

RESPONSE TO NOUS REVIEW RECOMMENDATIONS - NATIVE TITLE SERVICES GOLDFIELDS (NTSG)

TOR 1 Extent to which each organisation has achieved positive native title outcomes for persons who hold or may hold native title in its region taking account, where relevant, of disruptions caused by COVID-19. **(Rec 1-2)**

Rec 1 NTSG should work with the NIAA to better match resources with the level of consultation required to efficiently progress claims based on more extensive engagement with those who may hold native title within the region.

Response

Accepted.

In progress.

NTSG will continue to work with NIAA in relation to our funding position in light of the significant growth in the organisation's workload since commencing operations in 2019. There are several factors that have contributed to the increased work of the organisation, including:

- the growth in the number of native title claims that NTSG provides direct legal representation to within the region - currently five (5), up from two (2) when the organisation commenced work in 2019
- several unclaimed areas in the research phase with a view to progressing to authorisation of native title claims in the next 12-18 months
- the status of overlapping claims involving multiple parties in the west and North-East areas of the region. These claims are complex and resource intensive, with one matter the subject of lengthy litigation over 2023/224

NTSG remains committed to undertaking appropriate engagement with our constituents and is investigating a range of means to increase opportunities to meet with traditional owners from the Goldfields in respect of native title claims in progress and in the research phase. Additional human resources will assist with the implementation of new and improved consultation strategies.

NTSG notes that the efficient progress of claims may be impacted by a range of factors outside of our control, including the existence of Respondent interests, Indigenous intramural disputes, the progress of court-convened mediations, sorry business and other unforeseen circumstances. The organisation endeavours to be agile and responsive whenever possible and will continue to work with our constituents and other stakeholders to progress outcomes in the region in a timely and effective manner.

Rec 2 NTSG should continue to prioritise the recruitment of a second anthropologist and fill the vacant legal position. If necessary, it should offer flexible support to help individuals reach the required capability.

Response

Accepted.

In progress.

NTSG currently employs two anthropologists, with a third position (which is currently being advertised again), remaining vacant since before the Review. The high demand for heritage professionals within the native title and extractive industries sectors has been the most significant challenge for the organisation in recruiting for this position. To address the immediate workload issues within the Research Team, NTSG engaged an experienced senior anthropologist in October 2023 as a consultant on a limited contract to provide identified assistance. The consultant undertakes work for NTSG one day per week.

Since the review was completed, our Research Assistant role has also become vacant. NTSG has subsequently undertaken 2 unsuccessful recruitment processes for the vacant anthropologist and research assistant positions. A further recruitment process for the Anthropologist position is underway in November 2024, and the research position will be advertised again in the New Year.

One legal position was vacated when the Senior Lawyer transitioned to the CEO position, and the organisation undertook a recruitment process which was not successful in recruiting a suitable candidate. Following a further recruitment round we were able to employ two new lawyers (one a senior and one junior) in December 2023.

An additional position was created in the second half of 2024 and we have been attempting to recruit another senior lawyer to add depth and experience to the team. However, despite receiving a small number of applications from suitably experienced candidates, for a range of reasons, those candidates have not ultimately accepted the role.

In order to attract quality candidates NTSG has highlighted throughout the recruitment process that it is able to offer a range of benefits aimed at providing an appealing and supportive work environment, such as:

- Flexible working arrangements, including flexible hours, options to work part-time or modified hours, options to work remotely, hybrid office/WFH models, and Time Off in Lieu of excess hours worked
- Opportunities to take advantage of a range of salary packaging opportunities
- Additional paid leave between Christmas and New Year's Day.
- Relocation assistance.
- 4WD, First Aid, and Mental Health First Aid training, on-country cultural awareness training, and a range of professional development opportunities, including attendance at highly regarded conferences and summits of relevance to the sector.

However, these benefits are consistent with similar measures offered by other not for profit organisations and native title service providers, and as such recruitment remains a challenge.

TOR 2 Extent to which each organisation assesses and prioritises applications for assistance in a manner that is equitable, transparent, and robust, and is well publicised and understood by clients and potential clients. **(Rec 3-5)**

Rec 3 NTSG should provide better internal communications about the policies supporting its assessment and prioritisation process to improve staff understanding.

Response

Accepted.

In progress.

NTSG has implemented monthly all-staff meetings that provide an opportunity to update staff on projects, new policies/procedures, training opportunities and upcoming meetings/fieldwork. These meetings also discuss current project prioritisation, and any factors that may be impacting those priorities, including funding limitations, internal capacity etc.

All project teams meet fortnightly, and staff receive regular email updates from the CEO and senior management. The organisation is continuing to build its IT capabilities and is investigating options for an intranet page to streamline and collate a range of materials currently stored on multiple platforms.

The assessment process and procedures relating to applications for facilitation and assistance are currently being reviewed, and staff will be updated when the approach is finalised by end of the 2024 calendar year.

Rec 4 NTSG should clearly communicate its policy on requests for assistance in the region and the factors it considers when assessing applications for assistance. As part of this, NTSG should consider reviewing its guidelines for assessment and prioritisation to ensure that constituents can understand them better

Response

Accepted.

In progress.

The assessment process and procedures relating to applications for facilitation and assistance are currently being reviewed.

NTSG acknowledges that it does not presently make public its 'Guidelines for Assessing Applications for Assistance'. A public version of the document is currently being considered as part of the larger review.

The organisation does currently provide the 'Facilitation and Assistance Fact Sheet - Policy Document Number: FS701' on its website, which outlines the process NTSG follows and the avenues for appeal should a constituent be dissatisfied with the outcome of an application. The fact sheet explains that NTSG may not be positioned to assist due to budget limitations. This is an ongoing challenge given the very small portion of NTSG's grant funding available to be set aside in our operational budget for unanticipated applications for facilitation and assistance.

Rec 5 NTSG should publicly explain why it has decided to withdraw from heritage clearances, given stakeholders' dissatisfaction with this decision. If resources allow in the future, it could review whether it should again play a role in facilitating the provision of heritage clearances.

Response

Accepted.

In progress.

NTSG ceased providing an Aboriginal Heritage Service in January of 2022. Staff and constituents were advised that NTSG had made that decision on that basis that it was no longer positioned to provide services relating to heritage surveys and monitoring due to impending changes to the workplace health and safety regime in WA, and the risks arising from the COVID-19 pandemic.

Those clients who NTSG had previously provided heritage services to were informed of that decision, and were advised that they would need to appoint a new Heritage Service Provider to assist with the logistics and organisation of heritage surveys. Several alternative heritage service providers were recommended by NTSG at that time.

Following the repeal of the West Australian *Aboriginal Cultural Heritage Act 2021* and revival of the amended *Aboriginal Heritage Act (AHA) 1972*, NTSG received some funding from the Department of Planning Lands and Heritage to engage consultant/s to undertake an organisational business capability assessment and assist with organisational capacity building to support PBCs and Native Title Parties to fulfil their obligations under the Act. This work is pending the availability of our preferred consultants, and we anticipate it will be completed in the first quarter of 2025. Once complete, NTSG will be better placed to consider the scope of any future role it may have in the facilitation or delivery of any heritage services in the region.

TOR 3 Extent to which each organisation deals respectfully, equitably, transparently and in a culturally appropriate manner with persons who hold or may hold native title in its region, including by adequately investigating and resolving complaints. **(Rec 6-8)**

Rec 6 NTSG should provide additional channels of communication, increase the frequency of communication and be more responsive. This includes providing more avenues for Traditional Owners to directly provide feedback and ask questions of NTSG staff.

Response

Accepted. In progress.

As part of NTSG's proposed Strategic Plan for 2025-30, the development of a new Community Engagement and Communications Strategy has been identified as a priority project, and we anticipate commencing work on this plan in early 2025. This will involve identification of appropriate communication channels and frequencies for our stakeholder groups.

Currently, NTSG utilises phone calls, mailouts, website updates, emails, social media presence, and SMS / mobile alerts for upcoming consultations, meetings, significant developments. The organisation is presently updating its IT capabilities, including website design and content, with the intention that the website will become a more informative and accessible resource for our constituents. NTSG also convenes Regional Information Meetings in Kalgoorlie, with the addition of further such events in Perth and other regional centres in the Goldfields proposed from 2025.

In addition, all NTSG-convened meetings and consultations in the region provide an opportunity for Traditional Owners to provide direct feedback and ask questions of NTSG staff, with staff often travelling to the location ahead of time and staying after the meetings have ended to undertake community engagement around those larger meetings.

The organisation worked with the National Native Title Council and NIAA to convene the first PBC Forum for Goldfields RNTBCs in September 2024. This event was very well attended and NTSG intends, with the support of the PBCS in the region, to run annual events of this nature moving forward.

NTSG is a relatively new and small organisation and does not currently have a dedicated in-house media/communications manager. As the organisation continues to grow, and subject to appropriate resourcing being available, we may seek to create a position to provide this expertise internally.

Rec 7 NTSG should more strongly communicate its behavioural expectations and consequences for breaching the code of conduct at meetings to further reduce the risk of conflict.

Response

Accepted.

In progress and ongoing.

NTSG commissioned a whole of organisation security review by specialist consultants in early 2024, following an escalation in disruptive and aggressive behaviour by a minority of constituents and external parties during fieldwork and meetings convened in the region.

A new code of conduct for meetings has been published on our website and social media channels and is to be explained and displayed at all meetings. The document is also mailed to constituents with meeting notices, and it has been provided to staff.

Staff have received security training in Occupational Violence and Aggression management, with the training recorded to enable staff to refresh their understanding, and for future staff to complete prior to commencing fieldwork.

Planning for all fieldwork and meetings include multiple mandatory dynamic risk assessments, and trained security personnel attend all meetings and are briefed on NTSG's code of conduct and expectations. Meetings determined to be high risk require the engagement of specialist security staff from Perth, as recommended by the consultants.

NTSG's security consultants have assessed the venues we use in Kalgoorlie and provided guidance on the suitability of those facilities. They have also assisted with checklists of considerations for venues in other locations such as location-based risk factors, exits, parking locations, room setup etc.

Rec 8 The Board should improve its awareness of the complaints process and its role within it, to deliver accountability to constituents

Response

Accepted.

In progress and ongoing.

NTSG maintains a complaint register and the Board is presented with any formal complaints that may have been received at Board meetings, and out of session where the complaint is of a more serious nature or involves a complaint about the CEO.

NTSG's 'Compliments, Complaints, and Suggestions Procedure Policy Document Number: PR700' is available on the organisation's website and in hard copy form at NTSG offices and has been provided to the Board for their information.

TOR 4 Extent to which each organisation performs its functions in a cost-effective manner, including by identifying the key cost drivers for the organisation.

Rec Nil recommendations

TOR 5 Extent to which each organisation has governance and management structures, and organisational policies and an organisational culture that support efficient and effective project delivery. **(Rec 9-11)**

Rec 9 NTSG should publish its conflicts of interest policies on the website and clearly communicate its adherence to these policies. This could include a targeted communications piece in plain language sent out to Traditional Owners that clearly outlines NTSG's commitment to its conflict of interest policies and the separation of the Board from operational decisions about claims.

Response

Accepted.

In progress.

NTSG is currently updating its website, and conflict of interest policies have been added to the priorities for the site redesign.

NTSG will also consider the development of a plain language explanation of the various conflict of interest policies applicable to the organisation for distribution to constituents in the region.

Rec 10 NTSG should seek assistance from the NIAA for a targeted training and mentoring program to support the new CEO in their role.

Response

Accepted.

In progress and ongoing.

NTSG's CEO has significant board and leadership experience, ranging from small, incorporated associations to large not-for-profit entities. She has previously completed leadership training and a range of governance and financial management programs and has developed a strong network of CEOs working within the native title and not-for profit sector. She has also mentored aspiring young directors in a program designed to engage young leaders on aged care and community boards and worked as a mentor and facilitator across the Western Australian Aboriginal Leadership Institute's suite of programs.

However, NTSG and the CEO recognise the importance of continuous improvement and lifelong learning and will liaise with NIAA to identify further training and mentoring opportunities.

Rec 11 NTSG should consider creating an advisory structure that provides a forum for input and feedback from the grass roots.

Response

Accepted. In progress.

As part of NTSG's work to finalise a new Strategic Plan for the period 2025-30, the organisation intends to undertake an assessment of different models of advisory and representative methods with Traditional Owners. This involves consideration of an appropriate Traditional Owner liaison model, including options for establishing an advisory role to provide input and feedback to NTSG Board.

In addition to this, NTSG will continue to engage with Aboriginal community-controlled organisations in the region to deepen existing relationships and develop new stakeholder connections relevant to our work in the Goldfields.

As discussed under Recommendation 6, NTSG worked with the National Native Title Council and NIAA to convene the first PBC Forum for Goldfields RNTBCs in September 2024. Similar events will be convened annually.

TOR 6 Extent to which each organisation is adequately supporting Prescribed Body Corporates towards self-sufficiency. **(Rec 12)**

Rec 12 NTSG should finalise its policy to return cultural materials to PBCs and Traditional Owners once it has more internal capacity in its anthropological and legal teams

Response

Accepted.

In progress.

The return of materials to PBCs and Traditional Owners is an important piece of work and NTSG acknowledges that its constituents in the region have provided significant materials over the years to NTSG, and to the previous organisation tasked with progressing native title in the region, the Goldfields Land and Sea Council (GLSC).

NTSG has commenced work on this policy and accompanying procedures and is liaising with AIATSIS and with other entities within the native title sector to learn from their approaches.

The GLSC generated large volumes of material during the period of its operations, and the storage, cataloguing and digitisation of this material is a very significant and financially costly legacy issue that has been inherited by NTSG. The organisation's ability to finalise this process is limited at present by workloads and internal capacity, but it remains committed to this important work and will continue to progress this project as and when resources allow.

TOR 7 Extent to which each organisation has developed its planning for a post-determination environment. **(Rec 13)**

Rec 13 Over the next 18 months the NTSG should commence strategic planning to explore NTSGs role in a post determination environment. This includes considering NTSGs role in supporting PBCs once the claims load is more manageable.

Response

Accepted.

In progress.

NTSG has engaged expert facilitators from Sustainable Consulting to assist with the development of a renewed Strategic Plan for the period 2025-2030 and is working towards finalisation of this document by the end of the 2024 calendar year.

The number of PBCs in the region is growing, and NTSG is already providing a variety of support, including but not limited to:

- assistance with the Future Acts regime
- provision of PBC Basic Support
- logistical assistance with AGMs and Director's meetings
- Anthropological assistance with membership applications
- Distribution of relevant information from government and other stakeholders, including in respect of funding opportunities as they may arise from time to time
- Notification of governance and other training opportunities for PBC Boards, officers and staff.

NTSG is actively considering and planning for what role the organisation will play in the post-determination and compensation era, noting that a great deal of the region remains undetermined or unclaimed at present.