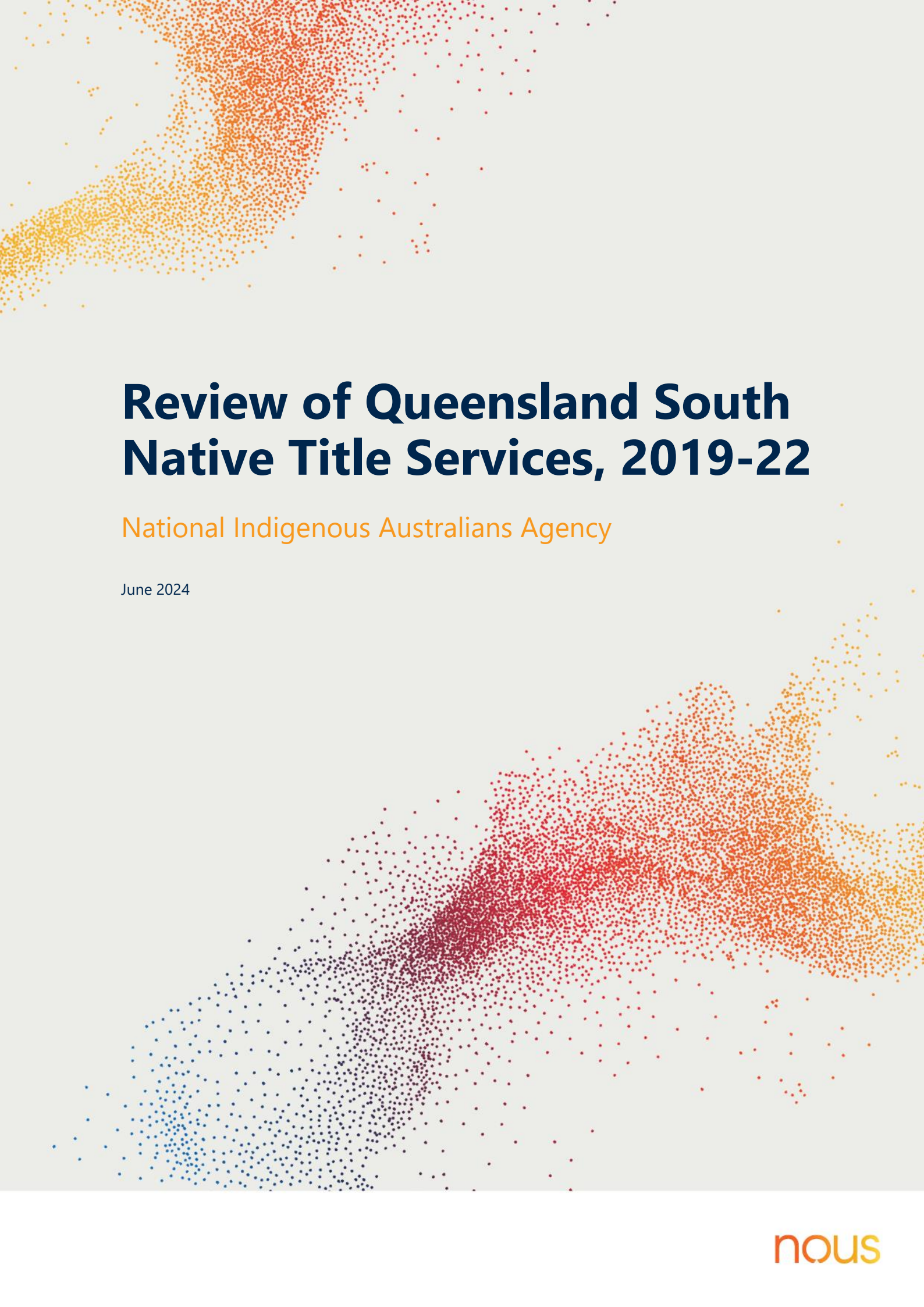




Review of Queensland South Native Title Services, 2019-22

National Indigenous Australians Agency

June 2024

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1 Profile of Queensland South Native Title Services

Queensland South Native Title Services (QSNTS) has responsibility over nearly two-thirds of Queensland, spanning from Mount Isa in the west, to Rockhampton in the east and down to the state's southern border

QSNTS is a Native Title Service Provider (NTSP) established in 2005 and services south and parts of north-west Queensland. In 2008, QSNTS expanded to take responsibility for areas previously within Gurang Land Council's responsibility and the Mount Isa region that was previously the responsibility of Carpentaria Land Council Aboriginal Corporation. QSNTS's Representative Aboriginal/Torres Strait Islander Body (RATSIB) area includes a land area of about 1,174,800 square kilometres, which is the largest land area of all the Native Title Representative Bodies and Service Providers (NTRB-SPs). QSNTS also has responsibility for about 452,000 square kilometres of sea.

In addition to providing the functions required under the *Native Title Act 1993* (Cth) (the NTA), QSNTS assists Traditional Owners on the path to self-determination and assists in the management of Future Acts, cultural heritage and Prescribed Body Corporate (PBC) support.

There were 29 PBCs in the RATSIB area and QSNTS assisted 25 of these. It had formal agreements in place with 14 of these PBCs.

QSNTS received total grant funding of \$39,359,679 between financial year (FY) 2019-20 and FY2021-22. Base funding amounts remained relatively consistent throughout the Review period. QSNTS's structure adopted an interdisciplinary service delivery model so that legal, research, community relations and administrative services were used to support Traditional Owners at all stages of the native title journey, from native title recognition through to self-determination.

QSNTS is a company limited by guarantee and is registered with the Australian Charities and Not-for-profits Commission. QSNTS is governed by a Board of Directors, appointed by the organisation, which provides high-level strategic direction for the Executive Team. There were eight board directors at the time of the Review.

Within QSNTS, the Executive Team comprised the Chief Executive Officer (CEO), the Principal Legal Officer (PLO), the Chief Finance Officer (CFO) and the Chief Operating Officer (COO), with the latter position replaced by a Chief Capability Officer (CCO) role in 2022.

The main office is in Brisbane with a very small office in Mount Isa. At the start of the Review period there was also an office in Rockhampton, however, it had closed by mid-December 2019. The organisation had approximately 50 employees across the Review period, about 23 per cent of these were Aboriginal and/or Torres Strait Islander at the time of the Review.

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 period).

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, 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
CCO	Chief Capability Officer
CEO	Chief Executive Officer
CFO	Chief Finance Officer
COO	Chief Operating Officer
CRO	Community Relations Officer
FAN	Future Act notification
FNEA	First Nations Engagement Advisor
FTE	Full time equivalent
FY	Financial year
HR	Human resource
IAS	Indigenous Advancement Strategy
IRSAD	Index of Relative Socio-economic Advantage and Disadvantage
NIAA	National Indigenous Australians Agency
NNTC	National Native Title Council
Nous	Nous Group
NTRB	Native Title Representative Body
NTRB-SP	Native Title Representative Body and Service Provider
NTSP	Native Title Service Provider
ORIC	Office of the Registrar of Indigenous Corporations
PBC	Prescribed Body Corporate
PLO	Principal Legal Officer
PPP	People, Place and Partnership
QSNTS	Queensland South Native Title Services
RATSIB	Representative Aboriginal/Torres Strait Islander Body
RNTBC	Registered native title bodies corporate

Abbreviation	Meaning
The NTA	<i>Native Title Act 1993 (Cth)</i>
The Review period	1 July 2019 to 30 June 2022
TOR	Terms of Reference
WOCWOO	<i>Whole of Client, Whole of Organisation</i>

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.

During the Review period, QSNTS achieved considerable success in supporting clients to achieve native title determinations and in progressing claims, despite the highly contested nature of many of the claims. QSNTS was the solicitor on record for 12 determinations during the Review period, ten of which found that native title existed in whole or in part. QSNTS assisted four further claim groups by providing funding to external legal firms. QSNTS had ten active claims at the end of the Review period, one of which was filed during the Review period. Legal stakeholders consulted as part of the Review commented favourably on the professional capability of the legal team and their strong record of achievement.

For most of the Review period, QSNTS managed all aspects of a claim through two separate teams. Each team was headed by a Deputy PLO (renamed Deputy Principal Lawyer) and contained lawyers, paralegals, research/anthropology staff and Community Relations Officers (CROs) (renamed First Nations Engagement Advisors [FNEAs]). Information barriers were in place between the two teams to manage conflicts of interest. The team structure was based around a single team managing all aspects of the progress of a claim. Some concerns were raised about a perceived lack of independence of the research/anthropology function within this structure.

Despite this strong track record of claims management, most of the Traditional Owners who contacted the Review, who formed a very small percentage of the QSNTS client base, expressed concerns with what they saw as the poor performance of QSNTS. Concerns ranged from a failure to listen and respect individual stories, to deep dissatisfaction and anger with the makeup of claims. Many of these concerns pre-dated the Review period and had led to ongoing distrust of the organisation. The Review acknowledges that many of these complaints stem from the contested environment due to colonial dispossession in which QSNTS operates. Nevertheless, it was clear to the Review that there was a breakdown of relationships between these Traditional Owners and QSNTS, which was unlikely to be repaired without some new thinking from all parties about how to proceed.

QSNTS responded to 250 Future Act applications during the Review period, including 64 objections to Future Acts. QSNTS represented 13 of the 29 ILUAs that were registered in the region during the Review period. Agreements were managed via the TraKS database, which was implemented prior to the Review period.

The overall profile of determined claims was relatively lengthy, with the average length of the determined claims during the period being 8.34 years; the oldest claim was open for 17.8 years until determination. Legal stakeholders acknowledged that the contested nature of many of the claims contributed to the length of the time to determination. QSNTS was seen to respond appropriately and rapidly to the Federal Court.

Throughout the Review period, QSNTS lawyers took a strategic and relatively cautious approach to progressing compensation claims, noting that failure of a claim could have a significant impact on future

cases, the developing jurisprudence and the potential adverse consequences arising from the application of section 24EB of the NTA. Some legal commentators questioned the need for such caution.

The history of active dispossession of Indigenous people in the region, the significant amounts of freehold land, the history of past claims and the attitude of the Queensland Government have all contributed to what has been described as “anthropological confusion” which has made the task of supporting Traditional Owners to achieve native title outcomes particularly challenging.

RECOMMENDATION

1

Considering the significant dissatisfaction among some Traditional Owners in the greater Mount Isa region and in some other claim groups, QSNTS should consider a range of options to rebuild trust and ensure that it can assist Traditional Owners to achieve native title outcomes. Options include:

- engagement of one of the other three NTRB-SPs in Queensland to assist some Traditional Owners
- one or more meetings between dissatisfied claim groups and the QSNTS Board, and/or
- engagement of an independent, skilled and mutually agreed Aboriginal mediator.

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.

QSNTS had a strong, evidence-based approach to prioritisation and assessment of applications for assistance, which appeared to be closely and consistently followed in practice. All new applications for assistance were reviewed and assessed by the CEO, considering a range of appropriate factors. A Grants Committee, referred to in the policy documents, was not in place during the Review period.

While QSNTS had steps in place to ensure constituents and members were aware of its assistance policy, more could be done to improve the transparency of the feedback process and the ease of access for Traditional Owners.

RECOMMENDATION

2

Ensure the information outlining the process QSNTS undertakes to assess requests for assistance, and to prioritise projects and claims, is easily understandable to clients and easily accessible on the website (that is, using simplified language where possible).

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.

QSNTS had well documented policies and procedures for engaging with clients and potential clients around its articulated purpose of “Walking with Traditional Owners”. There was clear guidance about communication channels and an ambitious expectation of regular publications. In practice, however, information and newsletters were not regularly prepared and distributed during the Review period. Some Traditional Owners wanted more communication in relation to the progress of claims.

QSNTS had appropriate material available to staff to support culturally appropriate engagement with clients, although training could have been more consistently implemented. Policies around the collection, use and storage of cultural materials were sound. Nevertheless, some Traditional Owners expressed dissatisfaction with how their material was handled and used.

Themes that emerged from consultations with dissatisfied Traditional Owners included rushed engagements and transactional interactions where no time was taken to have a yarn and build a relationship. There was a perception that QSNTS practiced a legalistic, western approach to engaging with them, which often came across as too formal and rigid.

The employment of Indigenous staff in key engagement positions enabled the organisation to deliver culturally competent services. Nevertheless, Indigenous staff carried a high cultural load in the organisation. Several Traditional Owners commented on the desirability of QSNTS engaging more local Aboriginal staff.

Complaints policies and handling processes were well documented, well communicated and accessible. QSNTS policies and practices drew a distinction between “complaints” and “concerns”, with a different type of response to each required by staff. Complaints and concerns were all recorded. Of the 21 complaints across the Review period, most were resolved, although some complainants were not satisfied with the resolution and some issues classified as concerns were not always resolved. Handling of complaints and concerns was very time intensive and challenging for many staff.

QSNTS had a thorough process outlined on its website for making and handling requests for an internal review. Three requests for internal review were received.

RECOMMENDATION

3

More regular newsletters and broader dissemination of information to clients and claim groups, in line with QSNTS policies, to improve communication.

RECOMMENDATION

4

Noting the high cultural load carried by FNEAs, QSNTS could develop practices that help mitigate or avoid burnout of Indigenous employees.

RECOMMENDATION

5

QSNTS should ensure that cultural awareness training is consistently available to all staff and contractors within the first three months of their tenure.

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.

Operational funding for QSNTS was consistent through the Review period, with varying amounts for demand-driven litigation funding. Expenditure was primarily driven by staff salaries and external consultant costs. Compared to other NTRB-SPs, a significant amount was spent on external consultants, however this spend was anticipated and thus consistently within budget. In general, expenses were appropriate and there were no unusual fluctuations.

Ongoing staffing challenges, particularly for legal staff, led to the high use of external consultants; however, this usage tapered off in FY2021-22. While there was a preference for the benefits that in-house staff bring, particularly in terms of relationship building, positions could not always be filled. There were some suggestions from staff that QSNTS was not always receiving value-for-money from external consultants.

QSNTS was conscious of its financial constraints and implemented some cost-saving measures to address these concerns, including relocating the main office to cheaper premises and closing the Rockhampton

office. There was no evidence of a staff travel policy. A refresh of the Assurance Plan, commenced towards the end of the Review period, should provide a more systematic focus on expenditure prioritisation and cost efficiencies in the future.

QSNTS published a travel policy for claim group meetings on its website. However, an earlier policy in place during the Review period did not appear to cover all aspects of the approach QSNTS took to claim group travel, in particular that QSNTS restricts travel assistance to claim applicants. While this approach appears justified in terms of the nature of the region with many non-resident claimants, continued transparency in the published policy is appropriate.

During the Review period QSNTS made improvements to the delivery of claim group meetings, such as introducing a code of conduct and digital platforms to support voting and feedback.

Some of QSNTS's costs, particularly around travel and movement were impacted by the size of QSNTS's region, which has the largest RATSIB land area in Australia.

RECOMMENDATION

6

Develop a staff travel policy to provide clarity around organisational expectations of staff.

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.

QSNTS had a skills-based Board consisting of eight Directors, two of whom were Aboriginal or Torres Strait Islander in FY2020-21 and four of whom were Aboriginal or Torres Strait Islander in FY2019-20 and FY2021-22. The Board carried out its duties in a professional manner and there was a clear separation of roles and responsibilities between the Board and the Executive. Conflict of interest policies were sound and well managed at Board level.

Acknowledging the calls from some Traditional Owners for a representative Board to be established, the Review supports the continuation of a skills-based Board as the most appropriate governance body for the organisation given the high levels of dispute amongst those seeking native title recognition in the region. A non-representative structure enables the Board to remain impartial and objective in relation to operational issues.

Nevertheless, the Review suggests that the creation of a representative Advisory Body and a review of the composition of the Board to ensure the inclusion of more Directors with ties to the local region would go some way towards re-establishing trust in the organisation.

Several structural changes took place in the organisation during the Review period, including the restructure of the Legal/Claims Management Operational teams and the replacement of the COO by a CCO. The Review remained of the view that there would be benefit in more formal discipline-based leadership of anthropology and of the FNEAs.

Towards the end of the Review period QSNTS made conscious efforts to rebuild a greater sense of collaboration and rapport within teams, based on an "interdisciplinary" approach.

There were several verified instances of bullying by staff and the Executive that were not dealt with satisfactorily. However, the Review is satisfied that the circumstances have been addressed and the issue should not be ongoing.

RECOMMENDATION

7

Create discipline-based leadership roles for anthropologists and FNEAs to provide guidance for more junior staff in these roles, while providing a career pathway for staff. A form of matrix management could also be considered.

RECOMMENDATION

8

The Board implement a stronger mechanism to incorporate greater local input into the direction of QSNTS. Recommended mechanisms include:

- increasing the number of local Aboriginal Directors
- the creation of a representative regional advisory council.

RECOMMENDATION

9

Develop an advertising strategy for Director positions for any future vacancies, to prioritise an increase in Aboriginal Directors with experience and connection to local Aboriginal communities.

RECOMMENDATION

10

Noting the need for information barriers between the Operational Service Delivery teams for confidentiality and conflict of issue reasons, QSNTS to identify and implement mechanisms for lesson learning and information sharing across the organisation, including across the separate Operational Service Delivery teams.

RECOMMENDATION

11

Implement a performance monitoring and review arrangement for contractors and external consultants.

RECOMMENDATION

12

Given the extent of dissatisfaction with the outcomes of native title claims in some parts of the region, adopt the principle of hearing from and listening to stakeholders (as recommended by the Australian Institute of Company Directors) in the roles and responsibilities of the Board.

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

By the end of the Review period, QSNTS was delivering services to 25 of the 29 PBCs located within the RATSIB area, with formal service agreements in place with 14 of the PBCs. The progress of each PBC towards self-sufficiency was not documented.

QSNTS did not have a dedicated PBC Support Unit, but instead provided PBC support from within the Operational Service Delivery teams. This approach was taken to maintain relationship and knowledge continuity throughout the claim process.

QSNTS had a clearly articulated fee-for-service policy to guide the delivery of services to PBCs, but support was limited by the amount of PBC funding in the budget.

Similar to the experience in other RATSIB regions, there was conflict within some PBCs about the composition and functionality of their PBC.

The lack of a formal documented process for the return of cultural materials to PBCs meant that several Traditional Owners who spoke to the Review were not clear about the process for return of their materials.

The development and piloting of the People, Place and Partnership (PPP) program during the Review period led to the roll-out of this innovative and well-received program of development for PBCs shortly after the Review period.

RECOMMENDATION

13

Finalise the development of a policy for the consistent and respectful approach to the return of cultural materials.

RECOMMENDATION

14

Develop a clear policy for the implementation of service agreements with all PBCs supported by QSNTS.

RECOMMENDATION

15

Develop a process for understanding the journey towards self-sufficiency for each PBC. Seek continuous feedback about services provided by QSNTS and the extent to which they are enabling self-sufficiency.

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

The prospect of the completion of all claims within the QSNTS region still appears to be a considerable way off and the strategic focus of the organisation during the greater part of the Review period was on the management of claims. However, QSNTS made significant headway in improving their post-determination approach toward the end of the Review period and following with their roll-out of the PPP program.

Strategic planning has pointed to the desirability of becoming a “one stop shop” for advancing the native title needs of Traditional Owners and achieving high levels of satisfaction from clients. However, detailed planning on what role the organisation might play and how it might be structured once claims funding ceases did not receive detailed consideration in the strategic planning.

The PPP program, commenced just after the Review period, has been very well received by PBCs and is likely an important building block in building trust amongst Traditional Owners and demonstrating an effective future role in supporting PBCs to self-determination.

RECOMMENDATION

16

Develop a clear statement of aim for QSNTS’s support for post-determination outcomes across a longer timeframe, of up to ten years. This should be developed in consultation with native title holders and other relevant stakeholders of the native title system.

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

During the Review period, QSNTS achieved considerable success in supporting clients to achieve native title determinations and in progressing claims, despite the highly contested nature of many of the claims. QSNTS was the solicitor on record for 12 determinations during the Review period, ten of which found that native title existed in whole or in part. QSNTS assisted four further claim groups by providing funding to external legal firms. QSNTS had ten active claims at the end of the Review period, one of which was filed during the Review period. Legal stakeholders consulted as part of the Review commented favourably on the professional capability of the legal team and their strong record of achievement.

For most of the Review period, QSNTS managed all aspects of a claim through two separate teams. Each team was headed by a Deputy PLO (renamed Deputy Principal Lawyer) and contained lawyers, paralegals, research/anthropology staff and CROs (renamed FNEAs). Information barriers were in place between the two teams to manage conflicts of interest. The team structure was based around a single team managing all aspects of the progress of a claim. Some concerns were raised about a perceived lack of independence of the research/anthropology function within this structure.

Despite this strong track record of claims management, most of the Traditional Owners who contacted the Review, who formed a very small percentage of the QSNTS client base, expressed concerns with what they saw as the poor performance of QSNTS. Concerns ranged from a failure to listen and respect individual stories, to deep dissatisfaction and anger with the makeup of claims. Many of these concerns pre-dated the Review period and had led to ongoing distrust of the organisation. The Review acknowledges that many of these complaints stem from the contested environment due to colonial dispossession in which QSNTS operates. Nevertheless, it was clear to the Review that there was a breakdown of relationships between these Traditional Owners and QSNTS, which was unlikely to be repaired without some new thinking from all parties about how to proceed.

QSNTS responded to 250 Future Act applications during the Review period, including 64 objections to Future Acts. QSNTS represented 13 of the 29 ILUAs that were registered in the region during the Review period. Agreements were managed via the TraKS database, which was implemented prior to the Review period.

The overall profile of determined claims was relatively lengthy, with the average length of the determined claims during the period being 8.34 years; the oldest claim was open for 17.8 years until determination. Legal stakeholders acknowledged that the contested nature of many of the claims contributed to the length of the time to determination. QSNTS was seen to respond appropriately and rapidly to the Federal Court.

Throughout the Review period, QSNTS lawyers took a strategic and relatively cautious approach to progressing compensation claims, noting that failure of a claim could have a significant impact on future

cases, the developing jurisprudence and the potential adverse consequences arising from the application of section 24EB of the NTA. Some legal commentators questioned the need for such caution. The history of active dispossession of Indigenous people in the region, the significant amounts of freehold land, the history of past claims and the attitude of the Queensland Government have all contributed to what has been described as “anthropological confusion” which has made the task of supporting Traditional Owners to achieve native title outcomes particularly challenging.

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

QSNTS continued to achieve positive outcomes for clients during the Review period

QSNTS continued to achieve successful determinations for its clients, including the steady resolution of many older claims. During the Review period, QSNTS:

- filed **one new application** for native title
- represented **ten native title consent determinations with a judgement that native title did exist**
- represented **two native title determinations** with a judgement that native title did not exist.

Only one of these determinations was litigated, the remainder were achieved by consent.

As discussed later, QSNTS assisted three further claim groups by providing funding to external legal firms.

The details of the determinations represented by QSNTS are outlined in Table 1.

Table 1 | Determinations achieved by QSNTS during the Review period

Determination	Date filed	Determination date	Legal process	Judgement
Wakka Wakka People #3 – Part A and B	29/04/2016	12/04/2022	Consent	Native title exists in the entire determination area.
Wakka Wakka People #4 – Part A	10/02/2012	12/04/2022	Consent	Native title exists in the entire determination area.
Kunja People	17/07/2015	22/03/2022	Consent	Native title exists in the entire determination area.
Clermont-Belyando Area Native Title Claim	27/05/2004	11/03/2022	Litigated	Native title does not exist.
Woppaburra People	6/11/2013	3/12/2021	Consent	Native title exists in the entire determination area.
Yuwaalaraay/Euahlayi People	23/01/2017	22/11/2021	Consent	Native title exists in the entire determination area.

Determination	Date filed	Determination date	Legal process	Judgement
Koa People	16/07/2015	6/10/2021	Consent	Native title exists in the entire determination area.
Wangkamahdla People Part A	20/01/2016	14/07/2021	Consent	Native title exists in the entire determination area.
Mardigan People	17/01/2007	18/12/2019	Consent	Native title does not exist.
Butchulla People Land and Sea Claim #2	27/11/2009	13/12/2019	Consent	Native title exists in the entire determination area.
Quandamooka People #4	18/11/2014	27/11/2019	Consent	Native title exists in parts of the determination area.
Gunggari People #4	10/10/2012	2/09/2019	Consent	Native title exists in parts of the determination area.

QSNTS had 13 active claims at the end of the Review period

At the end of the Review period, QSNTS was representing 13 active claims, one of which had been filed during the Review period.

Table 2 lists the active claims represented by QSNTS at the end of the Review period.

Table 2 | Active claims supported directly by QSNTS as of 30 June 2022

Application	Date filed	Filed during Review period?
Githabul People (Waringh Waringh)	24/03/2021	Yes
Kabi Kabi First Nation Traditional Owners Native Title Claim Group	11/12/2018	No
Danggan Balun (Five Rivers) People	12/06/2017	No
Gamilaraay People	7/04/2017	No
Yuggera Ugarapul People	8/03/2017	No
Quandamooka Coast Claim	29/04/2016	No
Wakka Wakka People #3	12/07/2013	No
Barada Kabalbara Yetimarala People #2	2/07/2013	No
Barada Kabalbara Yetimarala People	22/08/2012	No
Darumbal Part B	23/11/2012	No
Wakka Wakka People #4	10/02/2012	No
Clermont Belyando	20/02/2020	Yes

Application	Date filed	Filed during Review period?
Wadja	22/08/2012	No

There was a prevalence of non-claimant applications across the region

In addition to claimant applications, there was also 19 non-claimant applications which sought determinations that native title does not exist within the relevant area. The Review notes that it is not within the statutory scope of NTRB-SPs to assist such applications. As noted elsewhere, the prevalence of non-claimant applications by pastoralists impacted the number of active claims.

Other claims in the RATSIB not represented by QSNTS included the following:

- A claim brought by South Australia Native Title Services for a group it assists and represents with consent from QSNTS under section 203BD of the NTA.
- A claim which completely overlapped the claim by a group represented by QSNTS and was subsequently withdrawn.
- A claim which was completely within another claim area and was withdrawn after failing the registration test.

Claims were managed by two separate legal teams

The Review consulted with external legal stakeholders, who generally commented favourably on the professional capability of the legal team and their strong record of achievement. They noted that QSNTS lawyers responded appropriately and rapidly to the Federal Court. Feedback from some external legal stakeholders noted they were at times aware of some tensions within the legal teams during the Review period, prior to the organisational restructure. Tension between QSNTS lawyers and the private legal practitioners who also handled native title claims in the region also surfaced in some consultations.

By the end of the Review period the claims process was led by the PLO and managed and delivered by two Operational Service Delivery teams, each led by a Deputy PLO. Each team included lawyers, junior lawyers, paralegals, anthropology/research staff and CROs (later called FNEAs).

Briefly during the Review period, a separate team (led by a Deputy PLO) managed Future Acts and PBC matters, as well as managing claims where QSNTS was representing conflicting parties. This team was removed, and responsibilities were distributed between the two Operational Service Delivery teams. This folding-in process led to the FNEAs being included in the two Operational Service Delivery teams. With this change, the whole claims process, from application through to determination and beyond, was managed by the same team. Two lawyers were allocated to each active claim, with support from research staff, paralegals and FNEAs distinct to each claim.

To represent different parties to claims, an internal information barrier was in place, designed to ensure that client confidentiality was maintained between the two legal teams. As such, the Federal Court accepted that the separate teams could act for separate parties in contested matters.

The highly contested nature of many of the claims because of the post-colonial process of dispossession meant that the work was often challenging and stressful for the teams, to the extent that the Review heard that some legal staff had to be removed from claims for their own personal wellbeing.

While there was stability in the senior legal roles throughout the Review period, QSNTS experienced significant turnover of junior lawyers and paralegals. The development of internal staff through the QSNTS "grow our own model" was a deliberate response to the challenge of recruiting legal officers. While this

was an effective way of building capability, senior staff noted that the turnover of lawyers tended to slow down the work.

Anthropological research

The research function was embedded in the two Operational Service Delivery teams

Each of the two Operational Service Delivery teams included anthropologists/researchers who were embedded within them, though some worked across both teams. QSNTS noted that there were difficulties in sourcing anthropological talent due to a challenging employment market and that the capacity of the research team had diminished across the Review period. Several staff noted that the cessation of native title courses at some universities and the de-funding of the Aurora Foundations of Native Title course had negatively impacted the supply of anthropologists and lawyers, and that the gap had not been filled by government funding to the National Native Title Council (NNTC). QSNTS consistently used external anthropologists rather than an in-house team for its connection reports, given the criticality of these reports in claim proceedings.

As noted under TOR 5, the Review heard from staff that more formal professional leadership of the research and anthropology staff would improve the professional standing of anthropology within the organisation, provide for better professional development and ensure anthropology an effective voice in decision-making.

QSNTS had an established policy for the respectful and effective collection and provision of connection evidence

By the beginning of the Review period, QSNTS had a practice direction for the collection and provision of connection evidence. This practice direction outlined the considerations, roles and responsibilities of anthropologists and lawyers in preparing for evidence collection.

The practice direction was structured to provide a step-by-step approach to evidence collection. There were eight stages in the direction:

1. Understanding what needed to be proved.
2. Understanding the case law.
3. Preparation of a draft TOR.
4. Preparing for statement collection.
5. Statement collection.
6. Review of the draft affidavit/witness statement.
7. Review of draft connection report.
8. Review of final draft connection report.

Each stage of the process contained important considerations and essential steps to cover. At many stages, clear actions were divided between anthropologists and lawyers.

The statement collection stage also contained a guide of essential messages for Indigenous witnesses, including advice on best practices for communicating with witnesses and navigating cultural practices. Example themes of questioning and sub-topics were provided to assist anthropologists in evidence collection.

As explored elsewhere, some Traditional Owners expressed concerns over the quality of anthropological work underpinning some of the claims

Some concerns conveyed to the Review by Traditional Owners focused on the conduct and practice of anthropologists. These included a lack of consistency in communicating what evidence would and would not be relevant, and disregard for cultural protocol (particularly gendered practices) when selecting which anthropologist would work on gathering evidence for a claim group. Other concerns expressed by Traditional Owners were in relation to the accuracy of forming claim groups and the appropriate consultation of communities.

A compounding factor underlying the dissatisfaction of several Traditional Owners when generating connection reports came from deep feelings of disempowerment in detailing the very personal interactions of their families. This was further reinforced when Traditional Owners felt that their personal stories were not accepted as the basis for the claim composition.

The Review notes the advice from QSNTS that all evidence was considered and weighed, but that not all forms of evidence presented were able to be corroborated beyond an informant's assertions. QSNTS noted that the composition of a claim group was influenced by the consultant anthropologist as well as by the state's response, which often indicated that the state's acceptance of connection for the purpose of negotiating a Consent Determination was conditional upon the state's suggested changes to the claim group description.

Future Acts and ILUAs

QSNTS managed a large workload of Future Acts and ILUAs

During the Review period, QSNTS concluded and registered 13 ILUAs and made over 250 responses to Future Acts, including 64 objections. QSNTS also engaged in negotiations for two ILUAs with local government, which were ultimately unsuccessful.

During the previous Review period (FY2014-15 to FY2016-17), QSNTS had moved responsibility for managing Future Act notifications (FANs) into a single separate team. However, during the current Review period, the structure was again modified to bring the management of FANs into the Operational Service Delivery teams.

Implementation of the native title TraKS database, implemented immediately prior to the Review period, stored all group information in one place and allowed access to that information at any time.

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

QSNTS represented one new claim during the Review period, which was still active as of February 2024. QSNTS also registered 13 ILUAs, out of a total of 29 in the region (45 per cent).

Table 3 summarises QSNTS's native title activity across the Review period.

Table 3 | Summary of native title activity for QSNTS during the Review period

Total number of claims filed	Number of determinations of native title	Number of ILUAs	Number of ILUAs resulting in extinguishment of native title or settlement ¹
1	12	13	5

There were 21 determinations of native title across the region during the Review period. Of these, 12 found native title existed in whole or in part and nine found no native title existed. As outlined above, QSNTS was the solicitor on record for 12 of these. QSNTS represented 83 per cent of the determinations where native title was found to exist.

The high proportion of determinations resulting in the extinguishment of native title across the region is a result of the prevalence of non-claimant applications by pastoralists seeking to secure their leases, which were often unopposed (this is explained further below).

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

QSNTS briefed out claims work where there were long standing relationships or conflict

For some contested matters that QSNTS decided to assist with, the claimant wished to have their matter funded externally. QSNTS supported these matters via brief out arrangements during the Review period. Table 4 provides details regarding the relevant claims.

Table 4 | Cases briefed out by QSNTS

Name of people	Related case	Solicitor on record	Rationale for briefing out
Mitakoodi	<i>Kum Sing on behalf of the Mitakoodi People # 5 v State of Queensland (No 2)</i> [2022] FCA 248	Mr C Hardie of Just Us Lawyers	QSNTS prepared an urgent response to a non-claimant registration, though the group ultimately went with a private lawyer.
Western Kangoulu	<i>Malone on behalf of the Western Kangoulu People v State of Queensland (No 3)</i> [2022] FCA 827	P&E Law	QSNTS supported the claim originally, but by the Review period they had parted ways with the claimants due to disputed legal advice. However, they continued to fund the claim, including the matter heard during the Review period.
Gaangalu Nation People	<i>Blucher on behalf of the Gaangalu Nation People v State of Queensland QUD 400/2012</i>	Saylor Legal	QSNTS supported the claim throughout the Review period following a request from the claimant via the law firm they appointed on 21 July 2018.
Wongkumara	<i>McKellar on behalf of the Wongkumara People v State</i>	Eddy Neumann Lawyers	QSNTS received a funding request and agreed to assist the progression

¹ This number indicates all ILUAs resulting in extinguishment of native title or settlement within the RATSIB area.

Name of people	Related case	Solicitor on record	Rationale for briefing out
	<i>of Queensland [2020] FCA 1394</i>		of the claim by providing funding for legal and anthropological assistance based on an existing relationship between the claim group and the legal firm.

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

Approximately 66 per cent of the claimable land within the QSNTS RATSIB area is not subject to a registered claim or a determination

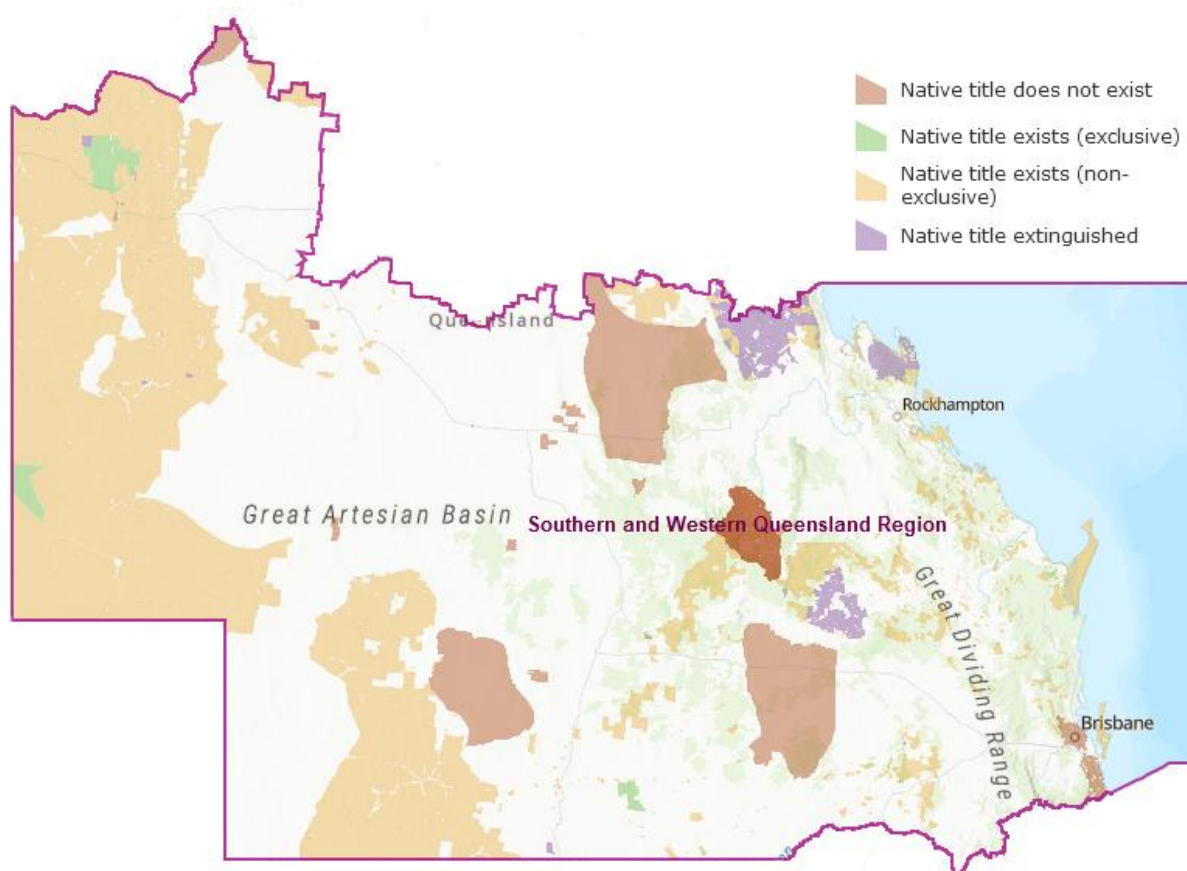
The QSNTS RATSIB area covers about 1,630,000 square kilometres, with 1,175,000 square kilometres of that being land. The total land area currently subject to a registered claim or native title determination is about 400,000 square kilometres or 34 per cent of the QSNTS total land coverage. Therefore, approximately 66 per cent of the claimable land within the QSNTS RATSIB area is not subject to a registered claim or determination.

A large proportion of the land is pastoral lease, which impacted the number of non-claimant applications

Much of the land in the region's east is covered by pastoral lease. During the Review period, many pastoralists sought to "upgrade" their lease by seeking to obtain a determination that native title did not exist.

These applications went largely unopposed, except in the case of the Mitakoodi people. QSNTS responded rapidly and prepared a response against the application. QSNTS funded one firm and then another after it became apparent that the first firm had a conflict of interest.

Figure 1 | Determinations of native title in southern and western Queensland



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

Average time to determination for QSNTS was higher than the Federal Court’s claim resolution target, reflecting the contested nature of the claims

The Federal Court has expressed a desirable claim resolution target of five years for all claims lodged since 2011. For claims lodged before 2011, this target was ten years.²

The average length of the determined claims within the QSNTS RATSIB area during the Review period was 8.34 years, with the oldest claim open for 17.8 years until determination and the shortest 4.8 years. As shown in Table 5, the overall profile of determined claims was lengthy, with almost all claims being greater than five years old. Legal stakeholders acknowledged that the contested nature of many of the claims contributed to the length of the time to determination. QSNTS was seen to respond appropriately and rapidly to Federal Court directions.

² Collier, B. Prioritisation of Native Title Cases in the Federal Court of Australia. 2011. Accessed 20 September 2023. <https://www.fedcourt.gov.au/digital-law-library/judges-speeches/justice-collier/Collier-J-20110527.rtf>

Table 5 | Age profile of determined claims 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	0	1	6	5

Table 6 shows the age of the 11 QSNTS active claims at 30 June 2022. The active claims were also relatively old, sitting at an average of 6.35 years. The oldest claim was 10.39 years old and the youngest, which was the only claim filed by QSNTS during the Review period, was 1.27 years old.

Table 6 | Age of active claims at 30 June 2022

Less than 1 year	1 to 3 years	3 to 5 years	5 to 8 years	More than 8 years
0	1	1	5	4

Given that all but one of the active claims by QSNTS were filed after 2011, the Federal Court's preferred claim resolution target of five years was exceeded for most of the claims. The Review notes the impact of the Queensland Government's approach impeding the ability of QSNTS to finalise 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

QSNTS took a cautious approach to compensation in the absence of a clear strategy from the Queensland Government and other legal concerns

During the Review period, QSNTS did not submit any applications for native title compensation. QSNTS deliberately took a cautious strategic approach because of the immature jurisprudence and the risk of adverse interpretation of the existing NTA, particularly Section 24EB, on negotiated outcomes using the state's compensation resolution framework.

In 2019, in response to the possibility of compensation claims being lodged and subsequent demand, QSNTS developed a strategic approach to supporting compensation claims within its RATSIB area that was in line with the broader strategy developed by the NNTC. To do this, QSNTS received a project budget to build internal capability to deal with compensation claims.

In FY2020-21, QSNTS was a respondent to two compensation claims and in FY2021-22 a further claim was filed in the RATSIB area that QSNTS did not assist, though they assisted a related PBC to challenge the authorisation of that claim.³

QSNTS adopted this cautious approach considering the Queensland Government having not fully established a methodology for handling compensation claims at a state level. During the Review period, the state was still gathering evidence on how to determine cultural loss for the sake of quantifying compensation. The state focused primarily on economic loss and engaged only determined groups for negotiations regarding compensation.

Not all stakeholders agreed with the cautious position adopted by QSNTS, noting that case law already existed to allow cases to move forward. QSNTS advised that it was compiling relevant evidence for compensation claims during the Review period and that many PBCs had instructed QSNTS to begin

³ QSNTS Annual Report 2021-22.

working towards compensation claims by undertaking identification of compensable acts. Three groups not represented by QSNTS had already engaged with the state on compensation claims. QSNTS noted that the state's framework required the claimants to register an ILUA, thereby becoming exposed to subsequent risks associated with registration being a strict interpretation of section 24EB(5) of the NTA by the Federal Court.

The contested nature of the environment has created winners and losers leading to the polarisation of Traditional Owner views towards QSNTS

The Review consulted with Traditional Owners who had received assistance or representation from QSNTS during the Review period via surveys and consultations. In general, and as would be expected, participants in successful claims and more recent claims were more likely to share positive feedback regarding their experiences of QSNTS. Some commented favourably on the willingness of senior lawyers to engage with them and to listen to their concerns.

Traditional Owners generally acknowledged that the history of conflict and dispossession in the region had complicated and interfered with their connection to the land and recognised the inherent difficulty of the task of determining who belonged to a group. However, many of those who provided comment felt that the practices and processes adopted by QSNTS had worsened this confusion and that QSNTS and its anthropologists and lawyers had "listened to the wrong stories". The Review acknowledges that in these situations, there are often conflicting narratives and NTRB-SPs must rely on the best available evidence to support claims.

Over 50 Traditional Owners from six claim groups who were dissatisfied and angry at the outcome of their respective, separate claims contacted the Review to express what they saw as the failings of QSNTS in managing their claims. The Review notes that the number of dissatisfied Traditional Owners that were consulted represented less than one per cent of the total number of Traditional Owners and that some of the issues that concerned them had arisen well before the Review period. These past issues continued to cloud perceptions throughout the Review period due to an ongoing lack of trust in QSNTS.

The Review has categorised the issues that arose from these consultations and these are outlined below. They included:

- Disputes about the historical evidence, where individual Traditional Owners were aggrieved that their deeply held understanding of their own history, or their family's history, had not been accepted for the claim, for which they blamed QSNTS.
- A view that western styles of thinking and evidence, such as the views of academics, were prioritised over traditional styles. Those who held this view felt that the academics, on whose evidence QSNTS (and the Federal Court) relied, had limited cultural knowledge regarding connection. However, their "white anthropologist connection reports" were used as the source of truth above family stories because they were able to communicate more effectively.
- Dissatisfaction that QSNTS had wrongly excluded or included apical ancestors from claims. In some cases, this was attributed to poor anthropological research; in other cases, those who were left out believed the errors had been deliberately fed to the researchers by other families with conflicting claims.
- Anger that family groups had been added together into a single claim when this conflicted with their own views of historical accuracy. Some Traditional Owners commented that it was not always culturally safe to link certain groups given historical conflict within and between groups. There was limited acceptance in these cases that groups were joined to give the claim a better chance of success in court.
- Failure to:

- hold appropriate meetings
- inform relevant Traditional Owners about upcoming meetings
- inform about the progress of claims or the priority with which they were being addressed.

The claimed historical inaccuracies in claim groups and the resulting difficulty that some Traditional Owners faced in discussing or rectifying the composition during the Review period fostered the impression among some Traditional Owners that QSNTS lawyers showed favouritism towards certain groups. One Traditional Owner stated that “QSNTS would only talk to people who they think are the nicest”. Some Traditional Owners also thought that the lawyers gave more weight to claim groups with links to QSNTS staff or board members.

The Review notes these concerns, although it was not able to establish their validity. Valid or not, these views were certainly strongly held and present a challenge for QSNTS in the performance of its functions.

At the request of a group of Traditional Owners, the Review team attended a meeting in Mount Isa to listen to the concerns of a group of approximately 20 people from the greater Mount Isa region involving four different claims, many of which went back well before the Review period. Representatives from the NIAA also attended this meeting.

It was clear from the meeting that there is a breakdown of relationships between these Traditional Owners and QSNTS, which is unlikely to be repaired without some new thinking from all parties about how to proceed.

5.1.2 TOR 1: External factors

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

State government policy and legislation

Changes to state legislation has had a range of indirect and direct impacts on native title claims at QSNTS

State legislation has had a moderate impact on the ability of QSNTS to perform its functions, but less so than in other states. Such legislation has the potential to interfere with the ability of an NTRB-SP to deliver native title outcomes effectively and efficiently. There are three Queensland Acts that could conceivably have had such an impact on QSNTS (see Table 7).

Table 7 | Relevant state legislation

Legislation	Description	Impact
<i>Aborigines and Torres Strait Islanders (Land Holding) Act 1985/Aboriginal Land Act 1991</i>	The <i>Aborigines and Torres Strait Islanders (Land Holding) Act 1985</i> was the predecessor of the <i>Aboriginal Land Act 1991</i> , which is now the principal piece of legislation that governs the transfer of certain land parcels to be held by a trustee for the use and benefit of Aboriginal people in Queensland. Under the <i>Aboriginal Land Act 1991</i> , the Minister can declare ownership and management of land (including unclaimed native title land) can be transferred to Aboriginal and Torres Strait Islander people.	Low – Within the QSNTS RATSIB area, there have been several <i>Aboriginal Land Act 1991</i> transfers, but these constitute a small proportion of the overall area and have had a low direct impact on native title claims. It is important to note that going forward compensation will be considered by the Queensland Government as a holistic package where ILUA and land transfers may be seen alongside direct native title compensation.

Legislation	Description	Impact
		This may increase the impact of the <i>Aboriginal Land Act 1991</i> into the future.
<i>Aboriginal and Torres Strait Islanders (Land Holding) Act 2013</i>	The <i>Aboriginal and Torres Strait Islanders (Land Holding) Act 2013</i> is a repeal of the <i>Aborigines and Torres Strait Islanders (Land Holding) Act 1985</i> . The <i>Aboriginal and Torres Strait Islanders (Land Holding) Act 2013</i> rectifies issues with the <i>Aborigines and Torres Strait Islanders (Land Holding) Act 1985</i> (for example, residential and infrastructure boundaries that were incorrectly established).	Low – The <i>Aboriginal and Torres Strait Islanders (Land Holding) Act 2013</i> provides clarity regarding lingering ambiguity as to how the <i>Aboriginal and Torres Strait Islanders (Land Holding) Act 1985</i> and the modern <i>Aboriginal Land Act 1991</i> interact with one another.
<i>Aboriginal Cultural Heritage Act 2003</i>	The <i>Aboriginal Cultural Heritage Act 2003</i> provides for the legal protection of Aboriginal heritage in Queensland. It contains a “last man standing” rule: when an area is not subject to an active native title claim or determination, the last failed claim is deemed to be the Aboriginal party for Aboriginal heritage purposes. This can influence how claims are conducted and lead to disputes about who should administer cultural heritage work in a region. Furthermore, QSNTS receives requests for services to act for their native title clients in Aboriginal heritage related matters.	Moderate – The last man standing rule has led to disputes between native title groups. These tensions can cause further difficulties in discussions over who the Traditional Owners are for claims. However, the effect on the ability of QSNTS to progress claims is not significant.

The Queensland Government’s historical resistance to native title has shaped QSNTS’s approach to claims

Historically, the Queensland Government adhered to an unspoken “Townsville Line” policy on native title claims, opposing all native title claims in Queensland in the state’s south (informally, “below Townsville”).

Due to the unique challenge of establishing strong evidence for connection in the RATSIB area and the state’s willingness to fight claims, litigated claims were very likely to fail. Almost all successful determinations to date have had to be arrived at by consent with its attendant compromises.

The necessity of reaching consent for claims shaped QSNTS’s approach of ensuring all claims were as strong as possible. Some Traditional Owners felt that they had to put forward the least disputed claim evidence to achieve consent, or they had to be combined with another claim group to strengthen the claim. This resulted in some cases where Traditional Owners felt accuracy had been sacrificed to strengthen the claim.

Complexity of remaining claims

QSNTS continues to face highly complex claims across disputed coastal and inland areas

Across the RATSIB area, most of the land consists of non-Indigenous pastoral term lease or non-Indigenous freehold land. Pastoral land dominates the region to the west of the Great Artesian Basin, while freehold land is more prevalent in the east.

As pastoral land can coexist with native title, most successful determinations have been in the west of the region. However, the legitimate grant of exclusive freehold land at any point prior to determination

extinguishes native title, and so, with few exceptions, very little of the coastal and eastern regional part of the area is claimable.

The significant amounts of freehold land and the history of further, active dispossession of Indigenous people in the region has meant many groups were “packed together” in small areas. Many Traditional Owners raised that this consolidation of communities had created “anthropological confusion”. Moving people off Country created uncertainty regarding the validity of conflicting lore between groups and/or families.

QSNTS staff acknowledged that the mediation process between conflicting groups consumed a substantial amount of the organisation’s time. As QSNTS continues to work towards native title in the highly disputed central and eastern areas, these conflicts and the accompanying burden of mediation is likely to continue and increase.

History of previous claims

Previous claim outcomes have had a negative impact on QSNTS’s ability to progress claims smoothly

Both QSNTS and Traditional Owner stakeholders noted that the history of previous claims has led to tension and conflict between groups, and between QSNTS and some of its clients. It was noted that this will likely have an ongoing impact on the approach that is taken to progressing native title determinations in some instances. Where claims have been dismissed or failed to reach a positive determination of native title in the past, this can create significant impediments to lodging successful claims in the future, even where there is a legitimate case.

Poor preparation of previous claims developed prior to QSNTS taking over responsibility for parts of the region have been suggested as a contributing factor to ongoing disputes between First Nations groups over who are the “right people for Country”, appropriate claim group membership and claim boundaries. Previously aggrieved parties may resist new claimant applications and contest new evidence more rigorously because of this legacy.

Due to the high levels of dispossession in the area, creating strong and accurate connection reports for past claims was a challenge. Several Traditional Owners felt that within some past claims, QSNTS’s inclusion or exclusion of individuals and families was not accurate to their own understanding. Some Traditional Owners felt that QSNTS was overly dependent on boundary-setting work they had done prior to the Review period, and that this impacted the scope of work and the people they were willing to consider as part of claim groups during the period.

Certain Traditional Owners’ dissatisfaction with past work eroded their trust in the quality of QSNTS’s anthropology work and their overall belief in the organisation’s ability to achieve Native Title outcomes for them within the Review period.

The composition of some claims flowed onto the composition of PBCs, leading to inter- and intra-group conflict, even after a successful determination. This added further communication and mediation requirements on QSNTS during the Review period, with several conflicts noted by staff as taking “significant” time and back-and-forth to resolve.

Complexity of land use and tenure

High levels of non-claimant activity in southern and western Queensland created tension with Traditional Owners

Much of the southern and western Queensland region is occupied by pastoral and mining interests. Through the Review period both these groups, as well as other non-Indigenous individuals/entities, continued to seek determinations of no native title. A total of 19 non-claimant applications and six determinations of no native title were made during the period (see Table 8 for determinations).

Table 8 | Determinations of “No native title” for non-claimant applications during the Review period

Determination	Date filed	Determination date	Judgement	Process
James Speed Company Pty Ltd	26/02/2021	30/05/2022	Native title does not exist.	Unopposed
Loraine Jeanette Bartolo	10/02/2012	12/04/2022	Native title does not exist.	Unopposed
Toni-Ann Maree Prow and Ors	26/05/2021	15/02/2022	Native title does not exist.	Unopposed
WG and DK Ryan Pty Ltd	1/07/2020	8/12/2021	Native title does not exist.	Unopposed
Queensland Rifle Association Inc	12/09/2019	13/05/2021	Native title does not exist.	Unopposed
Raymond William Murphy and Anor	21/03/2018	17/02/2021	Native title does not exist.	Unopposed

The number, type and disposition of other interest holders can have a significant impact on the execution of core NTRB-SP functions. This includes respondents to applications for determinations of native title and non-government parties in Future Act proceedings. A higher number of well-resourced and oppositional interest holders can slow the progress of claims and impose a high Future Act management burden.

The level of non-claimant applications in the RATSIB area far exceeded that in other regions of Australia. The volume of attempts by pastoralists to “upgrade” their pastoral leases via extinguishment of native title was mentioned by multiple Traditional Owners as a source of tension during discussions, creating difficulties for both QSNTS and Traditional Owners alike in progressing their native title interests.

Significant historical physical dispossession has heightened current day conflict

The southern and western Queensland region historically faced very high levels of violence and dispossession of Aboriginal peoples in Australia. This dispossession eroded much of the anthropological information available for showing connection and brought otherwise unaffiliated Indigenous groups together onto the same land. The current-day impact of this dispossession is discussed above; see Complexity of Remaining Claims on page 25.

Notably, mainland Indigenous populations and Torres Strait and South Sea Islanders were combined as part of this dispossession. Many Traditional Owners felt that this further complicated native title claims, at times in a manner that was not culturally appropriate or necessary.

COVID-19

COVID-19 had a moderate impact on QSNTS's ability to deliver outcomes

At the beginning of the pandemic, QSNTS anticipated that achieving some of its planned outcomes would be made difficult by COVID-19, which would prevent the organisation from conducting physical meetings and client engagement. QSNTS needed to reprioritise milestones that did not involve physical contact; decouple milestones that involved travel and in-person engagement from milestones that did not; and re-manage the budget around reduced travel costs and potentially reduced funding.

These negative impacts were mitigated by QSNTS's rapid response to COVID-19, and the high level of communication between QSNTS and its staff during the pandemic. QSNTS developed extensive COVID-safe policies for in person work, conduct, return to work and client engagement.

The pandemic also saw QSNTS "virtualise" many of its major processes. Aside from a very small number of tasks, all staff were transitioned into working remotely full time. As the COVID-19 period progressed, QSNTS continued to build organisational capability around its systems, including digital:

- management of client plans
- knowledge and records management
- PBC products
- policies and procedures
- meeting procedures.

QSNTS made a significant effort to continue its digitisation of authorisation meetings, implementing a new platform that included pre-recorded videos and a digital voting system. This digital system proved successful, leading to multiple authorisations during the period.

Amount of funding

The ratio of funding to the size of the region and number of claims was relatively low

QSNTS received a consistent amount of grant funding each year of the Review period, totalling \$39,359,679 across three years.

Although QSNTS received a higher amount of funding than many NTRB-SPs, due to the quantity of claims handled during the Review period and the scale of the area covered, this meant a lower ratio of funding in relation to the total land area and the number of active claims. The Review suggests that the ability of QSNTS to manage its large workload may have been impacted by the funding available.

Table 9 | Total funding relative to factors of interest

Factor of interest (denominator)	Ratio
QSNTS total land area: 1,175,000 square kilometres	\$26.88 per square kilometre
Number of active claims (10) and determinations (12) at 30 June 2020: 22	\$1,373,052 per claim

5.1.3 TOR 1: Recommendations

RECOMMENDATION

1

Considering the significant dissatisfaction among some Traditional Owners in the greater Mount Isa region and in some other claim groups, QSNTS should consider a range of options to rebuild trust and ensure that it can assist Traditional Owners to achieve native title outcomes. Options include:

- engagement of one of the other three NTRB-SPs in Queensland to assist some Traditional Owners
- one or more meetings between dissatisfied claim groups and the QSNTS Board, and/or
- engagement of an independent, skilled and mutually agreed Aboriginal mediator.

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

QSNTS had a strong, evidence-based approach to prioritisation and assessment of applications for assistance, which appeared to be closely and consistently followed in practice. All new applications for assistance were reviewed and assessed by the CEO, considering a range of appropriate factors. A Grants Committee, referred to in the policy documents, was not in place during the Review period.

While QSNTS had steps in place to ensure constituents and members were aware of its assistance policy, more could be done to improve the transparency of the feedback process and the ease of access for Traditional Owners.

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

QSNTS had a strong, evidence-based approach to prioritisation and assessment

QSNTS details its assessment and prioritisation policy in its Policies and Procedures Relating to Performance of Functions⁴ document. The policy document outlines:

- functions and powers under the NTA
- facilitation and assistance functions
- claims assessment policy and process
- certification and notification functions
- dispute resolution functions
- agreement-making functions
- processes for internal reviews and complaints, which are described in greater detail under TOR 3.

All new applications for assistance were reviewed and assessed by the CEO considering a range of factors which are set out in the Policy and Procedures. These included:

- Those matters which are in the QSNTS Operational Plan and subject to the internal assessment of priority within that plan.
- Those claims in which the state has accepted connection, and the parties are in substantive negotiations for the purposes of reaching agreement on the terms of a consent determination.

⁴ Policies and Procedures Relating to Performance of Functions⁴ Under Part 11, Division 3 Native Title Act 1993 (Cth), Policies and Procedures Relating to Performance of Functions Under Part 11, Division 3 Native Title Act 1993 (Cth), Accessed on 29 January 2024. <https://qsnts.com.au/pdf/Part11Div3NativeTitleAct-ExplanatoryDocument.pdf>

- Those claims or matters where several ILUAs, particularly comprehensive settlement agreements, are being negotiated to agreement.
- Those claims which are the subject of Court Orders requiring compliance within strict timeframes.
- Those claims that have reasonable prospects of success based on a senior barrister's advice.
- Those claims that have been on the Federal Court list the longest.

QSNTS staff were familiar with the assessment process and reported that the assessment policy was adhered to consistently. QSNTS staff said that the CEO and PLO carefully considered each application based on the advice of QSNTS staff and anthropological evidence, considering the likelihood of success and the efficacy of research as primary factors.

As noted under TOR 1, QSNTS took a measured approach to providing assistance for compensation claims during the Review period, aligning to the NNTC Compensation Strategy and aimed at ensuring that Traditional Owners had access to the knowledge and experience required to give compensation claims the best chance of success.

The Review considered QSNTS's assessment and prioritisation policy against the criteria developed by the Review for equitable resourcing and defensible decisions. The criteria were established prior to commencement of the Review and were based on the identification of good practice throughout the previous NTRB-SP Review (2017-2019). The criteria are set out in the Review's methodology and are shown in Table 9 alongside the relevant corresponding extract from the QSNTS policy and procedures. All criteria are adequately addressed by the QSNTS approach, although the Review notes that the NTRB Grants Committee was not in existence through the Review period. Rather, the applications for assistance were considered by the CEO and PLO.

Table 9 | QSNTS prioritisation policies

Prioritisation policy criteria	Relevant QSNTS Policies and Procedures Relating to Performance of Functions document extract
Considerations such as court-imposed timelines and the service of section 29 notices that require the lodgements of claims within four months are expected to be built into the relevant prioritisation policies.	<i>Section 7.9 Prioritisation of Requests for Assistance</i> "The following factors (in order of importance) are relevant when assessing requests: (d) Those claims which are subject of Court Orders requiring compliance within strict timeframes"
Clear description of the specific decision-makers for assessment and prioritisation decisions (for example, Board, Board sub-committee, CEO and/or Executive).	<i>Section 7.8 Assessment of a Request for Assistance process</i> "Applications for assistance will be considered by the NTRB Grants Committee ⁵ ."
Clear description of processes and decision-makers for the conduct of internal reviews of prioritisation decisions (when requested).	<i>Section 12.2 Internal Review Process</i> "(a) Once a request has been made for internal review, the request must be acknowledged within seven (7) days. (b) An internal reviewer (a lawyer who was not involved in the decision or otherwise not conflicted in conducting the review) shall be appointed to undertake the review. (c) The reviewer will consider all relevant material and, within 28 days of the acknowledgement letter, will:

⁵ The Review notes advice from QSNTS that this Committee did not exist during the Review period and that throughout the Review period applications for assistance were reviewed and assessed by the CEO.

Prioritisation policy criteria	Relevant QSNTS Policies and Procedures Relating to Performance of Functions document extract
	i. affirm the decision; or ii. advise that the decision should be varied; and iii. notify the CEO in writing of their decision, and the reasons for this. (d) The CEO will notify the requestor of the outcome of the review within seven (7) days of having received the reviewer's decision. (e) If the person seeking the review requests, a representative of QSNTS will meet with the requestor to explain the decision. This is not an opportunity for further review of the decision.
Clear description of the circumstances in which matters may be briefed out prior to decision-making.	<i>Section 7.15 The Scope and Content of Assistance</i> "Assistance that includes the provision of a legal officer employed by QSNTS, or QSNTS briefing out a matter or task to an external lawyer, will always be on the basis that the recipient of the assistance (whether an individual or family or group of people or families) consents to that lawyer communicating with the QSNTS Executive about the conduct of the matter, including details of evidence generated and advice given or received in relation to the matter."

As shown in Table 11, all applications for assistance received during the Review period were considered by the CEO. QSNTS did not publicly report on whether applications received were accepted or rejected.

Table 11 | Number of applications received and considered by QSNTS

Financial year	Number of applications received during financial year	Number of applications considered during financial year	Number of applications considered in next financial year
2019-20	26	21	6
2020-21	15	14	1
2021-22	20	19	1

Client and potential client awareness of the process

QSNTS had steps in place to ensure clients and members were aware of its assessment, prioritisation and internal review processes

The QSNTS Funding Decisions⁶ and Internal Review Processes⁷ are publicly available on the QSNTS website on the QSNTS Policies and Procedures page, accessed through the Resource Library tab. They provide a plain language outline of the assessment and prioritisation process at a high level, explain the right to request an internal review and the opportunity to submit a complaint via a dialogue box.

The Review notes the recommendation in the previous Review that QSNTS should:

⁶ QSNTS. Funding Decisions. 2022. Available at File library (qsnts.com.au), accessed 29 January 2023.
<https://qsnts.com.au/NewFileLibrary.aspx?BtnId=FileLibraryBtn15&lp=MQ==>

⁷ QSNTS. Internal Review Process. 2022. Available at File library (qsnts.com.au), accessed 29 January 2023.
<https://qsnts.com.au/NewFileLibrary.aspx?BtnId=FileLibraryBtn15&lp=MQ==>

Develop clearer guidelines that outline the process QSNTS takes to assessing requests for assistance, prioritising projects and prioritising claims. Ensure these guidelines are easily understandable to clients and consistent with the practical application of prioritisation policies internally.

The Review notes that QSNTS was in the process of implementing an improved overarching communication strategy during the Review period and had made improvements in its approach to communicating with Traditional Owners. This is further explored under TOR 3. However, based on consultations with clients, there were still many Traditional Owners who were either unclear of the prioritisation process, or dissatisfied with how it was communicated.

During consultations, some clients who spoke with the Review were unsure of the prioritisation process used to assess native title claims. Clients said that anticipated timelines were not clear to them and that they felt the prioritisation process lacked transparency. While clients were provided with documentation to explain the process, many felt that they did not properly understand the process or the rationale for their applications not receiving priority or consideration.

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

Many Traditional Owners indicated mixed views with the prioritisation process

Traditional Owners who were assisted in their claims and received successful determinations were generally positive in their view of the process and the way QSNTS came to their decisions. Unsurprisingly, Traditional Owners who lodged applications for assistance that were declined or delayed were generally dissatisfied with the reasoning behind the decision.

Section 12.2 of the Policies and Procedures Relating to Performance of Functions document states that "...a representative of QSNTS will meet with the requestor to explain the decision. This is not an opportunity for further review of the decision."

Traditional Owners told the review that QSNTS generally advised of outcomes via a letter, prior to meeting with requestors to explain the decision. Some Traditional Owners expressed their unhappiness that the process did not allow for a review or negotiation of prioritisation decisions. The Review notes that decisions may be reviewed under the NTA, which requires NTRB-SPs to prioritise the performance of their functions.

Some Traditional Owners perceived bias towards larger claim groups in the prioritisation process

Some Traditional Owners who engaged with the Review indicated a concern that larger claim groups – in either land area or population – were likely to be prioritised. They noted that groups were encouraged to join for the likelihood of success in navigating claims and reducing the difficulty of conflicting anthropological evidence. It was the view of these Traditional Owners that claim groups should be separated to better reflect the composition of their communities as they understood it. Where disagreements between claim boundaries occurred, some Traditional Owners suggested that larger claim groups were more likely to be supported by QSNTS in settling disputes. The Review acknowledges that larger claim groups are likely to have stronger supporting evidence.

5.2.2 TOR 2: External factors

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

Number of claims relative to NTRB-SP size and resourcing

QSNTS handled many complex claims

Despite the growing complexity of claims, the amount of funding received by QSNTS did not increase significantly from the three-year period prior to the Review period. This meant that funding did not grow commensurate to the additional workload of more difficult claims and an increase in the number of PBCs supported by QSNTS.

QSNTS staff felt that resources were a constraint on effective operation. The lack of funding meant salaries were not competitive and this contributed to QSNTS's high turnover, especially within the Operational Service Delivery teams (exceeding 30 per cent during the Review period). Some staff believed that the lack of personnel impacted the quality of service provided to QSNTS's clients. This perspective was supported by many Traditional Owners who expressed frustration with the frequent turnover of staff responsible for their claims, leading to loss of time and relationship with each transition.

5.2.3 TOR 2: Recommendations

RECOMMENDATION

2

Ensure the information outlining the process QSNTS undertakes to assess requests for assistance, and to prioritise projects and claims, is easily understandable to clients and easily accessible on the website (that is, using simplified language where possible).

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

QSNTS had well documented policies and procedures for engaging with clients and potential clients around its articulated purpose of “Walking with Traditional Owners”. There was clear guidance about communication channels and an ambitious expectation of regular publications. In practice, however, information and newsletters were not regularly prepared and distributed during the Review period. Some Traditional Owners wanted more communication in relation to the progress of claims.

QSNTS had appropriate material available to staff to support culturally appropriate engagement with clients, although training could have been more consistently implemented. Policies around the collection, use and storage of cultural materials were sound. Nevertheless, some Traditional Owners expressed dissatisfaction with how their material was handled and used.

Themes that emerged from consultations with dissatisfied Traditional Owners included rushed engagements and transactional interactions where no time was taken to have a yarn and build a relationship. There was a perception that QSNTS practiced a legalistic, western approach to engaging with them, which often came across as too formal and rigid.

The employment of Indigenous staff in key engagement positions enabled the organisation to deliver culturally competent services. Nevertheless, Indigenous staff carried a high cultural load in the organisation. Several Traditional Owners commented on the desirability of QSNTS engaging more local Aboriginal staff.

Complaints policies and handling processes were well documented, well communicated and accessible. QSNTS policies and practices drew a distinction between “complaints” and “concerns”, with a different type of response to each required by staff. Complaints and concerns were all recorded. Of the 21 complaints across the Review period, most were resolved, although some complainants were not satisfied with the resolution and some issues classified as concerns were not always resolved. Handling of complaints and concerns was very time intensive and challenging for many staff.

QSNTS had a thorough process outlined on its website for making and handling requests for an internal review. Three requests for internal review were received.

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

QSNTS outlined its approach to respectful engagement through comprehensive guidance to staff

According to the QSNTS Annual Report 2021-2022, the key purpose of the organisation is, “Walking with Traditional Owners”.⁸ The purpose was widely stated throughout QSNTS’s annual reports, publications and

⁸ QSNTS. QSNTS Annual Report 2021-2022. Accessed January 2024.

internal documents, with the QSNTS Interim Communications Strategy 2022 using it as a core foundation for outlining their approaches to engagement.

Throughout consultations, QSNTS staff spoke of the strong value they attached to proactive and ongoing communication with Traditional Owners and broader stakeholders. They noted the importance of using strategic and well-considered approaches to increase the level of trust with clients.

Further details of QSNTS's values, vision and purpose are outlined under TOR 5.

QSNTS had clear policies and guidelines about communication channels

During the Review period, the QSNTS Communications Policy and Guideline document outlined the appropriate use of communication in verbal, printed and digital media settings to ensure a consistent approach to engaging with clients and the community.⁹ This policy was updated in 2022 with the Interim Communications Strategy 2022. Together these documents set out each of the established channels that QSNTS staff were required to develop and publish. This included the processes for preparing and issuing publications as well as the timing for publications. Frequency of publication was ambitious, requiring regular organisational and claim-based newsletters twice a year as well as standard annual reports and strategic plans. There was also a requirement to respond to requests made on social media within two days. The policy also outlines the usage of and approval processes for the QSNTS logo, branding requirements, media inquiries and marketing.

The QSNTS Social Media Policy detailed the correct use of professional social media by QSNTS employees. The policy emphasised the importance of "openness and accountability" for staff members to best facilitate communication between QSNTS and the community.¹⁰ The document had clear provisions over the reasonable and unreasonable use of QSNTS social media accounts, the platforms in use and the approval process for content. Further, the policy included detailed provisions around the moderation of social media content and comments. These provisions align with the procedures outlined in the QSNTS communication strategy.

Despite this care, QSNTS had to temporarily deactivate its Facebook page during the Review period in response to problematic community commentary occurring across a range of posts.

There was clear guidance on how to achieve good quality communication

According to the QSNTS Interim Communications Strategy 2022, there was a pronounced focus on long-term community engagement to enhance communication to clients and Traditional Owners.¹¹

The policy stipulated how to achieve accessible communications:

Using clear, direct language and other communications elements that create effective, targeted content...include prioritising the use of audio-visual material, imagery of people, navigation by icons and imagery, focus on geography, and the appropriate and respectful incorporation of Indigenous designs.

QSNTS referred to a range of documented processes and guides to further inform staff on specific publication components. This included the ABC style guide, a Messaging guide and the Content Governance Process.

Since the Review period, QSNTS has established general best practice directions for all in-person client engagements. These include provisions on each part of the process such as pre-meeting requirements,

⁹ QSNTS. QSNTS Communications Policy and Guideline. 2021. Accessed January 2024.

¹⁰ QSNTS. QSNTS Social Media Policy. 2020. Accessed January 2024.

¹¹ QSNTS. QSNTS Interim Communications Strategy 2022. Accessed January 2024.

meeting records, follow up procedures, written advice and documentation, and quality control from a FNEA.¹²

The frequency of publications was variable through the Review period

QSNTS sent three editions of “message tree”, its internal publication to stakeholders, in 2021, but did not send any editions in 2022. The QSNTS public newsletter, known as “The Big Yarn”, was only published once during the period July 2019 to July 2022. Some constituents commented that “technical glitches” meant that they could not access the newsletter.

Several QSNTS staff were aware of the need to improve transparency and make strong communication a priority. Staff commented to the Review that communication mechanisms, such as the newsletter, were not developed and sent to the community on a regular and consistent basis. This was a direct impact of not having had enough dedicated resources to provide consistent client communication and a lack of internal accountability to draft content. Responsibility for content appeared to sit with the Operational Service Delivery teams.

There was mixed feedback on the quality and breadth of engagement from QSNTS

A few Traditional Owners talked about their positive engagement experiences with QSNTS. They noted that QSNTS had “definitely improved” in its approach to communicating with clients and that their direct contacts at QSNTS were open and communicative.

Others were less satisfied with the frequency and style of communication. The key issues here were allegedly a lack of responsiveness to requests for information, the length of time taken to provide meeting minutes and other formal documentation, and the level of jargon used in both verbal and written communication. These gaps left some constituents feeling that they did not know how their claim was progressing. People who voiced these concerns commented that they believed that poor communication from QSNTS reflected a lack of transparency and therefore a lack of professionalism. Traditional Owners who were unable to attend in-person meetings felt uninformed and had limited access to what had been discussed unless they spoke to those who attended.

There was considerable feedback that some constituents felt that interactions were transactional and often rushed. This left some Traditional Owners concerned that they may not have been properly heard and understood.

Some Traditional Owners were concerned that information in relation to the progress of claims had sometimes only been distributed to a small number of claimants, who were then responsible for disseminating information to other members of their claim group. This had led to a lack of information, or misinformation being shared. Some Traditional Owners who contacted the Review believed this had contributed to lateral violence within claims groups or potential members.

Culturally appropriate engagement

QSNTS had clear cultural awareness materials available, however the provision of cultural awareness training was inconsistent

QSNTS had clear guidelines around the importance of engaging with clients and with Traditional Owners more broadly. Staff were provided with an overview of cultural awareness material on the internal human resource (HR) intranet. This material provided staff with a general understanding of how to approach communities in an informed way whilst addressing the highly diverse nature of Indigenous communities.

¹² QSNTS. Client Meeting Procedure. 2022. Accessed January 2024.

While the QSNTS Annual Report 2021-2022 stated that the organisation provided cultural capability training to its staff, several staff indicated to the Review that they did not have access to formal training, induction, or other forms of professional development to improve their cultural competency. Other staff stated that they were anticipating receiving cultural awareness training, but it had been delayed.

QSNTS staff and Traditional Owner perceptions of the extent of staff cultural competency varied markedly. Throughout consultations and in the Review's staff survey, QSNTS staff were confident in their culturally appropriate approach to engaging with clients. In the survey, employees were asked to answer how well QSNTS behaved in a culturally sensitive manner towards Traditional Owners. All respondents answered either "extremely well" or "somewhat well", and no participants considered their engagement "slightly well" or "not at all".

However, many Traditional Owners who responded voiced their concerns about the cultural capability of some staff members, who they felt left what they perceived as the cultural component of communication to the FNEAs.

The role of FNEAs was expanded throughout the Review period

The previous Review recommended that QSNTS reconsider the appropriate role of FNEAs including the need for additional resourcing and opportunities to be more inclusive of their viewpoints in decision making. The Review found this recommendation had been taken up by the organisation and was reflected in the position descriptions of FNEAs.

At the start of the Review period, CROs were responsible for handling engagements with clients, PBCs and the community. Their role involved communicating complex and technical elements of native title and supporting clients to understand how traditional laws align with western laws.¹³ There were two employees in the CRO role.

After the Review period, the position of CRO was changed to FNEA. FNEAs largely held a similar role to CROs, but with less emphasis on PBC development and more focus on assisting clients with their claims and larger meetings.¹⁴ The number of positions was tripled, indicating a strong commitment to culturally competent communication.

The role of the First Nations Engagement Administrative Assistant was also introduced during the Review period. This role had predominantly administrative tasks to help QSNTS engagement with clients. This includes minute taking, travel arrangements, and managing records and correspondence.¹⁵

There was some feedback that the expansion of FNEA capacity had contributed to a decline in cultural competence of other staff. There was some perception that QSNTS staff members relied on FNEAs to deal with engagement-related tasks, which limited the cultural awareness of non-Indigenous staff members. In some instances, staff members observed that some non-Indigenous employees would avoid answering calls from clients and leave them for FNEA's to answer. In other cases, if a FNEA was not available, phone calls would go unanswered altogether.

FNEAs had a challenging role within QSNTS and a high cultural load

While FNEA and First Nations Engagement Administrative Assistants had clearly defined roles, they often faced intensive and high workloads. They reported feeling a sense of cultural responsibility for native title outcomes that was extremely stressful. QSNTS currently does not have any policies or procedures to address the cultural load of Indigenous employees.

¹³ QSNTS. Community Relations Officer Process Manual. 2020. Accessed January 2024.

¹⁴ QSNTS. Position Description – First Nations Engagement Advisor. Accessed February 2024.

¹⁵ QSNTS. Position Description – First Nations Engagement Administrative Assistant. Accessed February 2024.

Some Traditional Owners want more culturally appropriate engagement aligned with their cultural protocols and practices

Many of the Traditional Owners who were unhappy with the performance of QSNTS expressed a view that QSNTS staff had a limited understanding of Indigenous culture, practices and protocols. They felt that Elders were insufficiently respected and sometimes overlooked in decision making processes in favour of younger and “more western” claimants. Another theme was that consultations were often rushed where no time was taken to have a yarn and build a relationship. This exacerbated mental health issues and left these Traditional Owners feeling traumatised and distressed. Overall, there was a perception from these Traditional Owners that QSNTS practiced a legalistic, western approach to engaging with them, which often came across as too formal and rigid.

On the other hand, some Traditional Owners who spoke to the Review reflected that they were satisfied with the services and engagement provided by external Aboriginal consultants and contractors at QSNTS. This was due to the cultural understanding and high level of communication they provided, as well as the efforts made to communicate with various people across the community. Many Traditional Owners perceived Aboriginal contractors and consultants as “being on their side” as they were more willing to listen to and address the concerns of Traditional Owners.

Several Traditional Owners commented that they would like to see more Indigenous staff at QSNTS and particularly those of Aboriginal descent.

Complaints

QSNTS had comprehensible and accessible complaints material available

The QSNTS website detailed the Complaints and Internal Review policies and procedures over two separate documents. Both documents clearly explained the mechanisms for stakeholders to make a complaint or request an internal review, as well as the processes undertaken by QSNTS. The mechanisms and processes were outlined in clear, plain language, with succinct diagrams for stakeholders to understand. Following the Review period, QSNTS streamlined their complaints process by providing a virtual complaint form on the QSNTS website.

After a complaint was made, QSNTS recorded the details on the QSNTS Complaints Register and addressed it through their complaints handling process.¹⁶

QSNTS received 21 complaints throughout the Review period

Overall, there was a total of 21 complaints made to the QSNTS (see Table 10). This includes all complaints made directly to the QSNTS and indirectly to the NIAA.

A complaint was defined as¹⁷: “An expression of dissatisfaction however made, about actions taken or a lack of action.”

Table 10 | Number of complaints received by QSNTS during the Review period¹⁸

Type	FY2019-20	FY2020-21	FY2021-22
Complaints received by QSNTS	8	5	8

¹⁶ QSNTS. QSNTS Complaints Register. 2019-2022. Accessed December 2023.

¹⁷ QSNTS. QSNTS Concern and complaints presentation. Accessed December 2023.

¹⁸ QSNTS. QSNTS Annual Report 2019-2020. Accessed December 2023., QSNTS. QSNTS Annual Report 2020-2021. Accessed December 2023., QSNTS. QSNTS Annual Report 2021-2022. Accessed December 2023. QSNTS. QSNTS Annual Report. 2022-2023. Accessed December 2023.

Type	FY2019-20	FY2020-21	FY2021-22
Complaints resolved	8	3	7
Complaints pending resolution	0	2	1

Complaints related to various matters including:

- Issues with a claim group meeting (five complaints).
- Issues with native title claim research or inclusion of incorrect apical ancestors on a claim (two complaints).
- Issues with the conduct of QSNTS senior management (two complaints).
- Issue with individual claimant (two complaints).
- Issue with PBC leadership (two complaints).
- Issues with QSNTS on the communication of funding arrangements for Future Acts (one complaint).
- Denied access to Country as result of ILUA (one complaint).
- Questioning the qualification of an individual conducting a Welcome to Country (one complaint).
- Issue with dispute resolution process (one complaint).
- Request for further assistance (one complaint).
- Mishandling of personal information (one complaint).
- Exclusion of elders from decision making (one complaint).

Out of the total number of complaints, four were made directly to the NIAA (three in FY2020-21 and one in FY2021-22).

Many complainants were unhappy with how their complaints were acknowledged and resolved as they felt they were not acknowledged in a respectful or transparent manner. A few clients thought that QSNTS inappropriately resolved their complaints by not appearing to take them seriously or show concern, breaching confidentiality and not providing mediation. The Review appreciates that this may not necessarily be a reflection on the performance of QSNTS as the issues at stake are often highly charged.

QSNTS had adequate complaints policies, procedures and training provided to QSNTS staff

In March 2021, the QSNTS senior leadership team endorsed a new QSNTS Clients Complaints Policy and Procedure document for employees to follow. The policy is an internal-facing document which detailed the definition of a complaint, the formal complaints process and key procedures for various QSNTS stakeholders (such as management, HR or CEO) to undertake when a complaint is lodged. The QSNTS complaints process specifies a short timeframe, with the policy giving staff 14 days to resolve a complaint, following specific protocols. Information about what action would be taken when complaints remained unresolved after 14 days was not provided.

The complaints policy was accompanied by training to prepare employees for engaging with Traditional Owners via phone, email and face to face. The Review noted that the training addressed the emotional implications of providing strong customer service to clients, including the importance of active listening, sensitivity and being kind.¹⁹

¹⁹ QSNTS. Concern and complaints presentation. Accessed December 2023.

The policy drew a distinction between what constitutes a concern or a complaint

QSNTS documentation defines the difference between concerns and formal complaints from stakeholders. The document described a concern as²⁰:

An expression of worry or doubt over an issue considered to be important for which reassurances are sought...Usually, an issue that can be resolved informally between the parties involved.

Can affect one's welfare or happiness, causing worry or anxiety.

QSNTS staff used the prescribed definitions of concerns and complaints to differentiate their engagement with Traditional Owners. Issues that were considered a concern were dealt with through a less formal process from staff members. For instance, Traditional Owners being frustrated over a QSNTS staff member not returning their call would be classified as a concern and be dealt with accordingly. It would then follow the standard procedure for a concern as outlined in the policy:

- The employee received a concern from a stakeholder over the phone.
- The employee records details of the concern in the Monday.com Register.
- The employee determined the appropriate person to direct the call to (for example, legal staff, logistics staff, etc.).
- The appropriate person would respond to the complainant, or if unavailable would call back the caller to resolve their concern.

Concerns were officially recorded in internal databases; however, a response did not involve sending out a formal email to notify the client that their concern had been addressed. There was limited feedback that some people who raised a concern were unclear what had happened with it and felt that they had not been taken seriously. If Traditional Owners did not have their concern addressed appropriately, they had the option to lodge their concern as a complaint.²¹ However, Traditional Owners who spoke with the Review were not aware of this.

Most of the Traditional Owners who spoke with the Review were also unaware that they might make a complaint to the NIAA. One Traditional Owner stated:

I never thought about a complaint to NIAA. Maybe we could have done that earlier and that might have helped change our situation as well.

Addressing complaints and concerns could be very time intensive and challenging for staff

QSNTS employees had a mixed understanding of the complaints process and of the full extent of how it worked. According to the QSNTS staff survey, 20 per cent of respondents were "extremely familiar" with the process, 46 per cent of respondents were "somewhat familiar", six per cent were "slightly familiar" and 13 per cent were "not at all familiar" with the complaints handling process. In many cases, the Review found complaints were forwarded onto line managers or senior members of the Operational Service Delivery team.

Numerous QSNTS employees noted the difficulty of being able to address concerns from Traditional Owners due to a lack of capability or not having enough capacity. Some senior staff members noted that there was a "disconnect between what people consider 'listening' to be" and resolving issues. Additionally, junior staff members found it difficult to handle phone calls when Traditional Owners views did not align with advice from QSNTS.

²⁰ QSNTS. QSNTS Concern and complaints presentation. Accessed December 2023.

²¹ Complaints Policy.

Complaints about the legal elements of claim matters were often reported to the QSNTS Board, however, the Board did not appear to be kept across broader complaints or concerns from clients or the extent of dissatisfaction among some groups of Traditional Owners.

Internal review

The QSNTS website outlined the internal review process

QSNTS had a thorough process outlined on its website, to address a request for an internal review. The QSNTS Internal Review Process clearly outlined the following steps for an internal review:

- The request is acknowledged within seven days of being made.
- An internal reviewer (a lawyer without a conflict of interest) is appointed to undertake the review.
- The reviewer affirms the decision or advises the decision should be varied and notifies the CEO.
- The CEO notifies the requestor of the result.
- The reviewer will meet the requestor in person to explain the decision.
- If the person affected by the decision does not accept the outcome of the internal review, they may seek an external review of the decision.

QSNTS received three requests for internal review. Despite clear information being available on the QSNTS website, some clients the Review spoke with were nevertheless unaware of the option of requesting an internal review.

Use of cultural materials

QSNTS had clear policies outlining the use of cultural materials

QSNTS policies outlined how cultural materials (including digital and physical formats) should be collected, stored and used throughout the determination process. QSNTS had stringent policies outlined in the QSNTS Legal Practice Manual to ensure that client information was used securely and confidentially. The guidance in the document is focused on the legal requirements of processing a case and providing evidence to the state.

Some clients indicated to the Review that they were unhappy with how their cultural materials were used throughout their claim and beyond. Some Traditional Owners expressed concerns on the information given to QSNTS, being indirectly used to support claims that were not their own or inappropriately shared. This was highly emotional, and the materials were key to their identity. It caused deep distress to have their status and when they would be returned unclear.

5.3.2 TOR 3: External factors

No external factors have been identified for TOR 3.

5.3.3 TOR 3: Recommendations

RECOMMENDATION

3

More regular newsletters and broader dissemination of information to clients and claim groups, in line with QSNTS policies, to improve communication.

RECOMMENDATION

4

Noting the high cultural load carried by FNEAs, QSNTS could develop practices that help mitigate or avoid burnout of Indigenous employees.

RECOMMENDATION

5

QSNTS should ensure that cultural awareness training is consistently available to all staff and contractors within the first three months of their tenure.

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

Operational funding for QSNTS was consistent through the Review period, with varying amounts for demand-driven litigation funding. Expenditure was primarily driven by staff salaries and external consultant costs. Compared to other NTRB-SPs, a significant amount was spent on external consultants, however this spend was anticipated and thus consistently within budget. In general, expenses were appropriate and there were no unusual fluctuations.

Ongoing staffing challenges, particularly for legal staff, led to the high use of external consultants; however, this usage tapered off in FY2021-22. While there was a preference for the benefits that in-house staff bring, particularly in terms of relationship building, positions could not always be filled. There were some suggestions from staff that QSNTS was not always receiving value-for-money from external consultants.

QSNTS was conscious of its financial constraints and implemented some cost-saving measures to address these concerns, including relocating the main office to cheaper premises and closing the Rockhampton office. There was no evidence of a staff travel policy. A refresh of the Assurance Plan, commenced towards the end of the Review period, should provide a more systematic focus on expenditure prioritisation and cost efficiencies in the future.

QSNTS published a travel policy for claim group meetings on its website. However, an earlier policy in place during the Review period did not appear to cover all aspects of the approach QSNTS took to claim group travel, in particular that QSNTS restricts travel assistance to claim applicants. While this approach appears justified in terms of the nature of the region with many non-resident claimants, continued transparency in the published policy is appropriate.

During the Review period QSNTS made improvements to the delivery of claim group meetings, such as introducing a code of conduct and digital platforms to support voting and feedback.

Some of QSNTS's costs, particularly around travel and movement were impacted by the size of QSNTS's region, which has the largest RATSIB land area in Australia.

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, HR, etc.), operations (travel, legal, offices, etc.) or other relevant items

Base funding received by QSNTS was consistent across the years, with significant fluctuations in demand-driven funding

QSNTS received a relatively consistent amount of approximately \$9.4 million in operational funding in each of the three years of the Review period. PBC funding increased from \$1.095 million in FY2019-20 and FY2020-21 to \$1.396 million in FY2021-22.

Other funding²² received by QSNTS fluctuated significantly during the Review period, particularly in the last year of the Review where it doubled when compared to the prior two years. This was primarily driven by litigation funding increases.

Table 11 shows a summary of NIAA funding received by QSNTS.

Table 11 | NIAA funding received by QSNTS 2019 to 2022²³

Funding type	FY2019-20	FY2020-21	FY2021-22
Operational funding	\$9,380,450	\$9,380,450	\$9,380,450
PBC support	\$1,095,950	\$1,095,950	\$1,396,950
Other funding	\$1,470,480	\$2,045,493	\$4,113,506
Total (incl GST)	\$11,946,880	\$12,521,893	\$14,890,906

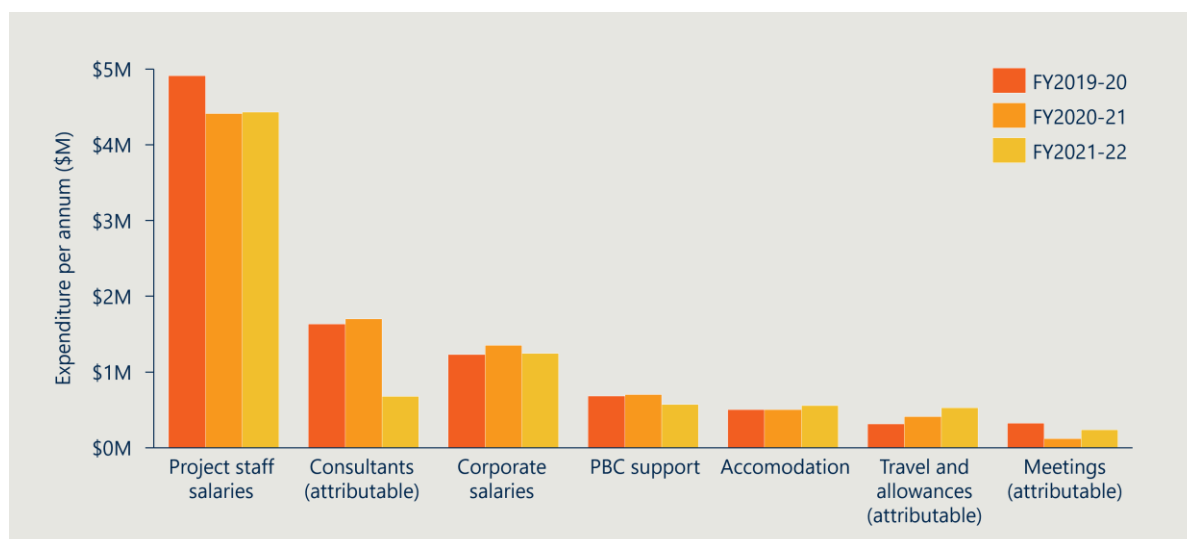
Table does not include external funding or carry-forward amounts.

Salaries were consistently the largest expense for QSNTS

Salaries were consistently double the second largest expenditure item yearly. This included salaries for project staff and corporate salaries, both of which remained relatively stable throughout the Review period.

Despite salaries making up a significant proportion of total costs, staff told the Review that remuneration had become increasingly uncompetitive, and that this had contributed to the staffing and recruitment challenges QSNTS experienced during the Review period. Staff expressed the view that the funding for QSNTS had not kept pace with the growing complexity of claims.

Figure 2 | Select QSNTS expenditure, FY2020-22



²² "Other funding" includes demand-driven variations for specific claims as well as mid-year and end of year variations.

²³ QSNTS. QSNTS 2019-20 Budget to Actual Report. (2021); QSNTS 2020-21 Budget to Actual – Acquittal (2022); QSNTS 2021-22 Budget to Actual (2023). All financial reports based on internal reporting figures shared with NIAA.

The cost of external consultants was also significant, however, there was a sharp decline in attributable consultant expenditure in FY2021-22 compared to prior years, down 60 per cent from \$1.7 million in FY2020-21 to approximately \$680,000.

Other costs saw only minor fluctuations through the Review period. Some changes, such as the lower expenditure on travel and accommodation in FY2019-20 are attributable to COVID-19, but overall, fluctuations were neither unusual nor concerning.

Cost-saving actions, strategies and/or discussions

QSNTS undertook several cost saving activities over the period

These actions included:

- Where possible, QSNTS conducted applicant meetings alongside proponent-funded meetings.
- Increased use of technology to reduce travel costs for meetings.
- Continuing to restrict travel assistance to applicants only.
- Relocation of the main office, resulting in a \$37,000 reduction in energy costs and \$145,000 reduction in rent.
- Closure of the Rockhampton office early in the Review period.
- Outsourcing of the HR function.

QSNTS did not have an internal staff travel policy during the Review period.

QSNTS commenced the refresh of its Assurance Plan to support cost prioritisation

Towards the end of the Review period, in the FY2021-22 reporting period, QSNTS commenced a refresh of its Assurance Plan to review and prioritise expenditure, as well as improve the cost effectiveness of existing controls in accordance with a new risk register. The Assurance Plan is intended to assist QSNTS to conduct internal audits of their expenditure, conduct priority assessments of expenditure areas and improve the cost-effectiveness of existing controls.

Appropriate processes for claim group meetings

QSNTS ran 37 claim group meetings during the Review period

During the Review period QSNTS ran 37 claim group meetings. This figure does not include annual general meetings.

Table 12 shows the breakdown of meetings per year.

Table 12 | Number of claim group meetings per year

FY2019-20	FY2020-21	FY2021-22	Total
16	5	16	37

QSNTS made improvements to the management of claim meetings

During the Review period, QSNTS introduced a code of conduct for claim group meetings. This was in line with a recommendation of the previous Review, where it was suggested that processes for managing

conflict in the context of claim group meetings should be reviewed to maximise the likelihood that meetings were productive and respectful for all individuals attending.

The new code of conduct included plain English guidelines on when traditional decision-making would be applied at meetings. The code of conduct outlined principles of respectful conduct, conduct requirements (such as a speaking time limit), a “one strike policy” for threats of violence and the role of the Chairperson to manage the meeting. This code of conduct was published on QSNTS’s website, although not until after the Review period. Based on feedback from QSNTS staff, the code of conduct was successful in improving the conduct of meetings.

QSNTS also introduced digital systems to support meetings. This included a digital voting platform, online dashboard and virtual information sessions for authorisation meetings, and a QR-based online survey system for capturing feedback after meetings. There was also consideration of how and if a live polling app could be introduced to the meetings process to assess opinion on how well concepts were understood within meetings, though this was not implemented during the Review period.

QSNTS emphasised that digital systems were not designed to replace traditional systems, but to augment them and provide alternate channels to engage with the native title process.

Traditional Owners offered suggestions for improvement to meetings

Many Traditional Owners who spoke with the Review expressed satisfaction with the overall quality of group meetings during the Review period and appreciated the efforts made by QSNTS. Some suggestions for improvements were also raised by Traditional Owners. Common suggestions included:

- Holding meetings more regularly and ensuring all clients received equal meeting attention.
- More accessible meeting locations.
- Stronger management of meetings in accordance with code of conduct, including clearer agendas to prevent them going out of control.

Annual yearly expenditure per claimant group

Altogether, QSNTS spent approximately \$678,000 on meetings during the Review period, for an average of approximately \$18,300 per meeting.²⁴

During the Review period, QSNTS supported 19 claim groups at varying stages of claim progression. Table 13 shows a summary of annual yearly expenditure.

Table 13 | Summary of claim group expenditure

Expense type	FY2019-20	FY2020-21	FY2021-22
Claimants (meetings)	\$324,993	\$119,077	\$234,297
Claimants (travel)	\$161,062	\$224,508	\$243,321
Total	\$486,055	\$343,585	\$477,618

A breakdown in spending for individual claim groups was not provided to the Review team.

²⁴ QSNTS. QSNTS 2019-20 Budget to Actual Report. (2021); QSNTS 2020-21 Budget to Actual – Acquittal (2022); QSNTS 2021-22 Budget to Actual (2023).

Travel assistance policies for claim group meetings

QSNTS did not have a comprehensive policy for providing travel assistance to Traditional Owners on its website during the Review period

A travel policy for providing travel assistance to Traditional Owners attending claim group meetings was published on the QSNTS website throughout the Review period. It was updated following the Review period.

According to the updated policy, Traditional Owners who travelled over 40 kilometres to reach the meeting site were eligible for travel assistance. Depending on the circumstances, the distance travelled, and the time required for travel, this assistance included:

- accommodation
- meals and incidentals
- taxi travel
- carer support payment.

The policy detailed how reimbursements would be made, described policies for claimant non-attendance and limitations to the policy. Some staff noted that travel policies were not strictly enforced and felt that it would be beneficial if there was a stronger commitment to implementation and regular monitoring of compliance. The Review notes that the travel policy allowed QSNTS to exercise discretion in providing assistance for clients who were not eligible under QSNTS travel policy, to allow them to receive some assistance under special circumstances.

Some aspects of the travel policy were not detailed in the policy document on the website during the Review period. This included the restriction of travel to applicants only (rather than all claim group members). Staff advised that QSNTS also placed a cap on the types of travel and travel distance able to be claimed based on the cheapest mode of reasonable transport (as required under the QSNTS funding agreement).

The Review understands that these restrictions on travel were considered necessary due to the large number of non-resident Traditional Owners involved in claims across the region. The version published after the Review period clarifies the general application of the travel policy, including intended recipients of assistance.

Appropriate rationale for use of external consultants

QSNTS's high reliance on external consultants was driven by labour market conditions

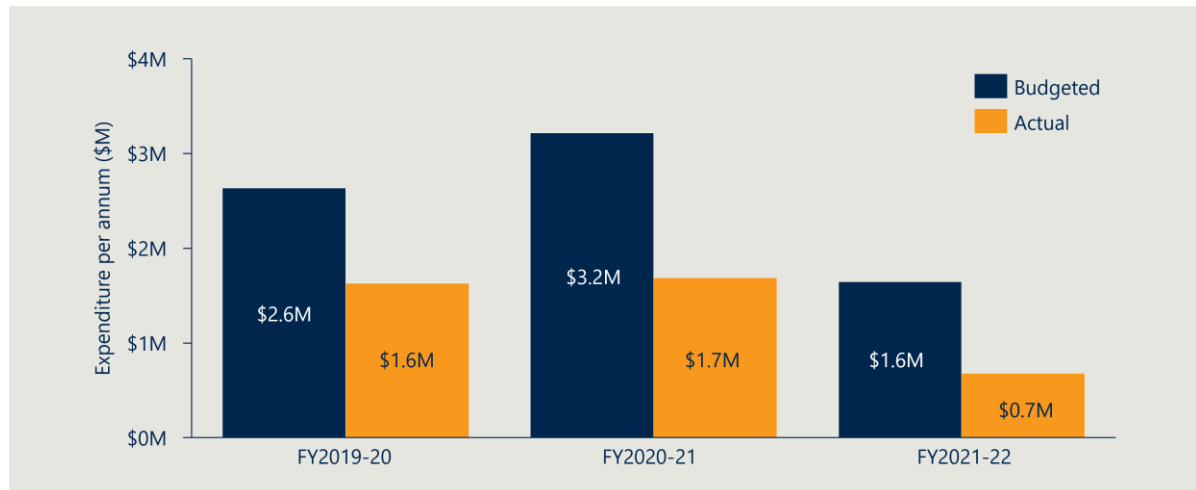
QSNTS depended heavily on external consultants, specifically senior lawyers, to manage its claim load. Acknowledging that outsourcing was more costly than utilising an in-house team, QSNTS advised there was no other alternative to using external lawyers due to difficulties in acquiring the required legal experience within a competitive industry. The proportionally higher levels of expenditure on external consultants were a justified cost considering the tight labour market.

Table 14 | Overview of native title attributable consultant expenditure during the Review period

FY2019-20	FY2020-21	FY2021-22	Average yearly cost for the Review period
\$1,631,153	\$1,686,965	\$680,737	\$1,332,952

QSNTS regularly budgeted a higher amount for external consultants than was used, as can be seen in the detail of budgeted versus actual expenditure in Figure 3. This suggests that QSNTS took a conservative planning approach to the need for external consultants.

Figure 3 | Budgeted versus actual expenditure for attributable external consultants



Staff were not always satisfied with the quality of work from external consultants

Some QSNTS staff noted that the quality of work produced by external consultants could be inconsistent, particularly anthropology and research, despite the increasing cost of obtaining it. There were also reported instances of consultants not completing work following workshops with clients.

Staff noted the difficulties of developing a long-term relationship with Traditional Owners when external consultants were used. Some staff noted that, given the benefits of filling roles with ongoing staff, the QSNTS approach to increasing internal development opportunities available to staff (discussed in TOR 5) was appropriate to ensure that QSNTS had the talent it needed.

5.4.2 TOR 4: External factors

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

Size of RATSIB area

The land area of the QSNTS RATSIB area is the largest in Australia

The southern and western Queensland RATSIB area is about 1,630,000 square kilometres, consisting of 455,000 square kilometres of sea and 1,175,000 square kilometres of land. This area spans about 60 per cent of Queensland's total land area. It is the second largest RATSIB region in Australia by total size (including sea) and the largest by land. This increases the potential costs of doing business.

Remoteness of RATSIB area

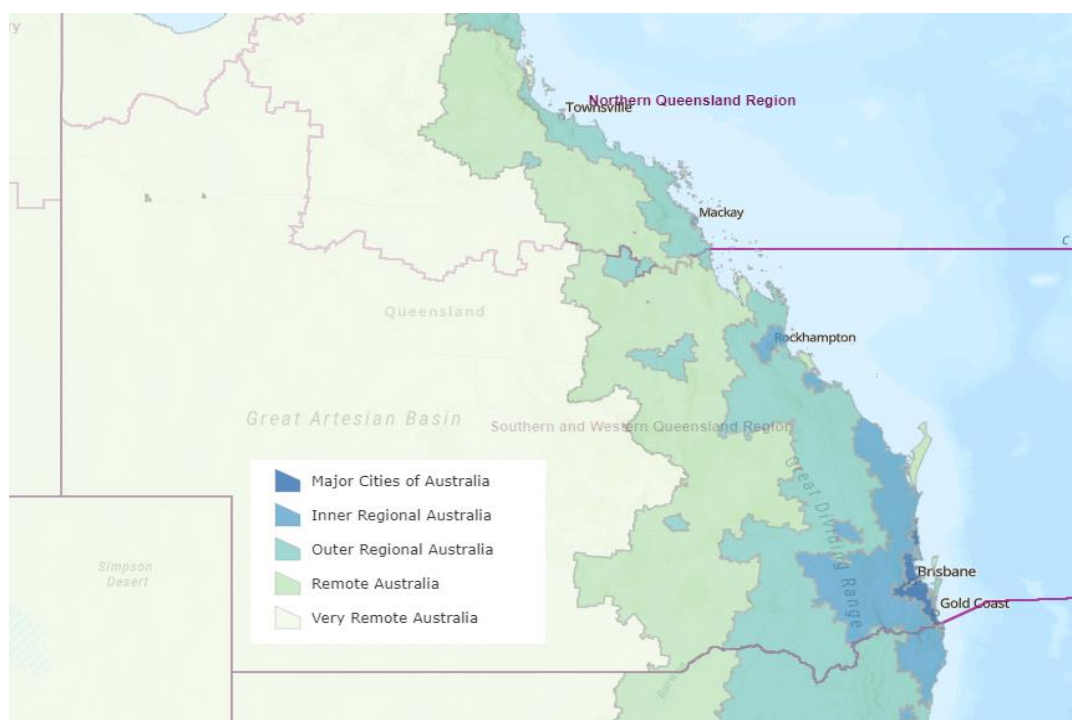
The QSNTS RATSIB area is predominantly remote or very remote, which contributes to higher costs of delivery

The remoteness of the RATSIB area, as measured by the proportion of the RATSIB area within each level of the Australian Bureau of Statistics regional classification, is a significant influence on an NTRB-SPs operating costs. For example, NTRB-SPs operating in more remote areas may pay higher salaries to attract the necessary talent to advance claims and have significantly higher transport costs.

The QSNTS RATSIB area is characterised by diverse levels of remoteness, as per the Australian Bureau of Statistics' ASGS 3 Remoteness Areas. The core population centres, centred around Brisbane and the Gold Coast, are classified as "major cities" and are the least remote areas of the entire state of Queensland. However, moving further inland the region becomes increasingly remote. The western part of the RATSIB area, bordering the Northern Territory, is classified as "very remote". Approximately 90 per cent of the RATSIB area consists of very remote and "remote" land. This proportion of remote land is largely in line with other RATSIB areas in Australia.

At the end of the Review period, most determined areas in the region were within land classified as very remote. The high level of remoteness in the RATSIB area contributed to increased costs in achieving native title outcomes. This included higher costs to facilitate claim group meetings and conduct consultation with clients across the region. Based on these diverse factors, the Review assessed a moderate to high level impact on QSTNS' ability to conduct services in a cost-effective manner.

Figure 4 | QSNTS RATSIB area remoteness regions



Average number of people within a claim group

Claim groups came in a wide range of sizes, but the average size was small relative to the size of the RATSIB

QSNTS supported 19 claim groups during the Review period, with an average of 291 people per claim group and a median of 235. The smallest claim group contained eight members while the largest contained 921. This is a relatively high number of people per claim group relative to other NTRB-SPs.

Although smaller claim groups often bear lower burdens of cost regarding communication and administration, for QSNTS this was undercut by high levels of intra- and inter-group conflict stemming from the significant history of dispossession in the region. In many cases, smaller claim groups were symptomatic of fractured histories that increased the cost and challenge of anthropological work and negotiation. It is therefore unlikely that the instances of smaller claim group size led to simpler claim management for QSNTS.

Interpreters

QSNTS did not use interpreters for their clients

Due to the history of forced removal and of missions in the QSNTS RATSIB area, English was the first language for many Aboriginal and Torres Strait Islanders living in the area, including those from older generations. As a result, QSNTS did not engage interpreters for matters during the Review period. QSNTS also had no policies surrounding the use of interpreters.

5.4.3 TOR 4: Recommendations

RECOMMENDATION

6

Develop a staff travel policy to provide clarity around organisational expectations of staff.

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

QSNTS had a skills-based Board consisting of eight Directors, two of whom were Aboriginal or Torres Strait Islander in FY2020-21 and four of whom were Aboriginal or Torres Strait Islander in FY2019-20 and FY2021-22. The Board carried out its duties in a professional manner and there was a clear separation of roles and responsibilities between the Board and the Executive. Conflict of interest policies were sound and well managed at Board level.

Acknowledging the calls from some Traditional Owners for a representative Board to be established, the Review supports the continuation of a skills-based Board as the most appropriate governance body for the organisation given the high levels of dispute amongst those seeking native title recognition in the region. A non-representative structure enables the Board to remain impartial and objective in relation to operational issues.

Nevertheless, the Review suggests that the creation of a representative Advisory Body and a review of the composition of the Board to ensure the inclusion of more Directors with ties to the local region would go some way towards re-establishing trust in the organisation.

Several structural changes took place in the organisation during the Review period, including the restructure of the Legal/Claims Management Operational teams and the replacement of the COO by a CCO. The Review remained of the view that there would be benefit in more formal discipline-based leadership of anthropology and of the FNEAs.

Towards the end of the Review period QSNTS made conscious efforts to rebuild a greater sense of collaboration and rapport within teams, based on an "interdisciplinary" approach.

There were several verified instances of bullying by staff and the Executive that were not dealt with satisfactorily. However, the Review is satisfied that the circumstances have been addressed and the issue should not be ongoing.

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 responsibilities of the Board and executive were clearly defined and documented

Based on a review of QSNTS documentation²⁵, the roles and responsibilities of the QSNTS Chairperson and Board were clearly defined and documented and were distinct from the roles of the Executive. Roles were in line with standard board practice and did not have overlapping or conflicting functions.

²⁵ QSNTS. Chairperson Role Description. 2020. Accessed January 2024. QSNTS. Board Director Role Description. 2020. Accessed January 2024.

The Board Chairperson was responsible for overseeing the actions of the CEO. The Chairperson was also responsible for working with the Board Directors and CEO to ensure the appropriate composition of the Board structure and Board committees.

Board Directors were expected to attend quarterly meetings. Their responsibilities included participating in the development of, and endorsing, the QSNTS Strategic Plan, Operational Plan and budget. They were also tasked with approving major decisions such as operation and service changes as well as developing and approving Board-level policies.

The CEO's responsibilities included ensuring that QSNTS competently performed the functions set out in the NTA and the provisions of its own Constitution. The CEO was responsible for managing the day-to-day operations of QSNTS, ensuring improvements across the different business units and a high work performance of staff. The CEO was also responsible for providing high level advice to the Board and implementing decisions set by the Board.

The organisational structure was modified toward the end of the Review period

At the beginning of the Review period the QSNTS Executive Team consisted of the CEO, Executive Officer, PLO, CFO and the COO. The latter position was replaced by a CCO position in 2022, towards the end of the Review period. According to the COO position description, the COO had the responsibility of overseeing the business activities of the operational unit, including the Legal, Research and Community teams and the management of the TraKS database.²⁶

The rationale for the removal of the COO position was to place greater emphasis on developing capability within the organisation. The CCO role²⁷ had broadly similar responsibilities to the COO role, but with greater emphasis on strategic planning. Responsibilities included professional development and training, recruitment, performance management, creation of a learning environment and culture, high-level reporting, periodic culture surveys and capability needs analysis. The CCO role also took on responsibility for managing and overseeing QSNTS client complaints processes.

The HR function was outsourced during the Review period

As demonstrated in Figure 5, the HR function reported to the CFO at the start of the Review period. As the organisation continued its structural transformation, the HR function was outsourced and managed from the CCO position. The QSNTS executive advised that this decision was made to increase the efficiency of this specialised function.

Under the PLO, the legal units were restructured to create more integrated teams

Prior to the Review period, the PLO had oversight of four legal teams (renamed Client Management Teams and later Operational Service Delivery teams) – three dealing with claims and one responsible for Future Acts and PBCs. In 2020, QSNTS made changes to the organisational structure to move the Future Acts and PBC responsibilities into the legal teams. This was intended to reduce the "legalistic" nature of the structure and create more collaborative teams. The FNEAs²⁸ were moved into the two legal teams alongside anthropologists and researchers. Staff consulted during the Review were generally enthusiastic about the more integrated team structure. However, some staff found the structure somewhat challenging due to the large size of units, wide variety in functions within their units and only having one manager to oversee all functions across one unit.

²⁶ QSNTS. Position Description: Chief Operating Officer. 2020. Accessed January 2024.

²⁷ QSNTS. Position Description: Chief Capability Officer. 2023. Accessed January 2024.

²⁸ Previously named Community Liaison Officers.

Figure 5 | QSNTS organisational structure, June 2020²⁹

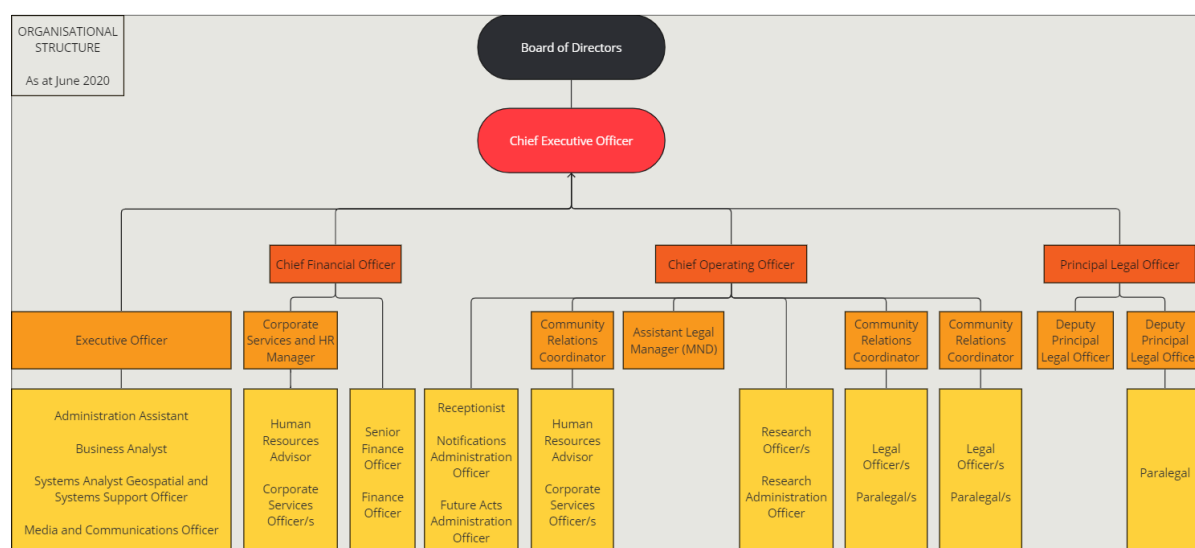
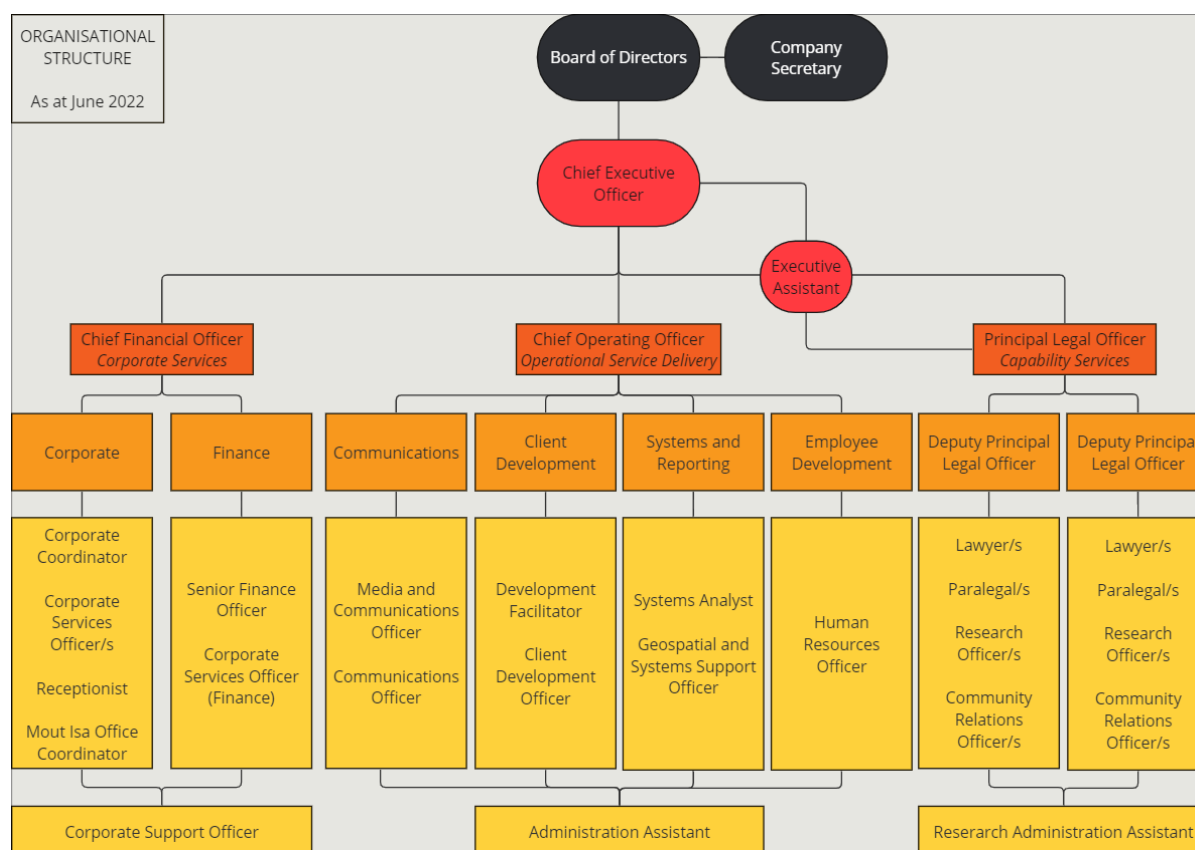


Figure 6 | QSNTS organisational structure, June 2022³⁰



Leadership of anthropology and First Nations Engagement could be strengthened

One consequence of the two-team integrated structure was that there were no discipline-based leadership or management positions for either anthropology or First Nations Engagement. Rather, these functions reported to the Deputy PLO positions in each of the two teams. This created instances where staff did not

²⁹ QSNTS Annual Report 2019-2020.

³⁰ QSNTS Annual Report 2021-2022.

have clear points of escalation, or situations where their manager was not able to provide guidance or advice specific to their task.

The lack of a senior anthropology role was noted by the previous Review, with a recommendation to create such a position. In response, QSNTS appointed a COO with anthropological qualifications in an attempt to meet the recommendation. QSNTS advised the Review that this position or its closest equivalent is no longer held by a person with anthropological qualifications. Based on the extensive dissatisfaction of some Traditional Owners with the discrepancies between their stories and the anthropology underpinning their claim, the Review suggests that a stronger voice for anthropology and research within the organisation could help relationship development. The lack of a strong focus and independence for anthropology risks it being given less weight in decision-making and policy development. A senior role would also help facilitate the further development of junior anthropologists.

While one of the senior FNEAs who had been with QSNTS for over ten years appeared to be in a de facto leadership role, this was not recognised in the structure. A leadership role would provide guidance and support to less experienced FNEAs across both Operational Service Delivery teams. It could also assist in fostering stronger relationships across the region.

Board integrity and capability

Board responsibilities were clearly defined in the QSNTS Code of Conduct

The Code of Conduct for Individual Directors sets up clear standards of behaviour, as summarised in Table 15. Directors had a clear understanding of their role and responsibilities in alignment with the Code of Conduct.

Table 15 | QSNTS Code of Conduct³¹

Code of Conduct of Board Directors and Company Secretary
• Directors will act with honesty and integrity in all their dealings with QSNTS. • Directors’ personal, cultural or other business dealings will be kept separate from their dealings as a Director of QSNTS. • Directors will not use the name of QSNTS to further personal or business transactions. • Directors will use goods, services and facilities in accordance with the terms on which they are provided. • Directors will ensure that confidential information relating to clients, stakeholders, employees and QSNTS operations is not given through third parties without the consent of the Board. • Directors will fully disclose active private, cultural or other business interests promptly and any other matters leading to a potential, actual or perceived conflict of interest. • Directors will comply with all Australian laws at all times. • Directors will not use their status or cultural standing in the community to seek personal gain. • Directors will comply with the QSNTS policies and procedures. • Directors shall treat each other with respect, courtesy and fairness, and have regard for each other’s rights, safety and welfare. • Directors shall remain informed about QSNTS operations as well as relevant legislation, policies and procedures, and will contribute actively to all aspects of the Board’s role. • Directors shall attend all Board meetings and provide apologies to the Chairperson of any absence to the meeting. • Directors shall channel all communication between the Board and staff through the CEO.

³¹ QSNTS. Code of Conduct for Individual Directors. 2020. Accessed January 2024.

Code of Conduct of Board Directors and Company Secretary

- Directors shall support all Board decisions and not make unauthorised public statements about QSNTS business.
- Directors will take all necessary steps to understand and assess financial reports, audit reports and other financial material that comes before the Board.

Attendance at Board meetings remained high throughout the Review period, with few absences from Board Directors and QSNTS Executive staff.

There were differing views on the appropriateness of a skills-based Board

The QSNTS Board had eight Directors who were appointed by the Governance Committee of the Board, based on their skillset and experience in corporate, government and not-for-profit areas. Board Directors included Directors with depth of experience in relevant fields, such as native title law, property law, sociology, finance and business. Two Directors were Aboriginal or Torres Strait Islander.

There was a consensus among Board Directors and senior leaders that a skills-based Board was an appropriate and effective governance approach for the QSNTS organisation. Directors and staff noted that this approach allowed the Board to remain above conflicting interests and remain impartial and objective in relation to operational issues, given the high levels of dispute amongst those seeking native title recognition.

This view was not shared by many of the vocal Traditional Owners who spoke to the Review. Traditional Owners in the greater Mount Isa region believed the non-representative nature of the Board was a fundamental failing as it did not capture the views of Traditional Owners and the community effectively. As one stakeholder said:

People don't like having people who don't have a community connection. A lot of people haven't seen these people on the Board, so that's why they think they're not part of community.

The most vocal of these stakeholders believed that the Board was acting like a "private company" and not listening to the views of Traditional Owners. These stakeholders called for the organisation to be removed and replaced by a representative body comprised of Traditional Owners.

Other stakeholders were less extreme in their view of the Board, calling for the Board to include more Directors with greater local understanding of the situation for Aboriginal native title holders across the region. Stakeholders indicated that having an Aboriginal or Torres Strait Islander person was not enough, and rather, their experience and connection to local Aboriginal communities and the specific issues they faced was an important precondition to be able to serve the local community.

Strengthening the Board's connection with the local region could improve its standing

The Review supports the continuation of a skills-based Board as the most appropriate governance body for the organisation. However, some of the angst in the community could be alleviated by taking steps to ensure there is more opportunity for Traditional Owners to feed their concerns and perceptions to the Board, particularly in the greater Mount Isa region, where long-standing dissatisfaction with QSNTS has been in evidence since well before the Review period. This was supported by some staff members who noted that the board needed more mechanisms to "feed in" voices from the community whether it be through formal or informal structures.

In relation to external relationships, the roles and responsibilities of the Chairperson, Board Directors and CEO did contain some specific clauses. One of the responsibilities of the Chairperson was to represent the Board in external forums and co-ordinate external relationships alongside the CEO. Directors were expected to "attend to any additional responsibilities, such as events, working groups or providing final

approval for annual reports”³². The Review understands that Board Directors often attend Determination events. The CEO had responsibility for establishing and maintaining working relationships with representatives of government and stakeholder organisations, and for developing and implementing strategies to enhance client relationships and service delivery, including through active community relations and partnerships.

However, the Review found that the roles and responsibilities of the Chairperson and Board omit any reference to the best practice principles applying to a skills-based Board in terms of hearing from and listening to stakeholders, as recommended by the Australian Institute of Company Directors.³³ Given the extent of dissatisfaction with the outcomes of native title claims across the region, the inclusion of this principle in the roles and responsibilities would be a useful starting point.

A further consideration would be the creation of a representative regional advisory council, as has been created for the Kimberley Land Council. Periodic meetings of such a council with the Board would help to ensure that Board Directors are in touch with, and seen to be in touch with, the concerns in the community. It would not be intended as a mechanism to solve such concerns, rather an exercise in listening and providing non-western oriented perspectives to guide the Board’s understanding of the diverse communities within the remit of QSNTS.

Reconsideration of the composition of the Board may also assist in alleviating the negative image some Traditional Owners hold of the Board

It would also be appropriate, given the level of concern in parts of the community, for the Board to consider the balance of skills and backgrounds in the composition of the Board, to give greater weight to the inclusion of local Aboriginal experience. When asked by the Review whether the Board had considered increasing the number of Aboriginal Directors, the Board advised that they had tried to do so but had been unable to attract suitable candidates. There could be an opportunity to review desirable Board capabilities and place greater priority on developing an advertising strategy for Director positions.

Conflicts of interest

QSNTS had well-defined conflicts of interest policies clearly documented

QSNTS had clear conflict of interest definitions, policies and procedures for Board Directors and employees to follow. The Conflicts of Interest Policy emphasised the importance of the paramount duty to the company, maintaining transparency, having consistency and fairness as well as the individual responsibility of all Board Directors.³⁴

A detailed Conflicts of Interest Register was maintained to record the information of Board Directors who declared a conflict. The register had details of the interest disclosed, the nature of it and all actions taken to mitigate further risks or conflicting interests.

QSNTS staff were expected to comply with provisions around confidentiality and the details outlined in the QSNTS Discipline Policy and Grievance Resolution Mechanism Policy. Further protocols were detailed in the QSNTS Legal Practice Manual³⁵ for QSNTS staff to adhere to in their work. These protocols include:

- Initial screening process before a claim to understand any overlaps between claims.
- Information barriers set between physical and electronic documents.

³² QSNTS. Code of Conduct for Individual Directors. 2020. Accessed January 2024.

³³ Australian Institute of Company Directors. Governance Analysis Tool. Accessed September 2023.

³⁴ QSNTS. QSNTS Conflicts of Interest Policy. 2023. Accessed January 2024.

³⁵ QSNTS. QSNTS Legal Practice Manual. 2023. Accessed January 2024.

- Security measures on printing.
- Allocation process to avoid conflict of interest between lawyers on claims.

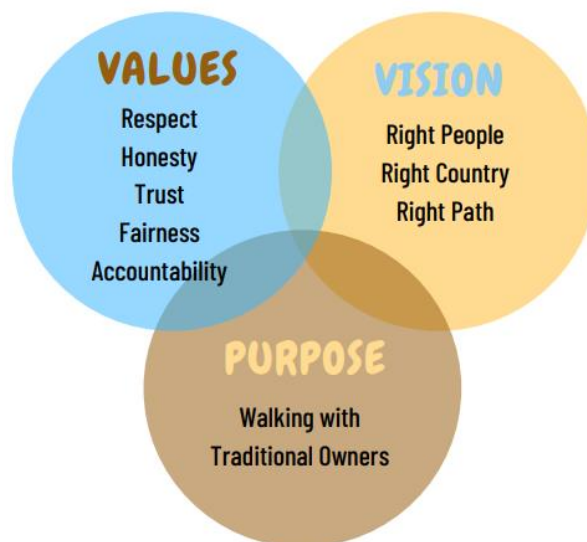
Throughout consultations, staff and Board members expressed a clear understanding of the Conflicts of Interest Policy and its associated procedures.

Culture and values

QSNTS had a clear vision, purpose and set of values which were understood by Board and staff

QSNTS's 2018-2022 Strategic Plan guided the organisation's activities during the Review period. The QSNTS values, vision and purpose were well-defined and interconnected. They were centred around the purpose of "Walking with Traditional Owners", as outlined in the diagram below. Employees generally had a strong understanding of the values, vision and purpose.

Figure 7 | QSNTS vision, values and purpose³⁶



During the Review period allegations of bullying across all levels of the organisation impacted productivity and overall staff wellbeing

Several QSNTS staff reported experiencing repeated instances of bullying and poor behaviour from other staff members, including some Executives. QSNTS staff who spoke to the Review were concerned that this behaviour had taken longer than it should have to be addressed. This had a negative impact over staff culture and performance in certain teams and resulted in some individuals leaving the organisation.

The Review received feedback that QSNTS staff members who were impacted by the bullying were unhappy with how senior management addressed the issue throughout the Review period. Staff stated a range of issues including senior management:

- not taking complaints seriously from staff
- not supporting team members during an incident

³⁶ QSNTS. QSNTS Vision, Values, and Purpose. 2022. Accessed January 2024.

- taking an excessively long time to resolve the issue.

Throughout consultations, some staff emphasised the importance of QSNTS continuing to build a safe and positive workplace and ensuring that any future incidences of bullying were prevented. There was also a strong call from some staff for senior management to take a more proactive and non-biased approach to bullying complaints, by handling them faster and with more empathy. The Review notes that the organisation was aware of this issue and that the restructure at the end of the Review period may assist in ensuring a more proactive approach.

Towards the end of the Review period QSNTS made conscious efforts to rebuild a greater sense of collaboration and rapport within teams

Following the implementation of the CCO position, QSNTS leadership made considerable efforts to improve the workplace culture within teams and the broader organisation. A key strategy was the implementation of the Whole of Client, Whole of Organisation (WOCWOO) model. WOCWOO emphasised the importance of collaboration between teams, using an interdisciplinary way of working, rather than a multi-disciplinary one. It aimed to reduce the sidelining of certain staff, minimise siloing and promoted a “generalist knowledge” of issues across the organisation.

In consultations, a high number of staff commented on the shift in attitudes within and between teams after implementing WOCWOO. Staff were particularly receptive to its impacts on improving work performance and efficiency. As they stated:

- “WOCWOO is helping teams to address issues more efficiently.”
- “The best way to support clients was to extend project management to a Whole of Client, Whole of Organisation model, where all parts of the organisation work together (interdisciplinary) to manage clients in line with a project management platform to produce the best outcome for the client.”
- “WOCWOO is creating organisational efficiency because it helps the team to see clients from a broader corporate lens.”

The Review found that WOCWOO had started to have an impact on work performance and team collaboration by the end of the Review period, improving overall workplace culture and allowing employees to develop a better sense of unity with each other.

Feedback from the Review’s survey of employees indicated that 80 per cent of respondents saw QSNTS as a “very good” or “good” place to work and only 20 per cent saw it as “neither good nor bad”, “bad”, or “prefer not to say”.

Following the Review period, an external consultant, Bendelta, was hired to perform a Strategic Health Check Survey on key elements of QSNTS’s culture and planning approaches.³⁷ The key findings from the Bendelta review are summarised in Table 16. To some extent, these findings reflect on organisational performance through the Review period, but the Bendelta review notes that there is still room for improvement. There is still room for management to model the behaviours the organisation is seeking to instil in its staff.

Table 16 | Bendelta Strategic Health Check results

Area	Key findings
Whole of Client Whole of Organisation	• Most respondents fully or mostly understood the concept and agreed that embracing it could lead to more integrated services.

³⁷ Bendelta. QSNTS Strategic Health Check Survey. 2023. Accessed January 2024.

Area	Key findings
	• Around 85 per cent of employees said they were actively encouraged to embrace and engage WOCWOO concept by leaders and colleagues in QSNTS. • Most indicated they were only familiar with some of the services offered and how they were delivered; not all of them. Close to half of respondents did not receive guidance on how to think or work holistically.
Specialist to Generalist Strategy	• Most respondents were encouraged to share their specialist knowledge with other team members. • Some participants indicated there was no culture of specialist knowledge and did not feel adequately equipped to expand their service delivery beyond their current specialisation.
Interdisciplinary Team Approach	• Most participants agreed that specialist corporate knowledge was important or very important. • When asked if management applied collaborative behaviours when working together on client management plans, activities and tasks, 43 per cent responded "rarely" or "not at all".
Project Management – Client Management Planning – Client Management	• Majority of respondents felt that methodologies of the client management planning were well aligned and applied within QSNTS to achieve the QSNTS 2023-28 Strategic Plan. • Most participants felt that Claims Management Team meetings were effective and impacted client management significantly or greatly. • A large proportion of respondents stated Monday.com (key management tool) was used moderately effectively.
Lawyer Support Structure Model – Better ways of working	• Most respondents felt that lawyers primarily focused on the legal aspects of their client work, but lawyers were still involved in the administrative tasks to some extent. • The effectiveness of the current task allocation within the Operational Service Delivery teams was moderately effective.

Cross-organisational collaboration and learning was limited by the information barriers between the two Operational Service Delivery teams

The information barriers between the two Operational Service Delivery teams were necessary to ensure security and confidentiality, as the teams were at times acting for different parties to the one claim. However, there was a view from some QSNTS staff that the separation unnecessarily prevented more collaborative learning opportunities across the whole organisation. This siloing effect was not considered beneficial to the organisation as a whole and some staff thought the organisation should invest in more cross-organisational sharing of experience and practical learning opportunities, rather than being restricted to their specific teams.

Financial management

QSNTS had a robust approach to financial management through clear policies, processes and tools

QSNTS received unqualified audit reports for each of the three years of the Review period.

QSNTS implemented a range of financial management strategies alongside its internal policies to ensure it complied with its fiscal and risk obligations. This included aligning processes and policies including the Fraud and Corruption Policy, Internal Audit Policy, and Risk Management Policy and Procedure. As defined under the Internal Audit Policy, QSNTS conducted routine internal audits and implemented an Assurance Plan. Financial management and strategies were predominantly handled by the CFO, two members of the finance team and support from the Board Audit and Risk Committee throughout the Review period.

QSNTS also employed a strategy to become less reliant on paper and hardcopies through the integration of new tools and technology. This included the introduction of a cloud and file-sharing service, as well as the use of MYOB Exo Business as the primary tool to manage the workflow, processing and financial reporting across each of the units.

QSNTS staff reported the COVID-19 protocols developed by QSNTS helped the organisation manage financial processes through the pandemic.

Training and professional development

Staff training was a mix of formal and informal sessions

According to the QSNTS Annual Report 2021-2022, staff received access to a wide range of professional development opportunities. This included “various training seminars, workshops, forums, conferences and webinars” as well as a range of core training, specific professional development training, workplace health and safety training, and some cultural awareness training.³⁸

All new staff members received formal induction training to understand the general aspects of native title and the digital systems used at QSNTS. This training included videos on various aspects such as geo spatial training, PBC support, meetings, Future Acts and ethics. One staff member commented that the induction training had improved across the Review period, but it was “too fast”, and the material was not readily available for participants to access and read over. Another staff member agreed that while the induction process improved, it needed to provide more information and support to prepare employees to engage with the community.

Role-specific training varied in depth, detail and consistency according to the role and team. The Review found that certain teams received structured and formalised training, where they were given specific direction on how to learn and perform their role and its associated skillsets. Other teams did not receive “official training” but were given guidance and more on-the-job experience to perform their role. Throughout consultations, some staff said that they were “thrown too much in the deep end” and in some cases, felt underprepared for certain tasks. Similarly, staff had mixed sentiments on receiving cultural competency training, with some long-standing staff not receiving any training during the Review period.

Senior QSNTS staff acknowledged that since the Review period, there have been changes and improvements made to staff training, with more regular and consistent training being provided to new and long-standing staff. Staff also acknowledged that the high turnover in staff made it difficult to ensure there were consistent and regular training mechanisms.

QSNTS had a strong focus on improving project management, client management and client planning through implementing a new workflow tool

QSNTS introduced new tools and methodologies to enhance the general skillset of legal staff. These tools were primarily focused on enhancing the project management skillset to ensure that each claim, and their associated client group, could be managed efficiently. A key tool implemented during the Review period

³⁸ QSNTS. QSNTS Annual report 2021-2022. Accessed January 2024.

was the Monday.com software, which was used to assist with the workflow of Client Management Plans, and help staff prioritise and complete workloads within the right timeframes.

Further, QSNTS staff were provided with a number of clear documents to help them learn how to use Monday.com.³⁹ This included a Monday.com cheat sheet, Client Management Planning Board, Dashboard Integration document and a Variation Request Form.

QSNTS had a strategic approach to junior professional development

QSNTS senior management were very conscious of the shortage of experienced staff and the predominantly junior workforce. In response, QSNTS senior management developed a “grow our own” model to develop and recruit junior employees. This involved recruiting graduates and paralegals who had interned or worked in the organisation throughout their university studies, to return as junior lawyers.

QSNTS had previously had a close relationship with the Aurora Indigenous Internship program and recruited Indigenous interns on a regular annual basis. However, as the Aurora program received decreased funding throughout the Review period, QSNTS was not able to rely on this source of staff. Staff who went through the grow our own model or the Aurora internship program provided positive feedback to the Review, stating that they were highly satisfied with their role and the experience they gained to help build on their professional development through QSNTS.

Senior management were aware of the key importance of building capability and professional development within their teams. As outlined in the role descriptions for each Executive and senior staff member, managers are required to have active engagement in the training and professional development of each of their team members. This is further supported with an allocated budget to progress training for people in the organisation.

Some staff were concerned that there were limited options for mid-level employees to progress their careers, due to the relatively flat structure of the organisation. Relative to the remainder of the legal profession, junior employee salaries were not as competitive due to limited budget. Furthermore, there was limited capacity for First Nations staff to progress higher in their careers, with most Indigenous employees remaining in relatively junior administrative roles. The Review additionally notes that there was no indicated succession planning for the single staff member based in the Mount Isa office.

Regular appraisal processes were in place to support internal staff development, but not for contractors and consultants

QSNTS staff received annual performance appraisals through a “two-way conversation” between the manager and employee. This process included formal feedback to the recipient based on their personal development plans, as well as considerations around what training the employee would like to receive to further progress their skills within QSNTS. The Review was not made aware of any formal feedback or performance appraisals for consultants or contractors hired throughout the Review period. Given the high number of contractors, and some commentary outlined earlier about the performance of contractors, this is a potential gap in performance management.

Level of staff turnover

QSNTS had relatively high staff turnover, largely due to the competitive market

Throughout the Review period, QSNTS had a high number of staff resignations and a low level of permanent contract renewals. As outlined in Table 17, a high proportion of QSNTS staff members were on one- to two-year contracts, rather than more permanent employment agreements. This resulted in many

³⁹ QSNTS. Community Relations Officer Process Manual. 2020. Accessed January 2024.

workers not being retained and leaving the organisation. However, during 2021 to 2022 three long-standing temporary contract positions were made permanent including a legal officer, a corporate officer and a finance officer.

In consultations, QSNTS staff raised the challenge of attracting and retaining employees in a highly competitive industry with budget constraints. Various stakeholders noted that retaining junior employees proved an ongoing challenge that limited the workload and capacity of some teams. Junior lawyers had a higher turnover rate as some found the native title area and context challenging for the beginning of their careers.

Some clients noted the impact of ongoing staff turnover, as they found it difficult to sustain long-term relationships and maintain progress on their claims, adding to communication and engagement frustrations by some Traditional Owners with QSNTS. QSNTS staff were aware that the lack of continuity caused by high turnover was an ongoing challenge for the organisation.

Table 17 | QSNTS staff turnover by designation⁴⁰

Financial year	Number of full time equivalent (FTE) staff	FTE turnover	Staff on contract work	Number of people resigned
2019-20	56	34%	28	N/A
2020-21	49	38%	29	16
2021-22	48	31%	17	20

Numbers of First Nations staff reduced over the period

During the Review period, the number of First Nations staff decreased from 16 to 12 employees which aligns with the generally high turnover. On average, First Nations staff made up 26.7 per cent of the total staff at QSNTS.

Table 11 | QSNTS (headcount, not FTE) staff distribution based on Indigeneity

	FY2019-20	FY2020-21	FY2021-22
Number of non-Indigenous staff	56	49	48
Number of Indigenous staff	16	13	12

5.5.2 TOR 5: External factors

No external factors were identified for TOR 5.

⁴⁰ QSNTS. QSNTS Annual Report 2022-2023. Accessed January 2024., QSNTS. QSNTS Employment Statistics. June 2022-June 2023. Accessed January 2024.

5.5.3 TOR 5: Recommendations

RECOMMENDATION

7

Create discipline-based leadership roles for anthropologists and FNEAs to provide guidance for more junior staff in these roles, while providing a career pathway for staff. A form of matrix management could also be considered.

RECOMMENDATION

8

The Board implement a stronger mechanism to incorporate greater local input into the direction of QSNTS. Recommended mechanisms include:

- increasing the number of local Aboriginal Directors
- the creation of a representative regional advisory council.

RECOMMENDATION

9

Develop an advertising strategy for Director positions for any future vacancies, to prioritise an increase in Aboriginal Directors with experience and connection to local Aboriginal communities.

RECOMMENDATION

10

Noting the need for information barriers between the Operational Service Delivery teams for confidentiality and conflict of issue reasons, QSNTS to identify and implement mechanisms for lesson learning and information sharing across the organisation, including across the separate Operational Service Delivery teams.

RECOMMENDATION

11

Implement a performance monitoring and review arrangement for contractors and external consultants.

RECOMMENDATION

12

Given the extent of dissatisfaction with the outcomes of native title claims in some parts of the region, adopt the principle of hearing from and listening to stakeholders (as recommended by the Australian Institute of Company Directors) in the roles and responsibilities of the Board.

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

Summary

By the end of the Review period, QSNTS was delivering services to 25 of the 29 PBCs located within the RATSIB area, with formal service agreements in place with 14 of the PBCs. The progress of each PBC towards self-sufficiency was not documented.

QSNTS did not have a dedicated PBC Support Unit, but instead provided PBC support from within the Operational Service Delivery teams. This approach was taken to maintain relationship and knowledge continuity throughout the claim process.

QSNTS had a clearly articulated fee-for-service policy to guide the delivery of services to PBCs, but support was limited by the amount of PBC funding in the budget.

Similar to the experience in other RATSIB regions, there was conflict within some PBCs about the composition and functionality of their PBC.

The lack of a formal documented process for the return of cultural materials to PBCs meant that several Traditional Owners who spoke to the Review were not clear about the process for return of their materials.

The development and piloting of the PPP program during the Review period led to the roll-out of this innovative and well-received program of development for PBCs shortly after the Review period.

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

PBC support was provided within the NIAA budget allocation throughout the Review period

PBC support provided by QSNTS throughout the Review period included legal assistance with native title related agreements, such as ILUAs, and administrative support for key PBC functions such as meetings, governance and financial administration.

QSNTS staff described the organisation's approach to delivering PBC services under the native title grant as "light on the ground". Staff advised that the workload of supporting PBCs had increased during the Review period, partially the result of additional PBCs and partially an increase in the need for services from existing PBCs. This growth meant that QSNTS was unable to meet the need for PBC support services for much of the Review period. The Review notes that while QSNTS was required to prioritise activities and make funding decisions within its budget, it was also able to seek additional funding from the NIAA for matters that it considered had merit and could not be accommodated within its current budget. QSNTS did not apply for any additional funding for PBC support through the Review period.

QSNTS did not have a dedicated PBC Support Unit, with PBC support provided from within the Operational Service Delivery teams

For most of the Review period, support to PBCs was provided from within the Operational Service Delivery team rather than by a dedicated PBC Support Unit as is common in other NTRB-SPs. QSNTS rationale for

this structure was that it would provide continuity throughout the claims process and on into post-determination management.

One drawback of this approach was that there was unclear accountability about who was ultimately responsible for PBC services and how the policy and strategic direction for PBC support was determined and implemented. According to the Strategic Plan, the CEO was responsible for setting PBC policy and strategy and overseeing service delivery to PBCs. QSNTS staff engaged in the Review noted that the formulation of policy and strategy for PBCs is a collaborative effort led by the QSNTS Board and Directors.

QSNTS staff noted that the Deputy PLOs (as the Operational Service Delivery leaders), the CCO, CFO and CEO all had a role in determining PBC strategy and operationalising strategy into tangible outcomes. This strategic direction is outlined in the QSNTS 2018-2023 Strategic Plan, where the Board articulates PBC strategy through two core initiatives: "Supporting Traditional Owners to manage Country" and "Becoming the service provider of choice for PBCs".

QSNTS had a clearly articulated fee-for-service policy to guide the delivery of services to PBCs

The PBC services policy set out the services that QSNTS would provide free of charge (funded from native title grant funding) and when it would charge the PBC or seek to recoup the cost from proponents. PBCs could pay for services from QSNTS that were not funded through the native title grant funding.

QSNTS reported that fees were calculated on either a cost recovery basis or in line with market rates. Services fall into three categories. Table 18 provides an overview of the services provided by QSNTS to PBCs.

Table 18 | Overview of PBC services provided by QSNTS

Service category	Services	Resourced by
Future Acts	Research	Section 29 (Mining and Exploration) and section 24MD (compulsory acquisition) services are based on a fee-for-service from proponent. All other services related to the Future Act regime are funded by QSNTS.
	Legal representation	
	Legal negotiation	
	Conflict resolution	
	Administration support	
	Agreements Online Data base – TraKS	
Cultural Heritage	Legal representation	Fee for service – proponent.
PBC support	Website support	Fee for service.
	Financial services	
	Human resources	
	Legal representation and statutory compliance	As referred to under Future Acts.
	Grant administration and application	PBC Support Funding Applications – funded by QSNTS. All other funding applications for other grants – fee for service.
	Aspirations and Strategy workshop Research Legal services and statutory compliance	Where a PBC is listed in the Operational Plan, the operational staff time and travel is funded by QSNTS. All other costs are covered by the PBC.

Service category	Services	Resourced by
	Conflict resolution PBC Capability building Administration support	Where a PBC is not within the Operational Plan, fee for service.
	PPP program	Other Indigenous Advancement Strategy (IAS) Grant funding.

QSNTS adopted a discretionary approach to the use of the PBC basic support funding

For most of the Review period, the funding provided by NIAA to support PBC basic compliance was able to be used by individual NTRB-SPs as they saw fit, to best support the PBCs in their region. The Review notes that the basic support funding approximates to \$70,000 per PBC and was primarily focused on compliance with Office of the Registrar of Indigenous Corporations (ORIC) requirements.

PBC allocation was distributed equally to PBCs that applied for support funding. It was up to the PBC to elect whether the fund was paid to them in two tranches or managed for them by QSNTS. QSNTS did not make a qualitative assessment of the PBCs capacity to manage funds nor did QSNTS withhold funds based on capacity.

In general, QSNTS provided similar amounts of funding to PBCs across the Review period.

QSNTS delivered services to most of the PBCs located within the RATSIB area, with formal service agreements in place with about half of the PBCs by FY2021-22

In both FY2019-20 and FY2020-21, QSNTS provided \$1,095,950 between a total of 15 PBCs. In FY2019-20 six PBCs were "represented" by QSNTS – that is, their funding was managed by QSNTS and eight PBCs had formal service agreements. QSNTS ceased representing two of the six PBCs by FY2020-21⁴¹.

In FY2021-22, the amount of funding provided to PBCs increased to \$1,396,950 across 21 PBCs, with 12 PBCs being represented by QSNTS. QSNTS funded 14 PBCs through a formal service agreement.

Of the 29 PBCs in the RATSIB area at the end of the Review period, QSNTS provided services to 25 of these. Four PBCs had no relationship with QSNTS.

Table 19 | QSNTS supported or funded PBCs

Financial year	Total PBCs funded	PBCs with funding application or agreement	PBCs with funding managed by QSNTS	PBCs with assistance provided by QSNTS	PBCs with formal service agreement	Total PBC funding per year
2019-20	15	7	6	9	8	\$1,095,950
2020-21	15	7	5	8	8	\$1,095,950
2021-22	25	8	12	15	14	\$1,396,950

⁴¹ QSNTS Annual Reports 2019-20 and 2020-21.

Conflict within PBCs about the composition of their PBC was consistently raised with the Review by Traditional Owners

Traditional Owners reported that the subsequent functioning of a PBC following successful determination was often fraught. The Review was made aware of several instances where PBCs became dysfunctional due to dissatisfaction with the makeup of the claim. The negative impacts of claim composition on PBC functionality were acknowledged as a systemic issue across the native title system.

QSNTS noted the option that amending PBC rule books was one way that native title holders could navigate this potential conflict post-determination to balance family group representation more fairly. However, this option was either not widely known by Traditional Owners or not generally accepted as a solution. Many Traditional Owners who spoke with the Review were completely focussed on addressing what they saw as inaccurate membership of their claim. This was overshadowing potential work on exercising their rights and interests.

The Review acknowledges that the heavily contested nature of the QSNTS RATSIB areas created challenges for PBC functioning.

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

No PBCs with a formal service agreement with QSNTS received regulator intervention during the Review period

No PBCs in the QSNTS RATSIB area with a formal service agreement with QSNTS had intervention from ORIC or other regulators within the Review period.

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

The Review was not able to locate any documentation that outlined the progress towards self-sufficiency of the 25 PBCs supported by QSNTS or any categorisation of their progress.

QSNTS developed the innovative PPP program to deliver its post-determination vision

Although it was not fully funded until after the Review period, the PPP “Yarning and Doing” Framework was developed and piloted during the Review period to guide the delivery of “nation building” services to Traditional Owners. The PPP Framework draws on Traditional Owner culture, knowledge, skills and experience to tell the story of native title rights over place.

The program involved the delivery of four First Nations-led workshops designed to build sustainable, self-determined governance. The program was intended to empower Traditional Owners, promote a “self-determined” mindset and to shape a spirit of cooperative partnership.

The PPP program was provided to PBCs at no cost, funded through IAS funding via the PBC capacity building fund. QSNTS staff noted that they were reliant on the PPP to provide strategic and economic development to PBCs and that the PBC basic support funding alone was insufficient. QSNTS reported that the PPP had been effective for supporting PBC economic development and that it was addressing the challenge to PBCs to operate independently and to reach self-sufficiency with no income outside of basic support funding.

PBCs who had experienced the PPP program were very positive about the difference it was making in building the awareness and the skills of PBCs to move forward. QSNTS staff reported that development of the PBCs, at the time of writing in May 2024, includes a greater focus on the history and background of the determined native title claim and is focused on bringing Traditional Owners along the journey to build a self-sustaining PBC. For example, at the time of writing in May 2024, QSNTS now delivers informative

“road shows” to native title applicants educating them on what to expect post-determination and how they can maximise the opportunities enabled through their PBC. Other key developments included the launch of the new website in FY2020-21. The latest iteration of the QSNTS website provided clients a means to access and submit requests for PBC support from the QSNTS Operational Service Delivery teams directly.

The recent introduction of the PPP helped to address QSNTS’s reported capacity constraints and to provide a more focused effort on building PBC self-sufficiency. However, this program was funded under the IAS, administered by NIAA and delivered at no cost to the PBCs. There is an opportunity for QSNTS to consider the dual role of the native title grant funding and the PPP and how each service can best contribute to PBC sustainability. There was a broad acknowledgement by stakeholders engaged by the Review that the overall quality of QSNTS PBC services had improved throughout and following the Review period.

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

QSNTS did not have a formal process in place for transferring cultural materials to PBCs

While QSNTS had a clear policy for the collection, use and storage of cultural materials for the claims process (see TOR 3), it had not yet developed a policy for the return of cultural materials.

The process for transferring cultural materials to PBCs was moved to the Operational Service Delivery team in FY2020-21. Staff within QSNTS noted that the lack of clear accountability for PBC support had contributed to what they saw as inefficient processes and potential breaches in client confidentiality and privacy.

Feedback from Traditional Owners engaged in the Review found that there was a need to better communicate the process of returning cultural materials externally with clients and potential clients. Some Traditional Owners described examples where they had participated in QSNTS research and had later asked for their materials but were never responded to or told they could not access their materials but with no further explanation.

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

During the Review period, QSNTS provided services to 25 of 29 PBCs located wholly or partially within its RATSIB area. Of these PBCs, 14 were party to a formal service agreement.

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

There were no complaints from PBCs in relation to service agreement negotiations. The Review was advised by staff that QSNTS generally received positive feedback regarding the process of negotiating service agreements.

5.6.2 TOR 6: External factors

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

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

Socioeconomically, southern and western Queensland is neither advantaged nor disadvantaged

Socio-economically, the southern and western Queensland region is diverse, with Index of Relative Socio-economic Advantage and Disadvantage (IRSAD) scores covering the full spectrum from one (most disadvantaged) to five (most advantaged). The region is neither uniquely advantaged nor disadvantaged, with an average IRSAD score of three, including in areas where more determination activity has occurred. The Review determines that there is no inherent socio-economic impediment to PBC self-sufficiency.

The region holds diverse economic prospects for PBCs, although many are yet to be realised

The key industries in southern and western Queensland are mining and agriculture. Many of Australia's coal mines are in the Bowen Basin and a semi-high concentration of base metal mines are situated around Mount Isa. Agriculture is the most significant employer in the region, accounting for greater than 20 per cent of all roles outside of Brisbane. Despite the historical economic opportunities these industries have presented for PBCs in other regions, the contentiousness of native title in the QSNTS region has limited the ability of many Traditional Owners to benefit until determinations progress further.

Other economic opportunities broadly open to PBCs are not strong, but there are signs that several domains will see growth in opportunity in the mid- to long-term that may assist PBCs in becoming self-sufficient.

The region is poised to become a significant base for renewable energy. The Queensland Government has also identified nine renewable energy zones within the region. These are areas with high potential for renewable energy output and likely to attract developers, and often involve community consultations and heritage work involving Traditional Owners.

Tourism is a significant economic driver in the overall region, but Traditional Owners have faced challenges accessing opportunities in popular locales like Brisbane, the Gold Coast and the Sunshine Coast due to determinations of no native title in said areas. However, the popularity of more remote regions like the Outback and Fraser Coast has grown with the increase in interest in ecotourism, with a nearly 15 per cent increase in visitors to the latter from 2020 to 2023.⁴² As there is significantly more overlap between remote and regional areas and native title determinations (such as the successful Butchalla K'gari/Fraser Island determination) there is potential for some PBCs to facilitate visitors and seize opportunities as the industry expands, provided they are sufficiently supported by QSNTS in negotiating ILUAs or compensation.

Finally, cultural heritage and consultation work is becoming a significant source of income for PBCs. This work includes cultural consultation, Walk on Country, and in the next decade, supporting the Brisbane 2032 Olympic and Paralympic games. Notably, the Games Committee has identified Aboriginal and Torres Strait Islander community advancement as a key strategic objective of the games. Games Delivery Partners have proposed involving Indigenous communities in all stages of the Games from planning to delivery.

⁴² Tourism & Events Queensland, 2023, Domestic Tourism Snapshot.
<https://teq.queensland.com/content/dam/teq/corporate/corporate-searchable-assets/industry/research/other-research/Domestic%20Tourism%20SnapShot%20-%20Sep%202023.pdf>. Accessed 20 Dec 2023.

5.6.3 TOR 6: Recommendations

RECOMMENDATION	13
Finalise the development of a policy for the consistent and respectful approach to the return of cultural materials.	
RECOMMENDATION	14
Develop a clear policy for the implementation of service agreements with all PBCs supported by QSNTS.	
RECOMMENDATION	15
Develop a process for understanding the journey towards self-sufficiency for each PBC. Seek continuous feedback about services provided by QSNTS and the extent to which they are enabling self-sufficiency.	

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

Summary

The prospect of the completion of all claims within the QSNTS region still appears to be a considerable way off and the strategic focus of the organisation during the greater part of the Review period was on the management of claims. However, QSNTS made significant headway in improving their post-determination approach toward the end of the Review period and following with their roll-out of the PPP program.

Strategic planning has pointed to the desirability of becoming a “one stop shop” for advancing the native title needs of Traditional Owners and achieving high levels of satisfaction from clients. However, detailed planning on what role the organisation might play and how it might be structured once claims funding ceases did not receive detailed consideration in the strategic planning.

The PPP program, commenced just after the Review period, has been very well received by PBCs and is likely an important building block in building trust amongst Traditional Owners and demonstrating an effective future role in supporting PBCs to self-determination.

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

QSNTS retained a strong focus on claims management rather than on a future state

Organisational accountability for post-determination planning was not clearly articulated throughout the Review period. Staff consulted by the Review were not clear on who within QSNTS was responsible for leading consideration of what role QSNTS might play once all claims across the region were determined. This lack of dedicated focus on the post-determination environment was likely due to the ongoing core focus on progressing claims. The focus on ongoing claims management created strong competition for attention to be focused on prioritising post-determination planning for QSNTS.

The 2018-2022 Strategic Plan included some consideration of post-determination services to PBCs

The QSNTS’s 2018-2022 Strategic Plan focused on five strategic initiatives for post-determination services to PBCs. Each of these is described below, including their key measures of success. The Review did not find any record of whether the “evidence of success” had been measured, or who was responsible for implementing the various initiatives.

Table 20 | Strategic initiatives, strategies and measures of success focused on PBC services in the 2018-22 QSNTS Strategic Plan

Strategic initiative	Strategy	Evidence of success
Assist Traditional Owners with PBC development while	Guide Traditional Owners through the design and incorporation process for their PBC.	- PBCs are incorporated within six months of the claim being registered. - PBC planning sessions are held within six months of the claim being registered.

Strategic initiative	Strategy	Evidence of success
a native title claim is on foot.	- Identify PBC needs and advance their goals. - Pave the way for responsible corporate governance and risk management to facilitate greater native title opportunities.	- Governance training is delivered to interim Directors within 12 months of the claim being registered. - Conduct consultations to refine corporate structures in the year preceding a PBC becoming a RNTBC.
Follow a workforce strategy that accommodates a comprehensive service delivery model.	- Capitalise on a multi-disciplinary team approach to match appropriate skill sets to Traditional Owner needs. - Utilise skill sets to encourage the development of innovative services which benefit Traditional Owners.	- A strong capability framework has been developed and implemented in the workplace. - Available skills are allocated in a flexible manner to deliver the services required by clients. - Staff are actively engaging in ongoing professional development opportunities that improve capacity to meet client needs.
Establish a panel of quality-assured experts to expand support services for PBCs where unavailable from QSNTS.	- Identify and address service delivery gaps by brokering access to external service providers. - Ensure brokered external service providers are ethical, diligent and competent to meet Traditional Owner needs.	- Brokered external service providers deliver high satisfaction among Traditional Owners. - PBC governance and operational performance is effective with the support of blended direct and brokered service delivery options.
Deploy innovative tools that assist PBCs with managing Country.	- Apply ethical, expert teamwork to support and guide PBC growth and development. - Adopt and adapt innovation and technology to support sustainable PBC self-sufficiency.	Operate as a one stop shop for advancing the native title needs of PBCs.
Deliver a comprehensive range of services that align with unique Traditional Owner aspirations.	- Draw on skills, experience and knowledge gained during the native title claim process. - Prioritise client needs and objectives to ensure the best service delivery. - Evolve to reflect Traditional Owner growth and development throughout the native title journey.	- Traditional Owners are committing to service packages in accordance with their aspirations. - Clients report high satisfaction with services. - Stakeholder engagement with services increases.

The Review also notes that the strategies listed above suggest more of an orientation to the current environment in which QSNTS is the funded service provider for PBC basic support functions. While strategies such as QSNTS operating as a one stop shop for advancing the native title needs of PBCs and receiving high satisfaction levels for the service delivered to PBCs are aspirational, planning to achieve these desired states did not appear to have commenced during the Review period.

An approach guided by the aspirations of Traditional Owners is likely to deliver best results

The question of what role QSNTS might realistically play once there are no further claims is perhaps a long way off. However, given the highly legalistic nature of the QSNTS claims management approach and the challenge of building trust amongst Traditional Owners in the region, it will be important for the QSNTS

Board to work with Traditional Owners to jointly determine the optimal role for the organisation in supporting Traditional Owners once claims are settled and claims funding from NIAA ceases. There are examples from other NTRB-SPs across Australia where significant effort has gone into working with Traditional Owners to develop a role for their organisation into the future.

The PPP program, commenced after the Review period, is a potential building block towards a positive post-determination role

As outlined under TOR 6, the PPP program has been strongly welcomed by Traditional Owners and has the potential to shape a cooperative partnership approach between QSNTS and the PBCs in the region. Although it has time-limited funding, the PPP provides a vehicle for future strategic and economic development which is not covered by operational funding.

5.7.2 TOR 7: External factors

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

Progress towards a post-determination environment

QSNTS continues to have a significant claim load

Around one third of the land in southern and western Queensland is subject to a registered claim or native title determination. Southern and western Queensland is substantially covered by pastoral lease, which poses additional complications for native title as it fractures the rights available for Traditional Owners to claim and makes determining which have not been extinguished more difficult. This adds to the complexity that already exists because of the dispossession of groups. As such, it is unlikely that QSNTS will be able to rapidly resolve remaining claims and enter a post-determination environment in the near future.

5.7.3 TOR 7: Recommendations

RECOMMENDATION

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Develop a clear statement of aim for QSNTS's support for post-determination outcomes across a longer timeframe, of up to ten years. This should be developed in consultation with native title holders and other relevant stakeholders of the native title system.

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:
 - a. 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 QSNTS'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 wished to be involved with the Review. Surveys were distributed on behalf of the Review by QSNTS 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 week commencing 20 November 2023. All consultations were conducted in confidence and with the full consent of participants.

Those consulted included:

- over 94 Traditional Owners including:
 - clients who have been represented by QSNTS (including members of PBCs)
 - potential clients in QSNTS's RATSIB area
- the Federal Court of Australia
- the NIAA
- representatives of the Queensland Government
- QSNTS staff and contractors, including:
 - QSNTS CEO (including acting CEO and current CEO) and Executive
 - QSNTS Board Directors
 - current QSNTS staff
 - anthropologists
 - barristers.

Appendix C Documents reviewed

Category	Description
Annual reports	QSNTS Annual Report 2021-22
	QSNTS Annual Report 2020-21
	QSNTS Annual Report 2019-20
Policies, processes and strategies	Communications Policy
	QSNTS Internal Audit Policy
	QSNTS Risk Management Policy
	QSNTS Conflict of Interest Policy – Endorsed 21 February 2020
	QSNTS Conflict of Interest Policy – Disclosure of Interest Form
	Discipline Policy
	Grievance Resolution Mechanism Policy and Procedure
	Fee for Service Policy
	Client Complaints Policy
	QSNTS Code of Conduct
	QSNTS Code of Conduct for Board Members
	QSNTS Compliments and Complaints Policy
	Policies and Procedures Relating to Performance of Functions Under Part 11, Division 3 <i>Native Title Act 1993</i> (Cth)
	Policies and Procedures – Fraud Investigation
	PRACTICE DIRECTION NUMBER 6 OF 2023 – CLAIM PROCESS – Trial Prep Logistics and Witness care
	PRACTICE DIRECTION NUMBER 11 OF 2023 – Meeting with Clients
	PRACTICE DIRECTION NUMBER 6 OF 2023 – CLAIM PROCESS – Collection and Provision of Connection Evidence
	QSNTS Interim Communications Strategy
	Lodging a Complaint Process
	Internal Review Process
Operational documents	Community Relations Officer Process Manual
	Cultural Protocols
	QSNTS People Place and Partnership Framework
	QSNTS 2023-2024 Operational Plan
	QSNTS Strategic Plan 2018-22
	QSNTS Strategic Plan 2023-28
Financial documents	QSNTS 2021-22 Performance Report
	QSNTS Performance Report 31 October 2023
	QSNTS Financial Statements 2020
	QSNTS Financial Statements 2021
	QSNTS Financial Statements 2022
	Claims Budget to Actual 2023-2024
	QSNTS 2021-22 Budget to Actual
	PBC Funding and service agreement information

Category	Description
	QSNTS 2023-2024 Budget
	QSNTS – CB Public Notice
	Vero Voting Platform
	COVID authorisation meeting
	Public Notice – Kunja Koori Mail
	COVID-19 Meeting Pack and Information
	COVID-19 QSNTS Management Plan
	COVID-19 Vaccination Policy
	COVID-19 Health and Wellbeing tips
	National COVID-19 Safe Work Principles
	WHS Duties
	Why is physical distance important document
	What should you do if a worker is confirmed to have COVID-19 document
	QSNTS Visitor Health Screening Checklist
	QSNTS Meeting Participant health Screening Declaration
COVID-19 documents	Memo All Staff – Return to Work Plan
	Memo – CEO – QSNTS Team – Current COVID wave and Hybrid work arrangements
	Memo to All Staff – Return to Office Plan
	Memo to QSNTS Staff – COVID 19 Update QSNTS Response
	QSNTS – COVID-19 vaccination information collection notice
	QSNTS COVID-19 Protocols
	QSNTS COVID Safe Meetings
	Staff Direction – Meetings with Clients
	COVID-19 Vaccination Policy
	Decision making schema
	Etiquette guide April 2021
	Memo to All Staff – COVID-19 – Return to Work Plan
	National COVID-19 Safe Work Principles
	QSNTS Intranet – COVID Page
	COVID-19 Safe Work Principles
	Template – QSNTS Meeting Participant Health Screening Checklist
	Board Meeting minutes 2 August 2023
	Board Meeting minutes 28 July 2023
	Board Meeting minutes 6 December 2023
	Board Meeting minutes 28 April 2023
	Board Meeting minutes 24 February 2023
	Board Meeting minutes 28 October 2022
Meeting minutes	Board Meeting minutes 29 July 2022
	Board Meeting minutes 18 March 2022
	Board Meeting minutes 16 December 2022
	Board Meeting minutes 12 November 2021
	Board Meeting minutes 24 September 2021
	Board Meeting minutes 25 June 2021
	Board Meeting minutes 26 November 2021

Category	Description
	Board Meeting minutes 16 October 2021
	Board Meeting minutes 29 May 2021
	Board Meeting minutes 21 February 2021
	Board Meeting minutes 13 August 2020
	Board Meeting minutes 17 December 2020
	Board Meeting minutes 26 March 2021
	Board Meeting minutes 26 November 2019
	Board Meeting minutes 9 August 2019
	Audit and Risk Committee Meeting minutes 15 November 2021
	Audit and Risk Committee Meeting minutes 2 February 2022
	Audit and Risk Committee Meeting minutes 21 February 2022
	Audit and Risk Committee Meeting minutes 20 July 2022
	Audit and Risk Committee Meeting minutes 19 October 2022
	Audit and Risk Committee Meeting minutes 15 February 2023
	Audit and Risk Committee Meeting minutes 19 April 2023
	Communications and Engagement Committee Meeting minutes 22 February 2022
	Communications and Engagement Committee Meeting minutes 20 July 2022
	Communications and Engagement Committee Meeting minutes 19 October 2022
	Communications and Engagement Committee Meeting minutes 16 February 2023
	Communications and Engagement Committee Meeting minutes 19 April 2023
	Communications and Engagement Committee Meeting minutes 19 July 2023
	Client Development Committee Meeting minutes 4 March 2022
	Client Development Committee Meeting minutes 22 July 2022
	Client Development Committee Meeting minutes 25 November 2021
Position descriptions	QSNTS Deputy Chairperson Role Description
	QSNTS Role of the Company Secretary Review
	QSNTS Board Director Role Description
	QSNTS Chairperson Role Description
	Position Description – Chief Capability Officer
	Position Description – Chief Executive Officer
	Position Description – Chief Financial Officer
	Position Description – Executive Officer
	Position Description – Deputy Principal Lawyer
	Position Description – Accountant
	Position Description – Anthropologist
	Position Description – Communications Officer
	Position Description – Corporate Coordinator
	Position Description – Corporate Services Officer
	Position Description – Development Coordinator
	Position Description – Finance Officer
	Position Description – First Nations Administrative Assistant
	Position Description – First Nations Engagement Advisor
	Position Description – Geospatial Officer
	Position Description – In-House Counsel
	Position Description – Lawyer

Category	Description
	Position Description – Paralegal Position Description – Receptionist Position Description – Senior Lawyer Position Description – Systems Administrator Position Description – Principal Lawyer
Staff culture surveys	Bendelta Survey Reports – Anthropologist Bendelta Survey Reports – Capability Division Bendelta Survey Reports – Corporate Division Bendelta Survey Reports – First Nations Engagement Advisors Bendelta Survey Reports – Legal (Lawyer and Paralegal) Bendelta Survey Reports – Operational Division – Allbrook Bendelta Survey Reports – Operational Division – Martinex Bendelta Survey Reports – Final Report QSNTS Aggregate
Other	PBC Support Funding 2019-20 Application form PBC Support Funding Transmittal Agreement Number of claim groups the QSNTS has acted for or assisted in an application proceeding between 1 July 2019 and 30 June 2022 Average number of people within a claim group Organisational structure as at October 2023 QSNTS Staff Profile 2019-2022 Conflicts of Interest Register Captured from QSNTS Intranet – Grievance Conflict Guidance Extract from QSNTS Legal Practice Manual Register of Directors and Independent Members Audit and Risk Committee Terms of Reference Communication and Engagement Committee Terms of Reference Governance Committee Terms of Reference QSNTS Board Charter Service Delivery Committee Terms of Reference Audit and Risk Committee Terms of reference Fraud and Corruption Control Framework QSNTS Assurance Plan QSNTS Compliance Register QSNTS Risk Management Procedure QSNTS Risk Register Consultants Register Stakeholder List Activity Resource Matrix QSNTS Services Guide Example document billable hours Extracted from QSNTS Intranet Fee for Service Process PBC Resourcing PBC Services Fee Estimate

Category	Description
	QSNTS Fee Schedule
	Complaints Register
	Concern and complaints Presentation
	QSNTS Session Plan Concerns
	Cultural Awareness Training Framework
	Cultural Awareness Training Transcript
	MYOB Exo Business Screenshot
	PPP Comprehensive Overview
	QSNTS Evaluation Framework for the PPP
	Template – Client Retainer and Service Agreement Legal Services – Walking Together Agreement
	Description of who is responsible for PBC policy and strategy within QSNTS and the remit of this role document

Appendix D Glossary

Throughout this document, the following terms have the meaning prescribed in Table 21.

Table 21 | Glossary

Term	Meaning
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</i> (Cth) (the CATSI Act)	The <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cth) 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.
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: - mediating between the parties to native title applications at the direction of the Federal Court - acting as an arbitrator in situations where the people cannot reach agreement about certain Future Acts

Term	Meaning
	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.
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.

Term	Meaning
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 22.

Table 22 | NTRB 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.
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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of success

750

PEOPLE

75

PRINCIPALS

5

COUNTRIES

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