
NATIONAL NATIVE TITLE TRIBUNAL

**Review of Structure, Functions and Service Delivery
FINAL REPORT FOR DISTRIBUTION - 7 June 2010**

Fellows Medlock & Associates Pty Ltd

EXECUTIVE SUMMARY

In January 2010 the President and Registrar of the National Native Title Tribunal (Tribunal) sought expressions of interest to undertake a review of the Tribunal's organisational structure. The key objective of the review was to recommend an organisational structure (or options for an organisational structure), which would enable the Tribunal to:

- a) optimise its organisational efficiency, flexibility and responsiveness
- b) operate effectively and efficiently within its budgetary appropriations
- c) achieve its strategic priorities under its *Strategic Plan 2009-11*.

The review was conducted in a consultative manner to ensure that Tribunal staff were given the opportunity to input into the review at various stages and to understand the directions taken by the review. Visits were undertaken to the Principal Registry and to all state and territory registries and workshops were conducted with staff along with individual interviews with Members, managers and staff. Many staff took the opportunity for follow-up interviews or to provide additional documentation to assist the review.

Interviews with a number of external stakeholders (selected by Tribunal officers) were held to gain their perspectives of the operations of the Tribunal. A Consultative Group was formed comprising representatives of the Tribunal, Attorney-General's Department (AGD) and the Federal Court of Australia (Federal Court) to provide input at various stages of the review process. An internal Reference Group was constituted to operate as a sounding board for the consultants and to provide additional information if required.

A significant amount of documentation provided by the Tribunal was considered including the reports of a number of previous inquiries conducted into various aspects of the Tribunal's operations.

Significant changes to the operating environment had arisen in 2009 as a result, firstly, of a significant reduction in the Tribunal's appropriation in the 2009 Budget and secondly, from the changes to the *Native Title Act 1993* (NTA), enacted through the *Native Title Amendment Act 2009*, (NTAA) which came into effect in September 2009. Further budgetary reductions for the Tribunal were announced in the 2010 Budget.

Whilst it appears that the full impact from the 2009 amendments to the NTA is yet to be seen, both the Federal Court and the AGD have indicated that they expect the Tribunal to be able to respond flexibly to changing demands and priorities from the Court in the future. The Tribunal has responded positively to those comments.

Against that background, and based on an analysis of the information gained through the review processes, a series of issues have emerged which need to be addressed in order to enhance the efficiency, flexibility and responsiveness of the Tribunal. These issues can be categorised under five broad headings:

- i) *Structure* – gaps and overlaps between various roles and functions and issues relating to the operations of corporate support and specialist service functions.

ii) Resourcing – issues relating to the resourcing of certain functions and the flexibility and effectiveness of resource utilisation.

iii) Process – over-engineering of certain functions and the need for appropriate delegation levels.

iv) Governance – the relationship between Principal Registry and the state and territory registries and issues relating to the effectiveness of current governance and communications processes.

v) Leadership – the structural balance of the leadership of the Tribunal, the need for united leadership at the executive and senior manager level and the effectiveness of stakeholder management.

Following provision of a draft review report for comment (draft report) in early May 2010, the Federal Budget was handed down with significant budgetary implications for the Tribunal in 2010-11 and following years. The President and Registrar requested a review of the draft report in light of the further budget reductions.

There are a number of key themes underlying the development of recommendations in this report. These themes revolve around:

- creation of a broader executive leadership team, including greater direct operational input, in order to provide a wider range of input into decision making, improve organisational communications and ensure better support for the Registrar
- development of a regional focus for the Tribunal's operations in order to provide more flexibility in planning and deployment of resources to meet changing demands
- providing better support for the operations of the Tribunal through deployment of more resources to the state and territory registries
- providing resourcing options to enable the Tribunal to respond to further changes in the operating environment
- ensuring that the Tribunal is better able to meet changing priorities from the Federal Government, AGD and the Federal Court through flexible deployment of resources and better support for the operations of the Tribunal's registries

Options for a new structure are proposed to enhance the Tribunal's efficiency, flexibility and responsiveness. Three structural options have been provided for consideration.

Option 1 provides a structure which separates core registry work into an East/West regional approach under Directors of Operations East and West. The Director Operations West would also be appointed to a Deputy Registrar role providing assistance to the Registrar in support of her functions.

Specialist support functions (Geospatial, Library and Research) are provided nationally via the Director Operations West. However, whilst managed centrally, a greater proportion of the resources of Principal Registry sections are outposted into operational areas.

This option also provides a Registrar's Directorate which consolidates Strategic Planning and Projects with Legal Services, Compliance and Quality (responsible for managing reporting to the AGD and other external bodies), Operations, Stakeholder Relations and Executive and Member Support.

A separate Corporate Services Directorate encompasses the Business Technology Unit and Finance (incorporating property functions).

The Human Resources (HR) Director reports directly to the Registrar.

Option 2 maintains the East/West regional approach (under Directors of Operations East and West) and provides a structure which enables the Registrar's direct leadership of all key operational and corporate functions. Key organisational strategy and Executive support roles are retained in Principal Registry (Registrar's Directorate, Director HR, Chief Financial Officer and Chief Information Officer) reporting to the Registrar to facilitate clear strategy and support accountability. Operations support roles are also outposted to the regional hubs.

The option increases to six the span of direct reports to the Registrar, but decreases the current level of three SES Director positions to two SES Director positions applied to delivering core registry and registry support operations.

Option 3 continues the East/West approach (under Directors of Operations East and West) and provides for the Registrar's direct leadership focus on key HR, Finance and ICT functions.

The option creates an Agreement Making and Arbitration Support unit which comprises Operations, Geospatial, Research, Library and Legal Services. This option provides the framework for directly managing specialist function support which may be provided externally as much as it may be provided internally in response to requests, particularly from the Federal Court and other parties, for specialist assistance from the Tribunal in matters which may not be under mediation by the Tribunal. The Agreement Making and Arbitration Support unit will report to the Director Operations West. This option also provides for the Central Australia Registry to be placed with the Director Operations East.

Option 1 retains the current three SES positions compared to two SES positions required for Options 2 and 3 at the top level of the structure. Further possible resource savings have been identified across the Tribunal to allow the Tribunal flexibility to adjust to changing priorities and budgetary appropriations.

Successful organisational change requires careful implementation and planning. The implementation issues that are likely to arise in addressing the changes recommended in this report are identified and a framework provided to facilitate the implementation of recommended changes. The need for united leadership of change by the Tribunal's leadership team is highlighted along with consistent and transparent communications and consultation.

As noted earlier, the review was asked to consider the implications of the 2010 Budget for the Tribunal in finalising this report and recommendations. The review was not, however, asked to provide detailed recommendations to enable the Tribunal

to adjust to Budget changes. Specific decisions addressing the budget reductions, building on the measures introduced in 2009, are being made by the President and Registrar.

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1. BACKGROUND

1.1 The National Native Title Tribunal

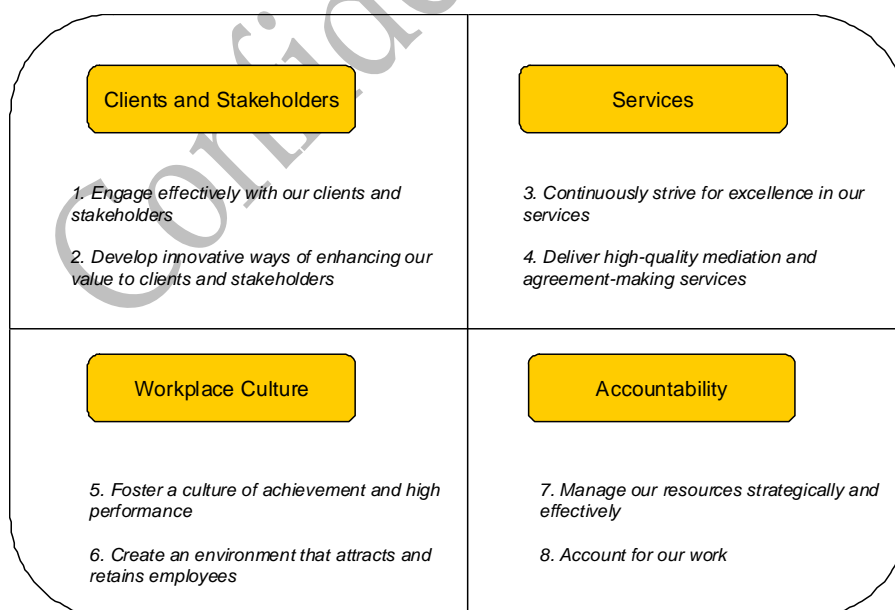
The Tribunal is a Commonwealth administrative body established, as of 1 January 1994, under the NTA. The Tribunal works closely with parties to native title matters across Australia to assist them to achieve native title and related outcomes through (among other functions) mediation, agreement-making and arbitration. The Tribunal is required by the NTA to carry out its functions in an impartial and fair way, taking into account the views and concerns of everyone involved in the relevant native title processes.

The Tribunal's main work includes:

- mediating native title applications that are referred to it by the Federal Court
- if requested, mediating among the parties to assist in reaching agreement on the grant of proposed exploration and mining tenements and certain compulsory acquisitions of native title rights and interests
- if requested, assisting in the negotiation of indigenous land use agreements (ILUAs) and pastoral lease access agreements
- making determinations about the grant of some proposed exploration and mining tenements and some compulsory acquisitions of native title rights if no agreement is reached
- applying the registration test to native title claimant applications and ILUAs, giving notice of applications and maintaining certain statutory registers

1.2 Strategic Priorities

The Tribunal's Vision, as set out in its *Strategic Plan 2009-11* is "Timely, effective native title and related outcomes" and its Mission is to facilitate those outcomes. The *Strategic Plan 2009-11* also establishes eight Strategic Priorities:



1.3 Terms of Reference

In January 2010 the President and Registrar of the Tribunal sought expressions of interest to undertake a review of the Tribunal's organisational structure.

The Tribunal operates in a changing and very challenging legislative and budgetary environment. In 2009-10, the Tribunal's appropriation was reduced by almost 8% from 2008-9 and further significant reductions were made in the 2010 Budget. In September 2009 significant changes to the Tribunal's powers and functions were made by the *Native Title Amendment Act 2009* (NTAA).

The key objective of the review is to recommend options for an organisational structure, which would enable the Tribunal to:

- a) optimise its organisational efficiency, flexibility and responsiveness; in particular to optimise the Tribunal's performance of its functions and capacity to meet its responsibilities under the *Native Title Act 1993* and other applicable Commonwealth legislation;
- b) operate effectively and efficiently within its budgetary appropriations during the period 2009 - 2013 and thereafter;
- c) achieve its strategic priorities, as set out in the Tribunal's *Strategic Plan 2009-2011*.

The review is required to make recommendations to the President and Registrar in respect of the way(s) in which such structure (or options for such a structure) might be developed.

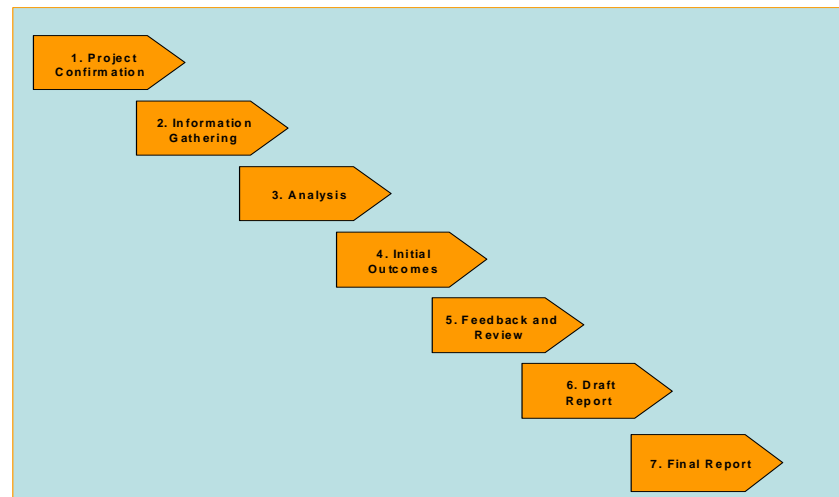
The Terms of Reference for the review are at **Attachment One**.

2. APPROACH

2.1 Approach

The review was structured around seven key steps:

Table 1 – Project steps:



2.2 Consultation

The review was conducted using a highly consultative model to ensure that the Tribunal’s Members, staff and selected key stakeholders understood the purpose, intent and approach to the review, had the opportunity to provide input and ideas and to understand the rationale behind the final outcomes.

Initially, interviews were conducted at the Principal Registry with the Registrar and Directors. A series of structured workshops was conducted for staff of the Principal Registry to provide their views and input. The workshops were structured to allow staff to document their responses to the following issues:

- i) Establishing the facts – what work do people do, what are their deliverables and priorities, who do they rely on for support, who do they provide support to and how do they measure success?
- ii) Service issues – what are the key service challenges that staff face in undertaking their work?
- iii) Visioning the future – what ideas do staff have to improve both how their work group functions and how the Tribunal functions?

Visits were then undertaken to all state and territory registries to undertake interviews with the President, Deputy Presidents, Members, Registry Managers and conduct workshops with staff to address the above issues. In interviews conducted with Members, their interaction with Tribunal staff was discussed.

Many staff subsequently took the opportunity for individual follow-up discussions and to provide written submissions or other documentation to assist the review. Further and on-going discussions were held with a range of managers and staff throughout the review process to clarify or follow-up on specific issues.

Prior to finalising the outcomes of the review, a round of briefings was conducted to provide staff with initial views and issues and to seek further input into the draft review report.

An internal Reference Group was also established, chaired by a Deputy President and comprising the three Tribunal Directors, a nominated State Registry Manager and the Manager Workplace Planning and Communication. The role of the Reference Group was to operate as a sounding board for the consultants undertaking the review and to provide additional information if required. The members of the Reference Group had the opportunity to provide comment on an initial draft review report.

2.3 External Stakeholders

Interviews were also conducted with a range of external stakeholders to discuss their interaction with the Tribunal and their perceptions of the effectiveness of the Tribunal's operations. Senior representatives of the following external stakeholders participated in these discussions:

- Commonwealth Attorney-General's Department (AGD)
- Federal Court
- Native Title Services Victoria
- NSW Government (Land and Property Management Authority)
- WA Government (Departments of Premier and Cabinet and Mines and Petroleum)
- WA Fishing Industry Council
- Queensland South Native Title Services
- Queensland Government (Department of Environment and Resource Management)
- Native Title Services Corporation for NSW and ACT
- Cape York Land Council
- Gutnick Group

Discussions were also held with senior officers of the Administrative Appeals Tribunal to understand how they structure their operations.

A Consultative Group was put in place comprising the Registrar of the Tribunal, the First Assistant Secretary, AGD and the Registrar of the Federal Court. The role of this Consultative Group was to provide input and direction, to comment on initial directions and to consider and, as with the Reference Group, to comment on the review's initial draft report.

2.4 Documentation

The review was provided with a wide range of documentation to assist in understanding the Tribunal's operations and key issues. Initially this documentation included:

- the NTA
- the Tribunal's *Strategic Plan 2009-2011*
- the Tribunal's *Annual Report 2008-2009*
- the Tribunal's *Portfolio Budget Statements* for 2009-2013
- the *Review of the People Services Section* (November 2008)
- the recommendations of the *Executive Level Review* (March 2009)
- the Tribunal's *Workforce Project Team* report (9 September 2009)
- the *Client Satisfaction Survey 2007*
- the Tribunal's *Employee Survey* (March 2008)

The review was also provided with a copy of the Federal Court-Tribunal Administrative Protocol.

Further documentation was identified and provided to the consultants during the course of the review. These documents included a number of earlier consultancy reports which addressed specific elements of the operations of the Tribunal. These reports included:

- *Native Title Claims Resolution Review* – March 2006
- *Strategic Change Assessment* – December 2006

Many of the issues raised in these and other reports remain relevant in the context of this review and have been considered in developing the recommendations contained in this report.

The review also considered the findings and recommendations of the *Ahead of the Game – Blueprint for the Reform of Australian Government Administration* Report, released in March 2010.

In May 2010 the review was also provided with the preliminary findings of the *2010 Client Satisfaction Survey*, prior to provision of the final review report. Those findings indicate a clearly rising trend of client satisfaction with the Tribunal's services compared with the 2008 survey results.

3. NATIONAL NATIVE TITLE TRIBUNAL - OVERVIEW

3.1 Overview

A copy of the Tribunal's current organisational structure is at **Attachment Two**. The current structure comprises:

- the President, Deputy Presidents and Members
- the Registrar
- Service Delivery Division, headed by the Director Service Delivery
- Corporate Services & Public Affairs Division, headed by the Director Corporate Services & Public Affairs
- Director Strategy and Innovation
- Project Office

According to figures provided by the Tribunal, as at 30 March 2010, the Tribunal had:

- eight Members (President, two Deputy Presidents, four full-time Members and one part-time Member) – all of these positions are statutory appointments¹
- the Registrar
- 230 employees (203 FTEs) of which 176 employees were ongoing and 54 were non-ongoing

The majority of Tribunal employees worked in the two Divisions i.e:

i) Service Delivery Division - 168 employees (including the Director Service Delivery) across the six state and territory registries and the following specialist sections:

- Geospatial Services
- Research
- Operations
- Library

ii) Corporate Services & Public Affairs - 54 employees (including the Director Corporate Services and Public Affairs) in the following sections:

- Financial Management and Compliance Reporting
- Workforce Planning and Public Affairs
- Legal
- Information Services

The remaining eight employees comprise the Director, Strategy and Innovation, officers of the Project Office and Executive Assistants.

An overview of the distribution of Tribunal functions is provided in the following sections. The location and numbers of outposted staff are the latest figures provided by the Tribunal as at 30 March.

¹ As at June 2010, there were seven Members, one full-time Member having resigned in May 2010.

3.2 Service Delivery Division – State and Territory Registries

As at 30 March 2010, the Tribunal maintained six separate state and territory registries.

i) NSW/ACT Registry. Based in Sydney, the NSW/ACT Registry undertakes the administration and management of claims, liaison with stakeholders and the facilitation of ILUA negotiations. The NSW/ACT Registry is also the central focus for the National Registration Delegates team which undertakes claim registration testing and provides assistance in respect of the claim registration process. According to figures provide by the Tribunal, four of nine national Registration Delegates and one Librarian worked out of the NSW/ACT Registry.

ii) Queensland (Qld.) Registry. With employees based in both Brisbane and Cairns, the Qld. Registry performs claim-related administration and management, engages with clients and stakeholders, undertakes extensive ILUA negotiation activity and the mediation and arbitration of Future Act matters.

One Registration Delegate, four Geospatial officers, one Research officer and two Librarians were outposted in the Brisbane office, along with one officer each from the Legal and Public Affairs sections. Two Registration Delegates, one Geospatial officer and one Operations officer were outposted in the Cairns office.

President Graeme Neate, Deputy President John Sosso and Member Graham Fletcher have offices in the Brisbane office.

iii) Northern Territory (NT) Registry. The NT Registry, located in Darwin, performs claim-related administration and management, engages with clients and stakeholders, facilitates ILUA negotiations and mediates and arbitrates Future Act matters. Deputy President Chris Sumner and Member Dan O’Dea work in conjunction with the NT Registry.

iv) West Australian (WA) Registry. The WA Registry is located in Perth in premises separate from the Principal Registry. The work of the WA Registry includes claim-related administration and management, engaging with clients and stakeholders, facilitating ILUA negotiations and mediating and arbitrating Future Act matters. Two Geospatial officers and one Librarian were outposted in the WA Registry.

Member Dan O’Dea has an office in the WA Registry².

v) South Australian (SA) Registry. The SA Registry, located in Adelaide, performs claim-related administration and management, engages with clients and stakeholders and provides ILUA negotiation assistance, including in respect of state-wide negotiations. (South Australia has its own state-based Future Act regime.)

Deputy President Chris Sumner has an office in the SA Registry.

vi) Victorian/Tasmanian (VicT) Registry. The VicT Registry, located in Melbourne, performs claim-related administration and management, engages with clients and stakeholders and is a key focus for the registration testing of ILUAs. The

² As at 30 March, Member Catlin also had an office in WA Registry but has since resigned.

Registry also provides ILUA negotiation assistance. Two Geospatial officers were outposted in the VicT Registry.

Members Dr Gaye Sculthorpe and Neville MacPherson have offices in the VicT Registry.

3.3 Service Delivery Division - Principal Registry Sections

i) Geospatial Services - provides a wide range of services including:

- maps and descriptive text for notification purposes
- media and public maps
- compliance advice on maps for claim registration testing and ILUA registration
- products for mediation purposes (e.g. maps, visualisation tools, integrated spatial and non-spatial information)
- national geospatial statistics

Four Geospatial officers were located in Principal Registry, with (as noted above) outposted staff in WA Registry, Brisbane office, Cairns office and the VicT Registry.

ii) Research - the Research section produces a range of research materials and provides services pursuant to sections 78 and 108 of the NTA. As noted above, one member of the Research section is outposted in the Brisbane office.

iii) Operations – is the custodian of the Tribunal’s core data registers and provides technical and specialist support to all Service Delivery areas through the development, implementation, monitoring and reviewing of the Tribunal’s operational practices, systems improvement and maintenance. As noted above, one Operations section officer is outposted in the Cairns office.

iv) Library - the Library provides support to Members and staff. The Library collection includes extensive native title, agreement-making and mediation resources. As noted above, two Library staff are outposted in Brisbane, one in WA Registry and one in the NSW/ACT Registry.

3.4 Principal Registry - Corporate Services & Public Affairs Division (CS&PA)

The majority of CS&PA staff work in the Principal Registry in Perth.

i) Financial Management and Compliance Reporting – the section provides reports, guidance and advice to the Registrar, Directors and other officers in respect of financial policies and procedures and the Tribunal’s financial operations and budgetary position.

ii) Workplace Planning and Communication Management

People Services - responsible for managing all of the Tribunal’s human resources (HR) functions, including recruitment and workforce planning, learning and career development, workplace relations, OH&S, payroll processing and salary administration.

Public Affairs - responsible for the Tribunal's corporate and stakeholder relations. The principal areas of activity are community relations, communication, media and publications, products and copyright. As noted above, one Public Affairs officer is outposted in Brisbane.

iii) Legal Services - the section provides legal advice and research to the President and Members, the Registrar, Directors and other officers on issues arising from the operation of the NTA including the registration test, notification, Future Act matters, mediation, ILUAs, the three statutory registers and interaction between the NTA and other Commonwealth, state and territory laws. As noted above, one Legal officer is outposted in Brisbane.

iv) Information Services

Information Communication Technology Infrastructure Services (ICTIS) - provides technical infrastructure (hardware, software and networks) services and advice to enable the strategic management of data and information.

Business Information Solutions (BIS) - develops and supports the Tribunal's business and corporate information systems. BIS maintains and supports the Tribunal's core business applications and enterprise systems.

Corporate Information Services (CIS) - responsible for ensuring that the Tribunal's corporate information is accessible, readable and retrievable in accordance with relevant legislative and accountability requirements. This includes archiving, file creation and classification, Electronic Document Records Management System (EDRMS) and mail services.

3.5 Principal Registry - Director Strategy and Innovation

The Director Strategy and Innovation was appointed, as a fixed term position, in May 2009 to:

- assist the President and Registrar to prepare for the proposed amendments to the NTA in 2009
- commence the implementation of the *Strategic Plan 2009-11*
- build upon the work undertaken for the Tribunal by external consultants in the period 2008-9
- undertake such other strategic projects as might be required by the President or Registrar

[Note: for operational reasons, and pending the outcomes of this review, in February 2010 the Director Strategy and Innovation assumed Directorial responsibility for all state/territory registries other than WA Registry.]

3.6 Principal Registry - Project Office

The Project Office assists the President, the Registrar and Directors in meeting a range of external and internal demands for compliance and accountability, strategic and other planning and performance monitoring. The Project Office functions include:

- coordinating strategic projects, planning and reporting (including the Tribunal's Annual Report)
- monitoring and reporting to the Executive on the progress of projects across the Tribunal
- providing policy advice and information to Tribunal decision-making committees and groups
- providing project management advice and assistance
- supporting the Director Strategy and Innovation in undertaking strategic projects
- liaising with external stakeholders, including the AGD

3.7 Financial Overview

The following table, prepared prior to the 2010 Budget outcomes becoming available, provides an overview of the Tribunal's budgetary situation over the period 2004/5 to 2012/13. It indicates that for the period 2004/5 to 2008/9 the monetary amount of the appropriations did not vary much but in 2009/10 the appropriation was reduced by approximately 8%, with reduced funding projected to continue until 2012/13.

*Table 2 - Budgetary appropriation and budget staffing levels**

Year	Appropriations (\$000)	Av. Staff Numbers (Actual and Projected)
2004/5	33,930	262
2005/6	32,013	263
2006/7	32,667	213
2007/8	32,965	223
2008/9	32,156	221
2009/10	29,682	217
2010/11	29,169	217
2011/12	29,199	217
2012/13	29,347	217

* information provided by the Tribunal's Chief Financial Officer

Notes:

1. Figures for Appropriations for the years 2004-5 to 2008/9 are as per Tribunal Annual Reports
2. Forward year figures are as per those published in the 2009-10 PBS
3. Figures for the average staffing number for the years 2004-5 to 2008/9 are as per Tribunal Annual Reports
4. Figures for the average staffing number for the year 2009-10 are the average YTD staffing levels as at March 2010
5. Figures for the average staffing number for the years beyond 2010/11 have been kept as per YTD average as at March 2010

This table illustrates the gradual decline in the Tribunal's budgetary appropriations up to the current year, with associated reductions in staffing numbers.

3.8 2010 Federal Budget

The recent Federal Budget announced on 11 May 2010, provided for total reductions in appropriations for the Tribunal of \$17.111 million over four financial years from 2010/11, made up of the following amounts:

- \$3.511 million
- \$4.045 million
- \$4.531 million
- \$5.024 million.

These amounts are in addition to the reductions announced in the 2009/10 Budget.

The AGD's Portfolio Budget Statement (PBS) sets out those savings, together with adjustments for the 2010-11 financial year. In announcing these reductions the AGD's PBS stated that:

"... The NNTT will seek to ensure that its funding is allocated appropriately to facilitate the performance of its functions and provision of those services."

The PBS commits to an immediate reduction in average staffing levels from 217 in 2009/10 to 182 in 2010/11.

The Tribunal's Expenditure Review Committee (ERC) considered and discussed the implications of the funding reductions and made recommendations to the President and Registrar for the Tribunal to manage the reduced budget, whilst continuing to perform its business-critical functions. In applying those recommendations, the President and Registrar set out their objective to ensure that:

- the Tribunal continues to deliver a range of high quality services to clients and stakeholders
- the Tribunal maintains a presence in areas where its work is, but savings are achieved by reducing lease costs
- staffing levels are not reduced any more than is necessary

A number of immediate decisions were announced by the President and Registrar on 12 May 2010. These included:

- closure of the Northern Territory's Darwin Registry as soon as practicable, with the transfer of all Darwin-based functions to Adelaide to form, with the SA Registry, an amalgamated Central Australia Registry
- all current advertised vacancies have been put on hold pending the implementation of any re-structuring measures adopted after the finalisation of the structural review
- only business-critical vacancies to be advertised pending the implementation of any re-structuring measures
- review of all non-ongoing contracts on a case-by-case basis
- a call for expressions of interest for up to 20 voluntary redundancies (VRs). This process will be informed by the outcomes of this report and the 2009 Workload Review.

- renegotiation of leases and rationalisation of office premises where possible, in particular, reducing the leased space at WA Registry from two floors to one floor. Staff from WA Registry will be re-located to Principal Registry in Perth. (Note: the movement of staff to Principal Registry is likely to have implications for the “outposting” of support staff as recommended in this report.)
- Further co-location options will be explored with the Federal Court, Family Court and Federal Magistrates Court.

In addition, a cross-Tribunal Budget Taskforce has been established by the Registrar to implement the budgetary measures recommended by the ERC and announced on 12 May 2010. This group is supported by a dedicated Project Manager. The 2010/11 section and registry budget bids will be re-evaluated in the light of the budgetary reductions.

As a result of the 2010 Budget changes the figures set out in Table 2 above have been revised as follows:

*Table 3 - Budgetary appropriation and budget staffing levels (Revised)**

Year	Appropriations (\$000)	Appropriations (\$000) REVISED	Av. Staff Numbers (Actual and Projected)	Av. Staff Numbers (Actual and Projected) REVISED
2004/5	33,930		262	
2005/6	32,013		263	
2006/7	32,667		213	
2007/8	32,965		223	
2008/9	32,156		221	
2009/10	29,682		217	
2010/11	29,169	26,925	217	182
2011/12	29,199	24,447	217	179
2012/13	29,347	23,781	217	170
2013/14		23,467		159

* information provided by the Tribunal’s Chief Financial Officer

Notes:

1. Forward year figures as per those published as per the 2010/11 PBS
2. Figures for the average staffing number for the year 2009-10 are the average YTD staffing levels as Mar 2010.
3. Figures for the average staffing number for year 2010/11 have estimated and are as per 2010-11 PBS.
4. Figures for the average staffing number for the years beyond 2011/12 have been estimated based on the reduction in funding.

The impact of the 2010 Budget changes has been considered in developing the issues and recommendations contained in this report. However, as requested by the President and Registrar, the report has not determined detailed budgetary responses as these have been, and are being, addressed in specific decisions made by them.

4. A CHANGING ENVIRONMENT - NTAA

4.1 Government Objectives and the Native Title Amendment Act 2009 (NTAA)

In introducing the Native Title Amendment Bill 2009 into Parliament, the Attorney-General expressed concern that the objectives of the NTA (introduced in 1994) had not been achieved:

“Regrettably, the admirable intention of the Act has not been realised. For over 15 years, quite literally, millions of dollars have been wasted on unproductive and unnecessary litigation. This is totally unacceptable given the desperate circumstances of those we are trying to benefit..... On current estimates, it may take another 30 years to resolve all current native title claims.”

The Attorney-General set out the government’s objectives that the proposed amendments would *“contribute to broader, more flexible and quicker negotiated settlements of native title claims..... and result in better outcomes for participants in the native title system.... in a more timely, effective and efficient fashion.”*

The Attorney-General set out the government’s intention to give the Federal Court a central role in managing all native title claims, including deciding who mediates a claim:

“The government is confident that the court has the necessary skills to actively manage native title claims in a way which will lead to resolution of claims in the shortest possible time frames.

In recent years, the court has achieved strong results in mediating native title matters. These amendments will draw on the court’s significant alternative dispute resolution experience to achieve more negotiated outcomes.

Having one body actively control the direction of each case with the assistance of case management powers means opportunities for resolution can be more easily identified. the court can bring a discipline and focus on issues through the use of its case management powers to ensure that matters do not languish...”.

The *Native Title Amendment Act 2009* was passed in September 2009 to give effect to the government’s objectives.

4.2 NTAA Amendments Relating to Mediation

Of particular interest to the Tribunal were the NTAA amendments which vested the Federal Court with the complete discretionary power to decide who will mediate native title, compensation and other applications.

Section 86B of the NTA provides the Federal Court with a wide discretion as to who mediates native title and other applications. In deciding who will mediate, the Federal Court may take into account the training, qualifications and experience of ‘the person’ who will or may be the mediator. This provision is designed to allow the Federal Court flexibility in referring a matter for mediation to an appropriate body or person (e.g. section 86B(2A) of the NTA provides that a claim may be referred to the

Registrar, a Deputy Registrar, a District Registrar or a Deputy District Registrar of the Court for mediation). Subsection 86B(5C) provides that, if the Court refers whole or part of the proceeding to a person or body for mediation, the Court may make an order about the following matters:

- the way in which the mediation is to be provided
- whether the person who is to conduct the mediation may be assisted by another individual
- any other matter that the Federal Court considers relevant

The 2009 amendments to the NTA give the Federal Court very wide powers to regulate the way in which mediation is to be provided by a person or body including the Tribunal. The full impact of the NTAA upon the Tribunal's mediation role and functions is yet to be known.

4.3 Key Stakeholder Expectations of the Tribunal

Since October 2008 the Attorney-General, the AGD and the Federal Court have indicated that they expect significant future changes in the operation of the native title system. Clear expectations of the Tribunal in that changed environment have been articulated by both the Court and the AGD in the following terms:

- the government has indicated its objectives for the native title system, including more efficient and effective resolution of outstanding claims and better coordination in the work of the Federal Court, Tribunal and FaHCSIA
- in light of changes to the NTA, the Tribunal will need to acknowledge that the system has changed and the Tribunal will need to work differently in future
- the Tribunal will need to be responsive and capable of adjusting quickly to native title priorities as set by the Court
- the Tribunal will need a mechanism to adjust its planning and resourcing to ensure they are clearly linked to progressing the Court's priorities

Responses of the Court's judges to the 2009 amendments have varied to date and neither the Court nor AGD have been prescriptive about the changes which they expect the Tribunal to adopt in light of these legislative changes. For its part, the Tribunal has responded positively to the expectations expressed by the Attorney-General, the AGD and the Federal Court.

However, the Tribunal will need to follow through consistently on its responses by being flexible in its approach to native title case management and providing appropriate support to the Federal Court. It must develop the capacity to efficiently allocate resources to address possible changes in demands and priorities from the Court.

The changes proposed in this report will assist the Tribunal in responding flexibly to the needs of the Court, as well as to the challenge of continuous improvement in all its other functions. This will be achieved through, for example:

- more focussed specialist support for the Tribunal's state and territory registries

- flexibility in resourcing decisions across locations and functions
- the capacity to allocate specialist resources to meet requests from the Court for assistance in matters not necessarily being mediated by the Tribunal

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5. THE REVIEW - KEY ISSUES

5.1 Overview

This review has undertaken an analysis of the extensive information provided by the Tribunal, its managers and staff and by external stakeholders. A series of issues have emerged from this analysis which are relevant to the review's Terms of Reference and which need to be addressed in order to enhance the efficiency, flexibility and responsiveness of the Tribunal.

These issues can be categorised under five broad headings:

i) Structure

- role and function overlaps
- role and function gaps
- corporate support functions
- specialist functions
- Project Office

ii) Resourcing

- Case Manager utilisation
- workloads and flexibility
- position gradings
- resource utilisation

iii) Process

- delegation levels
- process over-engineering

iv) Governance

- Principal Registry and state and territory registry issues
- governance processes
- communication
- accountability

v) Leadership

- the President, Registrar and executive leadership
- stakeholder management

Each of these issues is discussed in **Section 6** and recommendations put forward to address perceived impediments identified to a more efficient, flexible and responsive organisation.

The structural options put forward in **Section 7** are designed to facilitate a resolution of these issues.

6. DISCUSSION – KEY ISSUES

6.1 Structure

6.1.1 Role and Function Overlaps

There are overlaps in the work of some sections within the Principal Registry.

Project Office/Public Affairs/Operations

In relation to statutory and compliance reporting and support for Executive committees, staff often receive similar requests for the same information from a number of different sections. For example, the work in producing the National Report, the Annual Report and Output reporting has been fragmented between Public Affairs, Project Office and Operations, leading to duplication of requests to other sections within the Tribunal by each area.

Contributing factors include:

- unclear accountability for reporting, compliance, strategy and Executive support matters
- poor and/or duplicated tasking
- unreasonably tight deadlines
- lack of project visibility and ownership

Recommendation 1:

That functional accountability for compliance and statutory reporting and for President and Member, Registrar, Executive and Strategy Group support, be amalgamated under one organisational grouping within the Registrar's Directorate, as addressed in the proposed structural options.

Operations/Information Services (IS)

There are significant overlaps between the roles and functions of the Operations and Information Services (IS) sections. These issues are dealt with in **Section 6.1.4** below.

IS/Geospatial

The Geospatial section has an infrastructure support team which has developed and implemented the iSpatial and Native Title Vision applications. These systems have been successful, but historically much development has occurred outside the IS section (with ongoing systems support also provided outside the IS section) despite the potential for these applications to cause incidents with core systems.

Whilst Geospatial and IS are now working more closely together and systems development is occurring generally in a more integrated way, there are heightened risks around system integrity, data integrity and business continuity due to fragmented accountability for the technology systems that enable core business services, including data integrity. There are also possible fragmentation and inefficiencies in resourcing overlapping functions and roles.

Recommendation 2:

That the Geospatial Solutions function of Geospatial Services be integrated with the new Business Technology Systems Unit.

Project Office/Director Strategy and Innovation

Both the Project Office and the Director Strategy and Innovation are involved with monitoring, reporting and assisting projects and project managers within the Strategic Program³.

This appears to lead to some duplication related to operational management support for relevant projects. In turn, this can lead to a gap in the strategic management of the program because of a focus on the detail of the projects.

This issue is addressed in the recommendations contained in Section 6.1.2.

Public Affairs and State and Territory Registries

Overlaps have occurred in developing and implementing stakeholder engagement plans, whereby external bodies and stakeholders have been contacted by people from both the state and territory registries as well as from the Public Affairs section about the same media event. As a result, external parties involved in a media event have received differing advice from Tribunal staff about, for example, what is planned in terms of media presence and coverage of particular matters.

A protocol in place between the Principal Registry and the state and territory registries to address such issues does not appear to be effective in all situations. State and territory registries are required to have their own external stakeholder relations plan and look to Principal Registry to support their activities. State and territory registries are required to provide a weekly report to the Public Affairs section on communication/engagement events and issues. However, an overlap in accountability for stakeholder engagement creates tension about the scope of stakeholder engagement and what resources, processes and support are required for it.

Recommendation 3:

That stakeholder engagement and communication accountabilities be clearly defined in a communication protocol between state and territory registries and Principal Registry staff. The proposed Manager Stakeholder Relations should take overall responsibility for this function.

6.1.2 Role and Function Gaps

Project Management

There is no current role or section which has an adequate overview of all significant projects underway or is in a position to address planning, resourcing, content interdependencies, activity demands and key pressure points between them.

Project Office

The Project Office was established primarily to assist the President and the Registrar in managing the Tribunal's organisational governance and to provide strategic and planning advice. The Project Office provides reporting and secretariat services to

³ The Strategic Program comprises 21 strategic projects which commenced in mid-2009 and which are designed to achieve the Tribunal's Strategic Priorities and to strategically re-position the Tribunal to meet its current and future challenges.

strategic and executive committees and also provides governmental compliance assistance, policy and project support for significant projects.

Since establishment, the Project Office has faced a number of challenges including its roles and functions not being well understood or even accepted and some duplication (or risk of duplication) of roles with other areas. Its staffing profile is unbalanced, consisting of one full-time employee (the EL2 manager) and three part-time employees. Such a staffing profile fails to meet the Tribunal's organisational requirements as too much responsibility for deliverables and outcomes (both internal and external) falls to the manager.

As noted above, varying approaches to project management are apparent within the Tribunal and the Project Office's intended role in overseeing strategic project delivery has not been fully operationalised. The Project Office's authority and accountability in driving compliance with agreed project methodology is not clear. Required project processes, templates and reporting are frequently challenged.

Overall, this indicates a gap in the Tribunal's project management capability and in acceptance of roles associated with project management. Whilst having taken steps to introduce project management skills and capability, the Tribunal is not yet fully mature in this regard.

Up to two additional full-time resources could be considered for the Project Office, together with a reduction in the number of part-time positions, to provide better project management capacity, an effective compliance and reporting function and a focal point for Member support.

The Project Office could provide the focal point through which the Tribunal can contribute to the development of broader native title policy through existing bodies such as the Native Title Consultative Committee, Native Title Consultative Forum, and regular liaison meetings with the Federal Court, FaHCSIA and AGD. To this end the section should be renamed "Strategic Planning and Projects Office".

Recommendation 4:

Create an expanded Strategic Planning and Projects Office, reporting within the Registrar's Directorate, to manage co-ordination of all key projects including those currently managed by the Director Strategy and Innovation.

Recommendation 5:

The Strategic Planning and Projects Office to be responsible for promoting and enforcing consistent project management methodology through resourcing, reporting and governance processes.

6.1.3 Corporate Support Functions

People Services

The Human Resources (HR) advisory and business partnering support provided to managers appears inadequate and People Services are perceived by some as under-delivering in induction and L&D strategies and implementation. The HR function is not strategically positioned for the issues the Tribunal needs to address and geography

mitigates against good support across the country with resources too far removed from the state and territory registries where specific needs arise.

The Tribunal's new indigenous employment, development and retention strategy (one of the Strategic Program projects) will require support and integration with overall workforce planning and skills development programs. Succession programs need to be in place to ensure critical operational skills (Operations, Delegates, Case Managers) will always be available.

Increased support for operational HR management is required to enhance managers' skills in important people management processes relating to performance and grievance management, harassment and bullying issues, informed workforce planning and skills development and OH&S, induction and equity and diversity programs.

To emphasise the strategic importance of HR management in addressing the Tribunal's leadership and workplace culture issues, a new position of HR Director should be created at EL2 level, reporting directly to the Registrar. This position would replace the current positions of Workforce Information and Planning and Communications Director (EL2) and Manager People Services (EL1).

A small HR section of three positions under the HR Director, located in Principal Registry, should address strategic HR issues (workforce planning and recruitment, workplace relations and learning and development) and be responsible for managing devolved HR operational support staff embedded in each operating region. Two regional HR Business Partners would be appointed to support each of the proposed East /West regional hubs (one being outposted in the East regional hub). These officers would report directly to the HR Director but with operational accountability in a matrix structure to the relevant Registry Managers. The Business Partners would provide local-level support across all HR issues and could be classified in the range APS 5 to EL1 depending on the nature and scope of the roles. These positions would be achieved through a reallocation and possibly re-grading of current resources within the section.

In order to ensure a strong focus by the HR section on critical HR strategic and business support needs, payroll transaction services should be moved to the Finance section. There are currently 2 positions within HR allocated to payroll services which appears high for a white collar payroll function for 230 staff. Efficiencies can be achieved through a reduction of one position in current payroll resourcing. To provide a contingency in event of staff illness or resignation, other staff in the Finance section should be trained to support payroll services if required.

Alternatively, the payroll function could be assessed for incorporation under a shared services arrangement with the AGD, being the relevant parent agency. Whilst previous analysis indicated limited, if any, savings from such a move, this initiative should be revisited in light of the current budget situation. This approach is consistent with the government's intentions to achieved shared administrative service efficiencies.

Overall, after the allocation of one payroll position to Finance, up to three positions can be saved from the People Services section.

Recommendation 6:

A new position of HR Director should be created at the EL2 level, reporting directly to the Registrar.

Recommendation 7:

Two generalist HR Business Partner roles (APS5 to EL1) should provide operational HR support in each of the two proposed regional management hubs.

Recommendation 8:

Remove the current EL2 and EL1 positions from the People Services structure. The proposed regional HR Business Partner roles should report directly to the HR Director position.

Recommendation 9:

Reposition payroll services to the Finance section and assess the payroll area for possible shared services arrangements with the broader AGD.

High-quality and effective leadership training and development is essential for an organisation to perform well. Two reviews in 2006 and the Tribunal's March 2008 staff survey identified a range of leadership issues including a culture of non-collegiate working and relationship-based power behaviour undermining organisational governance processes.

A number of leadership and behavioural issues were raised again during this review and a credible and strategic approach to leadership skills development must be adopted and supported by the Registrar and President to address such issues. This means:

- a strong focus on, and support for, high level development for middle and senior managers addressing people management, performance management and change implementation
- a focus on day-to-day behaviours that demonstrate the desired leadership skills and culture (ie information sharing, collegiate working, following required rules and procedures, adherence to organisational governance processes and support for agreed priorities)
- leadership tools built into performance review processes to support behavioural assessment and collegiate working (ie 360 feedback tools)
- holding leaders, managers and staff accountable for performance and outcomes, implementing change and demonstrating required behaviours
- strong Executive leadership of the program

Recommendation 10:

The HR Director be responsible for establishing a credible and strategically positioned Leadership Development Program.

Information Services (IS)

The resourcing of the IS section and the relationship and communications between IS and other sections is not as effective as it needs to be for the Tribunal's requirements.

There is a strong perception in some areas that IS is not adequately delivering the IT related services and projects that the Tribunal requires. At the same time, it appears that there is a reluctance by some in the Tribunal to trust the technical expertise offered by IS and engage with them in scoping and defining the role and services required from them.

There appears to be inadequate solutions development and systems architecture capacity within the Tribunal and, whilst plans may have been developed to address known problems, the Tribunal appears to lack an informed longer term and holistic view of the required systems architecture.

From a Tribunal perspective, the time taken to develop and implement new systems is unsatisfactory, which prolongs the time and resources involved in supporting old legacy systems.

The current BIS team in the IS section is under-resourced to meet the Tribunal's solutions development requirements. With only one full-time and one part-time dedicated resources, external contractors have been used to add additional capacity. However, this does not provide for necessary continuity leading to project scope creep after contractors have finished.

IS help desk resources are over-allocated for the task, providing five resources currently for an organisation of just 230 people. Re-assigning up to two help desk resources would create additional capacity to be applied to solutions and systems development functions.⁴

The Operations section is responsible for the Tribunal's core business processes and databases. The section also has a significant role in systems technology via its Business Systems Team (BST) which operates a help desk, conducts extensive user acceptance testing for system development projects (including writing test scripts and accessing and amending data using SQL), produces customised data reporting and manages some system-related development projects.

From a user perspective there are gaps in the support process. When an issue is raised which the BST cannot deal with directly, it is referred to IS. The resolution of the issue may not be visible to the BST. Staff who follow up on progress of the issue find themselves referred back and forth between IS and BST.

Whilst both sections have taken steps to improve the mutual working relationship, matters appear to be further complicated by a historic lack of effective communication between IS and the Operations section.

These skills would more usually be housed within a single ICT group with management and user efficiencies to be gained from integration of technical support processes, integration of help desk functions and maintenance of appropriate quality specialist technical skills.

The overlap between IS and Geospatial functions in systems solutions, development and maintenance has been previously discussed at **Section 6.1.1**.

⁴Some turnover of IS staff, and change of responsibilities, has occurred since the draft report including this information was provided for comment.

The ICT-IS team within IS manages the policy, process and tools surrounding the lifecycle of the Tribunal's records. The Tribunal's dispersed staff and the fact that common record management tools are not available in all locations is a challenge for ensuring process compliance and there is a need for some records management support in operational areas to educate and support users and audit compliance (addressed in **Section 7**).

As well as realignment of resources within the section, creation of a single section with responsibility for all ICT issues should provide further economies, with up to three positions available to assist in funding organisational efficiencies.

Recommendation 11:

That all information systems technical resources, including help desk support resources, are housed in a newly formed information technology section to be called Business Technology Systems, by relocating the Business Systems Team from Operations along with the Geospatial Solutions function from Geospatial Services.

Recommendation 12:

That delivery accountability for technology systems projects (on behalf of the business sponsor) clearly rest with the new Business Technology Systems, and that a consistent project management methodology is fully utilised in project development, delivery and management, including the use of specialist business analysts to effectively determine user requirements.

Recommendation 13:

Roles within the current IS team be realigned to reassign up to two additional resources from the help desk function to solutions and systems development and restructure management of the section to provide better systems development and support function connection.

Recommendation 14:

The manager of Business Technology Systems should report directly to the Registrar as Chief Information Officer.

Public Affairs

The Public Affairs section appears to be overstaffed for the Tribunal's current requirements.

The environment since the Tribunal commenced operations in 1994 and developed as an educative and high profile body has matured significantly. The Tribunal no longer needs to maintain a high public profile and media presence nor a strong focus on public education activities.

In this light, the range and scope of Public Affairs activities and publications should be reviewed and scaled down. Public Affairs work should re-focus on critical stakeholder relationships and engagement to build understanding of any performance constraints and improvement opportunities.

Significant potential resource savings can be made in this section. The section should be relocated to the proposed Registrar's Directorate and be managed by a newly created position of Manager Stakeholder Relations at the EL2 level. The Manager

Stakeholder Relations should be supported by a Media Officer and a Publications Officer at APS4 or APS5.

Protocols requiring central referral of media inquiries are appropriate and can be handled with one designated media officer, with that officer also working on other communications needs.

*Recommendation 15:
Abolish the Senior Public Affairs Officer position.*

*Recommendation 16:
Realign the Public Affairs section to the proposed Registrar's Directorate, retaining a Media Officer and a Publications Officer at APS4 or APS5. Consideration should be given to abolishing the remaining four positions in the current section.*

*Recommendation 17:
The Public Affairs section be managed by a newly created position of Manager Stakeholder Relations, responsible in particular for providing support to the President and Registrar in managing critical external stakeholder relationships and working with state and territory registries to develop effective local stakeholder engagement strategies.*

Legal Services

The Legal section is highly regarded for the expert advice it provides on native title matters and for the high quality of its work generally. The section's work supports the President and Members, the Registrar's statutory functions and Case Managers and provides some general corporate legal services to the Tribunal. About 80% of workload is related to specialist NTA advice with the remainder involving corporate support work.

The 2009 Workload Review noted the section's highly variable work flows and the difficulty in establishing capacity issues. The difficulties may be increased by the fact that a majority of employees in the Legal section work part-time.

The section's current resourcing allows flexibility to assist other areas and there is potential for better management of work which currently sits with the Research section which should be undertaken by the Legal section. For example, requests to provide information about the differences in legislation between states on cultural heritage conservation, requests about public liability issues in native title agreements and advice regarding rights to negotiate in the absence of a registered claim.

Uncertainty regarding the level of work arising from changes to the NTA and consequent changes to how the Court may treat claims and mediation referrals to the Tribunal, or how the Court may source advice from the Tribunal, means that the future work requirements and volumes are unclear.

Overall there may be a small amount of additional capacity within the section, with possible savings of one position. Work levels should continue to be monitored closely, with the objective of reducing staffing levels to match any reduction in work demands. The Legal section already utilises the services of the Australian

Government Solicitor (AGS) and other providers as required and use of those services could be increased.

The options for future organisational structures set out in **Attachment Three** to this report suggest alternative locations for the Legal section. Given the section's role in directly supporting the President and the Registrar's functions, if Option 1 or 2 is adopted, the Legal section should be located within the Registrar's Directorate. This would provide the Registrar with flexibility to direct changes in resourcing priorities to meet any future changes required from the Federal Court.

Alternatively, if an Agreement Making and Arbitration Support unit is created (Option 3) the Legal section should be located within the Agreement Making and Arbitration Support unit.

Recommendation 18:

The Legal section be located either (a) within the Registrar's Directorate (if Option 1 or 2 is adopted) or (b) within the Agreement Making and Arbitration Support unit (if Option 3 is adopted).

Finance

The Finance section was identified as requiring additional resources in the 2009 Workload Review due to the need to complete project work involving updating and developing new financial systems and procedures.

The section has been increased by some short term positions, intended to complete required project work by June 2010. When these projects are completed the Tribunal should carefully address the balance of responsibilities, skills, grades and job tenure and workplace culture in this section, which has more non-ongoing staff than permanent staff. The centralisation of some financial delegations should be reversed and compliance auditing increased to address any perceived management risks.

Whilst the gradings of some positions could possibly be reduced (as foreshadowed by the Workload Review) when project work is completed, consideration should be given to, over time, upgrading the skills and capability of the section to address strategic financial and business management issues in a difficult budgetary context. The appointment of a qualified procurement, risk and contract manager would provide for more robust and effective business management.

In particular, a shared service arrangement could be considered with the AGD for transactional processing work, particularly accounts payable and payroll, leaving more strategic functions such as budget development, financial analysis and management reporting functions with the Tribunal. This would be consistent with the recommendations of the Government's "*Ahead of the Game – Blueprint for the Reform of Australian Government Administration*" Report.

The section should also take responsibility for managing the Tribunal's assets, including accommodation requirements.

To provide a stronger financial input into executive decision making, the position of Chief Financial Officer should report directly to the Registrar as part of the Tribunal's leadership team.

Recommendation 19:

The Chief Financial Officer role should report directly to the Registrar. Among the CFO's role should be the development of a strategic asset utilisation plan to match reduced office space requirements.

6.1.4 Specialist Functions - Service Delivery

Operations

The Operations section is the custodian of the Tribunal's core information registers - the Register of Native Title Claims, the Register of Indigenous Land Use Agreements and the National Native Title Register. The section is also responsible for the business systems and processes associated with ensuring that the registers, and the Tribunal's obligations to notify and report certain information, comply with the requirements of form, process and content under the NTA.

The section manages its work through three portfolio work areas:

- agreement-making and Federal Court liaison
- ILUA and Registrar functions (including registration and notification)
- Future Act and the National Case Flow Management Scheme (NCFMS)

The section responds to directions arising from the work of the various Strategy Groups. It translates these directives into changes to business rules and data entry processes for registry staff to follow. It also responds to problems/issues raised by registry staff and, where appropriate, amends practices and procedures to resolve the identified issues.

The section also plans and conducts user acceptance testing for new systems, project manages and/or sponsors new system development and operates a help desk for system users.

The section's activities span executive support, strategic, policy, procedural, project and systems functions. This has created confused roles and responsibilities and difficulties for the section in delivering effectively and efficiently on its activities. The wide scope of the section's activities means there is a clash between its policy role and its implementation, project and support roles.

In the view of both the section's staff and registry staff more generally, core support to Registry work has suffered significantly as broader strategic projects have increased.

Decisions from the Tribunal's various Strategy Groups sometimes go beyond strategy/policy into procedures and processes which the Operations section is required to implement. There is a view that, as a result, such processes and/or new applications may be over-engineered and cumbersome (eg NCFMS, FA and ILUA processes).

Delineating the important aspects of the section's work and repositioning them on the basis of Register custodianship, Registrar's functions, line support, business process

development or project function will assist remove the issues arising from the competing roles and demands on the section at the moment.

Additionally governance changes need to ensure that procedural decisions about work processes are not made at an inappropriately high level in the Tribunal.

Workload levels for the current portfolio work should be manageable with five positions in all. If Option 1 or 2 in **Attachment Three** is adopted, these roles will be located within the Registrar's Directorate. Alternatively, if Option 3 is adopted, Operations will be based in the Agreement Making and Arbitration Support unit under the Director Operations West. In Options 2 and 3, an Operations Support Officer will be outposted to Operations East.

There is a potential reduction of four positions in this section. Project resources should be seen as additional to core work and be resourced according to requirements. Realignment of the Business Systems Team with the proposed Business Technology Unit has been discussed in **Section 6.1.3**.

Specialist knowledge required for the Operations roles could be at risk if the section's knowledge management needs are not appropriately supported by a suitable succession planning/skills transfer program which should be supported by the proposed new HR section.

Recommendation 20:

Recast the Operations section's functions to provide better delineation of policy, procedural and operational roles. If Option 1 or 2 is adopted, these roles will be located within the Registrar's Directorate. If Option 3 is adopted, Operations will be based in the Agreement Making and Arbitration Support unit under the Director Operations West.

Recommendation 21:

Place the BST within the recommended new Business Technology Systems Unit and source additional Business Process Analyst expertise on a contract basis to work on simplifying core Operations business procedures, distinguishing what is required to meet statutory functions, and what is required to meet Tribunal management information needs.

Geospatial Services

The Geospatial section is highly customer focussed and receives positive feedback externally and internally about the section's responsiveness and efficiency, as well as about its products and their relevance to mediation and agreement-making processes.

The section's internal structure provides specialist support to the native title work of the Tribunal via two mechanisms:

- a) the outposting of some staff in the state and territory registries where those staff are able to work closely with registry staff to clearly understand and deliver on service needs and issues, and

b) a complementary approach to national resource pooling whereby service requests from any registry will be assigned to the next available officer, wherever that officer may be located.

This model has provided responsiveness and flexibility to address a workload which fluctuates significantly by location.

The section also has a significant technology function in its current Geospatial Solutions unit which, while there are no individual role overlaps, is a clear functional overlap with Operations and IS in terms of accountability for business technology systems.

The section's overall workload over the last 12 months has remained relatively stable. Staff are generally busy but are able to manage their workload.

It is unclear, however, how new approaches in the Court's treatment of mediation may impact on the work of this section, with some observations that the Court has recently increased its requests for Geospatial products in matters which are not necessarily with the Tribunal for mediation.

As with the Legal section, if the use of specialist Tribunal services by the Court for matters that are not with the Tribunal for mediation becomes a preferred direction, this will influence the optimal resourcing and placement of the Geospatial section in the new structure.

Research

The Research section's work is widely recognised to have changed over recent times. Some years ago the section's main product was the "research brick" or research backgrounder – extensive reports concerning group location, cultural practices, contact history and other matters relating to a particular claim.

In recent years, with a maturing external environment, more information available in the public domain and more research and anthropological resources available to Representative Bodies, the requirement for research bricks has changed. Available data suggests six backgrounders were commenced in the twelve months from May 2009 to April 2010, with two in Queensland, two in Victoria, one in Western Australia and one in South Australia.

As a result, the section's product relevance and engagement within the Tribunal are changing with more work being self-generated.

For example, the section has trialled a new product developed from previously prepared material which is "cleansed" so that privacy requirements are not breached, with a view to providing that product to an external audience. It is unclear, however, whether this new product will be sought by, or useful for, external parties.

The section has also suggested that there is greater capacity for its services to be utilised on "issues-based" research, policy advice and value-adding to agreement-making and capacity building work. However, as noted above, some of this work may be self-generated, rather than responding to specific requests. Other work requests may be seen as outside the scope of the NTA, for example, a project

underway for the NSW Land Council which is a comparative summary of Commonwealth indigenous heritage regimes with specific focus on processes for Aboriginal consultation.

Consistent concerns have been raised by internal clients, both Members and staff, about the section's performance particularly relating to the timeliness of delivery of research products and the "fitness for purpose" of some of the section's work.

Different views have emerged about the effectiveness of outposting Research officers in the state and territory registries. On the one hand, there is a view that such an arrangement helps research output to be better targeted to meeting client needs and to provide multi-disciplinary input into agreement-making teams. On the other hand, there is a view that specialist Research officers would benefit from working together in one location in a critical mass. Such differing views highlight the question of the proper role and function of Research officers within the Tribunal.

Research section staff, for their part, have raised issues which they believe impact on the efficiency of their work, including:

- lack of consistent engagement by managers via the Research Help Desk and agreement-making teams
- registry staff restricting direct access by Research section staff to external clients

The section feels that their services are generally under utilised by the Tribunal but, at the same time, claim that their workload is becoming excessive.

It is clear that research needs in native title matters have changed and there is a competitive market for research services with many external agencies capable of undertaking this work. Further, it is unclear how new approaches in the Court's treatment of mediation may flow through to the work of this section and if, for example, the Court sees opportunities to utilise Tribunal research resources for matters not in mediation with the Tribunal.

Significant potential savings are available in this area with a Research Manager located in Principal Registry, responsible for one Research officer located in the proposed West regional hub and another Research officer outposted in the proposed East regional hub. This would result in a saving of up to 8 current positions.

Recommendation 22:

That Research services be further aligned with operational needs to directly support mediation and agreement-making by placement of Research section staff within the proposed East/West regional hubs to provide a customer focussed research service as required.

Recommendation 23:

Core Research section staff numbers should be reduced to three staff with the Research Manager, responsible for the professional oversight of research standards, located in Principal Registry, one Research officer located in the proposed West regional hub and another Research officer outposted in the proposed East regional hub. The Tribunal should procure additional resources from the market when required to deliver work above core capacity levels.

Library Services

Library Services has adjusted its resourcing and services over time to keep pace with an increasing use of on-line facilities and methodologies but its physical presence in each registry requires rationalisation in the light of overall usage.

On the basis of available usage figures and patterns, the Library should be rationalised to two major facilities - one located in Principal Registry and one in the Brisbane office. The collections in other registries should be rationalised and a small bay of commonly used resources should remain, managed by local staff. With these changes, and supported by appropriate technology, a consequent saving of up to 1.5 positions could be achieved, principally through the consolidation of facilities between WA and Principal Registries and reduction of dedicated Library resources in other registries.

Recommendation 24:

That Library Services are further rationalised to achieve efficiencies consistent with alignment with two regional hubs.

6.2 Resourcing

6.2.1 Case Manager Utilisation

In some areas, Case Managers with appropriate skills could be utilised more fully in mediation and agreement-making work. In the last two or so years, with a rapidly-declining Member base, this has begun to occur.

Case Managers cover work roles across claims mediation, ILUAs, Future Acts, “section 78” assistance and other capacity building work. Case Managers exercise a variety of skills in their work, ranging from project planning (addressing strategies, processes and resources that will be required to manage a case from beginning to end) to project implementation skills (including communication and resource management skills, negotiation and mediation involving the parties in ILUA and Future Act matters and co-mediation alongside a Member).

The Tribunal has recently accredited nine people as mediators through the well-known LEADR program and has previously articulated, via the *National Guidelines for Practice in Agreement-Making*, the various roles that suitably skilled Case Managers may undertake in agreement making work. It has further articulated, through the document *Organisational Principles to Support Agreement-Making*, how staff and Members should work together to maximise skills utilisation.

The extent to which Case Managers are utilised by Members is complicated by:

- legislative provisions about who may do certain activities
- Tribunal practice as to how work is allocated to staff and Members
- individual Member practice in working with Case Managers

There are clear differences in the way that individual Members work with Case Managers with some Members more inclined than others to utilise the full range of skills held by Case Managers.

Recently, as mentioned above, Members have generally shown a greater preparedness to more fully utilise the skills of Case Managers. However, this is not a uniform view and there is an opportunity to further enhance Case Manager utilisation. This will have a number of benefits in improving the progression of claims matters, improving Case Manager job satisfaction and assisting the workloads that Members are currently shouldering due to the on-going reduction in Member numbers.

In this light, the President should consider working with Members to review individual Member practice against role expectations established in the *National Guidelines* and the *Organisational Principles* documents. Registry Managers could assist this process by working even more closely with the President and each Member to provide insight into staff skills issues and discuss any impediments to higher skills development and utilisation.

Recommendation 25:

Registry Managers and Members should work more closely together to optimise the use of staff case management skills and to discuss and resolve any impediments to higher skills development and utilisation on matters carried by each Member.

Recommendation 26:

The President should lead joint discussions with Members and relevant staff to review mediation, ILUA and Future Act practice, and to identify where greater utilisation of Case Manager skills could be achieved.

6.2.2 Workloads and Flexibility

The volume of work varies considerably across the country and there appears to be capacity in some areas for increased workloads together with a need for increased flexibility to deploy resources according to operational need.

Work projections show a continuing wind down of claims work in South Australia and the Northern Territory and a generally steady work load in the other registries. The future of claims work in Victoria is uncertain given the Victorian government's state-based native title regime. Work volumes associated with Future Acts are increasing in Western Australia. ILUA work is increasing in Queensland and NSW and is emerging strongly in Western Australia. ILUA registration is consequently increasing overall with claim registration testing work maintaining a steady rate.

Delegates' work is under-resourced at the moment due to a combination of increased registration work and decreased resource availability. Two non-ongoing Delegate positions in the NSW Registry should be converted to on-going positions one administrative position should be removed, while a longer-term view of workload requirements should be developed overall.

It is considered that while some amount of delegates' work (both claims and ILUA registration) can be managed with outposted resources, a critical mass of resources should be located in one location to ensure optimal workflow and resource management.

As a result of the 2010 Budget, the President and Registrar have announced the closure of the NT Registry with all Darwin-based functions transferred to the Adelaide-based registry to create a new Central Australia Registry. Prior to this decision, staffing efficiencies were possible from the SA Registry, in particular, the third Case Manager position is not required, nor are the vacant positions at the APS 4 and 2 levels required. Potential savings remain possible from the new Central Australia Registry staffing.

A presence in each state and territory may be important to retain while there are existing claims in mediation and other required work, but if work reduces in one location and increases in another, a more flexible resourcing approach may be needed such that underutilised resources in one location might be used for work required in another location. In particular, the on-going requirement for a longer term presence in Victoria needs to be considered in light of the impact of the Victorian government's state-based native title regime.

In the shorter term, there are opportunities for a rationalisation of state and territory registry resourcing in light of funding changes in the 2010 Budget. Such opportunities can be considered in a number of respects:

- greater support from outposting of specialist services (eg, Operations and Records Management) will improve the efficiency of registry operations
- development of multi-skilled administrative support teams in each registry to provide support across functions and general corporate support
- rationalisation of library services
- providing Members' support through centralised administrative support teams, rather than a dedicated Members' Assistant position. The impact of this proposal will need to be discussed between the Registrar, President and Members.

Recommendation 27:

Following the decision to close the NT Registry, and to create the new central Australia Registry based in Adelaide, the requirement to have an on-going physical presence in both SA and Victoria/Tasmania should be reviewed as workloads reduce over time below a critical mass.

To optimise flexibility within and across the Tribunal, and responsiveness to changes in the native title framework and Federal Court priorities, work planning and resourcing should be undertaken with a broader perspective than the current state-based approach. This will become increasingly important if the Court requests different utilisation of Case Managers and other Tribunal resources in the future.

The Tribunal's operational priorities split easily into East and West regions, with, in structural Options 1 and 2, the West region being Western Australia, Central Australia and the East region being Queensland, NSW/ACT and Victoria/Tasmania. In Option 3 the new Central Australia Registry would be in the East region, based on a different balance of projected future workloads between the Directors of the two proposed East/West regions.

Core case management skills are required nationally. Delegates' skills for claims work are required primarily in NSW/ACT Registry for registration testing. ILUA registration testing is managed from the VicT Registry but carried out in several

locations. The nature of Delegates' work suggests it is preferable to have Delegates clustered together rather than outposted and current arrangements whereby a small number of staff are outposted may not be offering optimal effectiveness.

Given the existing and expected work volumes in each state and territory, an East/West regional view of operations would assist the Tribunal balance physical and human resource allocation and consolidation in the medium and longer term, with the central hubs for each of the two regions logically being the Queensland and Western Australian Registries. Such a structure would provide greater focus and cohesion across the Tribunal, as well as increased resilience and flexibility for future changes/consolidation.

Over time and depending on future funding and the evolution of the native title environment, it could be expected that the state and territory registries may consolidate into two key East and West offices. This will provide for a rationalisation of the management structure across the registries and for further efficiencies in physical and human resourcing.

A Director Operations, at the SES level, should be responsible for overall management and co-ordination of activities across each region to ensure maximum efficiency in planning and resource usage. The Director Operations West, should be appointed Deputy Registrar.

Recommendation 28:

The Tribunal moves to an East/West regional perspective of operations, resource planning and allocation whereby Queensland and Western Australian Registries become the key operational and resourcing hubs of the Tribunal.

Recommendation 29:

A Director Operations, at the SES level, should be responsible for overall management and co-ordination of activities across each region to ensure maximum efficiency in planning and resource usage. The Director Operations West, should be appointed Deputy Registrar. The two Director Operations positions should be members of the Tribunal's leadership team.

Recommendation 30:

Rationalisation of state and territory registry resourcing be considered on a case-by-case basis in both the short and medium term, considering the conclusions of this report and the evolution of the external native title environment.

6.2.3 Position Gradings

Across the Tribunal, there is concern about the grading equity of positions where similar work is perceived to be done by differing grades. These concerns relate in the main to administrative support roles from APS 2 to APS 6 levels but also relate to a perceived disparity of work undertaken by EL1 and EL2 managerial roles in some areas.

There are a number of factors why job gradings, over time, may become out of alignment with what is required, and it may be difficult for other areas to fully understand the dimensions of a role in an area outside their own.

It is important that the Tribunal ensure that grading appropriateness and equity concerns are addressed.

Recommendation 31:

It is recommended that the new HR Business Partners jointly address grading issues where they are raised to achieve greater consistency in gradings across the Tribunal and that the basis of any alterations to grades is transparent and clearly understood by staff.

6.2.4 Resource Utilisation

Some staff-related resourcing decisions do not adequately support operational needs whilst some physical resources are underutilised.

The Tribunal has a relatively large proportion of part-time staff. Whilst providing a desirable opportunity for individual work/life balance and also providing a useful mechanism for retaining valuable staff who otherwise may not stay with the Tribunal, the high proportion of part-time staff currently with the Tribunal has created significant problems in providing timely service support and delivery. This is the case across a number of areas, but is of particular concern in the Project Office, where the current imbalance of full-time and part-time employees needs to be addressed.

In addition, some decisions appear to have been made to locate staff in particular registries based on staff preference, rather than operational need. These decisions may have enabled the Tribunal to retain highly-skilled and valuable staff; on the other hand, such decisions may, in some cases, have reduced the operating efficiency of the Tribunal.

The Tribunal needs to consider the balance of staff preference and operational need, and be prepared to make decisions on a case-by-case basis according to the merits of each case whilst ensuring that such decisions do not undermine operational efficiency.

The increasing proportion of non-ongoing staff to ongoing staff is an issue for the Tribunal and its ability to manage continuity of organisational knowledge as well as staff attraction and motivation.

Recommendation 32:

The Tribunal should review the current balance between full-time and part-time staffing, the location of certain positions based on personal preference and the numbers of non-ongoing positions to achieve an appropriate balance between operational efficiency and attraction and retention requirements.

Some of the physical assets of the Tribunal are under utilised. Rent and other outgoings are the largest budget item after salaries, accounting for 13% of costs.

The office space available in Darwin and Sydney in particular is under utilised, whilst the need for Libraries both in the Principal Registry and the Western Australian Registry is difficult to justify.

Additionally, maintaining separate office premises for Principal Registry and the Western Australian Registry should be reviewed from a costs and culture perspective.

Whilst short term rationalisation of office space can be achieved, consistent with lease obligations, in the longer term the Tribunal should consider the opportunity to co-locate with the Court where premises are available which suit the operating needs of the Tribunal. These issues have been recognised in the Registrar's announcement on measures to address the 2010 Budget outcomes.

Recommendation 33:

That office locations and office space needs be reviewed as the opportunity arises with the objective to reduce office costs, including rationalising space usage, co-location between Registries and with other agencies where possible.

Member numbers have declined over some years. It is noted that, overall, Members carry a large workload – some particularly so. There is a high risk that the recent resignation of one of the two Western Australian members might compromise the ability of the Tribunal to deliver according to the plans currently in place.

It is also noted that it is not possible to determine the extent to which the judges of the Federal Court will be utilising Tribunal Members and the Tribunal's other services in the future.

The number of Members available to the Tribunal is, however, a matter for government and should be addressed as part of an upgraded focus on developing and maintaining relationships with the Court and AGD.

6.3 Process

6.3.1 Delegation Levels

Recruitment constraints were introduced in the 2009/10 financial year to address the reduction in appropriation which commenced that year. There is now a view that some personnel and financial delegations have been inappropriately centralised which is causing operational frustration in the state and territory registries. For example, on-going recruitment needs to be approved within Principal Registry, which can cause delays to recruitment approvals, potential loss of candidates and poor candidate care.

Similarly, registries are encountering delays to some training approvals which have resulted in loss of course places and delayed training. This may also be attributed to caution being exercised centrally for budgetary reasons. Despite the centralised approvals processes required for some forms of training (e.g. training which requires travel), accountability for staff budgets and most skills-based training activities still sit with the state and territory Registry Managers.

Concerns have been expressed regarding delegations for minor equipment repairs also sitting at too high a level.

Recommendation 34:

Operational management delegations consistent with management accountabilities should be reinstated, supported by performance management action if delegations are improperly used.

6.3.2 Process Over-Engineering

Some business processes appear cumbersome and over-engineered.

The Tribunal has tried to ensure a careful and best-practice approach to its work and supporting processes. However, it appears that unwieldy business systems and overly-detailed applications and procedures (eg NCFMS; finance and procurement guidelines, performance management systems, process for engaging Research services) and /or lack of timely response to required process changes when referred to Principal Registry, leads to non-compliance with procedures and systems and the development of inconsistent local practices.

The Tribunal is a relatively small agency and corporate/operational systems do not need to be so complex.

Business procedures should focus on key process requirements and must recognise that procedures cannot provide for all circumstances. The addition of extra procedural requirements to try and engineer out the possibility for human error creates unnecessary complexity. A balance needs to exist between specifying operating principles rather than prescriptive steps. Training to ensure understanding of process requirements and sound judgment skills within the operating principles should then become the focus.

Recommendation 35:

The Tribunal should ensure that structural and governance arrangements provide broad operational input into the design and implementation of planned business processes and procedures, to ensure relevance to operational needs, and that current processes and procedures commonly identified as causing implementation issues are re-designed as soon as practicable.

6.4 Governance

6.4.1 Principal Registry and State and Territory Registry Issues

Relationships between the Principal Registry and the state and territory registries could be more co-operative and productive. It is acknowledged that the Tribunal has a relatively small, but widely dispersed, staff cohort.

Principal Registry is generally perceived by state and territory registry staff as out of touch with the operational needs and pressures of the state and territory registries. Conversely, some Principal Registry staff observe that state and territory registries have little understanding of Principal Registry's functions and purpose and little understanding of being part of a national organisation. Staff from both Principal Registry and the state and territory registries express a great deal of frustration about the impact of this on their respective work.

Relationship tensions such as these occur quite frequently in organisations, because roles and functions of a head office are necessarily different from roles and functions of operational business units. The former needs to focus on strategic direction and the latter need to focus on efficient delivery of product and service. These tensions can become an impediment to effective operations due to factors such as:

- lack of understanding of respective functions and associated pressure points
- operational delegations which are not well-aligned with business processes, line accountabilities or organisational structure
- poor functional and/or task management
- lack of constructive collegiate behaviour
- poor structure, including poor structural distinction between strategy and operations roles
- resource imbalances between head office and operational units
- poor governance processes
- geographical distance

In the Tribunal's case, these factors variously contribute to the tensions which are impeding the Tribunal's efficiency and effectiveness.

A new structure which better reflects organisational strategy will facilitate improvements, however, it must be recognised that some issues can only be addressed through a change in the Tribunal's leadership approach and culture. This is consistent with previous similar findings. The recommendations in this section and the proposed structures set out in **Section 7** help to address these issues.

Development of an effective change management strategy to support structural change, as recommended in **Section 9**, will be essential to address the cultural issues with the current structure and to ensure a high level of understanding, ownership and commitment to any changes.

6.4.2 Governance Processes

There are currently a large number and wide range of strategy, operational and management groups and committees. These bodies take considerable staff resources and time and create significant reporting requirements. The value and results achieved from some bodies are questionable.

Few of the groups which form part of the current governance arrangements are decision-making bodies, and a Governance Review has commenced to examine this issue. Governance processes need to be aligned to the structure of an organisation, and the recently launched Governance Review should take into account the recommended structural changes from this review in making subsequent recommendations for improving governance processes.

Current governance processes appear extensive, burdensome and may be less effective than required. Governance is further undermined by a culture which has been previously noted as being relationship-based. It is noted that the Executive, and a number of other committees, meet regularly and meetings are conducted according to established formal meetings procedures.

However, the current method of communication of formal decisions and recommendations (uploading onto the intranet) may not be adequate. There is a risk of decisions being made (or appearing to be made) by informal power flows rather than within formal governance processes.

If processes are improved, underlying cultural issues, if unaddressed, will continue to undermine effective governance. Cultural issues need to be identified and addressed in the development and operation of an expanded leadership team as recommended in this report.

6.4.3 Communication

Comments received from some staff suggest that information does not flow up and down the Tribunal as effectively as is required for people to understand decisions, objectives and direction.

This is surprising given the Tribunal's size and the several consultative/information sharing forums within the Tribunal, designed to aid broad understanding of initiatives and objectives. The intranet is used extensively as a communication tool. The communication forums in place may be focusing on important information updates but neglecting even more important engagement and conversation about strategy, organisational performance and improvement opportunities.

There is a lack of understanding by some sections about the roles and functions of other sections and a tendency for inward (silo) thinking. To the extent that this issue is a simple lack of understanding beyond each section's usual work area, then a focus on better communications across teams can achieve good results.

The proposed structural changes recommended in this report aim to create a much greater input into leadership decisions and the opportunity for better communication across the Tribunal about both strategy and operational issues.

6.4.4 Accountability

The organisation appears to have ineffective practices to hold people accountable for underperformance. The Tribunal identified has increased accountability as a priority within its *Strategic Plan 2009-11*.

While many government agencies struggle with performance management processes, the issue for the Tribunal is that there is a perception that previous managers have not tried to manage underperformance. A high performing culture is hard to achieve if accountability and delivery of agreed results is not a priority.

The proposed changes to the role and structure of the HR section should assist in developing a better performance and accountability culture across the Tribunal.

6.5 Leadership

6.5.1 Leadership

The current Executive leadership team is small and the next management tier (Registry and Section Managers) is large. The Executive team structure is Divisionally-based which reinforces existing silos and disconnect within the organisation. There is a need to re-balance the leadership structure to deal with this.

The review also noted significant staff feedback indicating a perception of apparent disconnect within the leadership team.

United, cohesive and collaborative leadership teams are essential for organisational effectiveness and a healthy staff culture. Staff want a strong vision and united leadership message and they want leaders and managers who model organisational values of collegiate and respectful behaviour.

A larger Executive leadership team will facilitate a broader input of ideas and assist in ensuring that decisions are seen to be based on proper analysis and productive discussion, rather than on personalities.

Members of the Executive team would be directly accountable for their functional responsibilities to the Registrar but would provide greater input into Executive decision making and support for the Registrar in ensuring efficient operations and in developing and implementing the Tribunal's strategic directions.

There is also a need for greater clarity between the different leadership roles of the President and Registrar, and greater understanding by staff of those different roles. Whilst the President has broad responsibility under the NTA for the administration of the Tribunal, this responsibility is necessarily exercised through the Registrar who has clear responsibilities under other Commonwealth legislation as well as the NTA.

The President has a focus on managing key external relationships, managing the roles of Members and establishing a framework for their interactions within the Tribunal, developing the strategic directions of the Tribunal and ensuring that these directions are implemented effectively and in consultation with the Registrar.

Recommendation 36:

The Tribunal should move to a flatter leadership structure to facilitate broader input into Executive management deliberations and decisions.

Recommendation 37:

The Registrar's and President's responsibilities should be clearly communicated to all staff to facilitate a greater understanding about their respective roles within the organisation.

6.5.2 Stakeholder Management

The views of external stakeholders (representative bodies, industry council representatives, state government representatives) were highly positive overall of the Tribunal's services and personnel. Many stakeholders noted and appreciated an improvement in the Tribunal's preparedness to exercise firm management of claims matters particularly over the last two years. Several stakeholders appreciated that the Tribunal provided invaluable knowledge and process continuity in circumstances where individuals involved on behalf of the parties often changed over the course of a complicated claim.

The views of the key stakeholders at the Federal Court and AGD indicating that the Tribunal's performance must improve to better support the Government's agenda of quicker and more effective native title resolution, have been noted in **Section 4**.

The Tribunal has responded positively to these views and indicated that it recognises the need for responsiveness and flexibility to meet the stated intentions/directions of the Court. The Tribunal is willing to allocate resources to meet the Court's and individual judge's priorities.

In addition, the Tribunal has indicated an understanding of the need to communicate more effectively and to manage relations with both the Court and AGD to ensure positive engagement to achieve mutually desired objectives. It is essential that the key Commonwealth bodies involved in native title have strong and productive working relationships, including a clear understanding of the respective roles and responsibilities of each body.

Effective management of these relationships will need to be a priority for the President and Registrar, supported by the re-aligned Public Affairs section. The creation of the position of Manager Stakeholder Relations will ensure a strong focus on stakeholder management and provide effective support for the President and Registrar in this important role.

There is also scope for closer co-operation between the Tribunal, the Court and the AGD in a number of areas. The Tribunal, for example, has a well developed policy and legal capacity which may overlap with functions within the AGD and consideration could be given to sharing resourcing and knowledge between the two organisations to address critical policy development issues.

The development of shared services arrangements (for example, payroll services in the short term and IT or HR functions in the longer term) and possibilities for co-location where appropriate should be seriously considered.

Since October 2008 the President and Registrar have met regularly with representatives of the Federal Court, the AGD and, occasionally the Department of Families, Housing, Community Support and Indigenous Affairs (FaHCSIA), to discuss strategic matters relating to the implementation of the NTAA and the respective functions of the Tribunal and the Federal Court in the progressing of native title claims. This group is a high-level one, which might be well-served by becoming a standing liaison committee supported by a subsidiary group, comprising Directors and State Managers of the Tribunal, and the Deputy Registrar and Deputy District

Registrars of the Court, which could monitor, discuss operational and other issues, and make recommendations to the proposed liaison committee as appropriate.

Recommendation 38:

The Tribunal should approach the Federal Court to establish a high level standing liaison committee to facilitate on-going co-operation and closer working relationships between the two organisations.

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7. STRUCTURE OPTIONS

7.1 Overview

This review has identified a broad range of issues which are currently obstacles to optimising the Tribunal's organisational efficiency, flexibility and responsiveness. Specific recommendations have been made to address many of these issues, including the structure of various roles and functions and their position in a new organisational structure.

Many of the recommendations address current structural gaps and overlaps so that improved delivery and accountability can be achieved, whilst other recommendations address the need to improve support to the operational business provided by corporate and specialist functions and the need to improve organisational culture.

The key considerations in designing options for a new organisational structure to assist in optimising the Tribunal's organisational efficiency, flexibility and responsiveness are:

- a) moving towards an East/West regional model for best flexibility of resource use and to enable better alignment of resources with changing work demands
- b) retaining the key organisational strategy and Executive support roles in Principal Registry to facilitate clear accountability
- c) devolving some roles and functions of Principal Registry to better align corporate support to regional operations
- d) broadening the span of the Registrar's reports to facilitate a broader direct leadership input into key strategic corporate and service priorities
- e) expanding input from key operations roles into the leadership team, consistent with a more devolved regional model
- f) devolving more specialist roles into registry teams on a regional basis
- g) removing identified overlaps in roles and functions
- h) providing for matrix relationships to overcome silos and engender national and regional perspectives
- i) ensuring that any new structure facilitates the ability to work within the available budget, but at the same time, identifying available efficiencies to enable the Tribunal to adapt to further budget changes, whilst maintaining capacity to achieve strategic priorities.

Three possible structural models which address these issues are set out in **Attachment Three**. The basis of each of these models is outlined below.

7.2 Structure Options

Option 1

Option 1 provides a structure which separates core registry work into an East/West regional approach under Directors of Operations East and West. The Director Operations West, as well as responsibility for the WA and SA Registries, should be appointed as Deputy Registrar to provide support to the Registrar in her duties. If legally qualified, the Deputy Registrar could also act as Registrar where required.

Specialist support functions (Geospatial, Library and Research) are provided nationally via the Director Operations West. However, whilst managed centrally, a greater proportion of these sections' resources are outposted into operational areas as discussed in **Section 6**.

This option also provides a Registrar's Directorate which consolidates Strategic Planning and Projects with Legal services, Compliance and Quality (responsible for managing reporting to the AGD and other external bodies), Operations, Stakeholder Relations and Executive and Member support.

The Registrar's Directorate would be led by an EL2 position reporting directly to the Registrar and responsible for the effective delivery of the functions within the Directorate.

Whilst a number of functions which would fall within the Registrar's Directorate are currently managed at EL2 level, over time and with the movement of existing staff, these positions can be considered for regrading to EL1.

A separate Corporate Services Directorate encompasses the Business Technology Unit and Finance (incorporating property functions). This option provides a platform for the Director Corporate Services to focus on the opportunity to prepare transactional Finance functions for a shared service model and to focus on addressing key IT needs and opportunities through improving the operations of the ICT function.

The HR Director reports directly to the Registrar as discussed in **Section 6.1.3**.

Given the changes announced in the 2010 Budget, this option is not preferred as it would retain the current three SES positions. The other options require only two SES positions.

Option 2

Option 2 maintains the East/West regional approach and provides a structure which enables the Registrar's direct leadership of all key operational and corporate functions.

Key organisational strategy and Executive support roles are retained in Principal Registry (Registrar's Directorate, Director HR, CFO and Chief Information Officer) reporting to the Registrar to facilitate clear strategy and support accountability. One Operations support role is allocated to each of the the East/West hubs, along with a Records Management support role to be separated from the current Records Management team in order to provide greater support at an operational level (remaining Records Management roles remain under the CIO), reporting functionally to the CIO.

The option increases to six the span of direct reports to the Registrar, but decreases the current level of three SES Director positions to two SES positions applied to delivering core registry operations. Six direct reports is not excessive given the nature of the operations of the Tribunal and will achieve a more collegiate decision-making approach across the leadership team.

Option 3

Option 3 continues the East/West approach to core registry operations and the Registrar's direct leadership focus on key HR, Finance and ICT functions. The option creates an Agreement Making and Arbitration Support unit which comprises Operations, Geospatial, Research, Library and Legal services. This option provides the framework for directly managing specialist function support which may be provided externally as much as it may be provided internally in response to requests, particularly from the Federal Court and other parties, for specialist assistance from the Tribunal in matters which may not be under mediation by the Tribunal.

This option provides for the Central Australia Registry to be placed with the Director Operations East and the Agreement Making and Arbitration Support unit to report to the Director Operations West.

This option again reduces current SES numbers by one position. The Agreement Making and Arbitration Support unit would be managed by an existing EL2 position with existing gradings within each section maintained. However, over time and with the movement of existing staff, a number of these positions may be considered for regrading to EL1.

7.3 Preferred Options

Option 1 is not preferred as it does not facilitate the degree of leadership change inherent in the other options. Option 1 also has an additional SES position which is not supportable in the current budgetary environment.

Options 2 and 3 are preferred to Option 1 as they facilitate the highest impact in cultural, leadership and service delivery change for the Tribunal. Option 3, in particular, provides a platform for responsive internal and external specialist service delivery, positioning the Tribunal to meet possibly changing demands from the Federal Court.

Options 2 and 3 create a broad span of reports to the Registrar, which, whilst not an excessive number of direct reports, is expected to assist in achieving significant change in the dynamics and processes of the Tribunal.

Option 3 will push the development of a diverse and service oriented leadership team through a flat structure where all key portfolios are highly visible. The new Agreement Making and Arbitration Support unit is a key strategic initiative. Options 2 and 3, in particular, will mean that a number of current senior positions are no longer required in the proposed structures. The Tribunal, if it accepts either of these options, should take steps to identify these positions and deal with staffing issues in line with appropriate policies. Staffing issues during transition are further addressed in **Section 9**.

7.4 Impact

Option 1 retains the current three SES positions compared to two SES positions required for Options 2 and 3 at the top level structure.

From an overall resourcing perspective below the top level structures, significant net resource savings have been identified across all areas for consideration by the Tribunal depending on changing priorities and budgetary appropriations. These potential savings apply across each of the proposed three structural options.

Possible resource savings are set out in Table 4 below. The identified savings are necessarily extensive in light of the impact of the 2010 Budget funding reductions.

Table 4 – Resourcing implications

Section	Position savings	Position additions	Comments
Project Office	2-3	2	▪ see Section 6.1.2
People Services	3		▪ see Section 6.1.3
Information Services	2-3		▪ savings dependent on the extent of efficiencies realised through the integration of other areas into the new Business Technology Systems Unit
Public Affairs	4		▪ see Section 6.1.3
Legal	1		▪ additional savings may be achievable with the possible outsourcing of corporate legal support to the AGS
Operations	4		▪ see Section 6.1.4
Research	8		▪ see Section 6.1.4
Library	1.5		▪ see Section 6.1.4
NSW/ACT Registry*	1	2*	<ul style="list-style-type: none"> ▪ *additional delegate positions achieved through conversion of existing non-ongoing positions into on-going positions ▪ one administrative position to be removed
Central Australia Registry*	5		▪ available savings dependent on the re-allocation of savings from the closure of the NT Registry
	31.5 – 33.5	4	

* further rationalisation should be considered in state and territory registry resourcing in line with the conclusions set out in **Section 6.2.2**

The President and Registrar have announced the Tribunal's initial responses to the 2010 Budget funding reductions (see **Section 3.8**). This report provides an overall framework within which these responses can be addressed and staffing changes prioritised.

The report also provides the opportunity for the Tribunal to progressively adjust its resourcing requirements to meet projected Budget changes and changes to the Tribunal's workload, role and functions as the external native title environment and calls on the Tribunal's services evolve, particularly as the impact of the 2009 legislative changes becomes clearer.

Changes can progressively be considered in both the short and medium terms:

a) Short term:

- staffing changes as announced in the Registrar's Budget announcement
- additional staffing changes as identified in this report
- closure of the NT Registry and creation of the new amalgamated Central Australia Registry based in Adelaide
- further accommodation rationalisation – Perth (WA Registry and Principal Registry) Brisbane, Sydney and Adelaide

b) Medium term:

- further staffing rationalisation as identified in this report
- regrading of positions as identified in this report
- consideration of shared services arrangements with the Federal Court and AGD addressing payroll services, accounts processing, IT support, corporate legal support, native title policy development and the sharing of legal services
- further rationalisation and/or co-location of office space
- consideration of further state and territory registry rationalisation in line with the conclusions of the report
- resource changes due to changes in the priorities of the Federal Court – both in general Case Management resourcing and specialist services - Geospatial, Legal and Research

These issues provide an overall framework in which the Tribunal's resourcing can be addressed in light of the budgetary situation and evolving changes to the external native title environment.

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8. RECOMMENDATIONS

8.1 Structure

Recommendation 1:

That functional accountability for compliance and statutory reporting and for President and Member, Registrar, Executive and Strategy Group support, be amalgamated under one organisational grouping within the Registrar's Directorate, as addressed in the proposed structural options.

Recommendation 2:

That the Geospatial Solutions function of Geospatial Services be integrated with the new Business Technology Systems Unit.

Recommendation 3:

That stakeholder engagement and communication accountabilities be clearly defined in a communication protocol between state and territory registries and Principal Registry staff. The proposed Manager Stakeholder Relations should take overall responsibility for this function.

Recommendation 4:

Create an expanded Strategic Planning and Projects Office, reporting within the Registrar's Directorate, to manage co-ordination of all key projects including those currently managed by the Director Strategy and Innovation.

Recommendation 5:

The Strategic Planning and Projects Office to be responsible for promoting and enforcing consistent project management methodology through resourcing, reporting and governance processes.

Recommendation 6:

A new position of HR Director should be created at the EL2 level, reporting directly to the Registrar.

Recommendation 7:

Two generalist HR Business Partner roles (APS5 to EL1) should provide operational HR support in each of the two proposed regional management hubs.

Recommendation 8:

Remove the current EL2 and EL 1 positions from the People Services structure. The proposed regional HR Business Partner roles should report directly to the HR Director position.

Recommendation 9:

Reposition payroll services to the Finance section and assess the payroll area for possible shared services arrangements with the broader AGD.

Recommendation 10:

The HR Director be responsible for establishing a credible and strategically positioned Leadership Development Program.

Recommendation 11:

That all information systems technical resources, including help desk support resources, are housed in a newly formed information technology section to be called Business Technology Systems, by relocating the Business Systems Team from Operations along with the Geospatial Solutions function from Geospatial Services.

Recommendation 12:

That delivery accountability for technology systems projects (on behalf of the business sponsor) clearly rest with the new Business Technology Systems and that a consistent project management methodology is fully utilised in project development, delivery and management, including the use of specialist business analysts to effectively determine user requirements.

Recommendation 13:

Roles within the current IS team be realigned to reassign up to two additional resources from the help desk function to solutions and systems development and restructure management of the section to provide better systems development and support function connection.

Recommendation 14:

The manager of Business Technology Systems should report directly to the Registrar as Chief Information Officer.

Recommendation 15:

Abolish the Senior Public Affairs Officer position.

Recommendation 16:

Realign the Public Affairs section to the proposed Registrar's Directorate, retaining a Media Officer and a Publications Officer at APS4 or APS5. Consideration should be given to abolishing the remaining four positions in the current section.

Recommendation 17:

The Public Affairs section be managed by a newly created position of Manager Stakeholder Relations, responsible in particular for providing support to the President and Registrar in managing critical external stakeholder relationships and working with state and territory registries to develop effective local stakeholder engagement strategies.

Recommendation 18:

The Legal section be located either (a) within the Registrar's Directorate (if Option 1 or 2 is adopted) or (b) within the Agreement Making and Arbitration Support unit (if Option 3 is adopted).

Recommendation 19:

The Chief Financial Officer role should report directly to the Registrar. Among the CFO's role should be the development of a strategic asset utilisation plan to match reduced office space requirements.

Recommendation 20:

Recast the Operations section's functions to provide better delineation of policy, procedural and operational roles. If Option 1 or 2 is adopted, these roles will be located within the Registrar's Directorate. If Option 3 is adopted, Operations will be

based in the Agreement Making and Arbitration Support unit under the Director Operations West.

Recommendation 21:

Place the BST within the recommended new Business Technology Systems Unit and source additional Business Process Analyst expertise on a contract basis to work on simplifying core Operations business procedures, distinguishing what is required to meet statutory functions, and what is required to meet Tribunal management information needs.

Recommendation 22:

That Research services be further aligned with operational needs to directly support mediation and agreement-making by placement of Research section staff within the proposed East/West regional hubs to provide a customer focussed research service as required.

Recommendation 23:

Core Research section staff numbers should be reduced to three staff with the Research Manager, responsible for the professional oversight of research standards, located in Principal Registry one Research officer located in the proposed West regional hub and another Research officer outposted in the proposed East regional hub. The Tribunal should procure additional resources from the market when required to deliver work above core capacity levels.

Recommendation 24:

That Library Services are further rationalised to achieve efficiencies consistent with alignment with two regional hubs.

8.2 Resourcing

Recommendation 25:

Registry Managers and Members should work more closely together to optimise the use of staff case management skills and to discuss and resolve any impediments to higher skills development and utilisation on matters carried by each Member.

Recommendation 26:

The President should lead joint discussions with Members and relevant staff to review mediation, ILUA and Future Act practice, and to identify where greater utilisation of Case Manager skills could be achieved.

Recommendation 27:

Following the decision to close the NT Registry, and to create the new central Australia Registry based in Adelaide, the requirement to have an on-going physical presence in both SA and Victoria/Tasmania should be reviewed as workloads reduce over time below a critical mass.

Recommendation 28:

The Tribunal moves to an East/West regional perspective of operations, resource planning and allocation whereby Queensland and Western Australian Registries become the key operational and resourcing hubs of the Tribunal.

Recommendation 29:

A Director Operations, at the SES level, should be responsible for overall management and co-ordination of activities across each region to ensure maximum efficiency in planning and resource usage. The Director Operations West should be appointed Deputy Registrar. The two Director Operations positions should be members of the Tribunal's leadership team.

Recommendation 30:

Rationalisation of state and territory registry resourcing be considered on a case-by-case basis in both the short and medium term, considering the conclusions of this report and the evolution of the external native title environment.

Recommendation 31:

It is recommended that the new HR Business Partners jointly address grading issues where they are raised to achieve greater consistency in gradings across the Tribunal and that the basis of any alterations to grades is transparent and clearly understood by staff.

Recommendation 32:

The Tribunal should review the current balance between full-time and part-time staffing, the location of certain positions based on personal preference and the numbers of non-ongoing positions to achieve an appropriate balance between operational efficiency and attraction and retention requirements.

Recommendation 33:

That office locations and office space needs be reviewed as the opportunity arises with the objective to reduce office costs, including rationalising space usage, co-location between Registries and with other agencies where possible.

8.3 Process

Recommendation 34:

Operational management delegations consistent with management accountabilities should be reinstated, supported by performance management action if delegations are improperly used.

Recommendation 35:

The Tribunal should ensure that structural and governance arrangements provide broad operational input into the design and implementation of planned business processes and procedures, to ensure relevance to operational needs, and that current processes and procedures commonly identified as causing implementation issues are re-designed as soon as practicable.

8.4 Leadership

Recommendation 36:

The Tribunal should move to a flatter leadership structure to facilitate broader input into Executive management deliberations and decisions

Recommendation 37:

The Registrar's and President's responsibilities should be clearly communicated to all staff to facilitate a greater understanding about their respective roles within the organisation.

Recommendation 38:

The Tribunal should approach the Federal Court to establish a high level standing liaison committee to facilitate on-going co-operation and closer working relationships between the two organisations.

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9. IMPLEMENTATION

9.1 Overview

Successful organisational change requires careful implementation planning. Well considered preparation for change is needed, whatever that change may be, to overcome the logistical and people management problems associated with organisational change.

This section considers the implementation issues that are likely to arise in addressing the changes recommended in this report and provides a framework designed to facilitate successful implementation. **Section 9.2** identifies the implementation planning issues, **Section 9.3** identifies the leadership issues and **Section 9.4** proposes a time frame for implementation.

9.2 Implementation Planning

After the President and Registrar, having chosen their preferred structural Option and consulted internally as required, decide to put in place that preferred Option, the implementation of the organisational changes will have to be well-planned.

At the commencement of the change process, it is important that the President and Registrar lead the communications and consultation process to ensure that all staff are aware of the recommendations of the review and have appropriate input into the decision making process.

The broad implementation planning steps would need to include:

a) Change governance - establish a comprehensive change governance process which allocates responsibilities, establishes a change project methodology, sets reporting requirements and provides for quick escalation of any critical issues. The Registrar should initially appoint a dedicated role, reporting directly to the Registrar, with responsibility for planning the change program. This may be an appropriate internal resource or could be sourced externally for a short term engagement.

b) Develop an upper level change map - identify the broad areas of change and interdependencies, risks and opportunities to develop a high level road map to guide more comprehensive planning and resourcing of the change process.

c) Change scope - develop a detailed change scope addressing each individual change element, including the upper level leadership structure. Identify upper level change options where intact sections may be moved into position to achieve immediate benefit.

d) Senior leadership positions - immediately scope senior positions, confirming gradings and recruitment options.

e) Detailed change plans - drilling down from the upper level change map, and based on the specific recommendations of the report, the detailed change plans for each area would address, among other things:

- required resourcing changes

- new/changed position/role requirements
- the need for new role statements to be prepared
- the need for policies and procedures to be redrawn

This level of planning will ensure an integrated process which adequately considers all change interdependencies across the Tribunal.

f) Change processes - establish the principles to be used in addressing the following issues during the planning and implementation phases:

- redeployment and redundancy programs and support
- re-alignment of resources
- on-going staff communication and union consultation
- resolving any grievances in relation to change issues

g) Detailed implementation plan. Consolidating the issues identified above, the detailed implementation plan would consider the logistical issues of implementation after all the change details have been scoped. The plan would draw the relevant implementation elements together at three levels of detail:

- the broad stages of implementation - eg whether change is by level or function
- the detailed implementation processes within each stage
- transition planning - the interim management arrangements to be implemented during transition and processes and timeframes for movement to final state arrangements

h) Develop a communications plan for internal and external audiences - effective communications will be critical. It is essential that the different audiences affected by the change are identified, that key messages are targeted to each audience and that the communication effort is adequately resourced. This will require effective governance to ensure that planned communication happens as intended and that additional communication requirements can be addressed as required.

i) Resourcing - it will be essential to resource the change planning step with adequate resources. An overall change planning manager should be sourced to prepare the upper level change map and to co-ordinate dedicated resources to develop the detailed change plans within each section.

Different resourcing skills may be required for the planning phase and the subsequent implementation management phase. The resources for both phases should report directly to the Registrar.

9.3 Leading Implementation

The leadership of the Tribunal's structural change is critical, and will require the President and Registrar to be supported by the Executive leadership team as well as a dedicated change manager.

In leading the change, the Registrar should consider, as initial steps in what will necessarily be a phased approach:

- if these recommendations are agreed, appointing the HR manager and CFO to the leadership team
- appointing the Deputy Registrar/Director Operations West position to assist the Registrar in guiding the change process
- sourcing external assistance where required for overall change assistance

Change management implementation will need to be guided by the following key change leadership issues:

a) Change fails if there is no sense of urgency.

The entire leadership team must be united in championing the change process. This requires communication to explain the need to change and that the Tribunal's future relevance depends on its ability to respond professionally and effectively to a changing environment.

b) Change fails if there is no guiding coalition.

The leadership team provides the core leadership of the change process, but change champions should be sought across the Tribunal in critical areas and their knowledge, skills and enthusiasm should be fully utilised. Many staff will support change, particularly if they are given consistent and relevant information and are engaged in the change process.

c) Change fails if there is no clear vision and strategy.

The leadership team must anchor the proposed change process in terms of a clear vision for the future of the Tribunal. The overall strategic directions, of which the change program is a critical element, must be clearly and continuously communicated.

d) Communication is critical.

Over-communication during the change process is almost impossible to achieve, because staff will have heightened information and leadership needs which can easily be underestimated. The Registrar and leadership team must communicate a united, continuous and consistent message about the change process. The Tribunal should also establish dedicated feedback mechanisms through which staff can provide feedback, raise issues of concern and receive specific information relevant to their needs.

The entire process must be transparent so that there can be no concern about hidden agendas, inconsistencies or personality-driven decision making.

9.4 Implementation Time Frames

It is likely that full implementation of the recommendations contained in this report will occur in a phased approach over a period of between 10-12 months. The following broad time frames are provided as guide for implementation planning. Some phases can be conducted concurrently, however, the change process should not be seen to be rushed or to fail to address issues perceived as critical by Tribunal staff.

Table 5 – Indicative implementation time frames

Phase	Description	Time Frame
Phase 1	Initial communication and consultation with staff as per Enterprise Agreement and Tribunal policies.	Min. 2 weeks
Phase 2	Appoint change implementation planning leader and change management team.	2 weeks
Phase 3	Prepare upper level change map.	2 weeks
Phase 4	Appoint Leadership team (on an interim basis if appropriate). Establish Registrar's Directorate (first phase - move intact sections together).	1 month
Phase 5	Detailed sectional planning.	6 weeks
Phase 6	Detailed implementation planning.	6 weeks
Phase 7	Implementation roll out:*	6 months
	<p>Stage 1: Transitional management structures below leadership team implemented across Principal Registry.</p> <p>Staff information sessions re recruitment and redeployment processes to be used.</p> <p>Outposting implemented where possible.</p> <p>Stage 2: Recruitment to end-stage structures commenced; redeployment/redundancy processes activated.</p> <p>Stage 3: Business and governance processes cut over to end state. Final implementation.</p>	

*indicative only – will depend on the identified implementation plan.

Some components of this time frame will necessarily change as a result of the Tribunal's announced responses to the 2010 Budget funding reductions. In particular, the call for voluntary redundancies will bring forward some of the proposed staffing adjustments. However, if these adjustments are made in line with the framework established in this report, the overall end result should not differ significantly.

Fellows Medlock & Associates Pty Ltd
June 2010

Attachment One – Terms of Reference

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STRUCTURAL REVIEW 2010

Terms of Reference

1. Introduction

The President and Registrar of the National Native Title Tribunal (Tribunal) have commissioned a review of the Tribunal's organisational structure (the Review). The Tribunal operates in a changing and very challenging legislative and budgetary environment. Accordingly, the Review will be highly-focused, with a view to optimising the Tribunal's organisational efficiency, its flexibility and its responsiveness. The Review will be conducted by an external consultant (Consultant) during the period 5 February – 30 April 2010.

2. Objective

The key objective of the Review is for the Consultant to recommend an organisational structure (or options for an organisational structure), which would enable the Tribunal to:

- a. optimise its organisational efficiency, flexibility and responsiveness; in particular to optimise the Tribunal's performance of its functions and responsibilities under the *Native Title Act 1993* (Cwlth) and other applicable Commonwealth legislation;
- b. operate effectively and efficiently within its budgetary appropriations during the period 2009-2013 and thereafter;
- c. achieve its strategic priorities, as set out in the Tribunal's *Strategic Plan 2009-2011*.

The Consultant will also make recommendations to the President and Registrar in respect of the way(s) in which such structure (or options for such a structure) might be developed. The Consultant will provide a cost-benefit analysis of each such recommendation and options for implementation.

3. Matters to be considered

Without limiting the matters to be considered when conducting the Review, the Consultant:

- a. will analyse:
 - i. the functions and operations of the Tribunal's sections and registries, including the principal registry;
 - ii. the current divisional structure;

with a view to ascertaining whether they are appropriate to meet the expected future needs of the Tribunal;

- b. will consider the following factors:

- i. the Tribunal's outputs, locations, products, services;
 - ii. the level of vertical and horizontal integration within the organisation;
 - iii. the size of the organisation;
 - iv. the Tribunal's statutory obligations and functions;
- c. will estimate the optimum numbers of members and employees, and the appropriate APS levels for those employees, which would enable the Tribunal to perform its mandatory and discretionary functions;
- d. will take into account the desirability of divisional structures being balanced in terms of size and scope;
- e. will take into account the necessity of having clear lines of accountability.

4. Review process

The Consultant will be provided with a comprehensive briefing file including the following documents:

- a. *the Native Title Act 1993* (Cwlth)
- b. the Tribunal's *Strategic Plan 2009-2011*
- c. the Tribunal's *Annual Report 2008-2009*
- d. the Tribunal's Portfolio Budget Statements for 2009-2013
- e. the Review of the People Services Section (November 2008)
- f. the recommendations of the Executive Level Review (APSC report, March 2009)
- g. the Tribunal's Workforce Project Team report (9 September 2009)
- i. the Client Satisfaction Survey 2007
- j. any other material which the President, Registrar or Consultant considers relevant.

The Consultant will be assisted by a reference group comprising a nominated Tribunal member, the three Directors, a nominated State Manager and the Manager, Workplace Planning and Communication Management (Reference Group).

The President, Registrar and Reference Group will provide information and advice as required by the Consultant in relation to the nature and extent of the Tribunal's work.

The Consultant will be available to meet with individual members and employees by telephone or in person at times to be agreed. If appropriate, focus groups of members and employees may be convened by the President and Registrar from time to time to assist the Consultant in relation to particular issues.

The Consultant will also consult as appropriate with a nominated representative of each of the Attorney-General's Department and the Federal Court of Australia who, together with a nominated representative of the Tribunal, will form a Consultative Group for the purposes of this review.

The Consultant may also consult with the Department of Finance and Deregulation, and any other Commonwealth department or agency which could provide information relevant to this review.

In preparing the report and recommendations, the Consultant will have regard to:

- a. the Tribunal's mandatory and discretionary functions as set out in the *Native Title Act 1993* (Cwlth) as amended
- b. the *Public Service Act 1999* (Cwlth)
- c. the *Financial Management and Accountability Act 1999* (Cwlth)
- d. the Tribunal's Vision of 'Timely, effective native title and related outcomes and its Mission to:

facilitate the achievement of timely and effective outcomes; and
carry out its functions in a fair, just, economical, informal and prompt way;
- e. the strategic priorities contained in the Tribunal's Strategic Plan 2009-2011
- f. the role of members and their interaction within the organisation
- g. the implications of the *Native Title Amendment Act 2009* (Cwlth) for the Tribunal's operations
- h. the Tribunal's current structure and governance arrangements
- i. the specific circumstances of and challenges facing the Tribunal in each State/Territory in which it operates
- j. the findings and recommendations of the Tribunal's Workforce Project Team report (9 September 2009)
- k. the structure of other agencies within the APS (or the State/Territory public service) of similar function and/or size to that of the Tribunal
- l. information received from the Attorney-General's Department, the Federal Court and the Department of Finance and Deregulation and any other relevant Commonwealth department or agency
- m. any other information or matters provided to the Consultant by the President or Registrar.

5. Consultant's Report

The Consultant's draft report and recommendations will be provided to the President, Registrar, the Reference Group and the Consultative Group for comment. The final report and recommendations will be provided to the President and Registrar.

Attachment Two – Current Organisational Structure

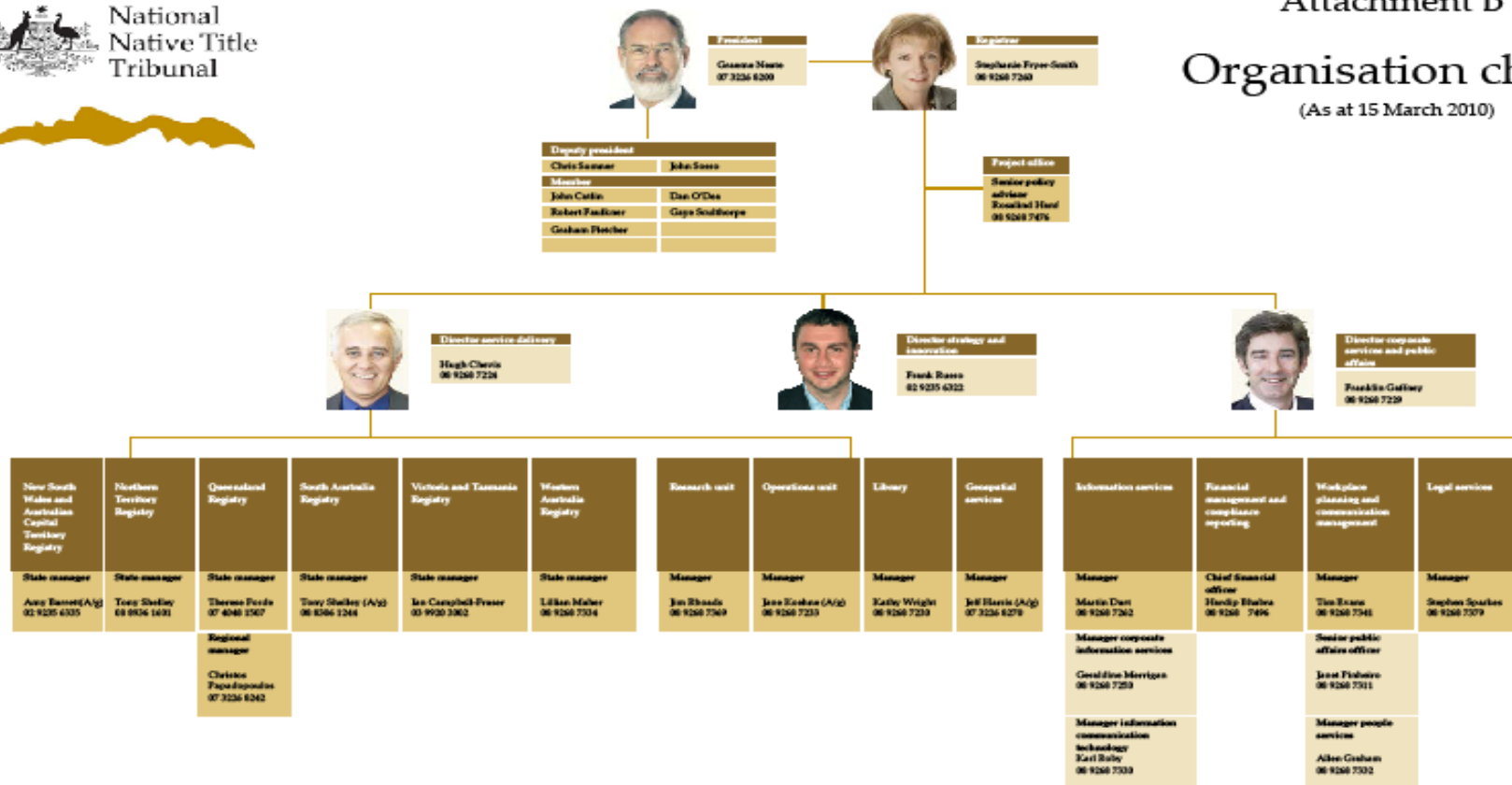
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Attachment B

Organisation chart

(As at 15 March 2010)

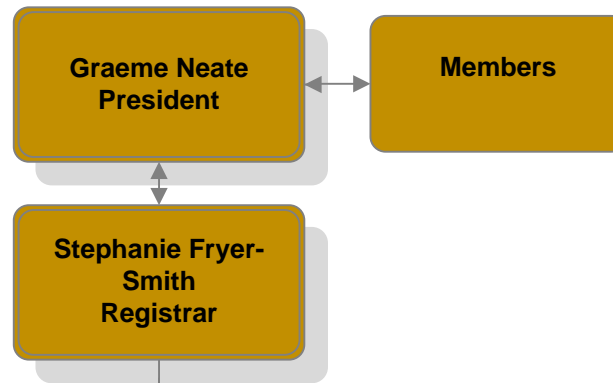


Facilitating timely and effective outcomes.

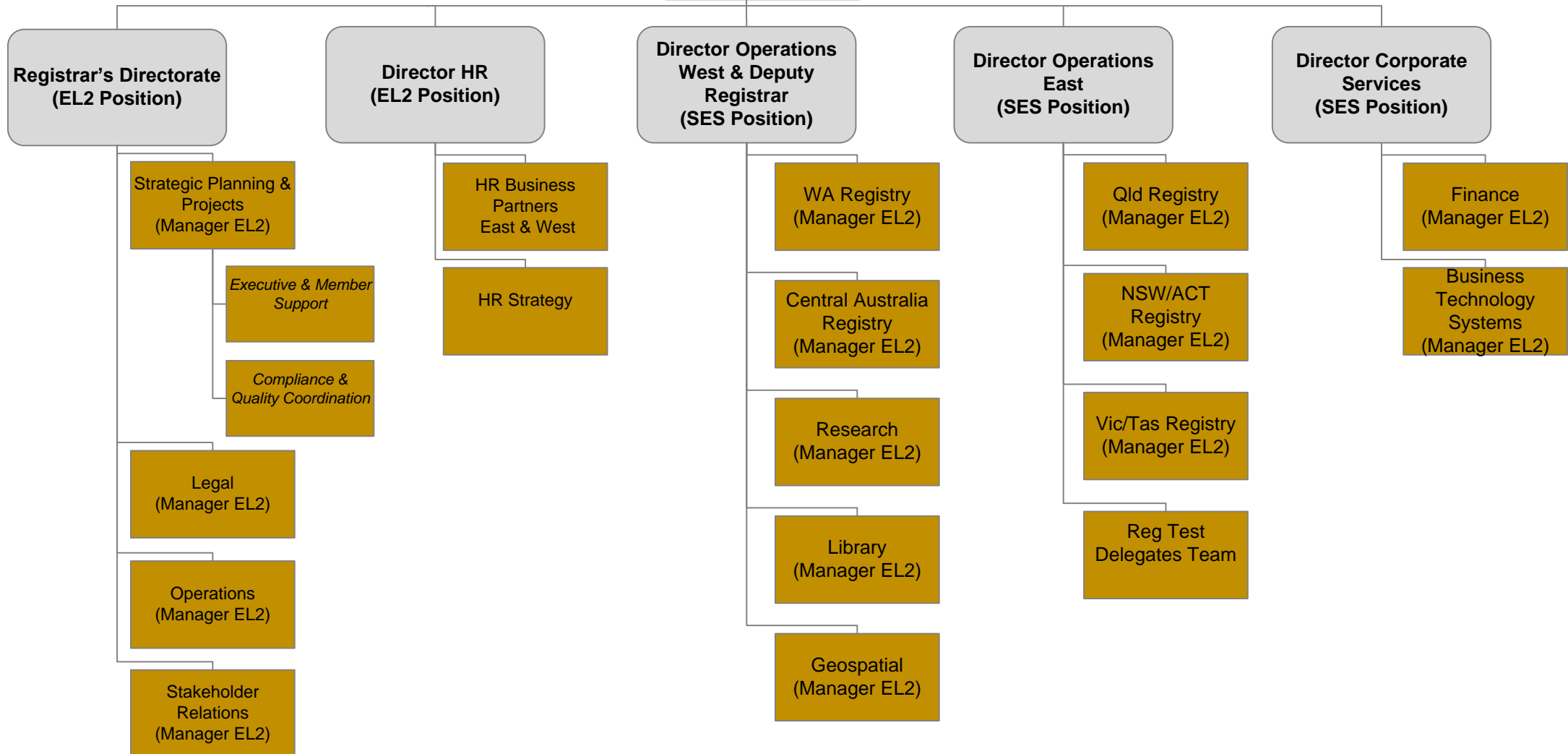
Attachment Three – Structure Options

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Structural Review Option 1

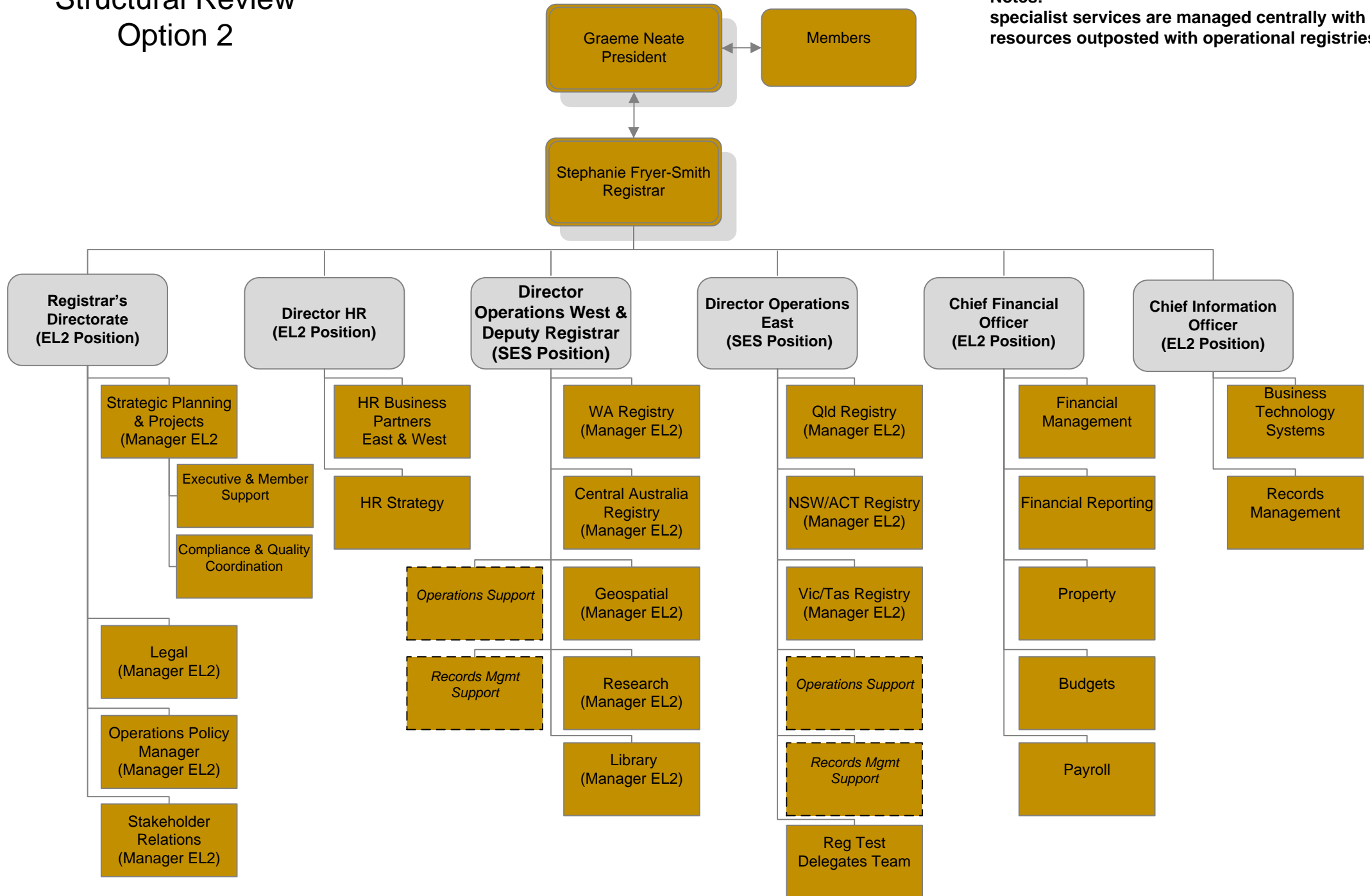


Notes:
specialist services are managed centrally with resources outposted with operational registries



Structural Review Option 2

Notes:
specialist services are managed centrally with resources outposted with operational registries



Structural Review Option 3

Notes:
specialist services are managed centrally with resources outposted with operational registries

