

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
NATIONAL NATIVE TITLE TRIBUNAL

Question No. 41

Senator Barnett asked the following question at the hearing on 25 May 2009:

In relation to the client satisfaction survey conducted by Mark Dignam and Associates;

- a) what sort of questions were included in the survey,
- b) provide the areas of interest,
- c) provide further particulars, and
- d) provide the executive summary of the report.

The answer to the honourable senator's question is as follows:

a) The questionnaire was a telephone survey using a mix of closed and open ended questions in 10 broad areas:

- 1. Changes and their impact (relating to all areas of native title reform)
- 2. Overall satisfaction with the Tribunal
- 3. Maps, information and research
- 4. Agreement-making
- 5. Future Act services
- 6. Native title claim or ILUA registration
- 7. Native title claim or ILUA notification
- 8. Other reasons for contact with the NNTT
- 9. Priorities for improvement
- 10. Sources and uses of information

b) The main objective of the National Native Title Tribunal's 2007 client satisfaction research project was to provide the Tribunal with useful information about client needs and satisfaction with Tribunal services and performance, to identify key areas for improvement, and to provide the Tribunal with performance measures over time against qualitative measures in its PBS.

c) The 2007 research was the third series of research. The first series was conducted in 2002/03, the second in May 2005. The Tribunal made a commitment to the Minister to undertake this research every two years.

d) An executive summary is attached.

Client Satisfaction Research – NNTT Clients and Stakeholders - 2008

Executive summary of a report from a customer satisfaction survey of NNTT clients and stakeholders, conducted in February and March, 2008, including comparative data from prior waves.

Prepared for the National Native Title Tribunal

By Mark Dignam and Associates

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1. Executive Summary and Conclusions

This report summarises the findings from a survey of NNTT stakeholders, being persons and organisations that have had contact with the Tribunal. Respondents to the survey included Indigenous applicants and representative bodies, peak bodies, government agencies at all levels, legal practitioners and industry and business groups and individuals.

Similar surveys were conducted in 2005 and 2003, and comparative results, when relevant, are also provided, noting that numerous questionnaire changes were made this year.

1.1 Executive Summary

The following is a summary of the main findings from the research:

A. The client base is changing in nature

- The customer base is now mainly legal practitioners (35%) and also individual parties (35%), less so government agencies and Indigenous individuals or groups
- Three in ten respondents were in Western Australia, a big increase since 2005, of which many were individual parties like mining and exploration companies
- Other states representing a large proportion of the sample were SA (23%) and Queensland 21% (though down from 32% in 2005)
- Six in ten had been dealing with the NNTT for 5 years or more, up from 48% in 2003, though there were also more this year who had dealt with the NNTT for less than two years (up from 12% in 2003 to 19%)
- It was also evident that in many cases, the differences in attitudes and satisfaction levels between stakeholder groups that was evident in 2005 had diminished this year. Indigenous groups previously had much lower satisfaction levels compared to other stakeholders, but the gap has narrowed considerably.

B. There is broad awareness of changes due to native title reform, though not always much knowledge, and attitudes were generally positive

- Overall, 72% said that they were aware of recent native title reforms
- Total awareness (both spontaneous as well as prompted changes) was higher for the registration test (55%), the mediation process (53%) and NTRB effectiveness changes (53%), though significantly lower for the non-claimants financial package (26%), national case flow scheme (26%) and technical amendments to the Act (30%)
- Based only on spontaneous awareness, changes to mediation (15%) and the registration test (14%) were the best known, no other change being mentioned by over 10% of the total
- Most of the changes were associated to varying degrees with improved efficiency or streamlined processes, clearer or more defined processes, better outcomes or faster resolution, better co-operation between the parties, better planning or organisation, fewer disputes and better communication
- Similarly, when asked if these changes would make the NNTT or the specific aspect work better or worse, there was overwhelming support across the board
- Mediation changes were seen as worse than the previous situation by 12%, and in the case of registration testing, by 10%. No other change was met with negative reactions by more than 6%
- In relation to **registration testing**, 10% of those aware of the change felt that it may make it harder for applicants to prove native title. Yet many others (38%) said that it would reduce the incidence of frivolous or spurious claims
- Overall, many were unsure of the real impact or of the specific nature of these changes, but few opposed them.

C. Overall satisfaction has improved

- The average rating out of ten for all dealings with the NNTT significantly increased from 6.77 to 7.15
- The proportion giving the NNTT a satisfactory rating (5 or above) marginally increased from 90% in 2005 to 94% this year
- Indigenous organisations and applicants continued to give lower than average ratings (6.39 on average), that average was considerably higher than in 2005
- The average rating for NNTT processes and methods was 6.91, significantly above that in 2005 (6.50)
- The average rating for outcomes increased to a greater extent than the two above ratings, up from 6.29 to 6.97, with government organisations being the most satisfied overall. Overall, 8% gave a rating below an acceptable level, though steady improvement has been evident since 2003
- Further, more this year said that overall service quality had improved, up from 35% to 45%, and only 4% said it had worsened, which has steadily fallen from 12% in 2003. Government

respondents and legal representatives were more likely to say that service has improved, while individual parties were more likely to say it had worsened (though the number is small in any case).

D. General likes and dislikes have not changed though improved efficiency and organisation were evident

- The main positive aspects of the NNTT were similar compared to 2003 and 2005, such as:
 - Good information
 - Speed or quick service
 - Helpful or interested staff
 - Responsive and co-operative staff
 - Organised and efficient
 - Good, effective mediation
 - Good, accurate advice
 - Professional, knowledgeable staff
 - Friendly and polite staff
- Mentions of speed or quick service significantly increased, as did mediation, though mentions of professional and knowledgeable staff fell since 2005
- In relation to dislikes, there were far fewer mentions this year of poor or limited communication, and also “takes too long”, with there also being fewer mentions of poor management, emphasising improved organisation and efficiency
- Further, 14% noticed improved administration and systems this year (up from 5% in 2005), and more also noticed better communication, better mapping and research and better mediation. However, there were some concerns about the NNTT being understaffed or that staff are not as helpful (11% in total, up from 2% in 2005)
- Despite the above, slow speed (15%) and bureaucracy (16%) as well as poor or ineffective mediation (13%) were the main dislikes.

E. Stakeholders are becoming clearer about the functions of the NNTT

- When asked what the functions are of the NNTT, more this year mentioned a range of activities and functions, the most frequently mentioned being to be an unbiased mediator (92%)
- More this year recognised a role for the NNTT particularly in community education (up from 51% to 69%) and information and research (from 62% to 72%), though mentions of all functions increased this year
- There were significantly less mentions this year of additional functions and activities that should be provided, emphasising increased awareness of NNTT functions. The most commonly mentioned were to provide information and be a research database (10%), and provide legal assistance (7%).

F. Satisfaction improved in relation to maps, information and research

- Ratings on most attributes were very positive, with improvements being evident in relation to some aspects of staff performance
- Main priorities remain as the quality of advice, maps and information, speed and timeliness
- Further, satisfaction with NNTT members in this regard significantly improved, particularly in relation to ease of contact
- 85% received all or most of the help they wanted, up marginally since 2005
- The overall rating was 7.67 out of ten, up marginally from 7.51 in 2005.

G. Expectations are changing and satisfaction has improved in relation to agreement making

- Stakeholders have clearer expectations of the agreement making processes now, with significantly more associating the process with mediation & negotiation, convening meetings, advising them and conducting appropriate research and providing information
- Satisfaction with members generally improved, particularly in relation to helpfulness, fairness and their level of preparedness, but less this year were satisfied with ease of contact & availability
- Satisfaction with staff remained high, improving on some attributes, with advice quality remaining as the highest priority for improvement
- Perceived weaknesses were however still evident in agreement making, particularly in relation to cost effectiveness, fairness of the process, efficiency and relationship building. Cost and efficiency are the highest priorities
- Despite the above, there is broad recognition of the benefits of participation in agreement making, such as understanding the point of view of others, understanding processes, improved relationships and problem solving skills
- There was a significant increase in the number receiving all or most of the assistance they needed in regard to agreement making (up from 62% to 76%)
- The overall rating out of ten significantly increased from 5.94 to 6.42, being similar across the sub-groups (which was not the case in 2005).

H. Satisfaction with future act matters remained quite high

- More were satisfied with members in relation to future act matters, particularly preparedness & organisation, and knowledge & job skills
- Some (23%) were still satisfied with fairness, equivalent to the 2005 result
- Satisfaction with staff was high, there being only one relative weakness (perceived advice quality)
- Most (71%) received all or most of the assistance they wanted, though 19% got some, little or none. However, criticisms were often about outcomes, not processes
- The average rating this year was almost identical to 2005, being 6.92 vs. 6.94.

I. Satisfaction with claim registration and ILUAs was consistent with 2005

- Staff service remains as a strength, though some dissatisfaction remains regarding advice quality, efficiency and now responsiveness of staff. Legal representatives were more often dissatisfied than other groups
- Service effectiveness was unchanged, remaining quite high at 78% (who received all or most of the assistance they wanted)
- The overall rating was 7.09, marginally down compared to 2005 (7.19), though fewer this year gave ratings below an acceptable level (down from 16% to 9%).

J. Satisfaction with claim and ILUA notification has improved

- Staff performance was highly rated and improvement was evident on some service attributes
- All respondents received most or all of the help they wanted
- The overall rating increased from 6.49 to 7.95.

K. No major priorities for improvement stood out

- The main priority for improvement was better mediation and consultation (11%), followed by faster claims or meeting deadlines (9%), then public education (8%)
- Rather than stakeholders wanting a core group of changes, respondents differed widely in terms of what they wanted
- Some aspects were mentioned more often this year, such as mediation, impartial advice, mapping & research, and assistance with registration changes. However, lawyers accounted for many of these comments, and the dynamics of stakeholder priorities is partly driven by changing stakeholder types. Overall, needs are quite individual rather than collective.

L. There is a move toward electronic information

- The most commonly used sources of information from the NNTT and other sources about native title matters were emails, on-line data and web sites, though personal contact, printed newsletters and letters of notification were also frequently received
- When asked what form they prefer, there was a broad preference for emails and on-line information (72%) and web sites (24%), though some prefer newsletters (13%) or letters of notification (16%)
- Preferences were similar across all sub-groups, a positive finding as it implies that targeting is not essential
- Satisfaction with NNTT information was high, with no obvious weaknesses arising
- Main communication priorities remain as advice on claims status (22%), and to a lesser extent, keeping stakeholders quickly up to date on everything they need to know (processes, methods, rulings, reforms, etc)
- Many stakeholders continue to feel that they do not have enough say in the NNTT, though more agreed this year that they do have enough (up from 28% to 36%). Individual parties were less satisfied in this regard.

1.2 Conclusions and Recommendations

Overall, most of the changes are positive, including attitudes to the recent changes arising from native title reform, as well as attitudes to most aspects of NNTT operations. Further, the client base is both changing in its nature, and becoming better informed about what the NNTT does, and to some extent, what to expect from it.

The above suggests maturing of both the operations of the NNTT and its stakeholders, as well as changes having been (generally) positively received.

It was also evident that the differences in attitudes and satisfaction levels between Indigenous persons and organisations was not as great as previously, and in some cases, lawyers were more critical of processes and methods, and individual applicants were sometimes more demanding in relation to speed and efficiency, and were also more likely than other groups to see the system as being against them.

While satisfaction has broadly improved, the extent of change (if any) was rather uneven across areas and across service attributes, and the types of issues raised in 2005 often still apply in 2008.

Based on these findings and comparative data from previous waves, we make the following suggestions:

A. Provide more information on processes, methods and outcomes if appropriate, and emphasise due process to all parties

While the stakeholder base is maturing in some ways, we found more relatively new respondents this year, who often have little knowledge of the native title system and associated processes. While there are procedures and guidelines on the web site, it would also help to provide a “**start up**” kit for newcomers (including legal representatives) on how to fathom the system.

In relation to legal representatives, 35% of interviews were with this group, and further, many of the staff of other organisations are also lawyers. Some would ideally like **toolkits** for all types of processes and procedures.

On the other hand, many applicants and respondents (e.g., individual parties) have no such background and need **plain English** instruction in processes and systems.

B. Modify expectations

A regular source of dissatisfaction was either outcomes (that is, the stakeholder did not get what they wanted) or frustration with bureaucracy or delays. Again, this emphasises the salience of knowledge.

At the same time, the NNTT could help by advising parties **how long** standard processes can take, including the steps that the NNTT follows in relation to activities. While we recognise that not much is “standard”, some advice back to applicants or respondents could include a short process summary and likely time frame whenever appropriate.

Further, in contact with parties, let them know where they are up to, such as the phase/s completed and what else needs to happen. This is needed not only at the beginning but during processes.

Similarly, rights and obligations need to be emphasised. A case in point is in relation to the new registration test, and also the obligation to act in good faith. That is, the NNTT does not do all the work for applicants; it is their responsibility to prove their case.

It continues to be the case that some stakeholders expect the NNTT to do all the work for them. This was not as apparent as it was previously, but expectations for the provision of information, maps and research, legal advice, mediation etc are still high. This is in spite of the fact that the web site and other communication does advise stakeholders that there are limits to assistance (e.g., legal advice).

More generally, the issue of advice is somewhat vague. Some stakeholders were not happy with the “quality of advice” provided by staff though the detailed comments they made in some cases suggested that they expected detailed legal advice. This is further manifest by the finding that 35% saw the provision of legal advice as a function of the NNTT.

Again, limits need to be advised including advice or assistance that is fair to all parties.

C. Simplify whatever systems and processes you can

The main source of dissatisfaction remains the cost, time and complexity of agreement making and other functions. Even when respondents to the survey were aware of rights, obligations and processes, they would often point out that the system is unnecessarily complex and that any ways of reducing cost, time and effort would be well regarded.

D. Staff training and experience

For the most part, staff were very well regarded, and that was the case across all areas of operation. There were however occasional issues such as:

- A lack of staff or shortages
- Staff knowledge and/or professionalism
- Helpfulness of staff
- Advice or information quality.

The above may be due to short term issues, but some respondents explained that the NNTT is short of staff in some critical areas.

In relation to training, feedback was that some staff are not as knowledgeable as others, suggesting a need for monitoring of competency and training as appropriate.

E. “Fairness” is still a confusing issue

As we have noted previously, “fairness” is often perceived to be an outcome (that is, it is “fair” if I get what I wanted), or else assumptions are made that are not valid. While there is some evidence

of improvement in relation to fairness, there are some areas (e.g., future act) where no progress has been made, and expectations are high. While this again manifests the need for stakeholder knowledge, it is also worth emphasising the importance of “fairness” not as an outcome due as a procedural issue, including the rights and obligations of various parties.

The obvious strategy is to continually position fairness from a procedural basis through communication, which we believe starts with stakeholder knowledge of systems and processes, as well as their rights and obligations.

Possibly a separate section on the web site on fairness would help, explaining the above.

E. Phase out hard copy information over time

All respondent groups mainly wanted electronic information, including Indigenous groups. While there is still some support for hard copy information including letters of notification, there was a clear preference for electronic media, and this also gives the NNTT the ability to increase the level of communication and its timeliness without substantial cost.

Attitudes to the web site were more positive than previously, and there is little need for much change. Links could be provided for stakeholder types in relation to agreements and other matters (applicant, respondent, etc) as well as rights and responsibilities pertaining to each.

Given the recent changes to native title, it would be worth including an icon on the toolbar, and also continuing to advise changes through newsletters (which we suggest should become electronic).