



# Memo

TOPIC: FIRST NATIONS CONSULTATION

TO: NMAS REVIEW TEAM, RESOLUTION RESOURCES PTY LTD

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## Executive summary:

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1. First Nations individuals, organisations and communities possess invaluable lived expertise that cannot be bought or earned. Those engaging in follow-up or further work must recognise this by centring self-determination. This means that First Nations individuals with expertise in working with communities on a national level, must lead all processes to ensure community voices are centred.<sup>i</sup>
2. To achieve meaningful and effective consultation with First Nations individuals, organisations and communities, it is essential to develop or work with frameworks<sup>ii</sup> specifically designed to engage with First Nations people and/or people experiencing overlapping marginalisations.
3. In recognition of the diverse knowledges, strengths and needs of First Nations people, consultations must be paid and organised to include flexibility as to both timing and methodology, as well as scope to adapt processes as needed throughout the process.
4. There are six (6) recommended considerations for future consultation between MSB and First Nations mediators.
  - First Nations-led project, with:
    - i. Diverse knowledges and the necessity of valuing lived cultural expertise recognised in the same way more 'traditional expertise' is recognised
    - ii. Frameworks written or used to facilitate culturally appropriate and meaningful consultation on a nationwide scale
    - iii. Paid consultations
    - iv. Representation from communities around Australia
    - v. Flexible time frames
    - vi. Flexible options to contribute

## Findings:

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The main issues I experienced preventing engagement in the NMAS Review by the First Nations community include the following:

- A: Difficulty ensuring we reach individuals and organisations in each area
- B: Lack of existing relationships
- C: Tight time frames

D: Lack of paid consultation

E: Need for alternate methods of contribution

## A: Difficulty ensuring we reach individuals and organisations in each area

5. To ensure the Review is accurate and representative, it is essential to ensure that communities and organisations from around Australia were invited and able to contribute.
6. This type of consultative process often only involves regional/remote communities from certain areas (e.g. the Northern Territory) or might only focus on major cities. This touches on several issues, including false perceptions on where "real Aboriginal people" reside or that it is easier to reach out to organisations servicing major cities.
7. Given that the Review is a nationwide project, it is essential to develop or work with frameworks<sup>iii</sup> specifically designed to engage with First Nations people and/or people experiencing overlapping marginalisations.

## B: Lack of existing relationships

8. While many of the individuals and organisations consulted outside of First Nations consultations had existing relationships with the MSB or Resolution Resources, this is not the case for many of the First Nations people we consulted.
9. For engagement in the future, it is important for the MSB to connect and build relationships with key figures across states and communities who are trusted by their community. Communities rely a lot on word of mouth, and it is difficult to achieve meaningful consultation without building up trust so that individuals know it is worthwhile to engage.

## C: Time Frames

10. One of the main barriers to facilitating First Nations involvement was the Review's timeframe. This centred on two main issues:
  - a. As above, to engage in meaningful facilitation with First Nations communities requires time to build relationships and trust. This is a more extensive process than engaging with non-Indigenous communities, especially as many of these relationships are starting from scratch.
  - b. The specific timing of the Review was a tricky time to get people involved. Many were dealing with the fallout of COVID-19 (job loss, increased caring responsibilities, etc.). In addition, the end of the year, leading up to Christmas, and the beginning of the New Year is when many organisations were closed, and individuals had family obligations.

## D: Lack of paid consultations

11. A lack of paid consultation is an issue in the following ways:
  - a. It is unreasonable to expect people to engage for free without existing relationships based on "good faith". In reality, First Nations people are asked to perform the cultural load in the form of unpaid labour numerous times a year. Further, much of this labour is ignored, so people are reasonably putting up boundaries that they will no longer engage for free. This is especially so where they are not familiar with the organisation or the people they are consulting.

- b. While other individuals involved may be sponsored to consult for the Review by the organisations they are working for, this is not the case for the majority of First Nations people we asked to participate. This is especially important if you are looking for meaningful consultation because:
  - i. It is important to ask community mediators, not only First Nations people working within a recognised mediation body
  - ii. For meaningful consultation, it is important to have Elders involved in consultations, and they especially should not be asked to work for free.

## E: Methods of contribution

- 12. Some individuals consulted asked whether there were alternate ways of contributing. This was often based on time or financial constraints; however, removing these constraints would not necessarily solve the issue.
- 13. It is crucial to facilitate engagement in whichever way is most comfortable/practical/culturally appropriate. An example of this might include simply having a general yarn with another First Nations person, who can write down what is said and pass that on (ensuring it is accurate/representative of the discussion).
- 14. Others felt they were not the right people to contribute as they were not experts in dispute resolution. Messaging should be clear that this is not an expectation, as they are experts due to their lived experience as a First Nations person.

## Recommendations

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- 15. There are six (6) recommended considerations for future consultation between MSB and First Nations mediators.
  - o First Nations-led project, with:
    - i. Diverse knowledges and the necessity of valuing lived cultural expertise recognised in the same way more 'traditional expertise' is recognised
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<sup>i</sup> 'The Declaration Dialogue Series: Paper No.2 - Self-determination – the fundamental right of Aboriginal and Torres Strait Islander peoples to shape our own lives', *The Australian Human Rights Commission* (Report, July 2013) <[https://www.humanrights.gov.au/sites/default/files/2014\\_AHRC\\_DD\\_2\\_Self-determination.pdf?\\_ga=2.63943340.2034844444.1656418352-603804567.1656205904](https://www.humanrights.gov.au/sites/default/files/2014_AHRC_DD_2_Self-determination.pdf?_ga=2.63943340.2034844444.1656418352-603804567.1656205904)>

<sup>ii</sup> 'How we win', *Passing the Message Stick* (Website) < <https://passingthemessagestick.org/how-we-win> >

<sup>iii</sup> 'How we win', *Passing the Message Stick* (Website) < <https://passingthemessagestick.org/how-we-win> >