets under finance leases, have not been revalued. Motor vehicles and plants are replaced on average every 3 years. Therefore, these classes of assets have not been re-valued as the written down value would not differ materially from the deprival value.

Conduct

All valuations are conducted by an independent qualified valuer.

Depreciation and amortisation

Depreciable property, plant and equipment assets are written-off to their estimated residual values using diminishing value method.

Depreciation/amortisation rates are reviewed at each balance date, with necessary adjustments recognised in the current or current and future reporting periods, as appropriate. Residual values are re-estimated for a change in prices only when they are re-valued.

Depreciation and amortisation rates apply to each class of depreciable assets are as follows:

Motor vehicles	22.5%
Office equipment and furniture	20.0%

The aggregate amount of depreciation allocated for each class of asset during the reporting period is disclosed in Note 7.

1.12 Taxation

On 19 December 2003 the Corporation became a Deductible Gift Recipient, as declared by the Australian Taxation Office, and is exempt from all forms of taxation except fringe benefits tax and goods and services tax.

The Corporation is no longer liable for payroll tax.

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

1.13 Insurance

SWALSC has executed insurance contracts covering all appropriate insurable assets.

1.14 Grants

Most grant agreements require the grantee to perform services, provide facilities or meet eligibility criteria. In these cases, the Corporation recognises grant liabilities only to the extent that the services required have been performed or the eligibility criteria have been satisfied by the Corporation.

Note 2 Economic Dependency

The Corporation is recognised as a Native Title Representative Body under the Native Title Act 1993 and as such is entitled to be funded by the Commonwealth of Australia through the Department of Immigration and Multicultural and Indigenous Affairs to carry out its statutory functions. The Corporation is dependent on the continued funding for its continued ability to carry out these activities.

Note 3 Events Occurring After the Reporting Date

There were no significant events occurring after the reporting date which require reporting

	2004	2005
	\$	\$
Note 4 Operating Revenues		
Commonwealth native title funding	3,124,532	3,358,900
Other Commonwealth funding	313,149	140,732
Sale of other services	342,818	222,463
Interest on bank account	13,956	8,313
Total operating revenue	3,794,455	3,730,408

Note 5 Operating Expenses

5.1 Employee Expenses

Wages and Salary	1,716,008	1,641,727
Superannuation	161,657	149,718
Leave and other entitlements	114,274	89,367
Total employee benefits expense	1,991,939	1,880,812
Workers compensation premiums	12,283	12,408
Total employee benefits	2,004,222	1,893,220

SWALSC contributes to the superannuation fund chosen by the employee. Contributions are made at the statutory rate.

Financial Statements

	2004 \$	2005 \$
5.2 Supplier Expenses		
Goods from external entities	1,710,596	1,439,376
Operating lease rentals	110,185	318,737
Total suppliers expenses	<u>1,820,781</u>	<u>1,758,113</u>
5.3 Depreciation		
Other infrastructure, plant and equipment	42,729	33,232
Total depreciation	<u>42,729</u>	<u>33,232</u>
5.4 Financial Assets		
Bad and doubtful debts expense	0	0
Total financial assets	<u>0</u>	<u>0</u>
Non-financial Assets		
Plant and equipment - revaluation decrement	0	0
Total write-down of assets	<u>0</u>	<u>0</u>
5.5 Borrowing costs expense		
Bank overdraft fees	1,354	0
Total Borrowing costs expense	<u>1,354</u>	<u>0</u>
Note 6 Assets		
6.1 Cash		
Cash on hand:		
Bank	154,768	396,420
Petty cash	600	500
Total cash	<u>155,368</u>	<u>396,920</u>
6.2 Receivables		
Goods and services	250,740	201,975
GST receivable from the ATO	61,426	149,179
Staff Loans	917	872
Other - prepaid expenses	33,874	29,911
Total receivables	<u>346,957</u>	<u>381,937</u>
Receivables which are overdue are aged as follows:		
Not overdue	214,143	186,507
Overdue by more than 90 days	132,814	195,430
Total receivables	<u>346,957</u>	<u>381,937</u>

	2004 \$	2005 \$
Note 7 Non-Financial Assets		
Plant and equipment (see Table A)		
- at cost	259,346	259,346
- accumulated depreciation	93,187	126,419
	<u>166,159</u>	<u>132,927</u>
Motor Vehicles		
- at cost	0	0
- accumulated depreciation	0	0
	<u>0</u>	<u>0</u>
Total plant & equipment	<u>166,159</u>	<u>132,927</u>

Table A: Reconciliation of the opening and closing balances of property,

Item	Other IP & E	Motor Vehicles
As at 1 July 2004		
Gross book value	259,346	0
Accumulated depreciation	93,187	0
Net book value	166,159	0
Additions		
by purchase	0	0
from acquisition of operations	0	0
Net revaluation increment/decrement	0	0
Depreciation/amortization expense	33,232	0
Recoverable amount write-downs	0	0
Disposals		
from disposal of operations	0	0
other disposals	0	0
As at 30 June 2005	0	0
Gross book value	259,346	0
Accumulated depreciation	126,419	0
Net book value	132,927	0

	2004 \$	2005 \$ \$
Note 8 Provisions		
Employee Provisions		
Salaries and wages	23,495	5,487
PAYG provision	34,740	128,166
Leave	114,274	80,011
Superannuation	42,153	34,976
Total employees liabilities	<u>214,662</u>	<u>248,640</u>
Note 9 Payables		
Trade creditors	220,127	133,987
GST creditors	137,828	379,964
Other liabilities	652	8,136
Total payables	<u>358,607</u>	<u>522,087</u>
Note 10 Equity		
Retained Earnings	169,847	95,215
Adjustment to retained earnings		0
Current Year Earnings/Deficit	(74,631)	45,843
Owner's Equity	<u>95,215</u>	<u>141,058</u>
Note 11 Cash Flow Reconciliation		
Operating surplus/(deficit)	(74,631)	45,843
Depreciation	42,729	33,232
Gain/(loss) on disposal of assets	0	0
Write down of non-current assets	0	0
Write down of financial asset	0	0
Increase/(decrease) in employee provision	51,381	33,978
Changes in asset & liabilities		
Increase/(decrease) in receivables	(255,986)	(34,980)
Increase/(decrease) in creditors	209,230	163,480
(Increase)/decrease in assets	(8,351)	0
Net cash from/(used by) operating activities	<u>(35,628)</u>	<u>241,553</u>
Note 12 Remuneration of Auditors		
Remuneration to auditors for the audit	<u>9,966</u>	<u>5,200</u>

	2004	2005
	\$	\$
Note 13 Remuneration of Officers		
The number of officers who received or were due to receive total remuneration of \$100 000 or more:		
\$100 000 - \$110 000	2	2
\$150 001 - \$160 000	0	1
\$160 001 - \$170 000	1	0
The aggregate amount of total remuneration of officers shown above was:		
	\$371,374	\$366,310
The average staffing levels for the Corporation during the year was:		
	34	27

Note 14 Reporting of Outcomes

The costs attributed to Outcomes are reported in Table 4 of the narrative of the Annual Report.

Glossary of Terms

ALT	<i>Aboriginal Lands Trust</i>
ACC	<i>Avon Catchment Council</i>
ALT	<i>Aboriginal Lands Trust</i>
ATO	<i>Australian Taxation Office</i>
ATSIC	<i>Aboriginal and Torres Strait Islander Commission</i>
CALM	<i>Department of Conservation and Land Management</i>
DIMIA	<i>Department of Immigration and Multi-cultural and Indigenous Affairs</i>
DPI	<i>Department of Planning and Infrastructure</i>
DOIR	<i>Department of Industry and Resources</i>
ILC	<i>Indigenous Land Corporation</i>
ILUA	<i>Indigenous Land Use Agreement</i>
MOU	<i>Memorandum of Understanding</i>
NAB	<i>National Australia Bank</i>
NACC	<i>Northern Agricultural Catchments Council</i>
NHT	<i>National Heritage Trust</i>
NIWG	<i>National Indigenous Working Group</i>
NNTT	<i>National Native Title Tribunal</i>
NRM	<i>Natural Resource Management</i>
NTA	<i>Native Title Act 1993</i>
NTRB	<i>Native Title Representative Body</i>
RHPA	<i>Regional Heritage Protection Agreement</i>
SCRIPT	<i>South Coast Regional Initiatives Planning Team</i>
SNC	<i>Single Noongar Claim</i>
SWALSC	<i>South West Aboriginal Land and Sea Council</i>
SWCC	<i>South West Catchments Council</i>
WAANTWG	<i>Western Australian Aboriginal Native Title Working Group</i>
WALGA	<i>Western Australian Local Government Association</i>

Definitions

- Noongar** *Means a descendent of the Aboriginal people known as Noongars and who identifies as and is accepted as a member of the Noongar peoples by those persons.*
- Noongar People** *Means those Aboriginal people who in accordance with the customs, laws and traditions of Aboriginal people have had since time immemorial a physical or spiritual connection with Noongar land.*

South West Aboriginal Land and Sea Council

A report issued in accordance with the instructions issued by the Minister for Immigration and Multicultural and Indigenous Affairs pursuant to section 203DC of the *Native Title Act, 1993*.

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