

NTRB knowledge management pilot: Agreement making

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The AIATSIS 'NTRB knowledge management pilot: Agreement making' commenced in October 2009. It is a 12 month project examining options for the development of an agreement precedents database. The database will be a closed system with access restricted to native title representative bodies and service providers (NTRBs).

Agreement making is a priority for the native title sector and for the Australian Government. At the recent Native Title Ministers Meeting in Adelaide it was recognised that native title can provide opportunities and outcomes for Indigenous people through facilitation of broader settlement packages. The Guidelines for Best Practice devised by The Joint Working Group on Indigenous Land Settlements has similarly structured its directives based on this principle. It recognises that practical and sustainable outcomes are desirable. In addition, a recent Australian Government discussion paper on optimising benefits from native title agreements has recognised that agreements arrived at from within the native title framework provide a major form of engagement between Indigenous groups, industry and governments.

It is generally acknowledged, however, that significant challenges and opportunities remain in improving the efficiency and effectiveness of agreement making. Among other things, these challenges and opportunities engage with issues of capacity, transparency and confidentiality.

This project responds to calls for resources to address these issues. The project will collate, analyse and disseminate agreement data of precedential value for use by NTRBs, building on

previous efforts to create open-access databases. In doing so, the project will investigate the viability of developing a national knowledge management system to ensure the sustainability and accessibility of the data and analysis collected from this project. The system will be modelled on the knowledge management systems used by larger law firms. It is intended to provide two primary benefits: promote best practice in both the form and content of agreements, while reducing duplication of effort by NTRBs and increasing efficiency in the drafting process. The project will also test possibilities for increased communication and coordination between NTRBs.

The project is currently nearing the end of its scoping and design phase. Preliminary research and planning have been completed, and a project working group has been set up with representatives from a subset of five NTRBs. The working group will guide the direction the project takes, through providing advice and content, testing results, and championing the project within the NTRB sector. The working group is also in the process of finalising a legal framework protecting the rights and interests of the project participants.

The next phase involves the core work of the project: information gathering and analysis. With the working group members as a first point of reference, the project will seek agreements and agreement clauses suitable for use as templates, as well as information on the process around the creation of these agreements. The project manager will carry out in-house work at several NTRBs as part of this process. The agreements submitted to the project will be collated and sanitised in order to remove confidential information prior to inclusion in the database.

The design of the database itself will form the final phase of the project, and will be based on guidance from the working group and NTRBs more broadly.

