



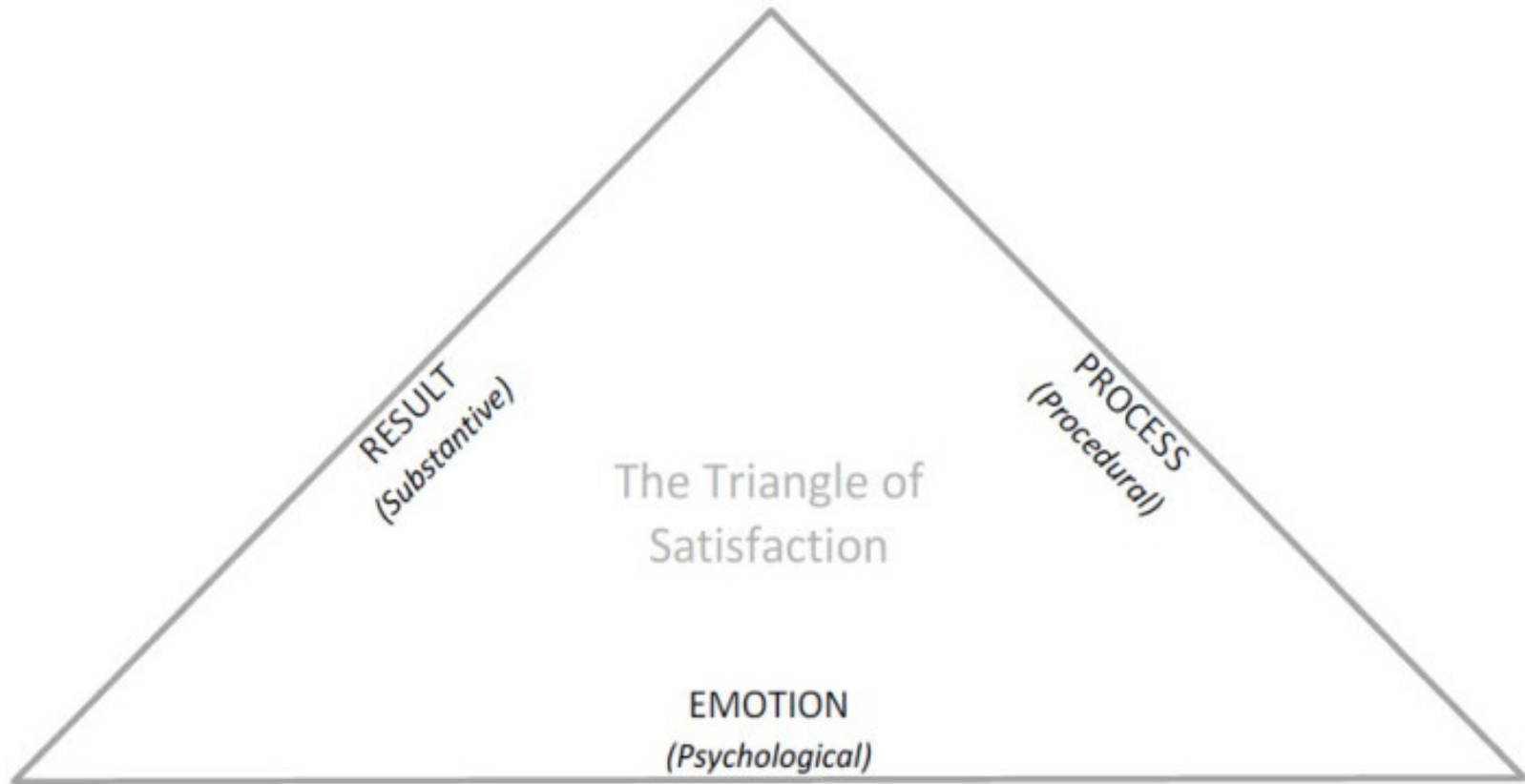
National
Native Title
Tribunal



NNTT: Building Strong Working Relationships and Agreements

AIATSIS National Native Title
Conference 2015

When is dispute resolution effective?



Gary Furlong, *The Conflict Resolution Toolbox*,
adapted from Christopher Moore

What can 'mediation' and 'assistance' look like?

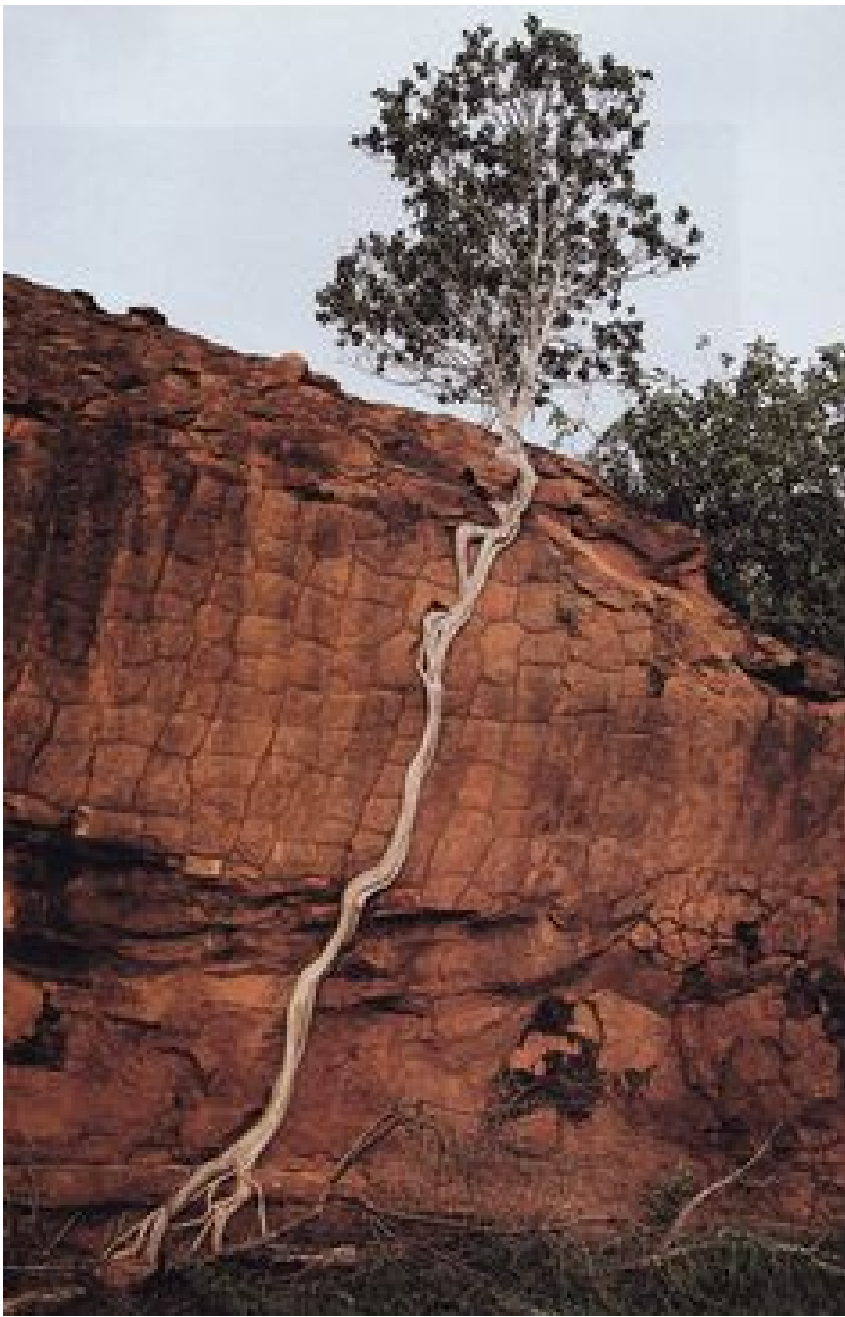
- Assisted negotiation: help early in talks
- Mediation and co-mediation: between two or three parties when they've hit a problem
- Facilitation: Between many parties in negotiation or dispute resolution

What is the aim?





positivechangesnow.ca



- Culture
- Finances
- Protecting cultural heritage
- Responsibilities to the community
- Intended activity on land
- Previous relationship
- Past experiences

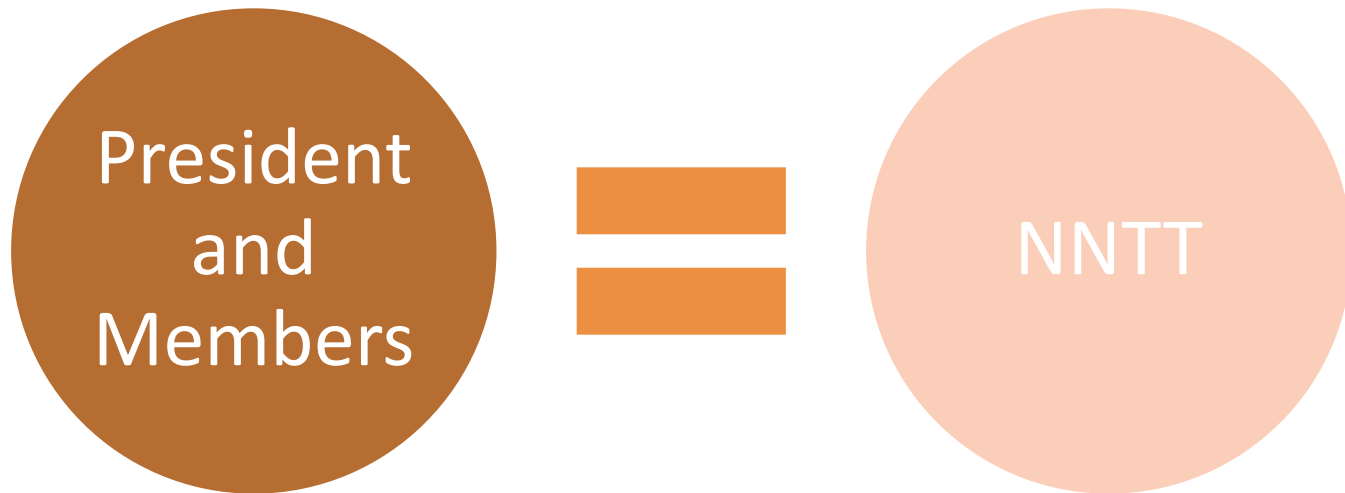
‘Mediation assumes people have the capacity to resolve their own disputes with expert assistance – or at least manage them. It returns control to the disputants, giving them responsibility to decide the content of the mediation and the power to make a decision.’

Larissa Behrendt and Loretta Kelly, *Resolving Indigenous Disputes: Land Conflict and Beyond* (2008)

What's the benefit?

- Power imbalance
- Confidentiality
- Impartiality

About the Tribunal



Note: The Tribunal is supported by staff assisting the Tribunal



President Raelene Webb QC



Member James McNamara



Member Helen Shurven



Member Dr Valerie Cooms

Areas of assistance

- Future act mediation (see s 31(3) NTA)
- Conferences parallel with arbitration (see s 150 NTA)
- Assistance negotiating ILUAs (see ss 24BF, CF, DG NTA)
- Assisting a representative body with its dispute resolution functions (see s 203BK NTA)

- Assistance to resolve an objection to ILUA registration (see ss 24CI(2) and 24DJ(2) NTA)
- Assistance relating to access on agricultural and pastoral leases (see s 44B(4) NTA)
- Mediation referral from Federal Court (s 86B NTA)
- Negotiating to settle an agreement (s 86F NTA)

If you think we can help
just ask



Freecall 1800 640 501

www.nntt.gov.au

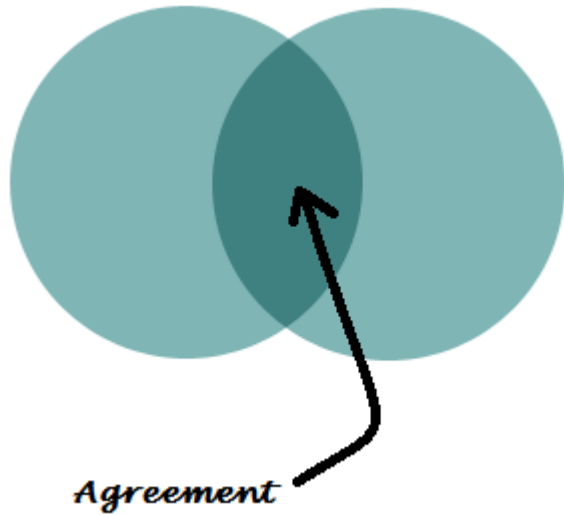
National Native Title Tribunal offices

- Perth
- Melbourne
- Sydney
- Brisbane
- Cairns

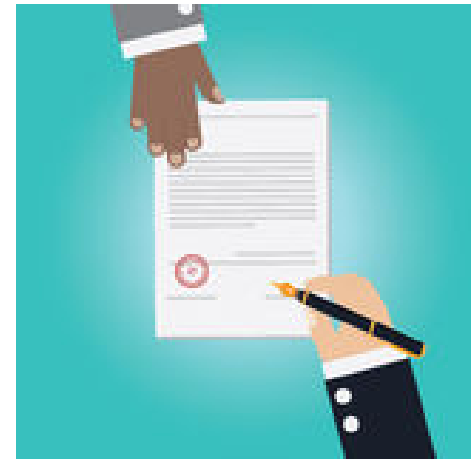
Sustainable Agreements



What is a workable agreement?



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What goes in to a workable native title agreement?

- Meet the goals of economic and social development
- Development of the group's capacity to implement and achieve their goals
- Utilise the existing assets and capacities of the group
- Build relationships between stakeholders
- Integrate activities to achieve the groups goals

What the Tribunal sees

- Comprehensive heritage process
- Suitable financial arrangements
- Cultural awareness
- Training & employment
- Contracting opportunities
- Practical access arrangements

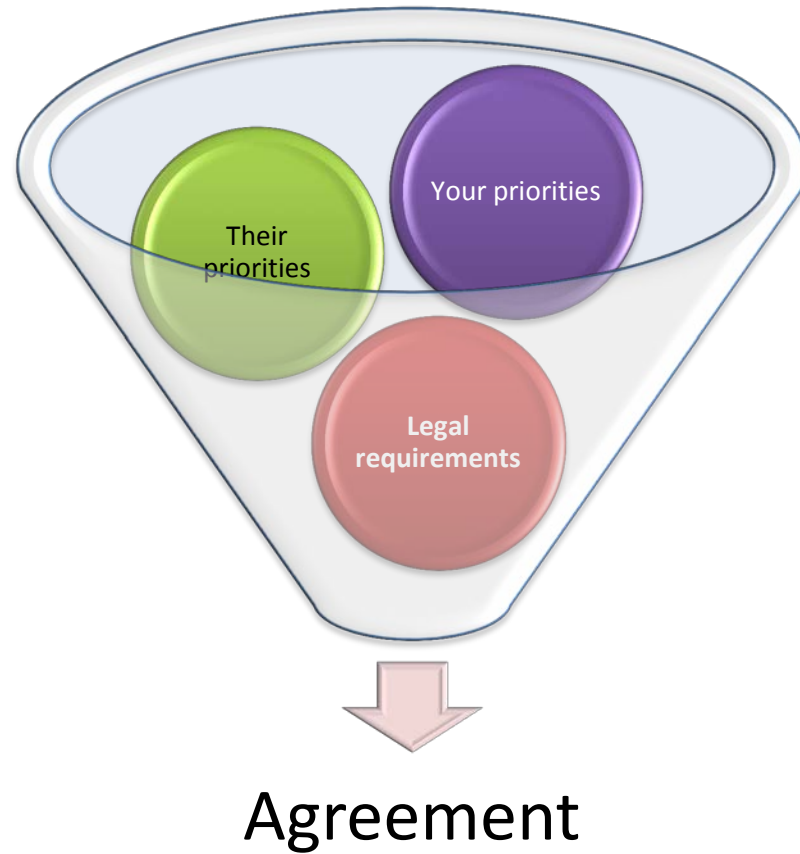
Legally correct and understandable



How do you make workable agreements?

- Building strong relationships:
 - Collaborative approach
 - Respect
 - Potential partners in the project
 - Cooperation despite legal & administrative constraints
 - What are the other parties goals
 - Focus on goals
 - Acknowledge knowledge & skills of all parties
 - Offer choice
 - Each meeting is an opportunity to advance the relationship

Making Workable Agreements



Fostering agreement making



What fosters effective agreement making?

- Early engagement
- Share/exchange draft & template agreements
- Consistent representation
- Means of obtaining prompt instructions
- Cross cultural sensitivities
- Parties meeting stated commitments
- Willingness to shift positions
- Making genuine offers and counter offers

How can NNTT Assist?

- Members and staff extensive experience and knowledge
- Design the mediation to suit the situation
- Informal flexible mediation design
- Capacity building
- Establish the boundaries for discussions
- Set standards of behaviour
- Range of tools to support the negotiations:
 - Geospatial products
 - Research
 - Referral of questions of law to the Court

Mediations designed to suit



Conclusion

- Making successful enduring agreements takes:
 - Time
 - Patience
 - Effort
 - Commitment to developing cooperative working relationships
- The National Native title Tribunal has developed considerable expertise and tools to support parties make good and sustainable agreements

Finally

