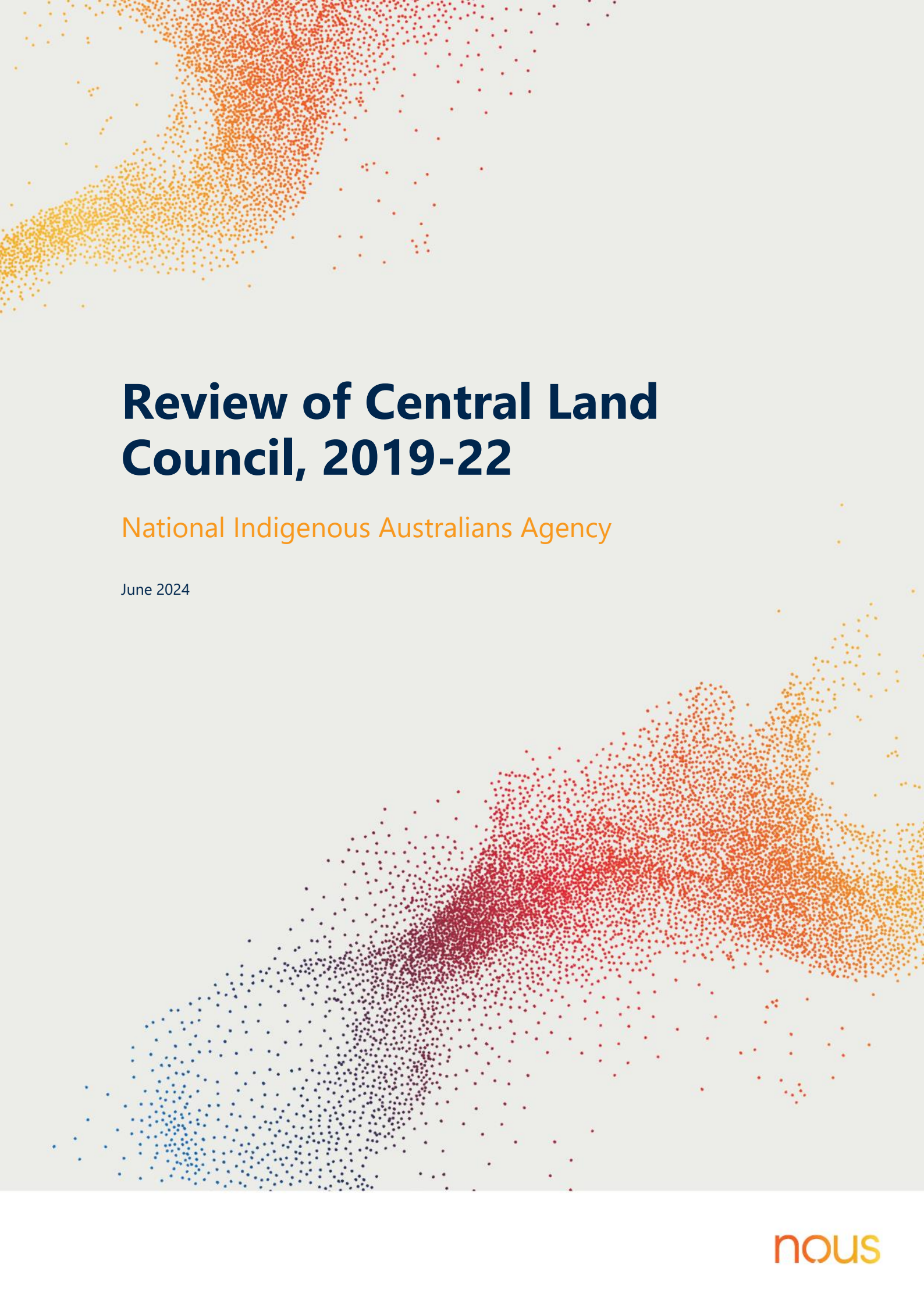




Review of Central Land Council, 2019-22

National Indigenous Australians Agency

June 2024

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1 Profile of the Central Land Council

The Central Land Council (CLC), based in Alice Springs with seven regional offices, provides native title services to the southern part of the Northern Territory



The CLC was established in 1975 after a meeting of Central Australian Aboriginal communities. The CLC is a statutory authority established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (the ALRA). It is a Commonwealth Corporate Entity operating under the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act) and it functions as a Native Title Representative Body (NTRB) under the *Native Title Act 1993* (Cth) (the NTA), providing services to the southern Northern Territory region.

The CLC established its first Native Title Unit in 1994. In 2018, the CLC was granted re-recognition as a NTRB for six years until June 2024. As an NTRB, the CLC has six primary functions that serve to support people with native title interests to achieve native title outcomes. The CLC also plays an advocacy role regarding national native title policy. This includes contributions to the strategic and policy direction of Native Title Representative Bodies and Service Providers (NTRB-SPs) and making submissions to policy reform and legislative amendments.

The CLC carries out its native title functions across the southern half of the Northern Territory, with a Representative Aboriginal/Torres Strait Islander Body (RATSIB) area covering almost 777,000 square kilometres with nine regions based on roughly 15 different language groups. The CLC represents around 24,000 people across its nine regions. Aboriginal people collectively have rights under the NTA for over 130,000 square kilometres in the CLC region.

There have been 34 determinations of native title within the CLC RATSIB area since the passage of the NTA, four of which occurred between 1 July 2019 and 30 June 2022 (the Review period). The CLC provided assistance, including legal representation through in-house legal staff, in all four of these determinations. There were four active claims at the end of the Review period; one of these was determined in early 2023 following the Review period.

There are currently 34 Prescribed Body Corporates (PBCs) within the RATSIB area. The CLC was providing support to 31 of these PBCs in June 2022. This assistance was a mixture of native title services, including legal services, capability development and administrative support.

In financial year (FY) 2021-22, the CLC received funding through several sources. Each are outlined below.

Table 1 | Overview of the CLC's overall funding sources and amounts for FY2021-22

Funding source	Amount
Specific purpose contracts, primarily from government	\$15.0 million ¹
Appropriation from the Aboriginals Benefit Account (ABA)	\$34.4 million
Northern Territory Indigenous Economic Stimulus Package	\$14.7 million

¹ The National Indigenous Australians Agency provided \$4,078,950 as part of the native title program in FY2021-22.

The CLC manages \$82.8 million of compensation funds for its constituents. Compensation funds are obtained through royalties, rents, lease monies and native title compensation (paid into the CLC's Land Use Trust Account for distribution to landowners and community members).

The CLC has a 90-member Council representing the communities in the CLC RATSIB area. The 90 Council members elect the CLC's 11-member Executive Committee, which carries out functions delegated by the Council and manages business between Council meetings. The Executive Committee is comprised of the Chair, the Deputy Chair and one member from each of the CLC's nine regions.

The CLC has a multidisciplinary team of 25 native title-funded positions that are embedded into the greater CLC organisation to enable the integration of staff into identified professional disciplines (legal, anthropology and mining). The CLC also engages consultants to work on native title matters, including anthropologists and lawyers, specialist illustrators, linguists and an animation consultant.

The Northern Territory has a distinct native title operating context, which is relevant to the scope of the CLC's functions and the delivery of its native title activities

The legislative backdrop is important, as it contextualises the CLC's performance and operations relating to its native title responsibilities explored throughout this report. A number of Northern Territory and Commonwealth laws impact the CLC's performance in delivering its native title function.

- **The Native Title Act 1993 (Cth).** The NTA governs the core, mandatory functions of an NTRB.
- **Aboriginal Land Rights (Northern Territory) Act 1976 (Cth).** The ALRA provides legal recognition of inalienable free-hold title, defined as "Aboriginal land", which is formally vested in an Aboriginal Land Trust on behalf of Aboriginal people living in the area.
- **Northern Territory Aboriginal Sacred Sites Act 1989.** There is jurisdictional overlap between the Aboriginal Areas Protection Authority (AAPA) and the four Northern Territory Land Councils including the CLC. The CLC issues Sacred Site Clearance Certificates to protect sacred sites by contractually requiring the proponent to follow the CLC's instructions about sacred site protection measures. The CLC certificates also enliven a defence under the *Northern Territory Aboriginal Sacred Sites Act 1989*. The AAPA issues Authority Certificates, which specifically protect the applicant against prosecution.
- **Pastoral Land Act 1992 (Northern Territory).** The *Pastoral Land Act 1992* (Northern Territory) allows Aboriginal peoples who ordinarily reside on the leased land, or by Aboriginal tradition are entitled to use or occupy the land, to enter and be on the leased land.
- **Public Governance, Performance and Accountability Act 2013 (Cth).** The PGPA Act establishes a coherent system of governance and accountability for public resources, with an emphasis on planning, performance and reporting.

2 Scope of the Review

The National Indigenous Australians Agency (NIAA) has engaged Nous Group (Nous) to undertake an independent review of 13 NTRB-SPs.

The purpose of this Review was to assess the individual and comparative performance of NTRB-SPs in delivering native title outcomes for Aboriginal and Torres Strait Islander people and communities under the NTA over a time period of 1 July 2019 to 30 June 2022.

The Review is an opportunity to assess all the organisations over a consistent time period to understand performance during and post the COVID-19 pandemic and the extent to which organisations have addressed recommendations from previous organisational performance reviews.

The Terms of Reference (TOR) provided by the NIAA for the Review are to determine the 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
- 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
- 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
- performs its functions in a cost-effective manner, including by identifying the key cost drivers for the organisation
- has governance and management structures, and organisational policies and an organisational culture that support efficient and effective project delivery
- is adequately supporting PBCs towards self-sufficiency
- has developed its planning for a post-determination environment.

The complete TOR are included in Appendix A.

Methodology

Nous originally designed the methodology for the previous round of Reviews conducted from 2017 to 2021, which was reviewed at that time by NTRB-SPs and the NIAA. The methodology has been modified to incorporate lessons learned, streamline some previously repetitive elements, reflect current context and be consistent with the current TOR.

The method draws on a defined set of performance indicators under each TOR. These indicators combine qualitative and quantitative performance assessment and include external factors to account for the unique context within which each NTRB-SP operates, based on broader social and geographical factors that impact performance.

Nous used a mixed method approach to undertaking this Review, including an analysis of quantitative data on the progress of claims, Future Acts and Indigenous Land Use Agreements (ILUA), performance against milestones, budgetary performance and staffing. A list of the data and documents that informed the Review can be found at Appendix C.

The quantitative analysis was complemented by stakeholder interviews. As required by the NIAA, and in accordance with the TOR, this Review involved consultations with persons affected by the activities of each NTRB-SP, including Traditional Owners, Prescribed Body Corporates (PBCs), staff of the NTRB-SP, state governments, NIAA, the Federal Court and legal stakeholders. A list of the stakeholder consultations undertaken for this Review is set out in Appendix B.

A full description of the methodology and the performance indicators under each TOR was provided to each NTRB-SP. Nous used a variety of methods to contact stakeholders, including Traditional Owners, for feedback. The approach to stakeholder consultation for the Review was set out in the Consultation Plan, which was also provided to each NTRB-SP at the outset.

Limitations

Nous acknowledges that, despite best efforts to seek broad feedback:

- only a limited number of stakeholders provided feedback (see Appendix B for further detail)
- stakeholders who responded to the call for feedback were, in the main, those who were dissatisfied with the process or outcome of their native title claim.

Accordingly, Nous appreciates that the views of the consulted stakeholders may not be representative of the views of most stakeholders who actually interacted with, or used the services of, each NTRB-SP.

As part of the consultation process, Nous listened to the views of Traditional Owners across all regions of Australia, including Traditional Owners who were dissatisfied with the process or outcome of their native title claim.

These concerns and complaints have been acknowledged and reported (as communicated to Nous) as part of this Review.

It is acknowledged that Nous has not investigated or assessed the merits of these concerns, as part of this Review. This falls outside the scope of Nous' role and the TOR. Accordingly, no statement is made regarding the legitimacy of these concerns or complaints.

NTRB-SPs have been given the opportunity to view the draft reports and to provide feedback to Nous about the issues raised in them. They will also be given the opportunity to make a formal response at the time of publication.

3 List of abbreviations

Abbreviation	Meaning
AAMC	Aboriginal Associations Management Centre
AAPA	Aboriginal Areas Protection Authority
ABA	Aboriginals Benefit Account
ANAO	Australian National Audit Office
CEO	Chief Executive Officer
CLC	Central Land Council
FAN	Future Act notification
FY	Financial year
HR	Human resources
ILUA	Indigenous Land Use Agreement
LGA	Local government area
NIAA	National Indigenous Australians Agency
NNTT	National Native Title Tribunal
Nous	Nous Group
NTRB	Native Title Representative Body
NTRB-SP	Native Title Representative Body and Service Provider
ORIC	Office of the Registrar of Indigenous Corporations
PBC	Prescribed Body Corporate
PBCSU	PBC Support Unit
PLO	Principal Legal Officer
RATSIB	Representative Aboriginal/Torres Strait Islander Body
RNTBC	Registered native title bodies corporate
The ALRA	<i>Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)</i>
The NTA	<i>Native Title Act 1993 (Cth)</i>

Abbreviation	Meaning
The PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
The Review period	1 July 2019 to 30 June 2022
TOR	Terms of Reference

4 Executive summary of performance and recommendations

The summary and recommendations for each TOR are reproduced here as an overall summary. The detailed performance assessment against each performance indicator follows in section 5.

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.

The CLC made significant progress in native title determinations despite the challenges posed by COVID-19, with four consent determinations during the Review period. It effectively responded to client needs, local developments and relevant precedents. At the end of the Review period, the CLC had four active claims. The CLC's Legal Services team worked across both the NTA and the ALRA with a Principal Legal Officer (PLO) who oversaw all legal operations. Overall, the Review concluded that the CLC's Legal Services team was performing its native title functions well.

Traditional Owners consulted as part of the Review expressed satisfaction with the CLC's anthropological research functions, noting improvements since the previous Review (FY2016-17 to FY2018-19). The CLC followed a robust research model that defined clear roles and responsibilities. The CLC's approach required in-house and consultant anthropologists with a comprehensive understanding of the local context of Aboriginal groups within the RATSIB area. However, the Review was advised of challenges in recruiting suitably experienced anthropologists willing to work in the region, which led to capacity constraints across the CLC's anthropological function.

Throughout the Review period, the CLC supported four determinations and five ILUA settlements. The CLC remained responsive to Future Act notifications (FANs) under section 29 of the NTA and to the increased mining activity. The CLC occasionally used brief out arrangements to support the delivery of native title functions. The CLC's overall claims strategy was to invest in research early and to prioritise claim areas that were considered "stronger", which then supported efficient and relatively quick determinations.

No applications for native title compensation were submitted by the CLC during the Review period.

The CLC took on constituent feedback regarding how services were provided and made improvements where they were fit for purpose. While this model was generally seen as positive, the Review found that an opportunity existed for the CLC to undertake a more comprehensive approach to collecting client feedback around the native title claim process. This would allow the CLC to gather more robust data on the experiences and perspectives of its clients and claim groups. This form of systematic engagement will both build stronger ongoing relationships and enable continuous improvement of the CLC's approach to delivering native title outcomes and its engagement with clients.

RECOMMENDATION

1

Consider incorporating a systematic approach to collecting client feedback around the native title claim process to gather robust data on the experiences and perspectives of its clients and claim groups.

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.

The CLC had a defined assessment and prioritisation process that considered the social, economic and environmental triggers that drive native title decision-making. This process was understood by those directly involved in the process.

The Review found that there was limited understanding of the CLC's prioritisation process among Traditional Owners consulted by the Review. Some were aware of the prioritisation of native title activity to focus on regions at risk of mining activity on sacred sites; however, general awareness of the assessment and prioritisation process was limited. High-level information was available through CLC resources, but this did not reach prospective clients and instead focused on a different stage of the native title process. The Review did hear of instances where senior native title holders were able to increase awareness and visibility to others of how decisions were made within the CLC.

While the Review did not expect that the detailed process would be known by stakeholders, it would be useful for the CLC to consistently articulate the principles it uses to determine if it will provide support, and the timing and relative priority of the support it will provide. The Review notes the CLC's ongoing efforts to secure additional funding to support this increased communication including the development of resources to help with communicating the claims assessment prioritisation process.

RECOMMENDATION

2

Embed more formal processes to communicate the assessment and prioritisation process of native title claims to prospective native title holders in the research phase to ensure clear understanding of this process.

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.

The CLC Corporate Plan 2022-2026 commits the CLC to achieving best practice consultation and decision-making processes through its Effective Consultation and Engagement Strategy 2015-2020, with an emphasis on culturally safe ways of doing business and building the capacity of staff and council. This was supported through the Review period by the CLC's regional presence, which continued to support strong relationships and trust with native title holders.

The CLC invested in mechanisms to communicate complex information regarding the NTA. While feedback was generally positive, some stakeholders felt there could be greater transparency in communication.

The CLC continued to support culturally appropriate engagement, resulting in strong relationships with communities. The CLC received no complaints during the Review period and improved the accessibility of its complaints process. There were no requests for internal review.

Where a client raised informal suggestions to regional staff, this feedback was communicated to the relevant section to follow up the matter with the client. This was standard business and occurred almost daily across the organisation as an opportunity to learn from clients and better engage with them.

Some stakeholders identified that the CLC had a strong reputation for investing time into engagement to ensure it was respectful of Traditional Owners. Since the previous Review, key strengths include: a greater ability to be present with Traditional Owners and listen to views and make corrections if clients were not

happy with communication channels or decisions; building good relationships with other parties – including developing goodwill between Traditional Owners and pastoralists or mining companies; and liaison with CLC Council members who were trusted by native title holders to respect local leadership.

Other Traditional Owners who engaged with the Review provided feedback that in their view the CLC had an inconsistent approach to engaging respectfully and transparently with clients and potential clients. This included some concerns that many current clients were unaware of when native title meetings were happening and were not well informed about delays to native title claims or mining activities.

RECOMMENDATION

3

Prioritise engagement and communication with Traditional Owners who have experienced delays with native title claim processes or mining agreements to ensure they remain aware of progress.

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.

Funding from the NIAA for the CLC's native title functions and PBC support remained constant over the Review period, while total expenditure, including the use of ALRA funds, fluctuated over the Review period.

Staff salaries remained a significant non-discretionary expense for the CLC, given the challenges of attracting staff to the remote region. CLC generated efficiencies by leveraging its size and broader function as a Land Council through an integrated staffing model.

The CLC used external consultants appropriately and invested in developing internal staff capabilities to reduce future reliance on external consultants.

The CLC identified and implemented cost-saving strategies to enhance operational efficiency, including optimising staff time and skills. Meetings for authorisation, determination and claim groups contributed to significant expenses for the CLC. Despite the cost implications of remote locations, claim group meetings were conducted effectively. The CLC has established documented processes and policies to ensure efficient travel assistance for claim group meetings.

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.

The CLC is a statutory authority established under the ALRA. The CLC Council is the authority under the ALRA and for NTA purposes. The Council and Executive Committee have specific roles concerning native title, with the Council delegating some native title decision making functions to the Executive Committee and to the Chief Executive Officer (CEO).

A recent review by the Australian National Audit Office (ANAO) found that the CLC's governance has been broadly effective, but it identified some areas for improving the documentation to guide decision-making. While the Council, Executive Committee and CEO have performed well in their duties and obligations, there is an ongoing effort to enhance collaboration and decision-making transparency. Although protocols exist for managing conflicts of interest, greater consistency in their application is needed. The CLC continued to invest in empowering its Council to make a positive impact.

The CLC's Corporate Plan outlined its vision, purpose and values, promoting a generally supportive organisational culture. CLC staff and native title holders with whom the Review engaged generally saw the

CLC as well-managed, with positive feedback about the effectiveness of the organisation. A few stakeholders noted that the growth of CLC (not related to native title) tended to result in greater layers of administration, but they acknowledged that this was not an unexpected outcome given the volume of work the CLC undertakes.

Financial management of the CLC's native title functions was integrated within the broader organisation and was aligned with legislative requirements.

Based on CLC staff survey responses, staff felt reasonably supported in accessing training and development opportunities, although some called for more consistent and visible development pathways. The CLC prioritised the employment and development of Aboriginal staff, including through the development of a formal Aboriginal Development Program. The Aboriginal Development Program was re-assessed during FY2021-22 to understand opportunities for improvement.

Difficulty in attracting and retaining staff remained a critical risk for the CLC due to the highly remote nature of the region. Turnover levels remained high given the complexity of recruitment and retention processes. Many CLC staff identified poor retention of staff as a critical barrier to the CLC fulfilling its statutory obligations effectively and having capacity to undertake strategic activities or more effective client engagement. Many staff cited challenges with attracting staff to Alice Springs and to the CLC's highly remote RATSIB area, as well as retention issues given the workforce profile and other opportunities for development in other organisations.

RECOMMENDATION

4

Continue to explore native title-specific recruitment strategies and initiatives to attract staff to the region and retain them for longer. This includes finalising and implementing changes to the CLC's Aboriginal Development Program to better support and strengthen professional development commitment to Aboriginal staff.

RECOMMENDATION

5

The Review supports recommendations of the ANAO audit for areas for improvement in governance operations across the CLC that will benefit native title operations.

TOR 6 | Extent to which each organisation is adequately supporting Prescribed Body Corporates towards self-sufficiency.

The CLC had a dedicated PBC Support Unit (PBCSU) to support the compliance and capability-building of PBCs across the RATSIB area. Staff expressed concerns about the PBCSU being understaffed relative to the number of PBCs serviced within the CLC region, with some PBCSU positions being unfilled for sustained periods of time due to recruitment challenges. This has resulted in the PBCSU being predominantly occupied with addressing compliance requirements of the Office of the Registrar of Indigenous Corporations (ORIC) rather than supporting strategic objectives. An opportunity exists for the CLC to review the balance and focus of resources both within and outside the PBCSU to enable this team to provide more frequent, strategic support to PBCs.

The Review understands that 31 out of 34 PBCs or RNTBCs within the RATSIB area were supported by the CLC during the Review period. No PBCs supported by the CLC during the Review period received a formal intervention from ORIC or other regulators due to not fulfilling their obligations as a PBC. The level of self-sufficiency among PBCs varied significantly – and so the CLC had a tailored approach to how it could feasibly support post-determination outcomes across PBCs.

The CLC's post-determination services could move to a more sustainable model, such as establishing a formal PBC development strategy which aims to strategically develop the self-sufficiency of well-established PBCs; support the economic sustainability of those PBCs with high potential of mining activity; and be inclusive of PBCs with limited conditions for economic development. PBCs felt relatively satisfied with the support provided by the CLC. However, PBCs called for a bigger focus on two-way capability building (such as training and development opportunities to build cultural awareness for staff and negotiation and management skills for clients), in addition to the on-Country trips and other support provided.

Repatriation of cultural materials was undertaken by CLC's Anthropology Section or by engaging a consultant anthropologist. The CLC advised that its Repatriation of Cultural Materials Policy was being developed in consultation with a sub-committee of the CLC's Executive Committee. The draft policy had a focus on Elders leading the repatriation process and for activities to take place on Country, where possible. The policy will be finalised within the current Council term (early 2025). The CLC has identified that a strategic, respectful approach to repatriation of cultural materials is a near-term priority. The Review supports the opportunity to develop and implement the new CLC Repatriation of Cultural Materials Policy as a near-term priority for CLC.

RECOMMENDATION

6

Establish a PBC development strategy over a five- to ten-year horizon, which aims to strategically develop the self-sufficiency of well-established PBCs, support the economic sustainability of those PBCs with high potential of mining activity and be inclusive of PBCs with limited conditions for economic development.

RECOMMENDATION

7

Review the balance and focus of resources to enable more frequent, strategic support to PBCs.

RECOMMENDATION

8

Prioritise the finalisation and implementation of the new CLC Repatriation of Cultural Materials Policy.

TOR 7 | Extent to which each organisation has developed its planning for a post-determination environment.

With around 47 per cent of the claimable land within the CLC's RATSIB area not subject to a registered claim or determination, there is still significant work to be done in progressing claims for clients. There is also a significant number of PBCs in the RATSIB area who require post-determination support.

The CLC's approach to post-determination was articulated in the CLC Corporate Plan 2022-2026, with a focus on facilitating native title rights and influencing system level changes. The CLC outlined a series of medium-term priorities for native title activity. The Review suggests that it would be beneficial for the CLC to define a more strategic role for the organisation in the post-determination space, alongside the ongoing claims work.

The CLC had not actioned any compensation claims during the Review period but is thinking strategically about its role to facilitate economic development into the future. The Review finds this level of activity to be in line with most other NRTBs at the time of the Review. The expansion of economic native title rights in other jurisdictions may cause the CLC to place greater focus on compensation claims into the future.

RECOMMENDATION

9

Consider articulating a clear statement of CLC's intent for supporting post-determination outcomes across a longer timeframe, up to ten years. This should be developed in consultation with the beneficial stakeholders, native title holders, as well as being informed by the policies and practices of other stakeholders such as local government, the Northern Territory Government, industry and communities.

5 Performance assessment

This section assesses performance against the relevant performance indicators for each TOR. See Appendix A for the performance indicators.

5.1 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.

Summary

The CLC made significant progress in native title determinations despite the challenges posed by COVID-19, with four consent determinations during the Review period. It effectively responded to client needs, local developments and relevant precedents. At the end of the Review period, the CLC had four active claims. The CLC's Legal Services team worked across both the NTA and the ALRA with a Principal Legal Officer (PLO) who oversaw all legal operations. Overall, the Review concluded that the CLC's Legal Services team was performing its native title functions well.

Traditional Owners consulted as part of the Review expressed satisfaction with the CLC's anthropological research functions, noting improvements since the previous Review. The CLC followed a robust research model that defined clear roles and responsibilities. The CLC's approach required in-house and consultant anthropologists with a comprehensive understanding of the local context of Aboriginal groups within the RATSIB area. However, the Review was advised of challenges in recruiting suitably experienced anthropologists willing to work in the region, which led to capacity constraints across the CLC's anthropological function.

Throughout the Review period, the CLC supported four determinations and five ILUA settlements. The CLC remained responsive to FANs under section 29 of the NTA and to the increased mining activity. The CLC occasionally used brief out arrangements to support the delivery of native title functions. The CLC's overall claims strategy was to invest in research early and to prioritise claim areas that were considered "stronger", which then supported efficient and relatively quick determinations.

No applications for native title compensation were submitted by the CLC during the Review period.

The CLC took on constituent feedback regarding how services were provided and made improvements where they were fit for purpose. While this model was generally seen as positive, the Review found that an opportunity existed for the CLC to undertake a more comprehensive approach to collecting client feedback around the native title claim process. This would allow the CLC to gather more robust data on the experiences and perspectives of its clients and claim groups. This form of systematic engagement will both build stronger ongoing relationships and enable continuous improvement of the CLC's approach to delivering native title outcomes and its engagement with clients.

5.1.1 TOR 1: Assessment of performance

This section presents an assessment of performance against the performance indicators for this TOR. To see the performance indicators please see Appendix A.

Native title outcomes including from facilitation and assistance, certification, notification, dispute resolution and other relevant functions

The CLC was effective in progressing native title determinations during the Review period, despite the disruptive impacts of COVID-19

Since it was recognised under the NTA, the CLC has performed well in achieving native title outcomes, with 34 determinations of native title within the RATSIB area. During the Review period, the CLC:

- filed seven native title applications, none of which have been withdrawn or discontinued
- achieved four successful native title consent determinations with a judgement that native title exists in parts² of the determination area
- achieved seven revised determinations
- received zero judgements that native title did not exist
- supported the negotiation of one ILUA resulting in extinguishment of native title or settlement.

The CLC achieved four consent determinations

The details of the determinations achieved during the Review period are outlined in Table 2.

Table 2 | Successful consent determinations during the Review period³

PBC	Claim	Date filed	Determination	Status commentary
Ngurramarla Aboriginal Corporation	Tennant Creek PPL	03/10/2017	4/07/2019	The determination area comprises seven estate areas associated with the Kankawarla, Kanturrpa, Kurtinja, Patta, Pirrtangu, Pururutu and Warupunju landholding groups.
Jinparrak Aboriginal Corporation	Wave Hill PPL	25/11/2016	8/09/2020	The determination area comprises four estate areas associated with the Jamangku, Japuwuny, Parlakuna-Palkinykarni and Yilyilyimawu landholding groups.
Malapa Aboriginal Corporation	Limbunya PPL	19/01/2017	10/09/2020	The determination area comprises four estate areas associated with the Central Limbunya, Nawurlala, Parayi-Kakaru and Tjutamalin groups.
Ingkekure Aboriginal Corporation	Jinka/Jervois PPLs	10/05/2018	5/05/2021	The determination area comprises nine estate areas associated with the Ankerente, Arntinarre, Arraperre, Artwele, Atnwarle, Ilparle, Immarkwe, Ltye and Thipatherre landholding groups (Jinka Jervois).

While the number of successful determinations achieved by the CLC during this Review period was lower

² The Review notes that most native title determinations in the CLC region, especially those on land with a pastoral lease, will only recognise the claim group native title in parts of the area, with limited activity rights.

³ National Native Title Tribunal (NNTT) Register of Native Title Applications, Registration Decisions and Determinations.

than in previous years, the CLC's efforts have been critical in terms of their social and political significance in two important ways.

First, the native title determinations on the Wave Hill, Limbunya and Jinka/Jervois stations were significant milestones for native title rights in the Northern Territory. The Wave Hill determination was the focus of national media attention in September 2020, when the Federal Court finally recognised the native title rights of the striking station worker families led by Vincent Lingiari, which included the site of the historic Wave Hill Walk Off.⁴ The local and national association of Wave Hill with Indigenous rights and the achievement of the determination was seen as particularly significant in acknowledging the legacy and ongoing resilience of the land-holding groups and their families who worked on Wave Hill Station.

Second, the Jinka/Jervois claim was particularly complex. The CLC showed resilience over objections from the Northern Territory Government. The Northern Territory Government contested a significant aspect to the claim regarding the extension of the pastoral lease over a stock route without the consent of the native title holders. As a result of the CLC's facilitation and assistance, the Traditional Owners of the Jinka and Jervois cattle stations obtained recognition of non-exclusive native title rights over an area spanning nearly 5,000 square kilometres.⁵

Following the Review period, in April 2023, the CLC had one further determined claim. This was the Karinga Lakes Native Title Claim (NTD3/2020) dated April 2023. One of the claims active at the end of the Review period (the Huckitta claim listed in Table 3) was determined in May 2024.

The CLC achieved seven revised determinations during the Review period

The revised determinations were a result of the *Western Australia v Brown* [2014] HCA 8 decision. The High Court found that the construction of pastoral improvements, such as homesteads and bores, did not extinguish native title. As a result, during the previous Review period, the CLC drafted applications to the Federal Court to vary a number of approved native title determinations. Revised determinations for Singleton, Neutral Junction, Kurundi, Lake Nash, Glen Helen, Napperby and Mt Doreen were all finalised during FY2020-21.

At the end of the Review period, the CLC had two active claims

There were two active claims at the end of the Review period. A summary of these is in Table 3.⁶

Table 3 | Summary of claims active at June 2022

Claim	Federal Court file number	Status update
Huckitta Native Title Determination Application	NTD18/2020	The CLC filed with the Federal Court on 23/10/2020.
Stanislaus "Shorty" Mulladad Perrurle and Ors	NTD5/2021	The CLC filed with the Federal Court on 13/10/2021.

⁴ CLC. (2020). Native title to be recognised on Wave Hill Station. <https://www.clc.org.au/native-title-to-be-recognised-on-wave-hill-station/>

⁵ CLC. (2021). Native title to be recognised on two Territory stations. <https://www.clc.org.au/native-title-to-be-recognised-on-two-territory-stations/>

⁶ NNTT Register of Native Title Applications, Registration Decisions and Determinations.

During the Review period, one claim was resumed into an existing claim – Unemarre Arlatyeye Polygon Claim was resumed into Stanislaus “Shorty” Mulladad Perrurle and Ors.

The CLC advised that a further two claims were filed with the Federal Court in early 2023 – Angentj in March 2023 and Mt Skinner-Woodgreen in June 2023.

The CLC’s lawyers worked across the NTA and the ALRA, and feedback about their work was generally positive

The CLC Legal Services team worked flexibly across both NTA and ALRA matters. For NTA work, the CLC had a PLO who oversaw all legal operations, but with limited involvement in the day-to-day operations of native title. The Senior Lawyer (Native Title) had responsibility for native title matters and coordinated the day-to-day legal functions of the CLC’s native title operations in collaboration with the Native Title Manager and anthropologists. Two paralegals provided support across the CLC’s legal section. The function was complemented by consultant lawyers (as required) to support complex matters and to address internal capacity constraints.

Overall, comments from staff interviewed, including those not within the Legal Services team, indicated that the CLC was performing its native title functions well. A key strength is that CLC encourages all its Legal Services team to engage in matters regarding NTA, supported by the specialist NTA lawyer. CLC staff consulted as part of the Review observed that the Legal Services team was involved in Future Acts, however, claim work was increasing, representing more of the team’s work. One staff member commented that this transition was an investment in building internal capability to support NTA work.

The Traditional Owners consulted by the Review were mainly satisfied with the CLC’s performance in delivering native title outcomes

The Review engaged with several CLC clients who had received support for their native title claims. Although the Review did not engage with all groups, Traditional Owners from four of the CLC’s nine regions were consulted. Overall, Traditional Owner groups appreciated the CLC’s services in delivering native title outcomes. Specific to the Review period, consultations with Traditional Owner groups who had recently received a native title consent determination and CLC staff reflections were positive about the process and the outcomes achieved (see Figure 1).

Staff noted that the CLC worked with an interactive model, constantly receiving and incorporating suggestions from clients when regional staff were on field trips. These suggestions included how the CLC could adapt its ways of working with Traditional Owners to deliver positive outcomes. The CLC received constituent feedback regarding how services were provided and made improvements where possible. Where feedback could not be incorporated (for example, the idea conflicts with compliance requirements), the reasons for this were communicated to constituents. CLC staff cited an example of claimants requesting meetings be held in a different location. CLC consultations were carried out and planning arrangements were adjusted to ensure meetings were undertaken as requested.

While this model was generally seen as positive, the Review formed the view that the CLC could undertake a more comprehensive approach to collecting client feedback around the native title claim process to gather more robust data on the experiences and perspectives of its clients and claim groups. This form of systematic engagement will both build stronger ongoing relationships and enable continuous improvement of the CLC’s approach to delivering native title outcomes and its engagement with clients.

Figure 1 | Traditional Owner commentary on recent native title claims



Anthropological research

Anthropological research was central to CLCs native title services and there was a strong pipeline of research to advance native title outcomes

At 30 June 2022, the CLC was conducting research over 13 areas to support native title applications, with 13 research projects undertaken in the 12 months to 30 June 2022. The anthropology reports and material regarding Ambalindum/The Gardens native title claim were finalised in 2022, enabling the application for native title determination to be filed shortly after. Anthropological research commenced, continued and progressed in the Simpson Desert, on the Anningie, Mount Skinner and Woodgreen, Horseshoe Bend, Lilla Creek and Idracowra, Indiana and Numery and Coniston stations, and on Northern Territory Portion 2138.

The CLC had significant in-house anthropological capability; however, capacity was constrained and there were concerns regarding the sustainability of in-house and consultant researchers

The CLC's approach requires in-house and consultant anthropologists with a comprehensive understanding of the local context of Aboriginal groups within the RATSIB area. This was assisted by the CLC's regional support team's role in fostering strong relationships with the CLC's current and prospective clients. This regional approach enabled the CLC to conduct in-depth research and develop a profound

familiarity with the area and its communities, ultimately contributing to positive native title outcomes for its clients.

The CLC anthropologists demonstrated a strong sense of responsibility for delivering accurate findings. Anthropologists communicated to the Review that they saw the research as a moral imperative to accurately uphold people's histories, cultures and identity.

However, staff noted that the CLC was struggling to attract anthropologists to the region due to a range of factors including, but not limited to, comparative remuneration in other sectors for anthropologists; challenges in attracting anthropologists to work in what is a very remote RATSIB area; and broader reductions in anthropology studies that impact the overall supply and availability of anthropologists across the country.

The CLC adopted an effective research model that set up clear roles and responsibilities between internal and external anthropologists, but this could be more flexible

The CLC invested significantly in a best practice approach to anthropological research, including clear delineation of responsibilities and a peer review process. Generally, the breakdown of roles was as follows:

- Regional anthropologists provided on-the-ground insights and provided support during the claims process.
- Senior anthropologists coordinated and reviewed the research.
- Consultant anthropologists undertook intensive research and provided an independent perspective.

The CLC adopted a peer review process to support robust native title anthropology research, unlike many NTRB-SPs which did not have experienced enough anthropological staff in-house to peer review reports. The CLC invested in experienced anthropologists that had seniority in the field and could complete robust peer reviews internally. Staff commented that the peer review and co-authoring approach to connection reporting was an effective method for building the capability of internal anthropologists.

The CLC also invested significantly in research reports. A Connection Report is not a statutory requirement of the NTA, but it has arisen in relation to government policy for managing the native title process, in the context of mediation primarily, but also to provide:

- a degree of certainty with respect to questions of who constitutes the claimant group
- the identification and location of claim areas
- the presentation of evidence about the nature of the connection between the claimant group and the area of claim under traditional law and custom.⁷

While the Northern Territory Government only required summary reports for consent determinations (summary reports being a shorter form of a Connection Report), the CLC chose to produce a full Connection Report. This was primarily to produce robust research that could detail and respond to any queries from stakeholders and supported clients in post-determination activities.

However, some stakeholders saw opportunities for the CLC to be more dynamic and open to writing summary reports based on the exclusivity of NTA rights and the complexity of the claim area. For example, some stakeholders saw opportunities to consider whether a full Connection Report was necessary in more straightforward cases, as summary reports should still be considered as an opportunity for efficiency in appropriate circumstances. However, the Review found that there were differences in perspectives on the

⁷ Boeck, G; Finlayson, J. 2001. *Land, Rights, Laws: Issues of Native Title*. Australian Institute of Aboriginal and Torres Strait Islander Studies

complexity of determination claims between Traditional Owners and CLC staff, and that full Connection Reports have served the CLC well in previous situations as a thorough and robust approach to supporting evidence in claims.

Traditional Owners have been complimentary of CLC’s approach to anthropological research, with improvements since the previous Review

The Review found that the CLC’s anthropological research services were generally well received by clients. The CLC’s anthropologists have taken a broad approach to client engagement, ensuring that stakeholders have their voice heard properly and the right leaders are involved. For example, the Review found that the CLC’s anthropologists worked closely with senior native title holders (including several “primary informants”) in preparing and researching a native title claim. These individuals played a critical role in mapping out relevant family groups, their connections to land and what cultures should be acknowledged in the claims.

Although comments were broadly positive, comments made by CLC staff suggested that there was no formal approach to seeking Traditional Owner feedback on the CLC’s research and anthropology services. Embedding formal mechanisms for feedback would assist the CLC to obtain a more comprehensive understanding of its clients’ satisfaction with its services, while also providing insights into potential improvements.

“It is important that I helped whitefellas understand that this land belongs to us. I travelled a lot to show where family groups were – our ‘map’. I told [the CLC] what to write down in their research. I am happy they asked countrymen about all of our families and dreaming stories.”

Traditional Owner

Traditional Owner reflections on their engagement with the CLC are described in further detail under TOR 3.

Future Acts and ILUAs

The CLC remained responsive to section 29 FANs and recent spikes in mining activity

The CLC has a consistent process in place to support FANs under section 29 of the NTA. During the Review period, the CLC received 245 FANs, including 286 section 29 notices (Table 4). The number of FANs the CLC received during the Review period significantly increased year on year. In FY2021-22, the CLC responded to all 167 notifications under section 29, which included two mineral lease applications to undertake mining activities on land with native title interests. It assessed each notification for its potential impact on native title rights and interests and undertook 38 Future Act mining and exploration related field trips, meetings and consultations with native title holders.

Table 4 | Number of FANs during the Review period⁸

Financial year	Section 29 notifications	Other FANs ⁹
2019-20	45	Unknown ¹⁰

⁸ CLC Annual Reports 2019-20, 2020-21, 2021-22; NNTT data; CLC data provided for the purposes of the Review.

⁹ Future Act notices are also advertised under section 18 and section 71 of the *Mineral Titles (Northern Territory) Act 2010*. This additional detail is not highlighted as it is beyond the scope of the Review of the CLC’s functions under the NTA.

¹⁰ The CLC’s Annual Report 2019-20 does not provide a figure for this datapoint.

Financial year	Section 29 notifications	Other FANs ⁹
2020-21	74 ¹¹	6
2021-22	167	2
Total	286¹²	8

The Minerals and Energy team, with the support of the Legal Services team, regional anthropologist and PBCSU, respond to notices in consultation with the relevant PBC or Traditional Owners.

The ongoing administration of Future Acts is a high priority for the CLC. It continues to notify native title holders and claimants about Future Acts and maintains a register of applications. The CLC informs all applicants about the native title process and its preference for negotiated agreements. During the Review period the CLC's anthropologists provided advice and support in seven instances in relation to mining Future Acts and in five instances related to non-mining Future Acts.

The CLC acknowledged that the large volume of applications for remote land contributed to difficulties consulting on all applications within the brief objection time frames during the Review period.

Assistance with ILUAs is an important function that the CLC performs under the NTA, however opportunities are limited in some claim areas due to a lack of activity

The CLC provides support to clients through the development of ILUAs in its RATSIB area. In the CLC region catalysts for an ILUA include:

- a proposal from government to grant some form of tenure to enable a commercial project (for example a mineral lease, pipeline, non-pastoral use permit, or freehold/Crown lease grant); or
- identification by government of defective tenure which it aims to rectify.

The CLC supports native title holders with respect to section 29 notices. The prioritisation of effort is based on an internal assessment of feasibility and cost-effectiveness of a negotiated agreement, when support is requested by a PBC. During the Review period, the CLC successfully negotiated five ILUAs, with no unsuccessful negotiations. CLC advised that four of the five ILUAs negotiated related to native title matters and the fifth ILUA related to the settlement of the Wakaya Alyawarr Aboriginal Land Claim – Canteen Creek Area ILUA. This ILUA settlement resulted in extinguishment of native title and was related to settlement of an ALRA land claim. Table 5 provides a summary of the ILUAs the CLC helped negotiate during the Review period.

Table 5 | Summary of ILUAs registered in the CLC RATSIB area during the Review period¹³

ILUA name	ILUA type	Subject matter	Date registered
Defence Commercial Power Project ILUA	Area Agreement	Infrastructure, Access, Development, Energy	23/11/2020
Mount Riddock CLA NTP 6326(A)	Body Corporate	Community Living Area, Community, Development	17/11/2020

¹¹ Revised from Annual Report figure, as advised by CLC.

¹² Revised from Annual Report figure, as advised by CLC.

¹³ NNTT Register of Indigenous Use Land Agreements.

ILUA name	ILUA type	Subject matter	Date registered
Dingo Gas Pipeline Agreement ILUA	Area Agreement	Petroleum/Gas, Gas	16/07/2020
Dingo Gas Production Agreement ILUA	Area Agreement	Petroleum/Gas, Gas	16/07/2020
Canteen Creek Area ILUA	Area Agreement	Extinguishment of native title Community Living Area	20/05/2020

The CLC secured beneficial outcomes for native title holders through negotiated ILUAs and other agreements, including agreements under section 31 of the NTA. At 30 June 2022 it had 91 agreements registered with the National Native Title Tribunal (NNTT), was awaiting the registration of three and was negotiating an additional seven.

Staff discussed some of the key challenges in negotiating ILUAs, notably some difficulties engaging with mining companies. Further, CLC staff noted that many claim areas on pastoral leases had limited mining activity and were unlikely to receive significant financial benefits.

Number of claims resulting in a determination of native title or ILUA settlement as a proportion of total filed claims

The CLC supported four determinations during the Review period

As shown in Table 6, during the Review period the CLC filed seven new claims (including two revised applications) and secured four determinations.

Table 6 | Number of claims resulting in determination of native title or ILUA settlement for the CLC¹⁴

Period	Total number of claims filed	Number of determinations of native title
From 1 July 2019 until 30 June 2022	7 (including 2 revised applications)	4
From passage of the NTA until 30 June 2022	80	34

Number of claim groups the NTRB-SP has acted for or assisted via brief out arrangements in a native title determination application during the Review period

The CLC did not use brief out arrangements to support the delivery of native title functions during the Review period

The CLC confirmed that it did not brief out any claims during the Review period. In general, even where consultant staff such as anthropologists were used to provide specialist expertise due to their knowledge of specific communities or land areas, cases were still managed by the CLC's Native Title Unit.

¹⁴ NNTT. Native Title Applications, Registration Decisions and Determinations. 2023. Accessed June 2023. <http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx>

Proportion of claimable land within the RATSIB area not subject to a registered claim or a determination

Less than half of the claimable land within the CLC RATSIB area is not subject to a registered claim or determination

The CLC RATSIB area covers about 776,000 square kilometres. Of this, about 54 per cent or 418,486 square kilometres is Aboriginal land under the ARLA and is therefore identified as unclaimable.¹⁵ Of the remaining approximate 357,500 square kilometres, about 161,020 square kilometres (or 21 per cent of the CLC’s RATSIB area) has been determined. A further two per cent or 16,042 square kilometres is under a native title application, making a total of approximately 177,000 square kilometres. Therefore, the total portion of the claimable land within the CLC RATSIB area that is not yet subject to a determination or claim under the NTA is approximately 50 per cent, or 180,000 of the 357,514 square kilometres of claimable land.

Average time between filing an application for a determination of native title to the date a determination is made

The CLC took a strategic approach to supporting claim groups, which created procedural efficiencies and was tailored to the context of the region

The CLC’s overall claims strategy has been to invest in research early and to prioritise claim areas that were considered stronger. The CLC advised that the strength of the potential claim was primarily influenced by the following factors:

- The clarity of connection to Country between the potential claim groups and the land, as seen in preliminary evidence collection.
- The viability of a future PBC, which often depended on the cohesion of groups in the area.
- The CLC’s access to expertise in the area, often in the form of external consultants or regional anthropologists and Elders (or other knowledge-holders).

The CLC followed this approach to collate large bodies of information and evidence before filing the application. This supported efficient and fast determinations. The average time between filing and determination of the CLC’s determined claims during the Review period was 3.1 years. This was a significant improvement on the CLC’s overall average of 5.01 years.

Table 7 | Age profile of claims which were determined during the Review period

Less than 1 year	1 to 3 years	3 to 5 years	5 to 8 years	More than 8 years
0	1	3	0	0

The CLC generally filed a single claim over one or more pastoral leases. The claims were typically smaller (in area) than in other parts of Australia. This contributed to the CLC achieving timely determination results. The CLC’s smaller claim size reflected a deep understanding of the nature of Aboriginal groups in the region. Relative to many other RATSIB areas, Aboriginal groups in the southern Northern Territory are

¹⁵ Based on geographic information system data from NNTT. Native Title Vision. 2023. Accessed June 2023. <https://nntt.maps.arcgis.com/apps/webappviewer/index.html?id=a4fab24b605b43bd9049d3a372d79e62>

highly localised with many of these groups traditionally being able to live in smaller communities “on Country”.

The CLC invested heavily in research and preparation before lodging an application to ensure successful outcomes. However, this did not necessarily always and automatically translate into speedy resolution for clients, if considering the time spent during the research phase. As discussed above, the Review found that full Connection Reports have served the CLC well as a thorough and robust approach to supporting evidence in claims.

Number of common law native title holders/registered native title bodies corporate (RNTBCs) the NTRB-SP has acted for in a native title compensation application proceeding

During the Review period the CLC did not submit any applications for native title compensation. The CLC advised that there were very few strategically significant compensation claims to be brought in the CLC region, and as the jurisprudence is still developing, the cost-benefit is not favourable for native title holders to bring claims.

5.1.2 TOR 1: External factors

This section presents an analysis of factors that impacted on performance that were beyond the CLC's control.

State government policy and legislation

The Northern Territory Government’s policy position supported the CLC to achieve native title outcomes

The Northern Territory Government has continued to demonstrate willingness to resolve native title by agreement. All four claims determined during the Review period were agreed via consent. External stakeholders agreed that the Northern Territory Government’s attitude towards native title is significantly more progressive than elsewhere in Australia.

State legislation had a low to moderate impact on the CLC’s ability to achieve native title outcomes

There is one Commonwealth Act and two Northern Territory Acts that could conceivably interfere with the CLC’s ability to deliver native title outcomes effectively and efficiently (Table 8).

Table 8 | Relevant Commonwealth and Northern Territory legislation

Legislation	Description	Impact
<i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth)	The ALRA established a system in the Northern Territory where Aboriginal people can make traditional land claims to unalienated Crown land and alienated Crown land in which all estates and interests are held by Aboriginal people. Following an inquiry and recommendation to grant land by the Aboriginal Land Commissioner, the	Moderate – Since freehold title grants ownership to the holder, it is considered by many stakeholders to be stronger and thus more beneficial than native title, which at most recognises exclusive possession. For example, under the ALRA, Traditional Owners have the right to veto development, including mining and exploration, on Aboriginal land. The ALRA also provides for the co-existence of native

Legislation	Description	Impact
	Commonwealth may grant inalienable freehold title to an Aboriginal Land Trust on behalf of the Traditional Owners. A sunset clause prevents the Commissioner hearing any new claims lodged after 30 June 1997. A land grant may also be made following minor amendment of the ALRA to include a description of relevant land.	title rights and interests on land granted under the ALRA. As a result, the CLC (and other external native title experts) consider native title rights to be largely unnecessary on Aboriginal land granted under the ALRA. Additionally, there is limited pressure from people with native title interests to progress native title claims quickly through the system as many already have access to some portion of their Country.
<i>Northern Territory Aboriginal Sacred Sites Act 1989</i>	The <i>Northern Territory Aboriginal Sacred Sites Act 1989</i> provides protections over Aboriginal sacred sites across the Northern Territory. Protection measures include penalties for entering, working on, or desecrating a sacred site. Under the <i>Northern Territory Aboriginal Sacred Sites Act 1989</i>, any person who is proposing to conduct works on an area where there may be a sacred site is expected to apply for an Authority Certificate. The CLC also has functions in respect of the protection of sacred sites under section 23(1)(ba) and s23(2)(a) of the ALRA. The CLC and AAPA engage in projects on a case-by-case basis in accordance with their statutory functions	Low – The extent to which this legislation impacts the operations of an NTRB-SP is regularly overstated. In practice, the <i>Northern Territory Aboriginal Sacred Sites Act 1989</i> essentially offers site protection and provides Northern Territory NTRB-SPs with an extensive list of sacred sites in their RATSIB area. The <i>Northern Territory Aboriginal Sacred Sites Act 1989</i> offers site protection through the issue of authority certificates.
<i>Pastoral Land Act 1992 (NT)</i>	The <i>Pastoral Land Act 1992 (NT)</i> provides Aboriginal peoples in the Northern Territory with access to pastoral land, regardless of whether they hold native title or not. The <i>Pastoral Land Act 1992 (NT)</i> allows Aboriginal peoples who ordinarily reside on the leased land, or by Aboriginal tradition are entitled to use or occupy the land, to enter and be on the leased land. They are also permitted to take and use the water from the natural waters and springs on the leased land; to take or kill animals – <i>ferae naturae</i> – for food or for ceremonial purposes; and to take naturally growing vegetable matter for food or for ceremonial purposes. It does not permit Aboriginal peoples to erect or use a structure on the leased land that would serve as a permanent shelter for human occupation, other than at the place on the leased land where they ordinarily reside.	Low – Pastoral leases do not provide the leaseholder with freehold land rights. Therefore, pastoral leases only partially extinguish native title. The CLC has advised that it has encountered access restrictions onto a pastoral lease where research for a native title claim is currently underway because access by non-Aboriginal people onto the pastoral lease requires the permission of the pastoralist in most circumstances. The inability to access onto a pastoral lease within reasonable timeframes inhibits the undertaking of research, thereby delaying a claim and preventing Aboriginal people from having their native title rights and interests recognised.

Complexity of remaining claims

The increased complexity of remaining claims and introduction of economic native title rights will create ongoing challenges

Expert external stakeholders noted that many of the areas with obvious connection to a single core group had now been determined and the CLC has begun to move to more complex claim areas. As a result, they suggest that the CLC's timeframe for claims completion (from research to determination) may slow. Some of the research areas involve many family groups that span state or territory boundaries and the CLC reported that this requires a significant number of field trips to understand various groups' connections to Country.

The Review heard that the history of colonisation and violence against Aboriginal people is likely to continue to impact the complexity of remaining claims across the region. The removal of Aboriginal people through government laws, policies and practices has impacted the collection of evidence of claimants' pre-colonial traditional rights, system of laws and customs, and ownership of the land. The complexity of the remaining claims will require a greater level of cross-communication amongst teams, engagement with Traditional Owners and research.

Since 2017 the CLC has expanded its native title investigations to include research into claimants' rights to take and use resources on the land for any purpose they require. Claimants who have their rights recognised in this manner will be able to use the recognition of native title rights more easily as a basis for economic development. This will likely increase activity in the native title space for the CLC.

History of previous claims

A history of previous claims has not impeded the CLC's ability to achieve native title outcomes

Previous claims in the region have not impacted the CLC's ability to achieve native title outcomes for clients. The Federal Court dismissed the *Jango v Northern Territory of Australia* [2006] FCA 318 (the Yulara compensation claim) citing several issues of contention where the anthropological reports were questioned. As a result, some stakeholders to the Review noted that people with native title interests in the Yulara area became wary of the anthropology. However, the CLC advised that the successful conclusion of the Karinga Lakes matter, which involved most of the claimants in the Yulara compensation claim, has gone a significant way to addressing negative perceptions.

Complexity of land use and tenure

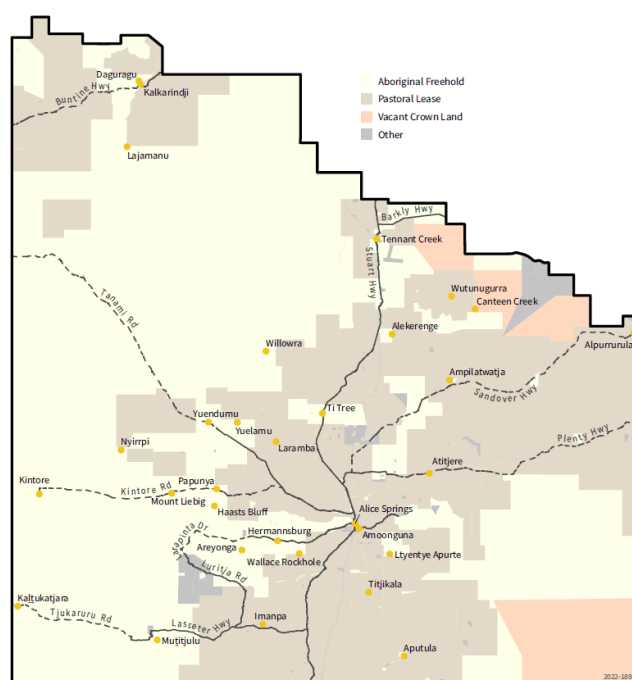
More than half of the CLC RATSIB area is Aboriginal Freehold Land under the ALRA

About 54 per cent of the CLC RATSIB area is recognised under the ALRA as Aboriginal Freehold Land. Unlike native title, which legally recognises rights and interests of Aboriginal peoples in land, freehold title allows full ownership. The proportion of Aboriginal Freehold Land in the CLC region is high, compared with other regions, largely because only unalienated Crown land (considered land that no one else was using or had an interest in, or land which was wholly owned by Aboriginal people) can be claimed under ALRA; and a large proportion of the CLC RATSIB area, being remote and largely uninhabited country, is in that category.

A large proportion of the land within the CLC RATSIB area is held under pastoral lease

The existence of native title alongside other non-Indigenous property rights, such as pastoral leases, results in the determination of non-exclusive native title rights. Stakeholders consulted as part of the

Review commented that non-exclusive rights generally result in the Traditional Owner group being limited to using their native title rights to conduct cultural activities on the land such as hunting, camping, or performing ceremony, rather than being able to fully control access to the land. Figure 2 outlines land tenure in the CLC RATSIB area at June 2022.



The CLC's performance during the Review period was impacted by COVID-19; however, it made efforts to adapt to these challenges

Several risk mitigation behaviours were adopted because of the COVID-19 pandemic, including:

were also generated across the organisation to promote safe practice and provide information on restrictions imposed on gatherings.

The main impact of the pandemic was reduced travel by CLC staff to remote communities. Staff identified that an inability to maintain previous levels of in-person engagement with communities did affect the CLC's ability to maximise its engagement and impact with native title holders. Despite this, the CLC implemented effective mitigation initiatives to minimise disruption and continue to deliver positive outcomes. The CLC also provided additional support during the pandemic to ensure clients within the RATSIB area were safe, connected and informed. Examples of how the CLC adapted to work with communities during the pandemic are below:

- The CLC conducted claim group meetings virtually, via video conferencing technology. Where meetings needed to be in-person during the mandatory restrictions, the CLC worked closely with clients to ensure their comfort with people travelling to and visiting their community. The subsequent lifting of COVID-19 restrictions allowed completion of many activities and meetings that had been stalled. This caused an influx in meeting activity across the CLC.
- The CLC produced information guidance for communities to increase public understanding of the pandemic and the government requirements. During the initial spread of the Omicron virus variant in the Northern Territory between November 2021 and February 2022, the CLC and other Aboriginal peak organisations publicised concerns of constituents to pressure the Northern Territory Government to respond to a range of issues caused by its haste to reopen the Northern Territory borders. The major concerns were the very low vaccination rates in many remote communities, the underreporting of vaccination statistics, the need for more Commonwealth support in the face of the Northern Territory's faltering COVID-19 response and calls for "circuit breaker" lockdowns of remote communities. The lockdowns were considered necessary to allow health services to vaccinate more residents. Intense media interest in this collective advocacy contributed to a declaration of biosecurity areas in February 2022. This declaration triggered rapid production of fact sheets, scripts and other information materials for affected community residents and visitors. For example, the CLC *Land Rights News*, the only printed newspaper in Central Australia that reliably reaches remote communities, had a July 2021 special COVID-19 vaccination "myth buster" issue. The CLC Facebook page was also used to promote COVID-19 vaccinations.

Amount of funding

During the Review period the CLC received on average \$5.65 of NIAA native title funding per square kilometre of the RATSIB area per year¹⁶. The CLC received most of its funding from the ABA Grant Funding. Activities funded through the ABA could be leveraged to create efficiencies in its native title work in addition to NTA funding from the NIAA.

A majority of staff who responded to the Review's CLC staff survey were of the view that the CLC was underfunded across key areas such as client liaison, field work, legal and anthropological services. The CLC advised that the large volume of Future Act applications on remote land and declining native title funding contributed to difficulties consulting on all applications within the objection time frame.

The Review was of the view that funding for the CLC's native title activities during the Review period did not significantly impact its ability to achieve determination of native title claims.

¹⁶ Calculated based on the average NIAA native title funding received each year within the Review period (\$4,353,966.66) divided by the total square kilometres within the CLC RATSIB area (770,000 square kilometres).

5.1.3 TOR 1: Recommendations

RECOMMENDATION

1

Consider incorporating a systematic approach to collecting client feedback around the native title claim process to gather robust data on the experiences and perspectives of its clients and claim groups.

5.2 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.

Summary

The CLC had a defined assessment and prioritisation process that considered the social, economic and environmental triggers that drive native title decision-making. This process was understood by those directly involved in the process.

The Review found that there was limited understanding of the CLC's prioritisation process among Traditional Owners consulted by the Review. Some were aware of the prioritisation of native title activity to focus on regions at risk of mining activity on sacred sites; however, general awareness of the assessment and prioritisation process was limited. High-level information was available through CLC resources, but this did not reach prospective clients and instead focused on a different stage of the native title process. The Review did hear of instances where senior native title holders were able to increase awareness and visibility to others of how decisions were made within the CLC.

While the Review did not expect that the detailed process would be known by stakeholders, it would be useful for the CLC to consistently articulate the principles it uses to determine if it will provide support, and the timing and relative priority of the support it will provide. The Review notes the CLC's ongoing efforts to secure additional funding to support this increased communication including the development of resources to help with communicating the claims assessment prioritisation process.

5.2.1 TOR 2: Assessment of performance

This section presents an assessment of performance against the performance indicators for this TOR. To see the performance indicators please see Appendix A.

Equity, transparency and robustness of assessment and prioritisation process

The CLC had a defined assessment and prioritisation process that considered the social, economic and environmental triggers that drive a decision relating to native title

The CLC had a defined approach to assessing and prioritising claims, outlined in its Stages of Native Title Determination¹⁷ document. The triggers that drive a decision to research and lodge a native title claim include concerns around mineral lease applications from Future Acts, community desire, CLC insights, or scoping studies. Based on these drivers, the CLC had developed a long list of specific criteria to inform the assessment to pursue a claim. These were outlined in the CLC's Native Title Determination process document (summarised below). The assessment decision was made at a Native Title Planning meeting, attended by the Native Title Manager, the Senior Anthropologist, the Coordinator PBCSU, the Senior Lawyer and others.

Criteria to assess a request to file a Native Title Determination Application:

1. Age of senior knowledgeable native title holders.
2. Available funding for the research in the next/future financial year.

¹⁷ Stages of Native Title Determination document supplied by CLC for the review, 2023.

3. Actual threat to Country and exercise of native title rights.
 4. Potential long-term benefits to native title holders.
 5. Perceived need for assisted knowledge transfer (for example, before a small group of senior knowledgeable community members pass away).
 6. Equity of claims across the region.
 7. Identification of possible disputes.
- Other matters of higher priority, including:
8. Potential for future economic development of the PBC.
 9. The availability of consultant anthropologist with familiarity with Central Australia and the native title claim processes.

After assessment the request is allocated into one of three categories:

1. **No action** – lack of connection to and/or knowledge of Country; minimal evidence; lack of actual threat; lack of funding and resources.
2. **Future action** – lack of resources (financial/human) to action in short-term; lack of immediate threat to native title rights; cultural knowledge not yet seriously threatened; others have higher priority.
3. **To be actioned** – request is minuted; funding decision made when preliminary research can start to assess tenure of proposed claim area.

The Review found that this was an equitable and robust approach. It considered the most significant drivers that would impact the likely success of a claim and reflected the factors of importance to clients and Traditional Owners. CLC staff confirmed that the native title process document was followed with consistency.

Staff noted that the prioritisation process had been reviewed and would be updated after the Review period. They advised that the policy and procedures remain largely consistent, with the addition of further clarification of the role of CLC and its responsibilities.

CLC staff survey feedback noted that the approach to prioritisation and assessment by the CLC was usually proactive.

The CLC prioritisation process was well understood by those directly involved in the process, although it is not known by staff more broadly

CLC staff indicated there was a mixed internal understanding of the assessment and prioritisation process. Most staff who were not directly involved in native title services were not familiar at all with the CLC's policies for prioritising support for different claim groups, which was to be expected. Mixed staff sentiment would suggest that the planning and implementation of native title activity was not widely consultative or communicated with staff.

Client and potential client awareness of the process

Client understanding of the assessment and prioritisation process was limited, but effective use of senior native title holders has increased awareness

The Review found that, based on engagement with a limited number of Traditional Owners, clients had limited understanding of the technical factors and criteria that informed the CLC's prioritisation process. Some Traditional Owners the Review engaged with were aware of the prioritisation of native title activity

to focus on regions at risk of mining activity on sacred sites; however, general awareness of the assessment and prioritisation process was limited. High-level information was available through CLC resources during the Review period, but this was not necessarily accessible by prospective clients and was instead focused on a different stage of the native title process.

The CLC advised that after the Review period further work was underway to support native title holders obtain a greater understanding of native title and native title processes. For example, the CLC was preparing a resource entitled *Getting Native Title*, which outlined the various stages of the claims process. Similar to other native title resources, this resource will be translated into central Australian Aboriginal languages and placed on the CLC's PBCmob app. These recordings can be accessed to support meetings or during field research to ensure native title holders are fully informed of the process.

Stakeholders consulted as part of the Review commented that the CLC used senior native title holders effectively to build awareness of others about the rationale for the prioritisation and assessment of their claim. Further, the CLC supported greater transparency and awareness among claim groups by taking time during the research phase to leverage trusted, local staff to explain the native title process and why the CLC was researching certain things.

Traditional Owner satisfaction with the assessment and prioritisation process and its outcome

Traditional Owners spoke highly of the CLC's efforts to prioritise native title activity based on the risk of mining on sacred sites

Consultations identified that that potential mining on sacred lands was an important issue for Traditional Owners that should be considered in the prioritisation of claim activity. The CLC's prioritisation was responsive to this and appropriately considered potential threat to Country. One group of Traditional Owners consulted by the Review commented that the CLC's proactive effort to address concerns for potential mining activity was the catalyst for the native title application so their land could be protected.

The CLC's ability to identify and work effectively with the right individuals to progress research and prepare for a native title application was critical to supporting Traditional Owners' satisfaction (see TOR 1 regarding the CLC's approach to anthropological research). Specifically, the instruction meetings facilitated by the CLC were an important tool for bringing together multiple family groups and explaining why a claim had been prioritised. Traditional Owners commented that these meetings facilitated collaboration among native title holders and helped to build a greater understanding of the native title process, why it was important and what clients would expect from the process to submit a claim.

5.2.2 TOR 2: External factors

This section presents an analysis of factors that impacted on performance that were beyond the CLC's control.

Number of claims relative to NTRB-SP size and resourcing

The CLC delivers efficient native title outcomes relative to its size and total funding

During the Review period, the CLC received funding from the NIAA to manage its native title functions. Considering determinations achieved within the Review period and active claims, the CLC received on

average \$1,187,445.45 of native title funding per claim.¹⁸ As outlined under TOR 5, the CLC received most of its funding from the ABA. Positions and activities funded through the ABA could be leveraged to create efficiencies in its native title work in addition to NTA funding from the NIAA.

5.2.3 TOR 2: Recommendations

RECOMMENDATION

2

Embed more formal processes to communicate the assessment and prioritisation process of native title claims to prospective native title holders in the research phase to ensure clear understanding of this process.

¹⁸ Calculated based on the total native title funding from NIAA received during the Review period (\$13,061,900) divided by the total number of applications filed during the Review period (n=7) and applications determined (n=4).

5.3 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.

Summary

The CLC Corporate Plan 2022-2026 commits the CLC to achieving best practice consultation and decision-making processes through its Effective Consultation and Engagement Strategy 2015-2020, with an emphasis on culturally safe ways of doing business and building the capacity of staff and council. This was supported through the Review period by the CLC's regional presence, which continued to support strong relationships and trust with native title holders.

The CLC invested in mechanisms to communicate complex information regarding the NTA. While feedback was generally positive, some stakeholders felt there could be greater transparency in communication.

The CLC continued to support culturally appropriate engagement, resulting in strong relationships with communities. The CLC received no complaints during the Review period and improved the accessibility of its complaints process. There were no requests for internal review.

Where a client raised informal suggestions to regional staff, this feedback was communicated to the relevant section to follow up the matter with the client. This was standard business and occurred almost daily across the organisation as an opportunity to learn from clients and better engage with them.

Some stakeholders identified that the CLC had a strong reputation for investing time into engagement to ensure it was respectful of Traditional Owners. Since the previous Review, key strengths include: a greater ability to be present with Traditional Owners and listen to views and make corrections if clients were not happy with communication channels or decisions; building good relationships with other parties – including developing goodwill between Traditional Owners and pastoralists or mining companies; and liaison with CLC Council members who were trusted by native title holders to respect local leadership.

Other Traditional Owners who engaged with the Review provided feedback that in their view the CLC had an inconsistent approach to engaging respectfully and transparently with clients and potential clients. This included some concerns that many current clients were unaware of when native title meetings were happening and were not well informed about delays to native title claims or mining activities.

5.3.1 TOR 3: Assessment of performance

This section presents an assessment of performance against the performance indicators for this TOR. To see the performance indicators please see Appendix A.

Respectful and transparent engagement

An engagement strategy continued to guide the CLC's native title approach, but required a refresh to improve practical ways of working

Effective engagement is particularly complex in CLC's region due to a range of factors, including language barriers, low levels of literacy and numeracy, the difficulties involved in getting people together across such a vast region and the high level of "consultation" demands placed on constituents. The CLC

Corporate Plan 2022-2026 commits the CLC to achieving best practice consultation and decision-making processes through its Effective Consultation and Engagement Strategy 2015-2020. The Effective Consultation and Engagement Strategy 2015-2020 defines key objectives and principles and highlights an emphasis on culturally safe ways of doing business and building the capacity of staff and council. Staff advised that this was still the guiding framework for the CLC's engagement with native title holders and potential native title holders during the Review period.

The CLC advised that the Effective Consultation and Engagement Strategy 2015-2020 was currently under review and an updated document was due to be finalised in 2023-2024.

The CLC's regional presence supported strong relationships and trust with claim groups

The CLC reported to the Review that it had continued to focus on creating a strong on-the-ground presence through its regional model of staffing. The CLC had a head office in Alice Springs, 14 regional CLC offices (including ranger group offices)¹⁹ and a Regional Services Unit. Many of these offices had regional support staff and regional anthropologists to assist in native title matters. The regional support staff supported consultant anthropologists. During consultations for the Review, stakeholders reported that the regional support staff were highly trusted by Traditional Owners, had strong regional engagement capabilities and were an accessible point of contact for issues and concerns. All regional support staff identified as Aboriginal and had experience working or living in their relevant community or other remote areas and many were fluent in local languages.

"We like having him (regional support staff) here – he always updates community members and listens to their worries."

Native title holder

The CLC invested in mechanisms to communicate complex information regarding the NTA

In the CLC RATSIB area language barriers make communication of complex information a challenge. This is exacerbated by relatively low familiarity of the NTA compared to the ALRA. The CLC had multiple resources that helped to communicate complex information to clients, including:

"They are good at explaining native title to us – we can ask questions and they help us learn."

Client of the CLC

- **Native Title Story Booklet (updated in May 2022).** The document clearly lists the distinctions between NTA and ALRA, the specific rights of native title holders and the role of PBCs. CLC clients and stakeholders confirmed that this is a strength of the CLC's communication.
- **Native Title on Cattle Country (2022).** This is a community-friendly resource providing more detail on the rights of native holders in the context of pastoral leases and mining activity – helping communities better understand what they can and cannot do.

Both documents were on the CLC website and information is expressed in plain English. The CLC had also developed and launched a new app called PBCmob where PBC members and the broader community could access both booklets in 11 Central Australian languages. Stakeholders reported positive experiences of using both booklets (as shown in Figure 3).

¹⁹ CLC Corporate Plan 2022-2026.

Figure 3 | The CLC's Native Title on Cattle Country Booklet



CLC staff identified that pictures were a useful tool to make ideas tangible for the client. Legal staff avoided referring to legislation unless necessary. CLC staff also used maps and photographs as visual tools to communicate claim boundaries to clients. Clients acknowledged this was effective.

Feedback was generally positive, but some stakeholders felt there could be greater transparency in communication

Stakeholders consulted as part of the Review identified that the CLC had a strong reputation for investing time into engagement to ensure it was respectful of client needs. Clients acknowledged the significant effort that the CLC put into transport and coordination of engagements. Clients also acknowledged the CLC's continued efforts to inform current and prospective clients of their native title rights and the broader process in a way that was respectful and transparent.

"We trust [the CLC]. They try to keep us updated, even if mining things are not going well. They explain things to us well and take their time. When we have worries, they write it down and read it back. We can ask to change something if it is not right."

CLC client, Central region

Since the previous Review, key strengths included:

- A greater ability to be present with clients, listen to views and correct if clients were not happy with communication channels or decisions.
- Building good relationships with other parties – including developing goodwill between Traditional Owners and pastoralists or mining companies.
- Liaising with CLC Council members who were trusted by clients to respect local leadership roles.

However, some stakeholders who engaged with the Review provided feedback that the CLC had an inconsistent approach to engaging with clients and potential clients respectfully and transparently. This included some perceptions that many clients were unaware of when native title meetings were happening and were not well informed about delays to native title claims or mining activities.

Culturally appropriate engagement

The CLC continued to support culturally appropriate engagement, resulting in strong relationships with communities

The CLC's regional support staff were predominantly Aboriginal and generally had strong ties to the communities with whom they worked. The CLC's Council and Executive Committee provided insight and feedback to the CLC staff on the priorities for the CLC's constituents and how to approach business in a culturally appropriate way. This was seen as a particular strength of the CLC, with many clients reflecting on the value of a community-led approach to decision-making.

CLC staff continued to receive formal training and capability-building for cultural competency. This was administered in several ways – acknowledging that on-the-job learning with support from experienced colleagues was the most comprehensive way to gain "regional cultural competency". As one example, the CLC advised the Review that it organised a cross-cultural awareness training program for all staff at the start of their employment. The Review heard that this program was in demand and had been accessed by various departments, including legal, minerals and energy, anthropology, community development, land management and policy.

The CLC emphasised the importance of developing a strong understanding of their clients' context, culture and population. Most staff responded that the CLC behaved extremely well in a culturally sensitive way with Traditional Owners by understanding and respecting cultural differences, including reference to deploying mixed-gender field teams for consultation to respect cultural norms.

Since the previous Review the CLC has shown clear improvement on its ability to:

- involve the correct families and individuals to participate in research or visits to sacred sites and other parts of Country (see TOR 2)
- develop culturally safe engagement capabilities within its anthropologists and lawyers
- develop more audio resources in Central Australian languages to increase engagement.

Complaints

The CLC again had no complaints relating to native title services and had improved the accessibility of its complaints process

The CLC has a Service Charter outlined on its website²⁰ which describes the services that the CLC provides and the standard of service its constituents can expect. This statement also notes the mechanisms for providing feedback or lodging a formal complaint.

There were no complaints made to the CLC regarding native title during the Review period.

The CLC had made clear progress on the accessibility of its complaints process, in line with the approaches undertaken by other NTRB-SPs. It had a contact box on its website, with a new section on the page titled "Complaints". This included options for recording a complaint, guidance on how to compile a complaint to ensure it was dealt with properly and options for recourse.

Staff reported that the complaints process had been restructured to be centrally recorded. This had improved on the earlier decentralised model of resolution and enabled an organisation-wide response.

²⁰ The CLC. (n.d.). The CLC's Commitment to Service. <https://www.clc.org.au/wp-content/uploads/2021/03/CLC-service-charter.pdf>

Under this system, complaints could be administered, monitored and reported to the senior leadership, including reference number and status through to closure.

Some informal suggestions were made to regional staff, but it was unclear whether these were dealt with under a consistent or transparent process

While no formal complaints were lodged during the Review period, consultations with CLC clients revealed some grievances relating to native title matters. CLC staff mentioned that often these were revealed during visits to clients and were addressed with relative ease; however, some clients expressed frustrations that some of their perspectives were not being heard or followed up. The CLC advised that routine matters were often addressed in response to a query raised, whereby a regional staff member would follow up with their team as to how they could incorporate the feedback to deliver better experiences for clients.

"Where do I go [to make a suggestion]? I would like an interpreter – I tried last time with them [the CLC] but I get worried and sometimes they are hard to understand."

CLC client, Southwest region

Internal review

The CLC conducted no internal reviews over the Review period

The CLC is responsible for providing and publicising a process for native title holders to request an internal review of decision-making undertaken by the CLC as a representative body under the NTA.²¹ The CLC fulfilled this obligation as outlined in its Native Title Policy and Procedure document.²² Internal review processes in NTRB-SPs were usually carried out by a person within the organisation not involved in the original decision. If none were available, an external party could carry out the review. The CLC adopted a similar process.

The internal review process was being updated on the CLC's website, but there had been delays in finalising this.

The CLC received no internal review requests over the Review period.

Use of cultural materials

The CLC's use of cultural materials embedded informed consent and native title holder engagement

The CLC had a range of obligations relating to the archiving of records as a commitment to understand, create and manage the records of its activities.²³ To formally deliver on this, a culturally appropriate archival program and access policy was being developed. Generally, the Review found that the CLC's efforts to obtain and manage cultural materials such as photos or recordings of various sites were appropriate. The CLC explains the process and obtains consent for potential uses of cultural materials when it first engages with a claim group, often in the instruction meeting early in the process. CLC staff explicitly seek consent from clients for audio and visual recordings, where required.

²¹ Section 203BI of the NTA.

²² CLC. Native Title Policy and Procedure document, provided to Nous for the purposes of the Review.

²³ National Archives of Australia. 2009. Records affecting the rights and entitlements of Aboriginal and Torres Strait Islander people. <https://www.naa.gov.au/information-management/disposing-information/disposal-freezes-and-retention-notice/records-affecting-rights-and-entitlements-aboriginal-and-torres-strait-islander-people>

5.3.2 TOR 3: External factors

No external factors have been identified for TOR 3.

5.3.3 TOR 3: Recommendations

RECOMMENDATION

3

Prioritise engagement and communication with Traditional Owners who have experienced delays with native title claim processes or mining agreements to ensure they remain aware of progress.

5.4 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.

Summary

Funding from the NIAA for the CLC’s native title functions and PBC support remained constant over the Review period, while total expenditure, including the use of ALRA funds, fluctuated over the Review period.

Staff salaries remained a significant non-discretionary expense for the CLC, given the challenges of attracting staff to the remote region. CLC generated efficiencies by leveraging its size and broader function as a Land Council through an integrated staffing model.

The CLC used external consultants appropriately and invested in developing internal staff capabilities to reduce future reliance on external consultants.

The CLC identified and implemented cost-saving strategies to enhance operational efficiency, including optimising staff time and skills. Meetings for authorisation, determination and claim groups contributed to significant expenses for the CLC. Despite the cost implications of remote locations, claim group meetings were conducted effectively. The CLC has established documented processes and policies to ensure efficient travel assistance for claim group meetings.

5.4.1 TOR 4: Assessment of performance

This section presents an assessment of performance against the performance indicators for this TOR. To see the performance indicators please see Appendix A.

Expenditure on salaries (legal, anthropological, Board, CEO, human resources (HR), etc.), operations (travel, legal, offices, etc.) or other relevant items

Funding from the NIAA remained constant over the Review period

The CLC received a consistent level of funding from NIAA between FY2019-20 and FY2020-21, as shown in Table 9. The total funding received during the Review period was \$13,061,900.

Table 9 | CLC income from NIAA funding FY2019-20 to FY2021-22

Funding	FY2019-20	FY2020-21	FY2021-22
Base agreement	\$2,978,950	\$2,978,950	\$2,978,950
PBC support funding	\$1,000,000	\$1,000,000	\$800,000

Staff salaries were a significant expense for the CLC

Salary costs were a significant proportion of native title expenditure, making up the bulk of the CLC’s expenses. The Review heard that competitive remuneration packages were critical to recruiting and maintaining staff with professional native title expertise in what is a very competitive market.

Total expenditure and breakdown of expenditure fluctuated over the Review period

The relative breakdown of native title expenditure fluctuated across the Review period, due to the limiting effects of COVID-19 on certain travel and research engagements. Total CLC expenditure (for all CLC functions including under the ALRA) was similar in the FY2019-20 and FY2020-21 financial years at about \$12 million per year, but in FY2021-22 it dropped by almost 30 per cent to \$8.4 million. Staff attributed this to underspending due to the constraints of COVID-19. CLC staff commented that some costs were being carried into the FY2022-23 and are therefore not reflected in the total expenses for FY2021-22.

Table 10 | Native title expenses during the Review period²⁴

Expense categories	FY2019-20	FY2020-21	FY2021-22
Total expenditure on native title	\$4,259,285	\$4,330,474	\$2,907,786
Total expenditure on salaries (legal, anthropological, corporate)	\$2,667,000	\$2,860,000	\$1,974,159
Expenditure on project salaries (legal, anthropological)	\$2,180,000	\$2,405,000	\$1,607,000
Expenditure on corporate salaries (including cost of key management personnel acquitted to the native title function of the NTRB)	\$347,000	\$315,000	\$221,000
Expenditure on salaries acquitted to native title (CEO)	\$140,000	\$140,000	\$140,000
Expenditure on anthropological consultants	\$630,000	\$487,000	\$280,000
Total expenditure on meetings (travel, accommodation, meeting expenses, vehicles, vehicle maintenance)	\$435,000	\$466,000	\$257,745
Motor vehicles (including maintenance) (project vehicles only – corporate vehicles not included)	\$52,000	\$39,000	\$39,087
Claimants (travel)	\$35,000	\$75,000	\$32,911
Staff (travel) – attributable to native title	\$39,000	\$50,000	\$17,509
Accommodation	\$138,000	\$196,000	\$130,000
Equipment hire (not capital expenditure)	\$29,000	\$8,000	\$1,654
Field expenses	\$99,000	\$87,000	\$26,096
Expenditure on PBC support funding ²⁵	-	-	\$506,214

The CLC leveraged its size and broader function as a Land Council to operate an integrated staffing model across its NTRB and ALRA functions. The anthropological, legal and mining functions dealt with ALRA and NTRB matters in an integrated and efficient way.

²⁴ Financial data provided by the CLC for the Review, 2023.

²⁵ PBCSU expenses were only available for FY2022-23 due to the CLC internal reporting processes.

Cost-saving actions, strategies and/or discussions

The CLC has identified and implemented some cost-saving strategies as part of its broader operations

The CLC identified opportunities for cost recovery to lessen the effect of reduced funding on the level or quality of service delivery. The previous Review found that the following cost saving strategies were in place:

- **Regional structure** | The CLC adopted a regional-based work team model, which has resulted in improved service delivery and nuanced client engagement.
- **Regional offices** | The CLC's regional offices complemented its regional model and provided a base for regional staff to be embedded in the community. This reduced the need for staff (particularly in anthropological and community engagement roles) to travel from the head office.
- **Strategic regional travel** | The CLC coordinated and communicated its planned travel across the organisation. For example, where legal staff travel for one issue (for example, authorisation meetings) they will alert the PBCSU, who may have other business in the area that the travelling staff can help with.
- **Shared administrative and managerial costs** | The CLC leveraged its size and broader functions as a Land Council to generate savings, particularly for administrative and managerial costs.

These strategies were still in place during the Review period. CLC staff consultations noted that they continued to be implemented as part of the CLC's native title program.

Appropriate processes for claim group meetings

Claim group meetings were conducted effectively, despite remoteness being a key cost driver

The CLC's large and remote RATSIB area contributed to the high cost of meetings with clients and people with native title interests. The remoteness of many communities involved in claim meetings meant that transport and logistics were significant cost drivers. CLC staff commented that the cost of meetings continued to steadily increase, predominantly driven by increasing accommodation and fuel costs.

In some cases, the CLC was able to create efficiencies for meeting costs where concurrent work was occurring for ALRA claims or other matters – meaning the cost of staff travel for native title was shared across the CLC's other commitments in the region. Feedback from CLC staff during the Review indicated that these meetings were generally productive, which supported effective use of time and resources.

Annual yearly expenditure per claimant group

Authorisation, determination and claim group meetings were a significant expense for the CLC

Costs for claim group meetings varied depending on several factors including the location of communities, the size of claim groups, the number of people attending and the nature of the meeting. Due to the COVID-19 pandemic, there were fewer in-person meetings during the Review period. Travel and meeting costs were relatively stable over the Review period. Annual figures are in Table 11.

Table 11 | Total meeting costs for the CLC's native title function during the Review period

Meeting type	FY2019-20	FY2020-21	FY2021-22
Total expenditure on meetings (travel, accommodation, meeting expenses, vehicles, vehicle maintenance)	\$435,000	\$466,000	\$257,745

Travel assistance policies for claim group meetings

The CLC's processes and policies were documented, to ensure efficient travel assistance for claim group meetings

The CLC coordinated and communicated its planned travel across the organisation. For example, where legal staff needed to travel for one issue (for example, authorisation meetings) they would alert the PBCSU team, who may have had other business in the area that the travelling staff could assist with and/or they could combine their travel. Staff also planned routes to stop along the way where other business could be undertaken – for example, if staff were travelling to deliver meeting notifications, they planned a route that allowed them to deliver as many notifications as possible. This also enabled the CLC to use a pooled approach to vehicles.

The CLC provided travel assistance to clients to support their attendance at key meetings and events. This involved the CLC coordinating pick-up arrangements and travelling into communities to collect clients and transport them to places across the region. The CLC also provided morning tea, lunch and afternoon tea at meetings and events. This was received positively by clients and is an important aspect of CLC's effective engagement.

Appropriate rationale for use of external consultants

The CLC leverages external consultants appropriately

The average yearly cost of consultants during the Review period was \$465,667, as detailed in Table 12. During the Review period consulting costs decreased by 56 per cent, from \$630,000 to \$280,000, largely due to limitations of native title activity relating to COVID-19 restrictions.

Table 12 | Overview of consultant expenditure for the Review period

Consultant type	FY2019-20	FY2020-21	FY2021-22	Average yearly cost for the Review period
Anthropologist	\$630,000	\$487,000	\$280,000	\$465,667

5.4.2 TOR 4: External factors

This section presents an analysis of factors that impacted on performance that were beyond the CLC's control.

Size of RATSIB area

The size of the CLC RATSIB area contributes to the cost of delivering native title outcomes

The CLC operates in a RATSIB area of more than 777,000 square kilometres. Distance is therefore a significant cost driver for the native title functions of the CLC. This impacts the planning of field trips and increases the cost of native title and PBC support activities, particularly when they involve multiple family groups from various communities.

Remoteness of RATSIB area

The CLC's RATSIB area is remote, which contributes to costs to deliver services

The Australian Bureau of Statistics classifies all the CLC RATSIB area as "very remote" or "remote".²⁶ The Review considers that the region's remoteness was likely to have a considerable impact on the efficiency with which native title outcomes could be achieved. For example, stakeholders noted that remoteness has had several cost implications, including vehicle maintenance costs, claim meeting costs (see above), training costs and recruitment costs generated by difficulty in sourcing and retaining skilled candidates.

Average number of people within a claim group

The number of individuals within each claim group varied significantly, with some claim groups including up to 150 people

While the CLC records the number of claim groups involved in a native title claim process, it does not always record the number of people in each claim group. The number of individuals within each claim group can vary significantly, particularly given that levels of involvement fluctuate over the course of the native title process (and beyond). This makes it very difficult to accurately estimate the exact number of people across multiple communities that form part of a claim group. The CLC commented that some claim group meetings have had up to 150 people in attendance, whereas others in small claim groups have had as few as ten attendees.

Interpreters

There is a need for interpreters, but their availability is low

Most CLC staff and clients consulted by the Review agreed that the use of interpreters would be highly beneficial for meetings. However, despite some staff commenting that interpreter services were preferred when available, their availability was low and the service has generally been absent. The Review was advised that the Northern Territory Government's interpreter service lacks capacity to support the CLC's requests for support. Where an interpreter was required, the CLC regional staff were often able to identify appropriate community members to support the translation. The CLC plans to establish a pool of interpreters that are readily accessible to support effective claim group meetings.

The Review concluded that the use of interpreters has not significantly affected the CLC's costs.

²⁶ Australian Bureau of Statistics. 2021. Australian Statistical Geography Standard (ASGS). <https://www.abs.gov.au/statistics/standards/australian-statistical-geography-standard-asgs-edition-3/jul2021-jun2026>

5.5 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.

Summary

The CLC is a statutory authority established under the ALRA. The CLC Council is the authority under the ALRA and for NTA purposes. The Council and Executive Committee have specific roles concerning native title, with the Council delegating some native title decision making functions to the Executive Committee and to the CEO.

A recent review by the ANAO found that the CLC's governance has been broadly effective, but it identified some areas for improving the documentation to guide decision-making. While the Council, Executive Committee and CEO have performed well in their duties and obligations, there is an ongoing effort to enhance collaboration and decision-making transparency. Although protocols exist for managing conflicts of interest, greater consistency in their application is needed. The CLC continued to invest in empowering its Council to make a positive impact.

The CLC's Corporate Plan outlined its vision, purpose and values, promoting a generally supportive organisational culture. CLC staff and native title holders with whom the Review engaged generally saw the CLC as well-managed, with positive feedback about the effectiveness of the organisation. A few stakeholders noted that the growth of CLC (not related to native title) tended to result in greater layers of administration, but they acknowledged that this was not an unexpected outcome given the volume of work the CLC undertakes.

Financial management of the CLC's native title functions was integrated within the broader organisation and was aligned with legislative requirements.

Based on CLC staff survey responses, staff felt reasonably supported in accessing training and development opportunities, although some called for more consistent and visible development pathways. The CLC prioritised the employment and development of Aboriginal staff, including through the development of a formal Aboriginal Development Program. The Aboriginal Development Program was re-assessed during FY2021-22 to understand opportunities for improvement.

Difficulty in attracting and retaining staff remained a critical risk for the CLC due to the highly remote nature of the region. Turnover levels remained high given the complexity of recruitment and retention processes. Many CLC staff identified poor retention of staff as a critical barrier to the CLC fulfilling its statutory obligations effectively and having capacity to undertake strategic activities or more effective client engagement. Many staff cited challenges with attracting staff to Alice Springs and to the CLC's highly remote RATSIB area, as well as retention issues given the workforce profile and other opportunities for development in other organisations.

5.5.1 TOR 5: Assessment of performance

This section presents an assessment of performance against the performance indicators for this TOR. To see the performance indicators please see Appendix A.

Breakdown of roles, responsibilities and decision making between the organisation's Board, Chairperson, CEO and senior staff

The CLC's status under the ALRA and as an accountable authority under the PGPA Act is reflected in the duties of the CLC Chair and CEO

The CLC is a statutory authority established under the ALRA. It is also a Commonwealth Corporate Entity operating under the PGPA Act. It has operated as an NTRB under the NTA since 1994, providing native title services to the southern Northern Territory region.

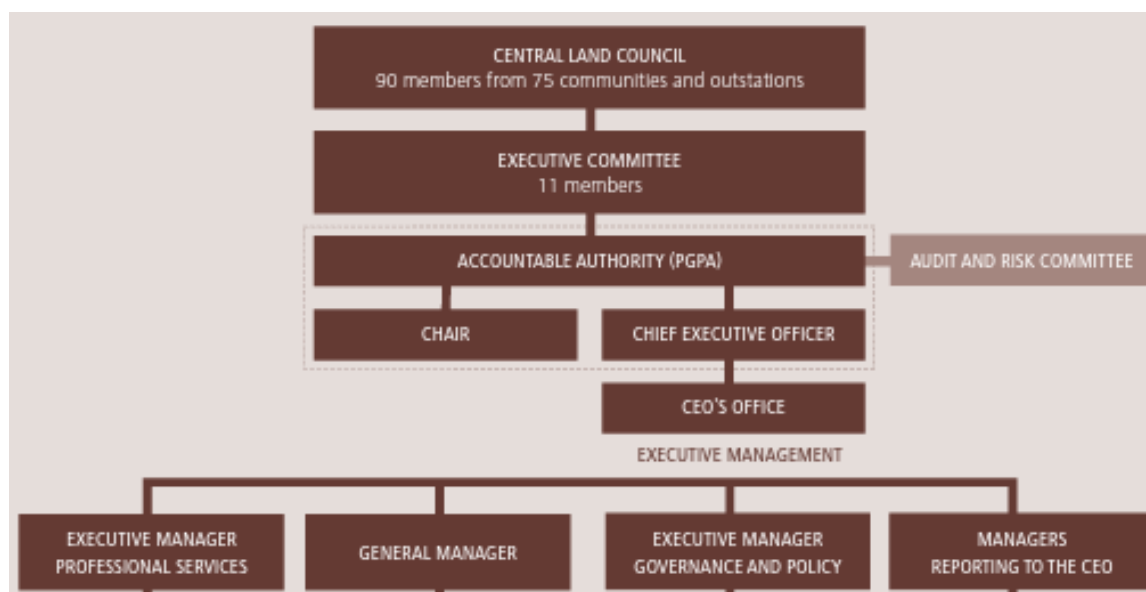
The CLC Council comprises 90 elected members from 75 communities and outstations, and the Executive Committee comprises 11 elected members. The CLC Council is the authority under the ALRA and for NTA purposes. The Council delegates some native title decision making functions to the Executive Committee and to the CEO. The CEO remained ultimately accountable for the CLC's native title performance.

The CLC Chair and CEO are the accountable authority under the PGPA Act. The PGPA Act sets out the general duties that apply to the Chair and CEO. These include a duty to govern the Commonwealth entity; establishing and maintaining systems relating to risk and control; encouraging cooperation with others and minimising administrative requirements that are imposed on other parties; and keeping the relevant Ministers informed.²⁷ These accountabilities apply across the whole organisation, including its native title function.

The CLC Council and Executive Committee are elected representatives and had specific roles in relation to native title

A key consideration for any organisation, especially a Commonwealth corporate entity with an elected Council, is the division between the accountabilities of the elected and administrative arms. The CLC's governance structure during the Review period (captured in Figure 4) was set up around these accountabilities, which in turn influenced the accountabilities and responsibilities of various persons and groups within the CLC where it related to native title.

Figure 4 | The CLC's governance structure as at 30 June 2022



²⁷ PGPA Act.

The CLC advised that some changes were made to the governance structure after the Review period, from 1 July 2023, to restructure the Executive Management positions reporting to the CEO.

The distribution of native title functions and responsibilities across CLC's governance groups is described in Table 13, primarily drawing on documentation such as the CLC Governance Manual. The CEO and Executive Committee has delegated authority in relation to certification of an agreement²⁸ and considers the statutory criteria in section 203BE of the NTA.

The CEO does not have delegated authority in relation to the decision to enter into an agreement, which is taken by the Council or Executive Committee. In exercising its agreement making function for ILUAs, the Council or Executive Committee considers:

- the consultations with Traditional Owners and affected communities – to ensure their voice was heard in these consultations
- whether the agreement is fair and reasonable.

Most matters requiring a formal resolution, such as ILUAs and mining matters, are brought to the Executive Committee, leaving the Council to make decisions on policy (see Table 13).²⁹ However, to ensure the efficient operation of the native title program within the CLC, the review of ILUAs is considered by either the Council or the Executive Committee, depending on who is meeting sooner.

Table 13 | Breakdown of native title responsibilities between the CLC's Council, Executive Committee, Chair, CEO and leadership team³⁰

Executive position	Description of native title responsibilities
The Council	The Governance Manual outlines the main responsibilities for the 90-person representative Council regarding native title as follows: • Help resolve land disputes and native title claims. • Protect native title rights and interests. • Review ILUAs to ensure the agreements are fair and native title holders' views are heard in the negotiations. The Council delegates many of its roles, including for native title matters, to the Executive Committee.
Executive Committee	The 11-member Executive Committee is a committee of the Council pursuant to section 29A of the ALRA. It comprises nine members who represent the CLC's nine administrative regions, plus a Chair and Deputy Chair. The Executive Committee at times provides advice in the form of resolutions regarding native title matters, particularly where it relates to economic opportunities (for example, to inform the development of ILUAs). The Executive Committee advise on some native title matters as needed. Matters taken to the Executive Committee are for decision, so the resolutions passed are binding.
Chief Executive Officer	The CEO remained ultimately accountable for the CLC's native title performance. The CEO liaised with the PLO to make decisions on assessment and prioritisation of claims.

²⁸ When making certification decisions, the relevant decision-maker within CLC could be the CEO, Executive Committee or Council.

²⁹ CLC Annual Report 2021-22.

³⁰ CLC Annual Report 2021-22.

Executive position	Description of native title responsibilities
Chair of the Council	The Chair is elected by the members of the CLC for a three-year term. The Chair is a member of the accountable authority in accordance with the PGPA Act. The Deputy Chair supports the Chair and acts in the Chair of meeting role when the Chair is unavailable. The Chair is briefed on native title matters before meetings to set the agenda and has the casting vote on voting matters brought to the Council. The Chair is appointed by the Minister for Indigenous Australians.
Audit and Risk Committee	The CLC has an Audit Committee to comply with the PGPA Act by providing independent oversight, including over native title matters. Since 2017, the Audit Committee has comprised four independent members, including an independent chair, with the appropriate expertise and experience in Aboriginal affairs, good governance, legal expertise and financial management. The committee meets at least three times a year and is supported by the General Manager, Financial Controller and a senior staff member in risk and performance. It oversees an agreed work plan and audit charter, and reports at least annually to the accountable authority.

The CLC's integrated approach to staffing native title functions enabled greater organisation-wide visibility of functions and obligations under the NTA

As previously discussed, the Native Title Unit is embedded into the greater CLC organisation to enable the integration of staff into identified professional disciplines (legal, anthropology and mining). This leveraged the experience and knowledge of staff across the organisation and enabled a supportive environment within which to achieve enhanced native title outcomes.

Through the Review period the CLC had ten full time equivalent positions funded through NTRB-SP funding from the NIAA which undertook native title functions only. The Review notes that the CLC also had an additional 40 to 50 full time equivalent staff who may have spent some portion of their time on native title activities in addition to supporting the CLC's ALRA functions.

The CLC's organisational structure during the Review period included five senior management and management positions³¹ with key native title responsibilities.

Table 14 | Senior management and management responsibilities (native title functions only)

Position	Description of native title responsibilities
Chief Executive Officer	As described previously, the CEO was the accountable authority (with the Chair) for the execution of the CLC's native title functions.
Principal Legal Officer (General Manager, Legal)	The PLO was the solicitor on record ³² for the CLC's native title claims and was responsible for the CLC's native title claims strategy. This position had responsibility for anthropology and mining ³³ .
General Manager	The General Manager was responsible for the administration of the CLC's native title funding. ³⁴

³¹ The CLC advised that from 1 July 2023, the senior management structure was changed.

³² From 1 July 2023 (after the Review period) the PLO was no longer the solicitor on the record for all native title claims; rather, the solicitor with carriage of the claim was the person on the record, subject to the supervision of the Senior Lawyer Native Title.

³³ From 1 July 2023, the General Manager Professional Services took on responsibility for anthropology and mining sections.

³⁴ This position was re-titled as General Manager, Corporate Services from 1 July 2023.

Position	Description of native title responsibilities
Senior Anthropologist (Native Title Research Coordinator)	The Senior Anthropologist (Native Title) was responsible for the management, coordination and delivery of the CLC's research functions under the NTA.
Native Title Manager	The Native Title Manager had responsibility for the management and coordination of the CLC's resources to deliver its functions under the NTA. The Native Title Manager reported on the CLC's native title performance to the NIAA and coordinated with the Senior Lawyer (Native Title), Senior Anthropologist (Native Title Research Coordinator) and the Coordinator PBCSU on claim assessment and prioritisation, establishment of PBCs and service delivery. ³⁵

Of the positions captured above, the Native Title Manager and the Senior Anthropologist (Native Title) were dedicated to the CLC's native title functions. The Native Title Manager coordinated and managed the native title function as a dedicated resource. The other three positions were considered senior management positions and they covered multiple streams of work, including native title. This distribution of responsibility appeared appropriate for the CLC's operating context: it is reasonable (and efficient) to expect staff in senior management positions in a large Land Council to have responsibility and capabilities across a range of areas of operation.

The CLC's governance arrangements have proven to be effective; however, external reviews highlighted some areas for improvement in decision-making measures

The CLC underwent a performance audit by the ANAO, released in 2023, to assess the effectiveness of the governance of the CLC under the ALRA, the NTA and the PGPA Act.³⁶ The audit found that the CLC's governance arrangements under the ALRA and the NTA were largely effective and enabled the CLC to effectively represent its people and protect and advocate for their rights and interests. In particular, the audit found:

- The establishment and governance of the Council and its Executive Committee were largely appropriate and complied with legislative requirements.
- Governance arrangements for the exercise of the CLC's statutory functions (comprising negotiating and assisting with land use; assisting with commercial activities; consulting and obtaining informed consent; and distributing royalties and rents) were largely appropriate.
- Audit and Risk Committee member composition and rotation was consistent with its Charter.
- A document titled Accountable Authority Instructions was established by the CEO. The Accountable Authority Instructions contained authorisations; however, the authorisations lack specificity in places.

The ANAO's performance audit found that there was no governance document regarding how the CEO and Chair (the joint accountable authority) expected to manage their joint responsibilities. It found a lack of clarity as to whether the accountable authority of the CLC had any power to delegate under the PGPA Act and the ALRA.

³⁵ From 1 July 2023, the Native Title Manager reports to the General Manager Regional and Development Services, who had an overarching responsibility for ensuring the Native Title Manager fulfilled these functions.

³⁶ ANAO. (2023). Governance of the Central Land Council. <https://www.anao.gov.au/work/performance-audit/governance-the-central-land-council>

In light of the ANAO's performance audit, the Review heard that CLC staff had mixed levels of clarity on who was responsible for decision-making and the degree to which the Council and CEO made decisions in a transparent way.

Board integrity and capability

While the Council and CEO have demonstrated strong performance against their duties and obligations, some opportunities existed to improve transparency in decision-making

Council and Executive Committee members have special responsibilities to the CLC under its Code of Conduct, which guides how they are expected to behave and discharge their responsibilities in the best interests of the CLC.³⁷ The Executive Committee held seven meetings in Alice Springs in FY2021-22. All meetings were held in person or via videoconference due to biosecurity restrictions affecting some of the Executive Committee members.³⁸

Concurrent reviews have found that the Council and Executive Committee generally fulfilled their duties in line with good practice.³⁹ Strengths identified in the ANAO audit included:

- There was clear guidance on the roles and responsibilities of Council and Executive Committee members.
- There were approved meeting rules, which were followed.
- Council meetings and processes were designed to support informed decision-making by members.

However, the ANAO audit found that reporting to the full Council by the Executive Committee, which had broad delegations, was insufficient and not consistent with the full Council's accountability for all decisions made under the legislation.

The CLC provided the following advice to the Review in relation to the ANAO audit:

The CLC has responded to the recommendations from the ANAO audit and continues to provide six-monthly updates on the implementation of the recommendations. The CLC has taken steps to increase constituent awareness of the accessibility of these documents, including promoting accessibility and a nominated contact on the CLC website and in the Council Newsletter, both online and in communities. The CLC also informs constituents about meeting outcomes via the newsletter and on the regional Aboriginal radio channel, CAAMA Radio. Furthermore, the CLC has implemented a mechanism that ensures all resolutions made by the Executive Committee are reported at each Council meeting. This includes a Chair's report listing all resolutions passed since the last council meeting, with opportunity for discussion and clarification, with both Executive committee members and Executive support staff.

The CLC continued to invest in supporting and empowering its Council to deliver positive influence

The CLC took seriously its responsibility to ensure that Council members were fully informed about their role, rights and obligations. It employed an Executive Manager Policy and Governance (with a support

³⁷ CLC Code of Conduct for Council and Executive Committee members (no date provided).

³⁸ CLC Annual Report 2021-22.

³⁹ ANAO. (2023). Governance of the Central Land Council. <https://www.anao.gov.au/work/performance-audit/governance-the-central-land-council>

officer), who were explicitly responsible for planning and implementing governance training and support for the Council.⁴⁰

When participating in governance training, both the Council and the Executive Committee used a plain-English governance manual (Figure 5) that is updated every three years.

Figure 5 | Governance at CLC Manual for Council members



The Council, CEO and Executive Committee play a critical role in CLC's native title functions. Stakeholders reported satisfaction with the ability of the Council to support the communication of information about native title decisions and progress in their relevant communities. Executive Committee members reported that through training and other support mechanisms they felt well equipped to be informed in decision-making matters and be actively engaged in representing the CLC on native title matters.

Conflicts of interest

The CLC had protocols for managing conflicts of interest, but greater consistency of application is required

The Review found that conflict of interest management within the CLC's native title matters was still developing. The CLC's Governance Manual outlined the rules set out in the Code of Conduct as well as from the Council meeting rules, which were both approved by the Council. Council members were encouraged to declare a possible conflict of interest before the discussion started, leave the meeting while the Council discussed the matter and were not permitted to participate in voting. The member declaring a conflict of interest could participate in discussion at the discretion of the Council; however, this needed to be decided upon without the member being present. A member did not have to disclose a conflict of interest if the decision related to land where the member was a Traditional Owner, as this was not deemed to be a conflict of interest that could result in personal benefit.

While the previous Review found that a register was in place for Council members and staff to declare interests, the ANAO audit found that there was no general register of Council member conflict of

⁴⁰ CLC Annual Report 2021-22.

interests.⁴¹ The CLC implemented a conflict-of-interest declaration and management process during the Review period.

Culture and values

The CLC's vision, purpose and values were outlined in its Corporate Plan and there was a generally strong organisational culture of support

The CLC's Corporate Plan captured the CLC's full organisational vision, statutory purpose and valued behaviours that guide the CLC's aspirations to "promote and support Central Australian Aboriginal people's society, Country, secured rights, culture and economy to deliver a promising future". The vision, statutory purpose and valued behaviours are not specific to native title and reflect the CLC's broad range of functions. However, they align strongly to the intent of securing native title outcomes, deriving benefits from these rights and interests and doing so in a culturally appropriate way.

Feedback from many native title staff indicated that the CLC continued to be a good place to work, despite some stressors. Staff consistently cited a healthy workplace culture, with a clear sense of purpose and goodwill within and across teams. Many staff reflected on their connection to the CLC and their enjoyment of the role, although a common theme in consultations was the pressures of workload and resourcing that limited the flexibility of staff to engage effectively with clients and deliver better outcomes.

There were a small number of reports of bullying and/or harassment and some CLC staff felt there were deficiencies in how staff complaints regarding poor behaviour were handled. In response, the CLC provided the following information:

The CLC takes bullying and harassment very seriously and thoroughly investigates all claims. A Grievance Policy and an Anti-Discrimination Policy guides the process to address staff complaints. The process includes clear communication with staff regarding the process, their complaints and the outcomes. Where possible, CLC assist in mediating solutions to ensure grievances are resolved.

The CLC strictly adheres to all relevant laws and policies that prohibit discrimination, including:

- *Racial Discrimination Act 1975 (Cth)*
- *Age Discrimination Act 2004 (Cth)*
- *Disability Discrimination Act 1992 (Cth)*
- *Sex Discrimination Act 1984 (Cth)*
- *Anti-Discrimination Act 1992 (NT)*

CLC's internal policies, such as the Code of Conduct and the Anti-Discrimination Policy, explicitly prohibit discrimination. All staff undergo comprehensive training on discrimination, bullying and harassment during their induction and can discuss their complaint to ensure issues are addressed appropriately.

The general perception was that the CLC is well run but has become increasingly bureaucratic

The Review found that many staff see the CLC as a relatively well-run organisation. Many stakeholders referenced that as the scale of the CLC's functions have grown (including native title) and there has been a clear increase in reliance on processes and policies to guide day-to-day operations. While some CLC staff noted that elements of hierarchy and bureaucracy have resulted in inflexible and occasionally inefficient

⁴¹ ANAO. (2023). Governance of the Central Land Council. <https://www.anao.gov.au/work/performance-audit/governance-the-central-land-council>

processes, some staff believed this was a necessary aspect of ensuring quality engagement and managing risk.

In terms of leadership, staff perceptions of the Council and CEO's capabilities were generally positive:

- Most staff believed that the Council leads the CLC in a strategic, transparent and timely way.
- Staff overwhelmingly supported the Council's ability to be culturally sensitive.
- Some staff believed the Council has a strong mix of skills; others were not sure.
- There were mixed views on the CLC's leadership approach – some thought the CLC was usually collaborative and proactive, while others thought it was occasionally directional and reactive.
- Most staff believed that the Executive Committee and CEO work together effectively but there could be clearer communication with staff in relation to decision-making and future priorities.
- Some staff commented that there needed to be more connection and follow-up regarding addressing staff grievances or suggestions for improvement.

Financial management

Financial management of native title functions remained embedded within the broader organisation and was consistent with legislative requirements

The native title program funding was embedded within the CLC's broader financial management responsibilities. The CLC's Native Title Manager was responsible for the allocation and reporting of the CLC's native title funding. The CLC's strategic direction was supported by a sound approach to financial management. The Corporate Plan was supported by a long-term financial model, which enabled scenario modelling to understand the financial impact of strategic decisions or of the service demands made upon it.⁴²

At the broad level, the CLC undertook the following activities:

- **Annual estimates.**⁴³ Estimates of administrative expenditure were submitted annually to the Minister for Indigenous Australians for allocations from the ABA and the Indigenous Advancement Strategy (for programs such as NTRB functions and the ranger program). Additional estimate requests for essential additional resources were submitted only as required. Approved estimates funded operational expenses, salaries and wages, and capital expenditure.
- **Reporting.**⁴⁴ The CLC submitted annual and half-yearly performance and operations reports to the NIAA in accordance with funding agreements and the Commonwealth Authorities (Annual Reporting) Orders 2011. The ANAO performance audit of CLC's broader approach to financial management found that the CLC's public reporting in the form of the Corporate Plan and Annual Reports was consistent with legislative requirements.⁴⁵ The ANAO performance audit found that significant attention was paid to performance measurement, although the Audit Committee could improve its reporting and consideration of performance measures.

The ANAO performance audit found that financial management controls could be improved through the Audit and Risk Committee providing a written statement to the accountable authority, at least annually,

⁴² CLC Corporate Plan 2022-2026.

⁴³ CLC Annual Reports 2019-20; 2020-21; 2021-22.

⁴⁴ CLC Annual Reports 2019-20; 2020-21; 2021-22.

⁴⁵ ANAO. 2023. Governance of the Central Land Council. <https://www.anao.gov.au/work/performance-audit/governance-the-central-land-council>

about the appropriateness of the CLC's financial and performance reporting, systems of risk oversight and management, and systems of internal control.

Training and professional development

CLC staff felt relatively supported to undertake training and development opportunities; however, some staff called for greater consistency and visibility of development pathways

CLC staff consultations indicated that staff who worked in native title were supported to access a range of formal training programs, including skills-based training (legal, anthropology, etc.), cultural awareness training, management training, safety and harassment awareness training, and Field Officer training.

However, CLC staff survey responses indicated that often these were a "one-off" opportunity and not necessarily part of a longer-term training program. About one-third of management level staff had received non-mandatory training in risk management.

The CLC responded that internal training packages were being built by senior staff across core native title functions to provide on-the-ground learning to junior staff and reduce the risk of depending on a single person. Beyond this, CLC staff reflected positively on other learning and networking opportunities such as research conferences that enabled them to connect with other NTRB-SPs and experts in the native title space.

As mentioned under TOR 3, the CLC runs a cross-cultural awareness training program for all staff at the start of their employment. The CLC staff were encouraged to attend "Plain English writing training".

The CLC signalled the employment and development of Aboriginal staff as a priority

The CLC identified in its Corporate Plan that it focused attention on strengthening its Aboriginal employment strategy to increase Aboriginal employment, training, development and career pathways within the CLC and across the wider community.⁴⁶ This included reference to capability development programs focused on internal Aboriginal staff and succession planning for key Aboriginal roles within the organisation. The Review sees this as a near-term priority for the CLC.

Wherever possible the appointment of high-calibre Aboriginal people to senior roles was pursued. Importantly, the CLC articulated its goal to increase the percentage of Aboriginal staff to be above 50 per cent by FY2022-23. The underlying strategy was to develop a pool of candidates to meet the requirements of the succession plan. The affirmative (senior Aboriginal appointment) achievements thus far include eight managerial or executive appointments within the CLC.

During the Review period, the CLC offered an Aboriginal Development Program, which aimed to support and strengthen professional development of Aboriginal staff. The program provided training and capability building for Aboriginal staff in a unique Central Australian operating environment and provided opportunities for senior Aboriginal staff to pass on their knowledge to younger staff through a professional support network. The program was re-assessed during FY2021-22 to understand opportunities for improvement.⁴⁷

The CLC advised the Review that following the Review period it developed an Aboriginal Leadership Group, formerly known as the Aboriginal Development Program, to fulfil the CLC's commitment to supporting Aboriginal staff on their individual and organisational leadership journey. The program was underpinned by the Aboriginal Leadership Framework, developed through extensive consultation within

⁴⁶ CLC Corporate Plan 2022-2026.

⁴⁷ CLC Corporate Plan 2022-2026.

the CLC and an established Aboriginal reference group. The program supports career succession planning and capacity building, aligning with future aspirations within the CLC.

Level of staff turnover

Attraction and retention of staff has been identified as a critical issue for the CLC – turnover remains high

Many CLC staff identified poor retention of staff as a critical barrier to the CLC fulfilling its statutory obligations effectively and having capacity to undertake strategic activities or more effective client engagement. Many staff cited challenges with attracting staff to Alice Springs, as well as retention issues given the workforce profile and other opportunities for development in other organisations. Staff perceived that higher turnover was more common among junior staff due to the lack of opportunities for advancement.

"We have a healthy culture with lots of passionate people, but struggle to keep them."

CLC staff member

During the Review period, the CLC's average annual turnover rate was 30 per cent. Staff identified a range of challenges associated with high turnover, including delays to developing key business plans and frameworks and a constrained focus on client engagement due to under-resourced teams. Interviews with CLC staff noted that management had developed a strategy for addressing retention challenges. Some staff noted this was a promising development, whereas others believe some retention challenges could be addressed through a review of leave and pay benefits, and stronger development opportunities for junior staff.

5.5.2 TOR 5: External factors

No external factors were identified for TOR 5.

5.5.3 TOR 5: Recommendations

RECOMMENDATION

4

Continue to explore native title-specific recruitment strategies and initiatives to attract staff to the region and retain them for longer. This includes finalising and implementing changes to the CLC's Aboriginal Development Program to better support and strengthen professional development commitment to Aboriginal staff.

RECOMMENDATION

5

The Review supports recommendations of the ANAO audit for areas for improvement in governance operations across the CLC that will benefit native title operations.

5.6 TOR 6 | Extent to which each organisation is adequately supporting Prescribed Body Corporates towards self-sufficiency.

Summary

The CLC had a dedicated PBCSU to support the compliance and capability-building of PBCs across the RATSIB area. Staff expressed concerns about the PBCSU being understaffed relative to the number of PBCs serviced within the CLC region, with some PBCSU positions being unfilled for sustained periods of time due to recruitment challenges. This has resulted in the PBCSU being predominantly occupied with addressing compliance requirements of ORIC rather than supporting strategic objectives. An opportunity exists for the CLC to review the balance and focus of resources both within and outside the PBCSU to enable this team to provide more frequent, strategic support to PBCs.

The Review understands that 31 out of 34 PBCs or RNTBCs within the RATSIB area were supported by the CLC during the Review period. No PBCs supported by the CLC during the Review period received a formal intervention from ORIC or other regulators due to not fulfilling their obligations as a PBC. The level of self-sufficiency among PBCs varied significantly – and so the CLC had a tailored approach to how it could feasibly support post-determination outcomes across PBCs.

The CLC's post-determination services could move to a more sustainable model, such as establishing a formal PBC development strategy which aims to strategically develop the self-sufficiency of well-established PBCs; support the economic sustainability of those PBCs with high potential of mining activity; and be inclusive of PBCs with limited conditions for economic development. PBCs felt relatively satisfied with the support provided by the CLC. However, PBCs called for a bigger focus on two-way capability building (such as training and development opportunities to build cultural awareness for staff and negotiation and management skills for clients), in addition to the on-Country trips and other support provided.

Repatriation of cultural materials was undertaken by CLC's Anthropology Section or by engaging a consultant anthropologist. The CLC advised that its Repatriation of Cultural Materials Policy was being developed in consultation with a sub-committee of the CLC's Executive Committee. The draft policy had a focus on Elders leading the repatriation process and for activities to take place on Country, where possible. The policy will be finalised within the current Council term (early 2025). The CLC has identified that a strategic, respectful approach to repatriation of cultural materials is a near-term priority. The Review supports the opportunity to develop and implement the new CLC Repatriation of Cultural Materials Policy as a near-term priority for CLC.

5.6.1 TOR 6: Assessment of performance

This section presents an assessment of performance against the performance indicators for this TOR. To see the performance indicators please see Appendix A.

Satisfaction of PBCs/RNTBCs supported by the NTRB-SP

PBCs felt relatively satisfied with the support provided by the CLC, but they called for a bigger focus on two-way capability building

PBCs consulted during the Review spoke positively of the supports received from the CLC in building the capacity of PBCs to manage their land and benefit from Country in various ways. Many PBCs commented that this increasing understanding of native title rights among current and prospective clients has led to a stronger presence of activities on Country, as well as initiatives that connect native title holders to land, such as ranger programs.

"The PBC Camps are so great – I get to hear from others about ideas and also talk to CLC. They give me booklets to take back to community and teach my family."

PBC member, Central region

A strong feature of the CLC's approach to supporting PBCs is through its annual PBC Camp at Ross River. The 2021 PBC Camp brought together 100 people from 20 PBCs and native title support services. Native title holders sat down to talk about native title and the job of PBC Directors.⁴⁸ This also included representation from key government agencies and support services related to native title. During the camp, PBC Directors are supported to learn more about the Native Title Story Booklet and their rights as a PBC. They can also voice their concerns or questions about native title to build their own capability as a Director. A significant portion of the PBC Camp focuses on building PBC capability and self-sufficiency, with training and development opportunities. Finally, PBC Directors use the PBC camps as an opportunity to voice their communities' concerns with the CLC in an open forum. This has been received extremely well.

The Review saw a further opportunity for the CLC to support capability building outside of these camps and following determination of native title. PBCs consulted as part of the Review advised that they would like to see the PBCSU do more in communication and training with individual communities to develop independence among PBC members. This was supported by other PBCs and organisations.

"When done well, it gives community a better understanding of land rights, their connection to land, and also can empower them to live sustainably. It is how it should be, but many PBCs have no idea how to do that."

PBC member, Alice Springs region

Percentage of PBCs/RNTBCs supported by the NTRB-SP who have had intervention from ORIC or other regulator

The Review understands that no PBC supported by the CLC during the Review period received a formal intervention from ORIC or other regulators due to not fulfilling its obligations as a PBC.

⁴⁸ CLC. (2021). PBC Camp 2021 Final Report for Native Title Holders. <https://www.clc.org.au/files/CLC-PBC-Camp-2021-Final-Report-for-Native-Title-Holders.pdf>

Progress towards self-sufficiency for PBCs/RNTBCs supported by the NTRB-SP

The CLC had a dedicated PBCSU to support the compliance and capability building of PBCs across the RATSIB area

The CLC provided post-determination assistance to PBCs through a small dedicated PBCSU that delivers on service agreements between the CLC and PBCs. The PBCSU comprised the following positions: a Coordinator, three Native Title Officers, a PBC Support Officer and a PBC Project Officer. They were responsible for supporting 31 PBCs that are wholly dependent on the CLC's support, including providing PBCs with financial management and governance support. Other units across the CLC (including the Legal and Minerals and Energy teams) also regularly interacted with PBCs regarding Future Acts and ILUA negotiations.

The CLC offered various support services to PBCs in the RATSIB area, including corporate governance, administration support, financial management and legal advice. The PBC officers helped with meeting support, collaborated on third-party projects and ensured compliance with the Native Title Regulations. They also facilitated Director meetings, provided training opportunities, and facilitated information exchange between the PBC and the CLC for a small number of more progressed PBCs. The CLC focused its service delivery to PBCs who had a service agreement with the CLC or had recently obtained a determination of native title. The CLC's formal services agreement includes native title services (for example, representation in the Federal Court, the NNTT or other courts and tribunals, and assistance with consultations, mediations etc.) and corporate services.

The CLC budgeted \$42,539 for basic support annually per PBC it supported.⁴⁹ PBCs had an opportunity to access funding through the PBC Capacity Building funding program to undertake identified activities. Where native title holders received income from activities on their land, native title holders had an opportunity to engage the CLC's Community Development Unit to request assistance with the project or allocate funds to an activity to benefit native title holders.

CLC staff expressed concerns about the PBCSU being understaffed relative to the number of PBCs serviced and, in their view, in comparison to other NTRBs. This issue was exacerbated by some PBCSU positions being unfilled for long periods due to recruitment challenges, leaving the PBCSU unable to fulfil critical capability-building functions. Staff mentioned that this had resulted in the PBCSU being predominantly occupied with addressing compliance requirements of ORIC rather than supporting strategic objectives. However, staff highlighted that the release of the new PBCmob app in 2023 was expected to facilitate greater engagement and communication with PBCs, providing relevant notices regarding PBC activity and training resources.

The Review notes that the CLC had secured additional funding to start separating ORIC compliance and financial reporting from duties relating to PBC capacity-building support. This will help to address the compliance burden currently restricting the strategic focus of the PBCSU. This change would enable the CLC to focus on capacity-building activities and reporting on work conducted under service level agreements, rather than remaining compliance focused.

The CLC's post-determination services should move to a more sustainable and strategic model

Supporting PBCs through advocacy and representation is a core business of the CLC. Increasingly, the CLC is building external recognition as a competent and professional vehicle for managing and supporting additional service delivery activities to Aboriginal people in Central Australia. However, the Review finds

⁴⁹ Calculated using the PBC Financial Report for Period 1 July 2022 to 31 December 2022. Calculated based on the total attributable funding (excluding corporate expenses) divided by the PBCs that the CLC had service agreements with.

that, consistent with the previous Review, the CLC could consider if and how it is feasible for the PBCSU to step back from its focus on more procedural and legal support of PBCs to evaluate broader opportunities for the capability development of PBCs in its area.

The PBCSU had an operational plan, but this did not include evaluation or performance monitoring metrics to guide improvement and future focus.⁵⁰ The CLC could invest in supporting capacity-building in PBCs to move to a more sustainable model of post-determination support under its operational plan.

The CLC prioritised its support to ensure that all PBCs met compliance requirements, disputes were resolved and PBCs were supported to exercise their rights for Future Acts and ILUAs. The CLC indicated that this left limited resources to support PBCs who were more progressed in terms of self-sufficiency to further build their capacity. Given that economic development is not a role for NTA funding, the CLC will need to look to other sources to progress economic capacity. The Review notes that despite this, the CLC is supporting PBCs to engage in and progress enterprise activities.

The Corporate Plan for 2022-2026 shows that the CLC has begun considering what investment is required to provide more strategic support to PBCs. This includes guiding PBCs over the next three years to support governance strategies, improve capacity and move to a sustainable status, acknowledging however that many PBCs do not have negotiated ILUA income. Up to 40 PBCs will be involved in this program (34 at the end of the Review period). This will also require adequate resourcing of these services to PBCs.

Levels of self-sufficiency among PBCs vary significantly, so the CLC had a tailored approach to how it can feasibly support post-determination outcomes across PBCs

The PBCSU aimed to guide PBCs to support governance strategies, improve capacity and move to a sustainable status that enabled them to be financially independent (through negotiated land use agreement income, where possible), and undertake reporting and governance obligations self-sufficiently. During the Review period 31 out of the 34 PBCs or RNTBCs within the RATSIB area were wholly reliant on the CLC's PBCSU for functions under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), the NTA and PBC Regulations, along with maintaining corporation records and emails.⁵¹ For the 31 PBCs who received support from the PBCSU, all correspondence and engagement with native title holders was done through the PBCSU. However, many of these had established development plans in place.

Given this variability, the CLC typically tailored its approach to supporting PBCs depending on their size, maturity, and opportunities relating to mining activity.

- **Township claim groups.** The CLC has articulated a clear desire to advance the self-sufficiency of township-based PBCs that have high potential for self-sufficiency. For example, CLC staff referenced a priority case of seeking to develop Patta Aboriginal Corporation RNTBC in Tennant Creek. The CLC reported that "the time is right" to support Patta Aboriginal Corporation RNTBC to receive more funding and staff to develop a strategic plan that will leverage the Barkly Regional Deal⁵² and build capability towards self-sufficiency.

⁵⁰ The CLC has engaged an external contractor to develop a PBCSU Business Plan and Framework to address this, although progress has been limited due to internal capacity constraints.

⁵¹ There are two self-sufficient PBCs within the CLC RATSIB area which are currently financially independent and capable of performing their statutory functions without assistance. These are Gurindji Aboriginal Corporation in Kalkarindji and the Lhere Artepe Aboriginal Corporation in Alice Springs. Further, Patta Aboriginal Corporation in Tennant Creek maintains its own email correspondence but is not yet fully self-sufficient.

⁵² <https://barklyregionaldeal.com.au/>

- **PBCs with high potential for economic sustainability due to mining activity.** The CLC has identified a range of PBCs with high profile mining operations within their determination area (including Mount Peak, Nolan's Bore, the Amaroo Phosphate Project). While these PBCs often require greater support due to challenges in engaging with mining companies throughout application processes, the CLC has identified opportunities to work with these PBCs to enter mining negotiations that will deliver economic outcomes for communities, with the potential for the PBC to be financially independent in the future.

"[The CLC] helped us work with the mining company and agree on what it means for community. We tell the CLC what we would like and they help make it work. I feel like this is setting us up for the future."

PBC member, Central region

- **PBCs with limited ability to take on activity.** Most native title determinations in the CLC RATSIB area cover large, remote pastoral leases and where there is limited ability to take on commercial activities. In this instance, rapid development of PBC member capability is not seen as critical, given the limited operations of the organisation. In these instances, CLC staff cited an adjusted approach to thinking about self-sufficiency which focuses on working with native title holders to have greater access to pastoral properties and exercise native title rights to learn about Country. For these PBCs who are wholly reliant on the CLC, the focus is on a transfer of cultural knowledge. More information on this challenge is outlined in the external factors for this TOR in section 5.6.2.

The CLC developed a framework for understanding PBC self-sufficiency through a series of meetings with its constituents, where the CLC asked what people wanted out of their PBCs. This framework was being updated at the time of this Review.

NTRB-SP's progress in returning cultural materials to PBCs/RNTBCs and Traditional Owners

A strategic, respectful approach to repatriation of cultural materials is a near-term priority

Repatriation of cultural materials was undertaken by CLC's Anthropology Section and by engaging a consultant anthropologist. CLC staff advised that an anthropologist had been recruited to deliver these policies and procedures, with a clear aspiration to articulate the CLC's approach to repatriation of materials in a post-determination space. The CLC established a steering committee with the Executive Committee to help with the development of the above review process, which staff estimated would take two years. The CLC advised that the draft policy had a focus on Elders leading the repatriation process and for activities to take place on Country, where possible. The policy will be finalised within the current Council term (early 2025). Examples of the CLC's efforts in this space include:

- Engagements with the South Australian Museum about the repatriation of skeletal remains taken from Uluru in the 1930s. A large Traditional Owner consultation meeting was held during FY2021-22 and further smaller meetings have been held to plan the return and reburial of the remains.
- Assisted Traditional Owners in a project to record stories and map Coniston massacre sites, with a view to the sites being added to the Northern Territory Heritage Register. Nine historical land claim genealogies were digitised.
- The redevelopment of the CLC anthropology section's sacred sites database has been significantly progressed. Phase one of this long and detailed project, involving data hygiene on 17 different types of data and weekly bug fixes, is almost complete.

Percentage of PBCs/RNTBCs supported by NTRB-SP with formal service agreements in place with NTRB-SP

The CLC had a service agreement with 27 of the 34 PBCs within the CLC region.

Satisfaction of PBCs/RNTBCs with the process of negotiating service agreements between the NTRB-SP and the PBC/RNTBC

PBCs were generally satisfied with the process of negotiating service agreements with the CLC

The CLC provided formal service agreements to the PBCs they supported during the Review period. This agreement has a simple structure which outlined the agreed support the PBC would receive from CLC. The Review did not hear of any major issues relating to how these service agreements were negotiated with PBCs.

5.6.2 TOR 6: External factors

This section presents an analysis of factors that impacted on performance that were beyond the CLC's control.

Extent to which self-sufficiency for PBCs/RNTBCs is achievable

A lack of industry activity in the CLC RATSIB area limits self-sufficiency for many PBCs

As previously noted, many native title determinations within the CLC RATSIB area cover large pastoral leases with limited economic activity. There is limited economic potential for many determination areas, as reflected in the number of FANs in the region compared to other NTRB-SP jurisdictions. Given low levels of activity, many PBCs in the CLC area do not tend to profit from significant financial agreements with industry stakeholders such as mining companies. This impacts the ability of PBCs to move towards financial independence and self-sufficiency.

The CLC, acknowledging this tension, has taken a tailored approach to supporting PBCs in other ways to provide post-determination native title support (for example through improving access to Country). In some cases, the CLC has identified PBCs with high potential for economic sustainability through financial agreements with mining companies.

The profile of many determination areas also means that capability development can be difficult for PBCs

Another determinant of the extent to which self-sufficiency is achievable is socioeconomic profile. Australian Bureau of Statistics data indicate that three of the four local government areas (LGAs) in the CLC RATSIB area are highly disadvantaged.⁵³ As well, these three LGAs are significantly disadvantaged in their education and occupation profile, indicating low literacy and numeracy levels of communities in which a PBC/RNTBC is based (Table 15).

This makes it difficult for PBCs to build their own governance capabilities and means that there is limited availability of staff with the requisite capabilities to execute the functions of a PBC.

⁵³ Australian Bureau of Statistics. 2021. Socio-Economic Indexes for Areas (SEIFA), Australia.
<https://www.abs.gov.au/statistics/people/people-and-communities/socio-economic-indexes-areas-seifa-australia/latest-release>

Table 15 | Education and occupation profile scores in the CLC RATSIB area

LGA	2021 Index of Education and Occupation scores (ranking of 1 to 5, where 1 is most disadvantaged and 5 is most advantaged) ⁵⁴
Alice Springs	5/5
Barkly	1/5
Central Desert	1/5
MacDonnell	1/5

5.6.3 TOR 6: Recommendations

RECOMMENDATION

6

Establish a PBC development strategy over a five- to ten-year horizon, which aims to strategically develop the self-sufficiency of well-established PBCs, support the economic sustainability of those PBCs with high potential of mining activity and be inclusive of PBCs with limited conditions for economic development.

RECOMMENDATION

7

Review the balance and focus of resources to enable more frequent, strategic support to PBCs.

RECOMMENDATION

8

Prioritise the finalisation and implementation of the new CLC Repatriation of Cultural Materials Policy.

⁵⁴ A low Index of Education and Occupation score indicates relatively lower education and occupation levels of people in the area. For example, an area could have a low score if there are many people without qualifications, or many people in low skilled occupations, or many people unemployed, AND few people with a high level of qualifications or in highly skilled occupations.

5.7 TOR 7 | Extent to which each organisation has developed its planning for a post-determination environment.

Summary

With around 47 per cent of the claimable land within the CLC's RATSIB area not subject to a registered claim or determination, there is still significant work to be done in progressing claims for clients. There is also a significant number of PBCs in the RATSIB area who require post-determination support.

The CLC's approach to post-determination was articulated in the CLC Corporate Plan 2022-2026, with a focus on facilitating native title rights and influencing system level changes. The CLC outlined a series of medium-term priorities for native title activity. The Review suggests that it would be beneficial for the CLC to define a more strategic role for the organisation in the post-determination space, alongside the ongoing claims work.

The CLC had not actioned any compensation claims during the Review period but is thinking strategically about its role to facilitate economic development into the future. The Review finds this level of activity to be in line with most other NRTBs at the time of the Review. The expansion of economic native title rights in other jurisdictions may cause the CLC to place greater focus on compensation claims into the future.

5.7.1 TOR 7: Assessment of performance

This section presents an assessment of performance against the performance indicators for this TOR. To see the performance indicators please see Appendix A.

Adequacy of post-determination strategic planning

The CLC has many claims still to progress

The CLC had three active claims in progress at 30 June 2022 with around 47 per cent of the claimable land within the CLC's RATSIB area not subject to a registered claim or determination. This suggests there is still significant work to be done in progressing claims for clients who are yet to have a determination.

There is also a significant number of PBCs in the CLC's RATSIB area. The previous Review found that the PBCs have a heavy reliance on the CLC's services and in some cases are far from self-sufficiency. There are only two PBCs within the CLC RATSIB area that are financially independent and capable of performing their statutory functions without assistance. These are:

- Gurindji Aboriginal Corporation in Kalkarindji
- Lhere Artepe Aboriginal Corporation in Alice Springs.

Of the 31 PBCs that the CLC's PBCSU supported during the Review period, stakeholders noted that about ten of these PBCs need considerable support and use a majority of the PBCSU's resources and time, as they have immediate Future Acts or conflicts to be resolved. The other supported PBCs receive a lighter touch version of support, for example holding an annual general meeting. The coordination of these administrative procedures still takes considerable time and resources.

The CLC advised the Review that it is currently planning for this post-determination environment as the complexity and nature of native title work changes in the coming years.

The CLC's approach to post-determination is articulated in its Corporate Plan 2022-2026, with a focus on facilitating native title rights and influencing system-level changes

The CLC's approach to post-determination strategic planning is guided by its Corporate Plan 2022-2026.⁵⁵ The Corporate Plan highlights the CLC's focus on influencing government and system level changes to support self-determination outcomes for Aboriginal people.

The Corporate Plan articulates seven goals, each containing several priority actions. Many activities relating to native title fit within the "Land ownership and interests" goal. These activities are supported by a performance statement which outlines the performance metrics to inform progress against the CLC's goals and Corporate Plan activities, and a series of policy priorities to guide the CLC's effort across the planning period.

Specific activities relating to native title rights include:

- Advocate for better land rights and native title rights in laws and government policies.
- Undertake native title claims.
- Support native title holders to deal with Future Acts (others' plans to do something on the land that affects their native title rights).
- Support people to exercise their native title rights.
- Assist PBCs (native title holder bodies) to learn and do their work.

The CLC has outlined a series of medium-term priorities for native title activity; however, it could begin to think more strategically about its role post-determination

The CLC advised the Review that it was planning for the post-determination environment as the complexity and nature of native title work changes in the coming years.

The CLC staff advised that activity planning was conducted on an 18-month timeframe. This ensured the CLC applied a consistent, structured and strategic approach to the delivery of native title activity, in line with the prioritisation criteria and planning process. The plan sets out how the CLC intends to deliver native title services that are grounded in the principles of self-determination and empowerment. Staff described that the contents of the 18-month forward plan are mostly focused on research activities and supporting native title claim work. The plan shows the CLC's short-term focus on native title outcomes and prioritisation of claim outcomes rather than broader economic support.

Stakeholders consulted as part of the Review identified opportunities for the CLC to strengthen its strategic alignment with peak bodies, government and other organisations supporting outcomes for Traditional Owner groups. This cross-sector approach would complement the CLC's existing capability in community sustainability and development and create opportunities for the CLC to have a greater level of influence with current and prospective clients. The CLC noted in response that the CLC Corporate Plan, set by its Council, provides the mandate for its strategic direction and aspirations, which includes working widely and collaboratively with community stakeholders and government across an array of cultural, social, economic and environmental policy matters.

The CLC is strategically embedding a post-determination approach within its organisation

A number of units across the CLC provided support to PBCs in the post-determination space. The Minerals and Energy Unit which manages the minerals and energy activity across the CLC region, supports the

⁵⁵ CLC Corporate Plan 2022-26, <https://www.clc.org.au/central-land-council-corporate-plan-2022-2026/>

negotiation of ILUAs and notifies PBCs of mining activity occurring on Country. The following units also supported PBCs in the post-determination space:

- Community Development, Land Management and Aboriginal Associations Management Centre (AAMC).
- Legal and anthropology supported all CLC units who provided services in the post-determination environment.
- All enabling/corporate service functions.

CLC staff engaged through the Review agreed that the PBCSU provides valuable services to support post-determination. When asked about the role of these units in supporting post-determination outcomes, many CLC staff commented that the current resourcing constraints prevent potential community and economic development. Increased investment and resourcing in these areas has been identified as a priority in supporting further post-determination outcomes.

The CLC has identified the need to support PBCs to engage or progress enterprise development opportunities. This service has been incorporated into the Native Title Unit's suite of capabilities and will support PBCs and identified projects on ALRA lands.

Added post-determination value is likely to be achieved through further integration of the NTRB and ALRA roles and responsibilities. The level of integration has progressively evolved from the NTRB initially being established as a "stand-alone" unit responding to native title legislation, to the situation during the Review period where the Community Development, Land Management, Legal, Anthropology and AAMC units all deal with ALRA and NTRB matters "side-by-side" to support PBCs in the post-determination space.

The transition of the ORIC compliance function of the PBCSU to the AAMC had commenced during the Review period. This will enable a more dedicated focus within the CLC on embedding a strategic approach to building the capability and sustainability of PBCs across the RATSIB area.

The CLC did not action any compensation claims during the Review period, but is thinking strategically about its role to facilitate economic development into the future

The CLC's approach during the Review period was that it seeks to deal with compensation matters by negotiation and to secure compensation for acts that extinguish or impair native title rights and interests. Although the CLC lodged no new native title compensation applications during the Review period, it was considering how elements of the High Court's Timber Creek decision⁵⁶ apply to tenure in its RATSIB area.

The Review finds that CLC's relatively low level of compensation activity is in line with most other NRTBs at the time of the Review. The Review did not uncover any feedback from Traditional Owners relating to the progress of compensation matters. TOR 6 provides more detail about how the CLC has been considering post-determination opportunities for different claim areas based on industry activity and other factors.

The expansion of economic native title rights may cause the CLC to place greater focus on compensation plans into the future

Since 2017 the CLC has expanded its native title investigations to include using the recognition of native title rights as a basis for economic development (see TOR 1). ILUAs and Future Acts present significant opportunities for native title agreements to create opportunities for economic development. The CLC could consider expanding its focus to longer-term economic development in addition to delivering native title determinations. Discussions with senior staff and information shared regarding the CLC's strategic

⁵⁶ *Northern Territory v Mr A. Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples* [2019] HCA 7.

focus and organisational structure show that the CLC has recognised that its future role in post-determination will be significantly oriented to economic development. Through both the ALRA and the NTA, the CLC is establishing resources which will work with native title holders, including PBCs, to identify, assess, develop and initiate economic development opportunities.

5.7.2 TOR 7: External factors

This section presents an analysis of factors that impacted on performance that were beyond the CLC's control.

Progress towards a post-determination environment

The CLC has a large RATSIB area with remaining claims predominantly in the East

As outlined earlier in this TOR, there are still many claims remaining in the CLC's RATSIB area.

5.7.3 TOR 7: Recommendations

RECOMMENDATION

9

Consider articulating a clear statement of CLC's intent for supporting post-determination outcomes across a longer timeframe, up to ten years. This should be developed in consultation with the beneficial stakeholders, native title holders, as well as being informed by the policies and practices of other stakeholders such as local government, the Northern Territory Government, industry and communities.

Appendix A Project Terms of Reference and performance indicators for individual reports

The methodology for the Review was developed by Nous against the TORs, as discussed in the Scope of the Review, see section 2. For each TOR the methodology listed a number of performance indicators and external factors to ensure a consistent approach across all the NTRB-SP reviews and to enable a comparison of performance. The TOR and associated performance indicators and external factors are listed below.

1. Focussing on the period 1 July 2019 to 30 June 2022 and addressing developments since the previous Review of each organisation the Service Provider will:

- a. Review and assess the extent to which each organisation:

- i. 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.

Performance indicators:

- Native title outcomes including from facilitation and assistance, certification, notification, dispute resolution and other relevant functions.
- Anthropological research.
- Future Acts and ILUAs.
- Number of claims resulting in a determination of native title or ILUA settlement as a proportion of total filed claims.
- Number of claim groups the NTRB-SP has acted for or assisted via brief out arrangements in a native title determination application during the Review period.
- Proportion of claimable land within the RATSIB area not subject to a registered claim or a determination.
- Average time between filing an application for a determination of native title to the date a determination is made.
- Number of common law native title holders/RNTBCs the NTRB-SP has acted for in a native title compensation application proceeding.

External factors:

- State government policy and legislation.
- Complexity of remaining claims.
- History of previous claims.
- Complexity of land use and tenure.
- COVID-19.
- Amount of funding.

- ii. 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.

Performance indicators:

- Equity, transparency and robustness of assessment and prioritisation process.
- Client and potential client awareness of the process.
- Traditional Owner satisfaction with the assessment and prioritisation process and its outcome.

External factors:

- Number of claims relative to NTRB-SP size and resourcing.

- iii. 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.

Performance indicators:

- Respectful and transparent engagement.
- Culturally appropriate engagement.
- Complaints.
- Internal review.
- Use of cultural materials.

External factors:

No external factors have been identified for TOR 3.

- iv. Performs its functions in a cost-effective manner, including by identifying the key cost drivers for the organisation.

Performance indicators:

- Expenditure on salaries (legal, anthropological, Board, CEO, HR, etc.), operations (travel, legal, offices, etc.) or other relevant items.
- Cost-saving actions, strategies and/or discussions.
- Appropriate processes for claim group meetings.
- Annual yearly expenditure per claimant group.
- Travel assistance policies for claim group meetings.
- Appropriate rationale for use of external consultants.

External factors:

- Size of RATSIB area.
- Remoteness of RATSIB area.
- Average number of people within a claim group.
- Interpreters.

- v. Has governance and management structures, and organisational policies and an organisational culture that support efficient and effective project delivery.

Performance indicators:

- Breakdown of roles, responsibilities and decision making between the organisation's Board, Chairperson, CEO and senior staff.
- Board integrity and capability.

- Conflicts of interest.
- Culture and values.
- Financial management.
- Training and professional development.
- Level of staff turnover.

External factors:

No external factors have been identified for TOR 5.

- vi. Is adequately supporting Prescribed Body Corporates towards self-sufficiency.

Performance indicators:

- Satisfaction of PBCs/RNTBCs supported by the NTRB-SP.
- Percentage of PBCs/RNTBCs supported by the NTRB-SP who have had intervention from ORIC or other regulator.
- Progress towards self-sufficiency for PBCs/RNTBCs supported by the NTRB-SP.
- NTRB-SP's progress in returning cultural materials to PBCs/RNTBCs and Traditional Owners.
- Percentage of PBCs/RNTBCs supported by NTRB-SP with formal service agreements in place with NTRB-SP.
- Satisfaction of PBCs/RNTBCs with the process of negotiating service agreements between the NTRB-SP and the PBC/RNTBC.

External factors:

- Extent to which self-sufficiency for PBCs/RNTBCs is achievable.

- vii. Has developed its planning for a post-determination environment.

Performance indicators:

- Adequacy of post-determination strategic planning.

External factors:

- Progress towards a post-determination environment.

2. The Service Provider will provide the following reports, reflecting the Service Provider's independent views, to assist with Agency decision-making:

An individual report for each organisation reviewed, including recommendations on what changes, if any, the organisation could make to improve its performance against each of the criteria listed in 1(a) above.

Appendix B Stakeholders consulted

The Review held consultations in person and virtually with a range of stakeholders in relation to the CLC's performance. The Review's approach to consultations was documented in the Consultation Plan, provided to all NTRB-SPs in advance of the Review. Nous used various approaches to engage with stakeholders who might wish to be involved with the Review. Surveys were distributed on behalf of the Review by the CLC to all staff and to Traditional Owners. Where feasible, notices were placed in relevant newspapers and other media to inform Traditional Owners of the opportunity to speak to the Review.

Face-to-face consultations took place in the weeks commencing 29 May 2023 and 19 June 2023. All consultations were conducted in confidence and with the full consent of participants.

Those consulted included:

- thirty-four Traditional Owners including:
 - clients who have been represented by CLC (including members of PBCs)
 - potential clients in CLC's RATSIB area
- the Federal Court of Australia
- the NIAA
- representatives of the Northern Territory Government
- members of the CLC Executive Committee (and therefore Council)
- CLC CEO and Executive
- CLC staff.

Appendix C Documents reviewed

Category	Description
Annual reports	CLC Annual Report 2021-22 CLC Annual Report 2020-21 CLC Annual Report 2019-20
Policies	Complaints Management Policy May 2023 Code of Conduct 2021 FINAL D20-28872 SWMS Risk Assessment – COVID-19 Remote Work, Conducting Meetings D20-29844 COVID-19 RTW Contractor Consultant Acknowledgement Form Executive Rules 20 November 2015 as approved by Council
Operational documents	Native title determinations – CLC region April 2023 CLC region Service Agreements – April 2023 PBC-RNTBC in the CLC region – April 2023 CLC Operational Plan – Interim Reporting 1 July-31 December 2022 CLC Native Title Operational Plan – Interim Reporting 1 July-31 December 2022 PBCSU Operational Plan – Interim Reporting 1 July-31 December 2022 CLC Interim Report KPIs July 2021-June 2022 CLC Interim Report KPIs July 2021-December 2021 PBCSU Interim Report 1 July 2021-December 2021 CLC Native Title Interim Reporting – KPI's – 1 July to 31 December 2019 CLC Native Title Interim Reporting – PBC Support Unit Activities – 1 July to 31 December 2019 Consultant Contracts – July 2021 to June 2022 – Interim Report – 18 February 2022
Financial documents	CLC Budget for Period 1 July 2021 to 30 June 2022 CLC Financial Report for 1 July 2021 to 31 December 2021 PBCSU Financial Report for 1 July 2021 to 31 December 2021 CLC Native Title Interim Reporting Budget 1 July to 31 December 2019 CLC Budget – Interim Reporting 1 July to 31 December 2022 PBCSU Budget – Interim Reporting 1 July to 31 December 2022
Other	CLC Corporate Plan 2021-2025 CLC Corporate Plan 2022-2026 4.10 CLC Risk Profile May 2023 CLC 2021 Council Rules – FINAL approved by Council and Minister CLC Facilitation Handbook 2016 CLC-Effective-Consultation-and-Engagement-Strategy-2015–2020 Internal CLC Flowchart – Native title – Responding to applications for exploration licences

Appendix D Glossary

Throughout this document, the following terms have the meaning prescribed in Table 16.

Table 16 | Glossary

Term	Meaning
<i>Aboriginal Land Rights (Northern Territory) Act 1976 (ALRA)</i>	The <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> established a system in the Northern Territory where Aboriginal people could make traditional land claims to unalienated Crown land and alienated Crown land in which all estates and interests are held by Aboriginal people. The system was sunsetted in 1997 and no new grants and claims can be made. Land rights granted under the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> can co-exist with native title rights and interests.
<i>Northern Territory Aboriginal Sacred Sites Act 1989</i>	The <i>Northern Territory Aboriginal Sacred Sites Act 1989</i> provides protections over Aboriginal sacred sites across the Northern Territory. Protection measures include penalties for entering, working on, or desecrating a sacred site. Under the <i>Northern Territory Aboriginal Sacred Sites Act 1989</i>, any person who is proposing to conduct works on an area where there may be a sacred site is expected to apply for an Authority Certificate.
Applicant	Any person or persons who have been authorised as the selected representative(s) of a native title claim group in native title or determination proceedings.
Client	Any individual or group being provided assistance by a Native Title Representative Body and Service Provider (including assistance with claims, research and/or PBC support).
Connection evidence	Evidence to establish connection of the native title group to the area over which they have lodged a claim. This evidence must demonstrate that the group have continued to observe and acknowledge, in a substantially uninterrupted way, the traditional laws and customs that give rise to their connection with the claim area, from the time of the proclamation of sovereignty to the present day.
<i>Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth) (the CATSI Act)</i>	The <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)</i> is the law that establishes the role of the Registrar of Indigenous Corporations and enables Aboriginal and Torres Strait Islander groups to form Aboriginal and Torres Strait Islander corporations.
Determination	A decision by the Federal Court or High Court of Australia. A determination is made either when parties have reached an agreement (consent determination) or following a trial process (litigated determination). In the context of the Review, a “positive” determination is where the court finds that native title exists and a “negative” determination is a finding that native title has been extinguished or does not exist.
Extinguishment	Occurs over a defined area when Australian law does not recognise the existence of native title rights and interests because of legislation or common law precedent. Extinguishment can be whole or partial.

Term	Meaning
Future Act	A legislative or non-legislative act in relation to land or waters that may impact on the ability of native title holders to exercise native title rights; either through extinguishment or creating interests that are wholly or partly inconsistent with the continued existence of native title.
Indigenous Land Use Agreement (ILUA)	A voluntary, legally binding agreement governing the use and management of land or waters over which native title exists or might exist. The conditions of each Indigenous Land Use Agreement are determined by way of negotiations between native title holders and other interest holders (such as a state or mining company). These negotiations are often facilitated by Native Title Representative Bodies and Service Providers.
National Native Title Tribunal (NNTT)	An independent statutory body established under section 107 of the <i>Native Title Act 1993</i> (Cth) to assist people in resolving native title issues by: a) mediating between the parties to native title applications at the direction of the Federal Court b) acting as an arbitrator in situations where the people cannot reach agreement about certain Future Acts c) helping people to negotiate Indigenous Land Use Agreements. The National Native Title Tribunal maintains three registers relating to native title applications, determinations and Indigenous Land Use Agreements. It also maintains databases regarding Future Act matters and geospatial tools.
Native title	The communal, group or individual rights and interests of Aboriginal peoples and Torres Strait Islanders in relation to land and waters, possessed under traditional law and custom, by which those people have a connection with an area which is recognised under Australian law (section 223 of the <i>Native Title Act 1993</i> (Cth)).
<i>Native Title Act 1993</i> (Cth) (the NTA)	The <i>Native Title Act 1993</i> (Cth) established the procedure for making native title claims and is the primary piece of Australian Government legislation allowing Indigenous Australians to seek rights over land and waters arising from their original ownership under traditional law and custom.
Native Title Representative Body (NTRB)	Recognised organisations which are funded by the Australian Government to perform functions to assist native title groups in a specific region, according to the provisions in Part 11 of the <i>Native Title Act 1993</i> (Cth).
Native Title Service Provider (NTSP)	Organisations funded by the Australian Government to perform all or some of the same functions as Native Title Representative Bodies in areas where Native Title Representative Bodies and Service Providers have not been recognised in law.
Native Title Representative Bodies and Service Providers (NTRB-SPs)	Native Title Representative Bodies and Service Providers refers to the cohort of Native Title Representative Bodies and Native Title Service Providers that are being evaluated by the Review.
Non-claimant application	An application made by a person who does not claim to have native title but who seeks a determination that native title does or does not exist.
<i>Pastoral Land Act 1992</i> (NT)	The <i>Pastoral Land Act 1992</i> (NT) provides Aboriginal peoples in the Northern Territory with access to pastoral land, regardless of whether they hold native title or not. It does not permit Aboriginal peoples to erect or use a structure on the leased land that would serve as a permanent shelter for human occupation, other than at the place on the leased land where they ordinarily reside.

Term	Meaning
Pastoral leases	A pastoral lease is a title issued for the lease of an area of Crown land to use for the limited purpose of grazing of stock and associated activities. It is a limited property right and does not provide the leaseholder with all the rights that attach to freehold land. Native title rights often co-exist with pastoral lease rights.
Post-determination	At a claim level, refers to the period following a determination that native title exists. At a Native Title Representative Body and Service Provider life cycle level, refers to the period following the resolution of all active applications within a Representative Aboriginal/Torres Strait Islander Body area.
Prescribed Body Corporate (PBC)	A body, established under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cth), nominated by native title holders which will manage their native title rights and interests once a determination that native title exists has been made.
Registration test	The registration test is a set of conditions applied to the claims made in native title determination applications. The Native Title Registrar, or the Registrar's delegate, applies the test. If a claim satisfies the conditions of the registration test, details of the application are entered on to the Register of Native Title Claims. Once an application is registered, applicants can exercise the procedural rights stipulated in the Future Act provisions of the <i>Native Title Act 1993</i> (Cth).
Representative Aboriginal/Torres Strait Islander Body (RATSIB) area	The area over which a Native Title Representative Body and Service Provider holds jurisdiction.
Terms of Reference (TOR)	Refers to the Terms of Reference provided by the National Indigenous Australians Agency which govern the scope of the project. These can be found in Appendix A.
Traditional Owners	Individuals of Aboriginal and/or Torres Strait Islander descent who identify as being a descendant of persons that occupied a particular area prior to European settlement.

This document refers to the functions of NTRB-SPs outlined under the NTA and captured in Table 17

Table 17 | | NTRB-SP functions under the NTA

Reference	Function	Detail
s203BB	Facilitation and assistance	NTRB-SPs provide assistance to native title interest holders in relation to native title applications, Future Acts, agreements, rights of access and other matters.
s203BF	Certification	NTRB-SPs certify applications for native title determinations and certify the registration of ILUAs.
s203BF	Dispute resolution	NTRB-SPs promote agreement and mediate disputes between native title groups.
s203BG	Notification	NTRB-SPs ensure that people with a possible native title interest are informed of other claims and of Future Acts and the time limits for responding to these.
s203BH	Agreement making	NTRB-SPs can be a party to ILUAs or other agreements.

Reference	Function	Detail
s203BI	Internal review	NTRB-SPs have a process by which clients can seek a review of decisions and actions they have made and promote access to this process for clients.
s203BJ	Other functions conferred by the <i>Native Title Act 1993</i> (Cth) or by any other law	These are largely concerned with cooperation between NTRB-SPs, consulting with Aboriginal and Torres Strait Islander communities, and providing education to these communities on native title matters.



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