


# Connection to Country



South West Aboriginal  
Land & Sea Council





The South West Aboriginal Land and Sea Council (SWALSC) is the native title representative body of the Noongar people, the traditional owners of the South West of Australia. SWALSC works with Noongar people to progress the resolution of Noongar native title claims while also advancing and strengthening Noongar culture, language, heritage and society. Since colonisation, for the better part of 200 years, Noongars have been trying to regain some of freedom, some sort of dignity, some sort of peace in a world that is irreversibly different from that which came before it. At the same time though, there are many Noongar people who have remained strong, who have been carriers and custodians of our culture and language, carers of our country, backbones of our families and advocates of our people.

On the 19th of September 2006 Justice Wilcox brought down an historic judgment in favour of the SWALSC's Single Noongar Native Title Claim over the Perth metropolitan area. Justice Wilcox's finding was on the basis that a Noongar society existed at 'sovereignty' and continues to exist today. Wilcox's judgement validated the Noongar people in that it was found that the laws and customs of the entire South West were and remains those of a single people who shared and continue to share laws, customs, language and culture. Importantly, Justice Wilcox found the Noongar people continue to very much exist and still practice many of their laws and customs despite the disruption resulting from people being forced off their land and moved as a result of white settlement and later Government policies.

The outcomes of the Single Noongar Claim and subsequent negotiations with the State government during 2009/2010 have seen promising developments appear in the form of recognising the rights of Noongar people. This is yet another historic opportunity – for the settler state to come to terms with the Noongar people and for the Noongar people to come to terms with today's world, to secure recognition and rights to traditional lands and to secure a footing in today's world which can be used to advance our people and our culture in a way that works today.

SWALSC are developing and producing materials and resources to provide a more accurate history of the south west and the Noongar people. There are literally thousands of government records describing Noongar people in negative terms and hundreds of books documenting our apparent demise.

This is why publications like the book 'It's Still in my Heart, This is My Country' (UWA Publishing 2009) are important to demonstrate that Noongar have maintained an identity, a country and culture. This book won the Margaret Medcalf Award for 'Excellence in Research Utilising Original Sources in the State Archives Collection' and in 2010 won the Literature Non-Fiction Award as part of the Australian Human Rights Commission annual Human Rights Awards.

We are writing new narratives of Noongar History to update that historical record and show how Noongar people and their families survived, evaded government surveillance and indeed thrived. Yes colonization did affect Noongar people, yet the Noongar People have accommodated the new arrivals *and* sustained traditions and culture. A remarkable achievement given the pressures experienced over almost two centuries.

SWALSC then, is creating more accurate narratives that show Noongar people were here 40 000 years ago, were here when the Europeans came, are still here today and shall remain here forever.

In this booklet we explain who we Noongar are and we explain 'Noongar *Country*.' We also present a brief history of our struggle to assert our rights.

We acknowledge our Noongar ancestors and the Noongar people who have struggled to assert our rights and gain recognition of our people.

Glen Kelly  
CEO

# Noongar explained

Noongar people's country covers the entire south-western portion of Western Australia. Archaeological evidence establishes that the Noongar people – alternative spellings: Nyungar/Nyoongar/Nyoongah/Nyungah/Nyugah and Yunga – have lived in the area and had possession of tracts of land on their *country* for at least 45,000 years. The boundary commences on the west coast at a point north of Jurien Bay, proceeds roughly easterly to a point approximately north of Moora and then roughly south-east to a point on the southern coast between Bremer Bay and Esperance.

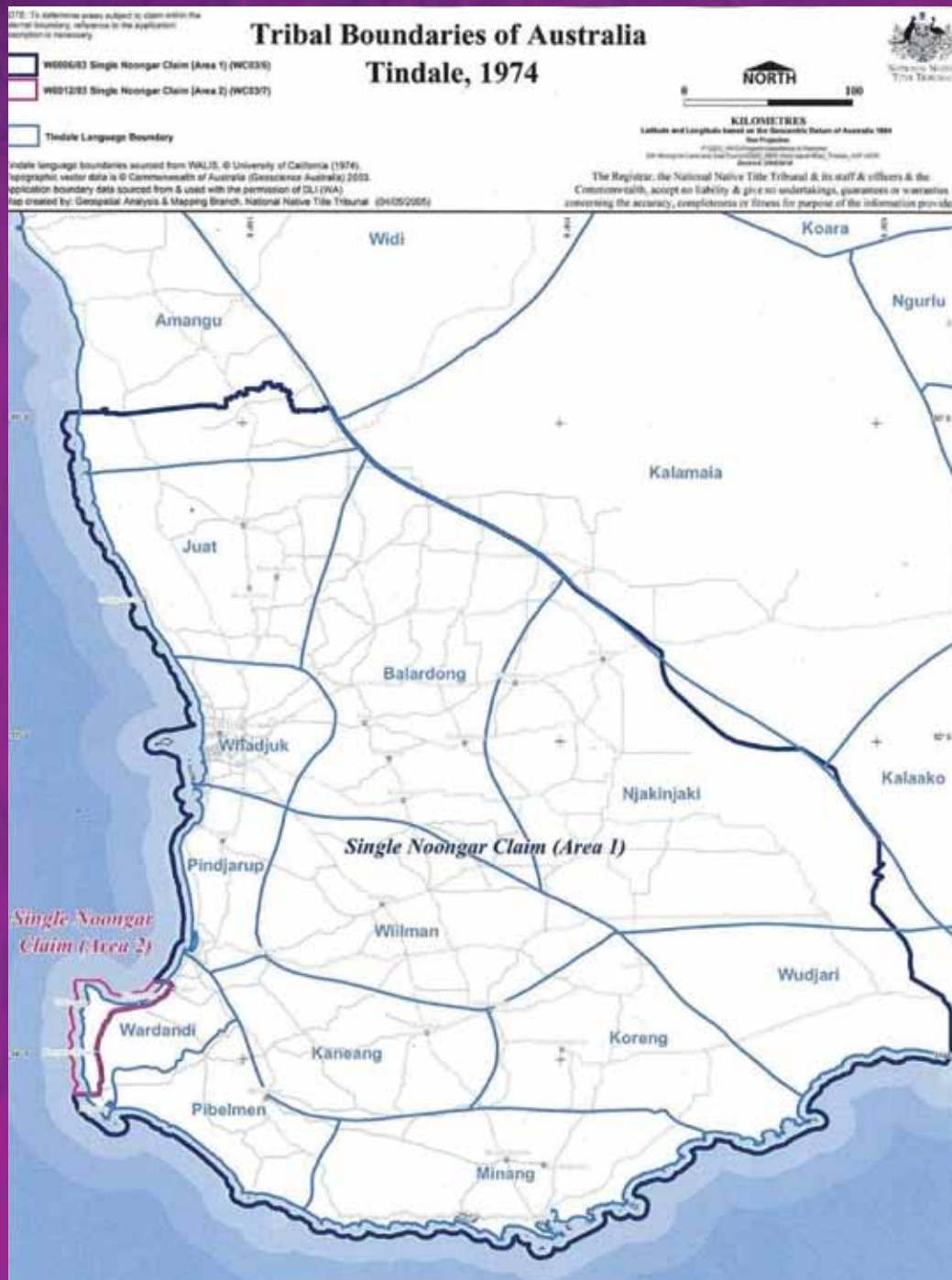
Noongar are made up of fourteen different language groups (which may be spelt in different ways): Amangu, Yued/Yuat, Whadjuk/Wajuk, Binjareb/Pinjarup, Wardandi, Balardong/Ballardong, Nyakinyaki, Wilman, Ganeang, Bibulmun/Piblemen, Mineng, Goreng and Wudjari and Njunga. Each of these language groups correlates with different geographic areas with ecological distinctions.

**Right:** Olman Walley Middar Dance Group performing at National Native Title Conference Welcome to Country 2008

**Far right:** Daisy Bates Map, 1907







## The 'Tindale Map': Perspectives on the South-West and Noongar Country

When we look at maps of the Aboriginal groups of the south-west we often do not see the word Noongar (or the variants), but the language group names. This mapping of the different Noongar language groups is most associated with the work of anthropologist, Norman Tindale, who was influenced by the earlier work of Daisy Bates.

Norman Tindale is well known for his map of 'Tribal Boundaries' based on the work he did in the late 1930s when he established that there are at least 400 – and possibly up to 700 – different Aboriginal language groups in Australia (illustrated). Published in 1974, Tindale's map still has great currency and influence. It was used by the Western Australian Government in the Single Noongar Claim to challenge the notion of a single Noongar society.

The term 'tribal groups' however, is not currently used. Much of Tindale's work was based on earlier writers who also used the term. Like all social scientists, he was a product of his time. Thus, Australia, including the south-west, is divided into the 'tribes' seen on the map. Today, we identify these 14 groups as sub-groups, or dialectal units of the larger Noongar society.



Norman Tindale's work was, however, groundbreaking in that it showed Indigenous groups as having territory, geographical interests and *country* (rather than being 'wandering' nomadic people), with boundaries, language and identity. Today, anthropologists see the boundaries (including dialects of language, identity, custom) as far more fluid and malleable with enormous overlap and interchange, as is the case in Noongar society. Many people today still think of Aboriginal people as nomadic or wandering people, when this is not the case

In 1938, Tindale began his research as part of the 'Harvard-Adelaide Expedition'. He and other members of his team did an enormous amount of travel in their quest to map tribal boundaries across Australia. Because of the sheer size of the project, with very slow transport at the time, Tindale's study was hurried. The research for the entire mapping project was done in 18 months.

Tindale visited missions (and government settlements) in the south-west to do his research on Noongar groups. We know he went to Moore River, Gnowangerup and a number of other places. He recorded as much information as he could from the Noongar people who turned up on the day, and others that he was in turn told about.

The other members of the expedition were interested in things like physical anthropology, so people were measured (skull size, bone length) and photographed. There was little research relating to social customs and no participant-observation field work, where the anthropologists try to get inside the culture and see how people really tick.

One point to make about Tindale's observations is that, like many of his time, he had a strong patrilineal bias, in that he saw land being transferred through the male line. This naturally influenced his mapping and ignored

the fact that Noongar women's lines were equally important as men's.

The most current map we have is called Aboriginal Australia and is generally referred to as 'The Horton Map'. It is based on Tindale's work but is more up to date, as it includes the smaller Indigenous groups as sub-sets of larger societies.

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**Left page:** Norman Tindale's 'Tribal Boundaries of Australia' (extract) Application Boundary Data reproduced with permission of the Western Australian Land Information Authority, CL 10/2009. Map reproduced with permission UWA Publishing.

**This page:** Left to right. The Gya Ngoop Dance Group, Noongar Elders, Arthur Slater, Fay Slater, Theresa Walley, Fred Pickett, Myrtle Yarran, Eric Hayward and Chair of AIATSIS Mick Dodson at the 2008 National Native Title Conference Perth in front of the Ngallak Koort Boodja Canvas, © Lance Chadd, Shane Pickett, Troy Bennell, Alice Warrell, Sharyn Egan and Yvonne Kickett.





# History of the Noongar Struggle for Recognition

Aboriginal people occupied Australia for at least 40,000 to 60,000 years before the first British colony was established in Australia. In the South West of WA (where the British claimed sovereignty in 1829) archaeological evidence establishes that the Noongar people have lived in the area and had possession of tracts of land on *their country* for at least 45 000 years. The Noongar people are one of the largest Aboriginal cultural blocks in Australia and there is no evidence that there has been any other group than Noongar in the South West. Noongar people spoke their own language and had their own laws and customs. Those laws and customs were characterised by a strong spiritual connection to 'country'; caring for the natural environment and for places of significance; performing ceremonies and rituals; collecting food by hunting, fishing and gathering; providing education and passing on law and custom through stories, art, song and dance. Noongar people not only survived European Colonisation but thrived as family groups and sought to assert their rights to their land on their country. Formalising this in parliament was not to occur for some 150 years after Europeans arrived.

**1983** Under pressure from Aboriginal groups, particularly Noongar people, in Western Australia to enact some form of Land Rights similar to the Northern Territories 1975 Land Rights Act appointed a Queens Counsel Paul Seamen to investigate. The 'Seaman Report' as it was known contained vast amounts of evidence from Noongar people and recommended a whole range of reforms relating to land tenure and resources revenue rights, access to significant sites and protection of sites. The government of the day rejected almost all of the findings.

**1985** In 1985 a Land Rights Bill was proposed which would enable Aboriginal people and Noongar people to hold land in freehold, to own it, but it was not supported by the Government of the day and the Bill would never reappear. Unlike other states the Western Australian government has historically been hostile to Aboriginal Land Rights and has never supported or enacted any Land Rights legislation.

**1992** This issue was to change altogether with the Mabo (No.2.) High Court Decision. Only in 1992 was the assumption that Australia was *terra nullius* or unoccupied by Aboriginal people before European arrival rejected by the High Court.

**1993 Native Title Act.** Following Mabo in 1992 the Native Title Act of 1993 led to the recognition of the legal concept of Native Title in the Australian legislative system. The Native Title Act attempted to clarify the legal position of landholders and the processes that must be followed for Native Title to be claimed, protected and recognised through the courts. However the process was loaded against Aboriginal people. They had to prove – in aggressive Federal Court cases if necessary – that they still had native title. The onus was on Aboriginal people to provide evidence and proof of their connection to country rather than any





government prove they did not. Claimants were represented through Native Title Representative Bodies (NTRB) such as SWALSC. To make matters even worse native title was extinguished on freehold or private land making it unclaimable. This is particularly true in the 'heavily settled' area of the South West of WA where less than 4% of native title still exists in the entire South West.

**1995** Native Title claims in the South West were initially administered by the Aboriginal Legal Service of Western Australia. Following agitation from local Noongars who said that their community was not being represented over 200 Noongars met and decided by a vote that a Land Council would be established for the southwest and it would actively seek to obtain NTRB status. Following this the Noongar Land Council (NLC) was established in 1995 as NTRB for Noongar People in the South West of Western Australia initially with a staff of three.

**1996** Wik Decision. The Mabo decision created uncertainty, particularly for pastoralists who held pastoral leases. That decision led to amendments to the *Native Title Act* (by the *Native Title Amendment Act*) in 1998 which provided security of tenure to non-Indigenous holders of pastoral leases and other land title, where that land might potentially be claimed under the *Native Title Act*. Aboriginal people were further disadvantaged by this change.

**1997** Despite this in Noongar Country there was a rush to lodge native title claims and 78 different individual family claims were lodged over the South West with the National Native Title Tribunal. At this time there was informal support for a Single Noongar Claim to represent all Noongars though this did not develop until later.

Left: Young participants at Native Title Youth Forum 2008

Right: Copy of Application for Citizenship Western Australia

WESTERN AUSTRALIA.  
NATIVES (CITIZENSHIP RIGHTS) ACT, 1944. REGULATIONS.  
FORM 2.

STATUTORY DECLARATION.

I, [REDACTED] (Full name.)  
of [REDACTED] (Address.)  
[REDACTED] (Occupation.)

DO SOLEMNLY AND SINCERELY  
DECLARE as follows:—

1. I am a native within the meaning of the Native Administration Act, 1905-1941, and am of the full age of twenty-one years or over.
2. I wish to become a citizen of the State of Western Australia in accordance with the provisions of the Natives (Citizenship Rights) Act, 1944.
3. For the two years prior to the date hereof I have dissolved tribal and native association except with respect to lineal descendants or native relations of the first degree.
4. (a) I have served in the Naval, or Military, or Air Force of the Commonwealth of Australia (particulars relating to my enlistment being as follow:—Unit..... No..... Rank.....) and have received (or am entitled to receive) an honourable discharge; or  
(b) being of good character and industrious habits I am a fit and proper person to obtain a Certificate of Citizenship.

AND I make this solemn declaration by virtue of Section 106 of the Evidence Act, 1906.

DECLARED at [REDACTED]  
this 30th day of May  
1944

Before me:—  
[REDACTED]  
CLERK OF COURTS.

(This declaration may be made before a Justice of the Peace, Commissioner for Declarations, Town Clerk, Road Board Secretary, Electoral Registrar, Postmaster, Classified Officer in the State or Commonwealth Public Service, Classified State School teacher, or member of the Police Force.)  
Delete whichever is not applicable.  
L13460/45



**1998** Due to acute funding restrictions and simple manageability (NTRB's have very few staff) it was impossible to run all of these claims. A situation would have developed where some claims were run and others would have been abandoned. This was considered most unfair (in an already unfair system) where some Noongar people could possibly have native title and most not. Most of the 78 claims were withdrawn and replaced by six communal claims which remain to this day.

**2002** Problems with the Noongar Land Council constitution saw them being replaced by the South West Aboriginal Land and Sea Council as Native Title representative Body representing all Noongar people. Because of a desire to represent Noongar people as the 'One Nation' they have always been the formal move the Single Noongar Claim (SNC) was starting to take shape. Community meetings in support of the SNC were carried out all over the South West.

**2003** In September 2003 the SNC was lodged with the Federal Court of Australia though the six underlying claims remained in place.

**2005** The WA Government would not negotiate with SWALSC and insisted a trial to ascertain Native Title over the Perth Area take place. SWALSC had to prepare the SNC for trial. This was an intensive period of activity with very few staff performing an enormous task. A Federal Court Trial took place before Justice Murray Wilcox where he heard evidence from Noongar witnesses all over the South West on their country. Witnesses were cross examined by the Western Australian Government. The State of WA not only denied there was a Single Noongar People but insisted that the word Noongar itself was a fabrication and that the Noongar people of the South West had actually come in from elsewhere. This was offensive to all Noongars.

**2006 'Noongar'** On 19th Sept 2006 the Federal Court brought down a Historic judgment in favour of Noongar Native Title over the Perth metropolitan area, it is known as *Bennell v State of Western Australia* [2006] FCA 1243. Justice Wilcox found that Native Title continues to exist within an area in and around Perth. This is the first judgment which recognised Native Title over a capital city and its surroundings.

Wilcox's judgement validates the SNC as he found that the laws and customs governing land throughout the whole Single Noongar Claim (viewing Perth as simply a part of the greater South West) were those of a single community. The Noongar claimants shared a language and had extensive interaction with others in the claim area. Importantly, Justice Wilcox found the Noongar community had continued to exist and still practice many of their laws and customs despite the disruption resulting from people being forced off their land and moved as a result of white settlement and later Government policies.





JG/F

1941.

Mrs. [REDACTED]  
P I N J A R R A.

Dear Madam,

I am in receipt of your letter of the  
10th inst. written by [REDACTED]

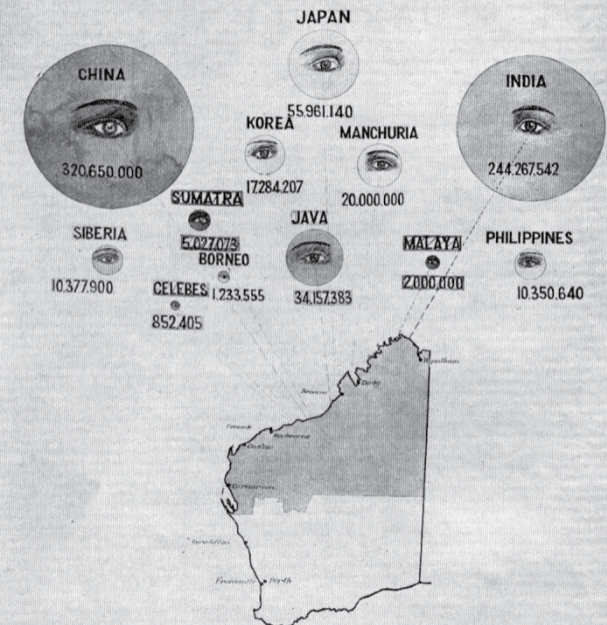
According to information received by me  
you are slightly darker than a halfcaste. Your father,  
[REDACTED], as you say, was a halfcaste. However, according  
to what your mother, [REDACTED] told me recently,  
she 5/8's black and therefore darker than a halfcaste.  
[REDACTED] told me her mother was [REDACTED] a halfcaste, and father, [REDACTED]  
[REDACTED] copper coloured i.e. 2/4's black. This, in turn, makes  
you 9/16's black and actually a little darker than a half-  
caste.

You say that the parents of your mother  
were a whiteman and a halfcaste woman. This would make your  
mother a quarter caste, but I have seen her and am satisfied  
that she is, at least, a halfcaste native. Your mother gave  
me particulars of her parentage as stated in the second para-  
graph and I have to rely on that information until something  
more definite comes to hand.

Yours faithfully,

COMMISSIONER OF NATIVE AFFAIRS.

## AN URGENT NEED OF WHITE POPULATION



The White Inhabitants of our  
— Northern Areas —  
number less than 7,000!



It is important not to understate the importance of this victory. Had Noongar people been unsuccessful in this instance and the judgement not gone in their favour years of work, hope and aspirations of the Noongar people would have been wasted and they may have had to go back to square one and start all over again with their country possibly never recognised. This was the bedrock from which Noongar people were acknowledged as Traditional owners of the South West and they were now in a strong position to negotiate with the State Government of WA.

**2007** Despite this victory the State and Commonwealth aggressively appealed the decision arguing that Native Title couldn't possibly still exist of a capital city and in April of 2007 an Appeal was heard in Perth.

**2008** On 23 April 2008 the Full Bench of the Federal Court upheld parts of the appeal by the Western Australian and Commonwealth governments against Justice Wilcox's judgment. The judges did not however agree that there was no native title over Perth. They did not also dispute the existence of a Single Noongar People. This was an important victory from this result.

**2009** Despite the appeal result Noongar people, represented through SWALSC, had made critical progress with the State Government making the historic decision not to pursue Noongar Native Title through the Courts but rather through negotiations. In supporting these negotiations the WA Government recognised the Noongar people's traditional connection to the southwest of WA. This was unthinkable a few years before.

**2010** A Heads of Agreement with The State of Western Australia is signed with SWALSC CEO Glen Kelly and the Noongar Executive signalling the start of negotiations to settle Native Title in the South West. Through this agreement benefits will flow to all Noongar people for possible generations to come...

Photographs courtesy SWALSC,  
Toni Wilkinson and Blackwood Basin Group

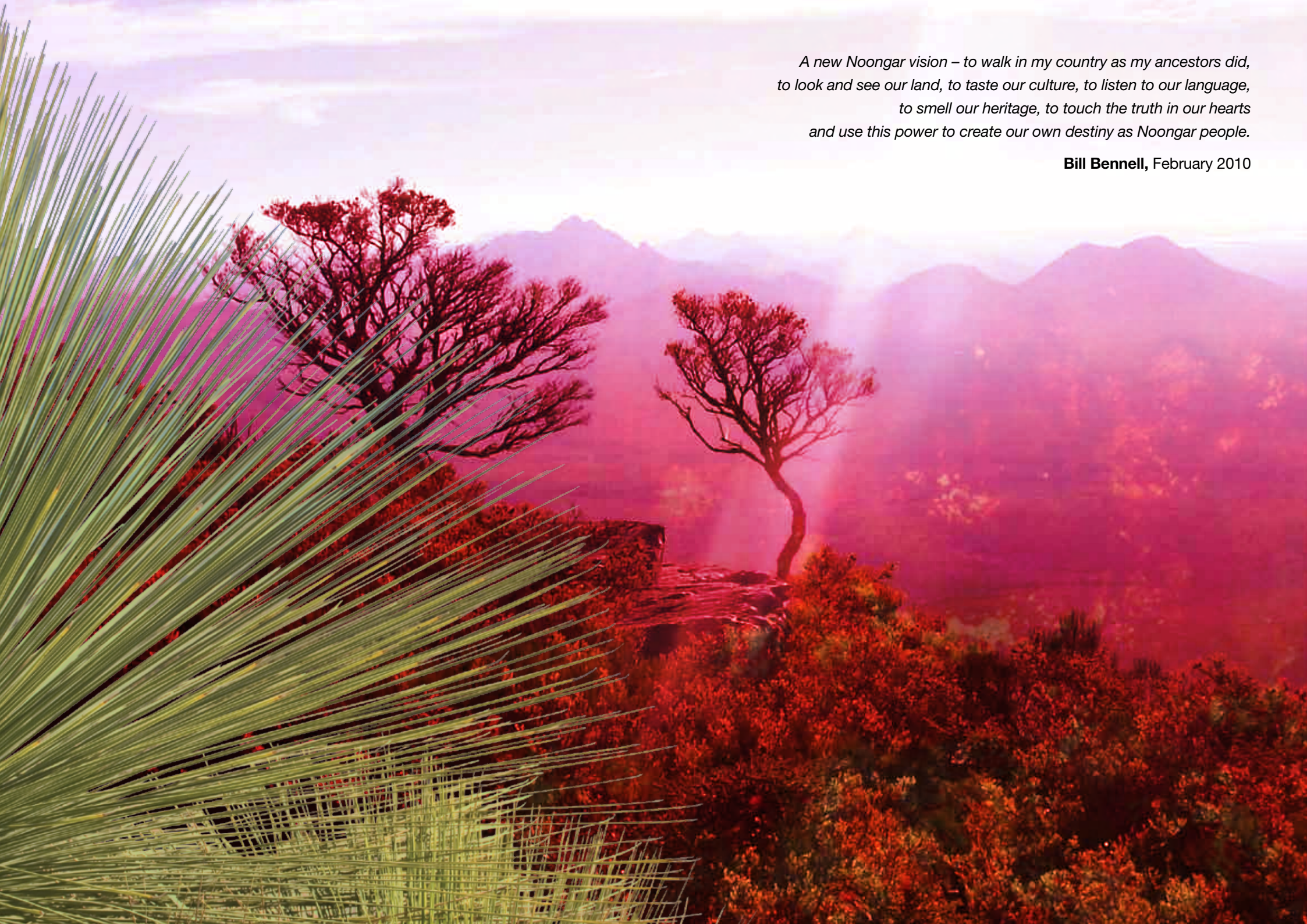
*Funded by the Australian Government  
Department of Families, Housing,  
Community Services and Indigenous Affairs.*



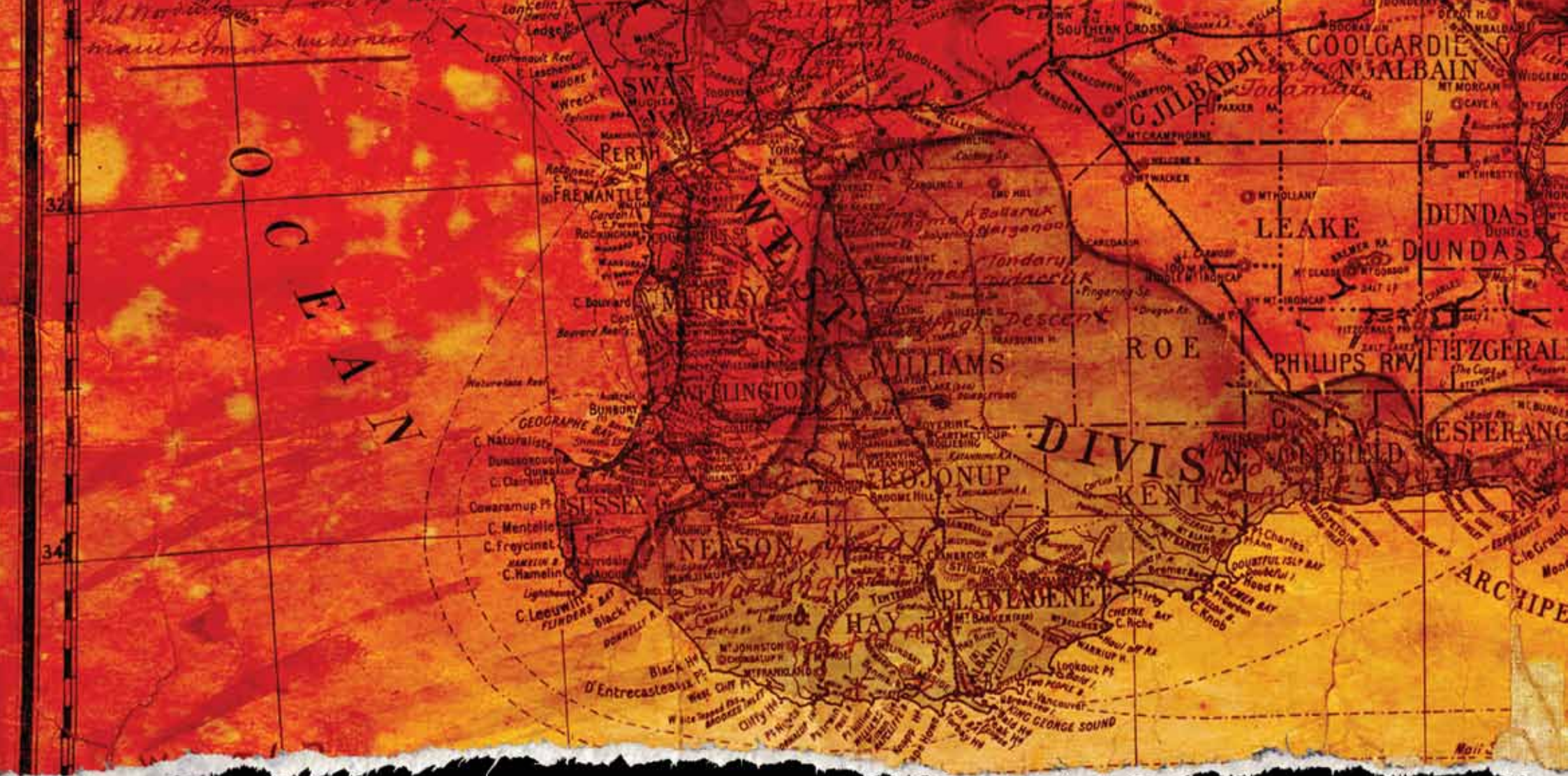


*A new Noongar vision – to walk in my country as my ancestors did,  
to look and see our land, to taste our culture, to listen to our language,  
to smell our heritage, to touch the truth in our hearts  
and use this power to create our own destiny as Noongar people.*

**Bill Bennell**, February 2010







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

**IMPORTANT:** The material in this publication contains photos of deceased people and has been included with permission from the family. It is not our intention to offend any persons and would like to respect our people's contribution to our Noongar community.