

AWPS LAW

Five facilitation tips for tricky native title meetings

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This document is intended as a guide only. This does not constitute legal advice. There may be additional and important considerations that should be taken into account in your specific circumstances. If you or your organisation has a legal issue, you should obtain professional advice from a legal practitioner.

When could a native title meeting become tricky?

- Native title is inherently complex. It is usual for meetings to become increasingly tricky before or during important decision making, when attendees will be under stress.
- You may have tricky applicant meetings, claim group meetings, authorisation meetings, community consultation meetings, RNTBC board meetings, RNTBC general meetings or common law holder consent meetings. Your role may differ depending on the meeting.
- Some meetings can be unpredictably tricky. In other situations, you may have more notice of meeting complexity. This article provides some tips for those situations where you have sufficient time to prepare and you are the facilitator.
- These tips are not intended as an explanation of the laws around native title authorisation, RNTBC laws (like native title decisions or member rights), or as commentary on the United Nations Declaration on the Rights of Indigenous Peoples.
- This article also does not offer advice on traditional decision processes or trauma informed approaches to meetings. Advice from anthropologists and native title claimant/holders should be instead sought, when necessary.
- There may also be broader negotiation strategies that should be considered, particularly in the context of meetings with stakeholders or project proponents.

What is the role of the facilitator?

- The facilitator should help attendees to have robust and informed discussions.
- An effective facilitator may help to identify and reframe issues to ensure discussion doesn't stall and stays on track, promoting fairness and safety throughout.
- The goal of a facilitator may not be to reach a particular decision or agreement.
- Facilitation may not always result in a decision, and agreement is not always possible. Sometimes, no decision is an outcome or a necessary step toward an outcome.
- However, a facilitator is there to support the process of discussion or decision making.
- It can be tricky for a facilitator to also be giving legal or anthropological advice. It can be helpful to separate roles if independence will support discussion or decision-making. However, an independent facilitator is not always possible.
- Consider who is likely best placed to appreciate community dynamics as it relates to the meeting. Seek assistance and advice when necessary.

Tip 1: Prepare

Effective facilitators spend most of their time properly preparing for meetings.

- 1 Set a realistic agenda: Don't set the meeting up to fail by being too vague with the meeting purpose, or, by filling the agenda with too many items. Understand community dynamics and potential flashpoints, as much as possible.
- 2 Setup the meeting properly: Carefully plan where things will be, including microphones and speakers and where any presenters will sit. Utilise community knowledge holders to ensure the meeting is setup appropriately.

- 3 Draft clear materials: Use plain English (when appropriate) and keep messages simple. Use diagrams to explain complex structures or processes. Ensure you and other advisors have agreed to roles during the meeting.
- 4 Promote attendee convenience and comfort: Make sure urns are warm and seats are comfy, where convenience is available.
- 5 Plan meals and breaks: Healthy attendees, who have appropriate sugar levels, are happy attendees.
- 6 Minimise risks of distractions: Where families usually attend, reduce the stress on parents and grandparents, aunties and uncles by ensuring kids are well entertained.
- 7 Meeting venues and times: Choose the venue and times wisely, where you have options. Community members are usually best placed to suggest these details.
- 8 Test technology if used: Before the meeting starts, make sure you have tested all technology, including projectors, microphones, speakers and video cameras. Have backup plans for when technology fails, including printed materials as may be appropriate.

Tip 2: Get creative

Exceptional facilitators find creative ways to engage with attendees.

- 1 Pre-meeting sessions: If you're expecting a particularly tricky topic, invest time in pre-meeting sessions. These could be as informal as a 'drop-in session' or more formal and targeted small-group sessions. These sessions help to set the scene.
- 2 Foster enthusiasm: Attendees can grow tired of meetings and repetition. Break it up by offering lucky door prizes, or screen a brief movie in between agenda items. Of course, use this only when appropriate. Where possible, plan a memorable moment. People remember how they feel, not necessarily what was said.
- 3 Get people moving: When heads start dropping, and where appropriate, get people to stand or stretch, or move to different seats.
- 4 Questions in a hat: Instead of the standard question and answer format, you can ask members to write down questions on a topic and draw some questions out of the hat to use as talking points. This could also be part of smaller group sessions.

- ⑤ Decision processes: Be open to, consistent with any traditional decision making processes or other rules, voting processes that suit that particular decision. Is a secret ballot required, and if so, what process will be the easiest for attendees to follow? If there is a need, consider independent scrutineers to promote fairness in voting processes.
- ⑥ Presentation of information: Deliver or promote presentations that stick to three key themes. Avoid long speeches that recite wordy PowerPoint slides. Work with presenters to present information in ways that are better understood, like role plays or analogies. If something is unclear, be curious and ask the presenter a question. Use the presentation space and your body language effectively. If a translator is being used, brief the presenter on how to work with an interpreter.
- ⑦ Accessing further information: Make sure further information is available, or can be provided later. For attendees who have access to technology, enquire as to the use that technology, like secure virtual information portals. Demonstrate your support transparency.

Tip 3: Follow processes

Facilitators can use processes to reduce the risks of disputes and promote effective communication, and ought to have an awareness of and respect cultural processes.

- ① Code of conduct: Design and seek attendee approval for a code of conduct that explains the standards of behaviour. The code should also explain processes like speaking through the facilitator. The facilitator must model appropriate behaviour at all times and ought to avoid modelling any 'politicking' behaviour (like clapping).
- ② Allocate space for introductions and questions: Introduce yourself and explain your role. Facilitators should also allocate specific time to outline the day and for topics to be introduced and for questions. Embrace questions, however difficult.
- ③ Listen, acknowledge, reframe and summarise: Facilitators should demonstrate these hallmark qualities of effective communication. Show respectful curiosity when summarising. This builds rapport and demonstrates respect for your attendees.
- ④ Be decisive: Where matters are not relevant to current discussion, ask attendees for their support to maintain course. This can be put as being a sign of respect to all attendees by making good use of their time.
- ⑤ Note comments in minutes: Facilitators can demonstrate that attendee sentiment is heard by expressly requesting that the minutes record an attendee (or attendees') comment or recommendation, provided it is not offensive or defamatory. Sometimes, the process of asking an attendee if it is okay to record a comment is itself a helpful step in a meeting.

- ⑥ **Parking lot:** Use a parking lot to record items raised by attendees that are not relevant to a particular matter, but should be noted as an item for further discussion if time allows.
- ⑦ **Consider having separate discussions:** If a faction or dissenting minority is disrupting a meeting, consider approaching them to offer a separate session to listen to their concerns. Separate discussions may also be necessary to follow any customs.
- ⑧ **Reduce the length of meetings:** Avoid lag by combining resolutions where possible, provided they remain clear and maintain respect for traditional processes. Watch the clock.

Tip 4: Use resolutions to keep on track

Facilitators can also use resolutions and other techniques to keep the meeting on track and bring finality to discussion. This will help promote decision making, even for contentious issues, but should be utilised in a way that also respects cultural protocols.

- ① **Consider whether to reply:** For some items, they can be taken as a comment that is noted. Facilitators aren't obliged to reply with agreement or answer a question where it would not be in the interests of the meeting. This technique should be weighed against the risk of alienation of attendees and making them feel like they haven't been heard. It also may not be your role to answer a particular question. Try to stick to your lane.
- ② **Control time and amount of discussion:** Facilitators can set the number of attendees who will speak or limit time allowed for questions. Be mindful that you may be perceived to be favouring some attendees over others, so promote a fair spread of participants who are permitted to speak. Be mindful that 'mic control' is important.
- ③ **Keep debate to the topic and invite for and against discussion:** Facilitators should attempt to have debate on the issue at hand, rather than allowing questions on topics already discussed or to be discussed later. During discussions, if there is a resolution on the floor and someone has spoken for (or against) the resolution, invite attendees to raise a contrary argument before moving on. It is reasonable for a facilitator to refuse to take questions before or after the topic is debated.
- ④ **Conclude debate:** Once there has been sufficient discussion, it is appropriate for the facilitator to announce an end to that discussion. This takes experience. Be careful not to end discussions too early. For facilitators with less familiarity with attendees, you can seek approval to close the debate by a show of hands.

- 5 Use agenda item adjournments: Facilitators can have brief adjournments to de-escalate situations. These can be great opportunities for separate meetings and also asking any troublemakers to voluntarily leave and not return. This may also be a further opportunity to adopt or rely on any traditional processes.
- 6 Remove attendees: Following fair warnings and reminders of the code of conduct, the facilitator can ask a troublemaker to voluntarily leave, or ask for security to remove them. It is appropriate for a facilitator to preserve order and identify poor behaviour, but focus on the process rather than the individual. Removal ought to be a matter of last resort.
- 7 Use simple resolutions to move through the agenda: The facilitator can ask attendees to consider, and attendees can move, resolutions to preserve order. For example, a closure motion (moving to close discussion), a motion to move to the next item, a motion to adjourn the debate, a motion to 'lay on the table' (to move on from a trivial or unimportant issue), a motion to refer back for fresh consideration (to a committee, to seek information or on the provision of further information) can all be used to keep the meeting going. Keep these resolutions simple, like a show of hands, where this doesn't conflict with traditional processes.

Tip 5: Review, learn and improve

Native title meetings are inherently complex and can be unpredictable. Be open to learning new skills and always respectful.

- 1 Be open to improvement: Show attendees that you are personally committed to improving. Demonstrate leadership and commitment to professional development.
- 2 Express vulnerability: You're not perfect, and no facilitator is. Be transparent about the difficulty of the role and what you are doing to improve.
- 3 Seek and embrace feedback: Use feedback sessions or brief surveys to invite feedback. Show integrity by respecting any feedback, even if it may seem trivial at the time and unrelated to your role (for example, feedback about the quality of food at the meeting).
- 4 Performance review: Consider having an observer watch you at a meeting. They can provide practical insights for how you can further improve.
- 5 Training: No-one is born as an effective facilitator. These specialist skills are learned and are only fine tuned when put to use. Find opportunities to practise regularly.

Checklist for tricky meetings

Tip	Have you?
Prepare	<ol style="list-style-type: none"> 1. Set a realistic agenda & consulted community 2. Setup the meeting properly, based on on-ground knowledge 3. Drafted clear materials and clarified roles 4. Promoted member convenience and comfort (where possible) 5. Planned meals and breaks 6. Minimised risks of distractions 7. Carefully chosen meeting venues and times 8. Tested technology and have sufficient printed materials
Get creative	<ol style="list-style-type: none"> 1. Organised pre-meeting sessions 2. Got options to promote member enthusiasm 3. Got people moving 4. Put questions in a hat 5. Designed proper voting processes 6. Influenced how information is presented & liaised with any translators 7. Explained how further information can be obtained
Follow processes	<ol style="list-style-type: none"> 1. Designed and implemented a code of conduct 2. Allocated space for introductions and questions 3. Listened, acknowledged, reframed and summarised 4. Displayed decisiveness when required 5. Noted comments for minutes 6. Used a parking lot 7. Considered separate discussions & cultural processes 8. Combined resolutions where appropriate and watched the clock
Use resolutions to keep on track	<ol style="list-style-type: none"> 1. Considered whether to reply at all 2. Controlled the time and amount of discussion 3. Kept debate to the topic and invite for and against discussion 4. Concluded debate 5. Used item adjournments 6. Removed members where absolutely necessary 7. Used simple resolutions to move through the agenda, like: <ol style="list-style-type: none"> a. A closure motion (moving to close discussion), b. A motion to move to the next item, c. A motion to adjourn the debate, d. A motion to 'lay on the table' (to move on from a trivial or unimportant issue), e. A motion to refer back for fresh consideration (to a committee or the board, to seek or on the provision of further information)
Review, learn and improve	<ol style="list-style-type: none"> 1. Been open to improvement 2. Expressed vulnerability 3. Invited and embraced feedback 4. Reviewed performance 5. Undertaken regular training and practised