

WHEATSTONE PROJECT REVIEWS

Background to the Reviews of the Wheatstone Project Native Title Agreement and Benefits Management Structure

These reviews are required by Chapter 31 of the Wheatstone Project Native Title Agreement, which states :

“The parties shall carry out a review of the operation and effectiveness of this Agreement within six months after the fifth anniversary of the Commencement Date.”

It was decided by BTAC and Chevron that the overall review is to be conducted in two parts :

- A review of the operations of the Native Title Agreement; and
- A review of the operations of the Benefits Management Structure.

The reviews are managed and funded jointly by BTAC and Chevron. The Review Team identified in the terms of reference for both reviews is :

<u>BTAC</u>	<u>Chevron</u>
Trudy Hayes	Melissa Smith
Glenys Hayes	Kory Judd
Frances Hayes	Mary Feild

The Review Team contracted Mr Eamonn Thackaberry to conduct the review.

The Scope, Purpose and Objectives statements of the two reviews are at Attachments 1 and 2.

The following documents are the foundation for the operations of the NTA and the BMS :

- Wheatstone Project Native Title Agreement (NTA);
- Chevron Sub Fund Agreement (CSFA) ;
- Thalanyji Charitable Trust Deed (CT Deed);
- Thalanyji Direct Benefits Trust Deed (DBT Deed).

The review process is structured to assess compliance with the requirements of these documents and the outcomes achieved for the parties to the agreements.

Review of the Native Title Agreement

Overview

The operational aspects of the Native Title Agreement (NTA) are considered under the following broad groupings :

- Operations for which the BTAC and Chevron are directly responsible, eg, payment of compensation, approvals for access to land, establishment of the Wheatstone Project Committee, employment and contracting commitments; and
- Conditions which must be incorporated in the other foundation documents of the Benefits Management Structure (BMS), ie, Charitable Trust Deed (CT Deed), Direct Benefits Trust Deed (DBT Deed), Chevron Sub Fund Agreement (CSFA).

A structure chart and list of supporting committees is at Attachment 3.

Current Status

The reviewer has :

- Examined the NTA in detail;
- Met with representatives of BTAC, Chevron, Perpetual (the Trustee) and committees to identify and discuss issues or concerns;
- Assessed the CT Deed, DBT Deed and CSFA to determine compliance of these documents with the requirements of the agreement;
- Requested / collected information related to actions required of the parties to the agreement, eg, payments, provision of employment, etc.

Issues Identified

Issues identified to date include :

- The “categories” identified in Chapter 7 of the NTA – members expressed the view that the categories limit the scope for providing relevant support to beneficiaries. Areas of particular concern are health and housing. A view was also expressed that allocations should be determined by the strategic and annual planning processes;
- Similarly, a view was expressed that the allocations to the Charitable Trust and Direct Benefits Trust in Chapter 8 should be removed, with the allocation to be determined by the planning processes;
- Employment (Chapter 11) – this was identified as an issue by the parties to the agreement and by members. This is a complex issue which has been a source of contention for some time. Detailed data is being collected from BTAC and Chevron;

- Contracting (Chapter 12) – there are similar issues regarding interpretation and delivery of commitments in this area;
- Cross Cultural Awareness training (Chapter 16) – this has been an issue, and is currently under discussion between BTAC and Chevron; and
- Wheatstone Project Committee (Chapter 18) – the committee did not meet as required in recent years, but regular meetings have started again, so this should not be a major issue in the future.

Consultation With Members

The reviewer will conduct a session at the General Meeting in Onslow on 15 March 2022, and will be available there on 15 and 16 March for consultation with individuals or small groups of members.

Review of the Benefits Management Structure

Overview

The two major aspects for consideration are :

- Compliance with the terms of the Charitable Trust and Direct Benefits Trust Deeds and the Chevron Sub Fund Agreement; and
- The outcomes achieved for the beneficiaries of the trusts.

Current Status

The reviewer has :

- Examined the Charitable Trust Deed, the Direct Benefits Trust Deed and the Chevron Sub Fund Agreement;
- Obtained and examined copies of relevant documents, eg, Distribution Policy, Accumulation Policy, Strategic Plan, Annual Plan, Trustee's Annual Report and others;
- Met with stakeholders to discuss issues or concerns to be considered by the review; and
- Reviewed the annual auditor's reports to assess compliance with the terms of the trust deeds and other relevant issues.

Issues Identified

To date, most input from the members' perspective has been provided by the Trustee Advisory Council (TAC). Issues raised include (note that some issues are common to both the NTA and BMS reviews) :

- The "categories" identified in the NTA are restrictive, and prevent flexibility in addressing the issues of the community;
- In particular, members expressed the view that health and housing funding cannot be used to meet identified needs in the community;
- TAC wants greater freedom to make allocations to the community priorities identified through its planning and budgeting cycles;
- The Executive Office should be locally based (Onslow) and staffed by locals;
- A greater proportion of funds should be allocated to the DBT;
- TAC should be involved in the appointment of the auditor; and
- Some aspects of the relationship between TAC and the Trustee.

Consultation With Members

The reviewer will conduct a session at the General Meeting in Onslow on 15 March 2022, and will be available there on 15 and 16 March for consultation with individuals or small groups of members.

Attachment 1

NTA Review Purpose, Scope and Objectives

1. Review Purpose

The Review will be administrative in nature and focus on the operation and effectiveness of the Agreement. It will examine process and procedural functions and assess implementation practices. It is expected that the Review will identify opportunities for improvement, provide advice on streamlining processes and procedural functions, and generate recommendations to enhance implementation strategies. Given the Agreement is intended to operate for the life of Project the parties considered a periodic review was important as a “health check” to ensure that any issues in relation to the administration of the Agreement are identified and dealt with so that the Agreement operates well over its lifetime.

2. Review Scope

The scope for the Review will include the following focus areas:

- Review all key documents and associated plans derived from and related to the Agreement, e.g. Indigenous Cultural Heritage Management Plan (ICHMP), Thalanyji Employment Plan, Thalanyji Business Contracting Plan; and
- Services provided by either party to the Agreement.

Out of Scope

The Review will not include the amount of financial compensation, or the level of employment or business enterprise targets, or any other commercial terms outlined in the Agreement. Additionally it will not include a review of the Thalanyji Direct Benefits or Charitable Trust Funds. A review of the operation and effectiveness of the Trusts will be subject to a separate review.

3. Review Objectives

The objectives of the Review are to:

- Conduct an administrative review in line with Section 31 of the Wheatstone Project Native Title Agreement.
- Assess the operation and effectiveness of the Agreement.
- Analyse process and procedural functionality.
- Identify gaps and explore opportunities for improvement.

BMS Review Purpose, Scope and Objectives

1. Review Purpose

The parties agree that there is potential for native title benefits arising from the Wheatstone Agreement to be a platform for long term social, cultural and economic growth. The parties wish to maximize the benefits flowing from the Wheatstone Agreement and strengthen the capacity and governance of the Thalanyji Trusts.

The purpose of the Review is to consider and make recommendations about:

- Desired social and cultural and economic and wealth creation objectives and the extent to which the Trusts can assist members to meet those objectives.
- Impact of distributions to date – have they made a difference; have funds made a real change?
- Governance arrangements – do they deliver transparency, accountability and sustainability;
- The extent to which Trust funds have replaced or supplemented services that should be provided by government.
- Facilitate greater social, cultural and economic development and wealth creation for future generations of Thalanyji people. It is expected that the Review will identify opportunities for improvement, provide advice on promoting sustainability, and generate recommendations to facilitate better outcomes for Thalanyji people.

2. Review Scope

The Review will focus on the following areas:

- Review all key documents and associated plans derived from and related to the Wheatstone Agreement and the Trusts, e.g. Deeds, Distribution policies, accumulation policies.
- Review the administration of the Trusts.
- Examine the function of each of the decision-making bodies set up under the Trust Deeds to determine operational efficiencies and effectiveness of processes under BMS and provide recommendations.
- Consider and make recommendations about:
 - The processes and procedures established under the BMS and whether they need to be improved, supplemented or changed;
 - Desired social, cultural, economic and wealth creation objectives and the extent to which the Trusts can assist members to meet those objectives;
 - Are the Wheatstone “categories” still relevant and reflect the needs of Thalanyji members – do the categories enable flexibility with distribution to meet emerging needs;

- Impact of distributions to date – have they made a difference? Have funds made areal change?
- Adequacy of current BMS for holding, managing and distributing benefits in achieving these outcomes;
- Governance arrangements – do they deliver transparency, accountability and sustainability;
- The extent to which trust funds have replaced or supplemented services that should be provided by Government;
- Process and procedural functions; and
- Implementation and operational effectiveness.

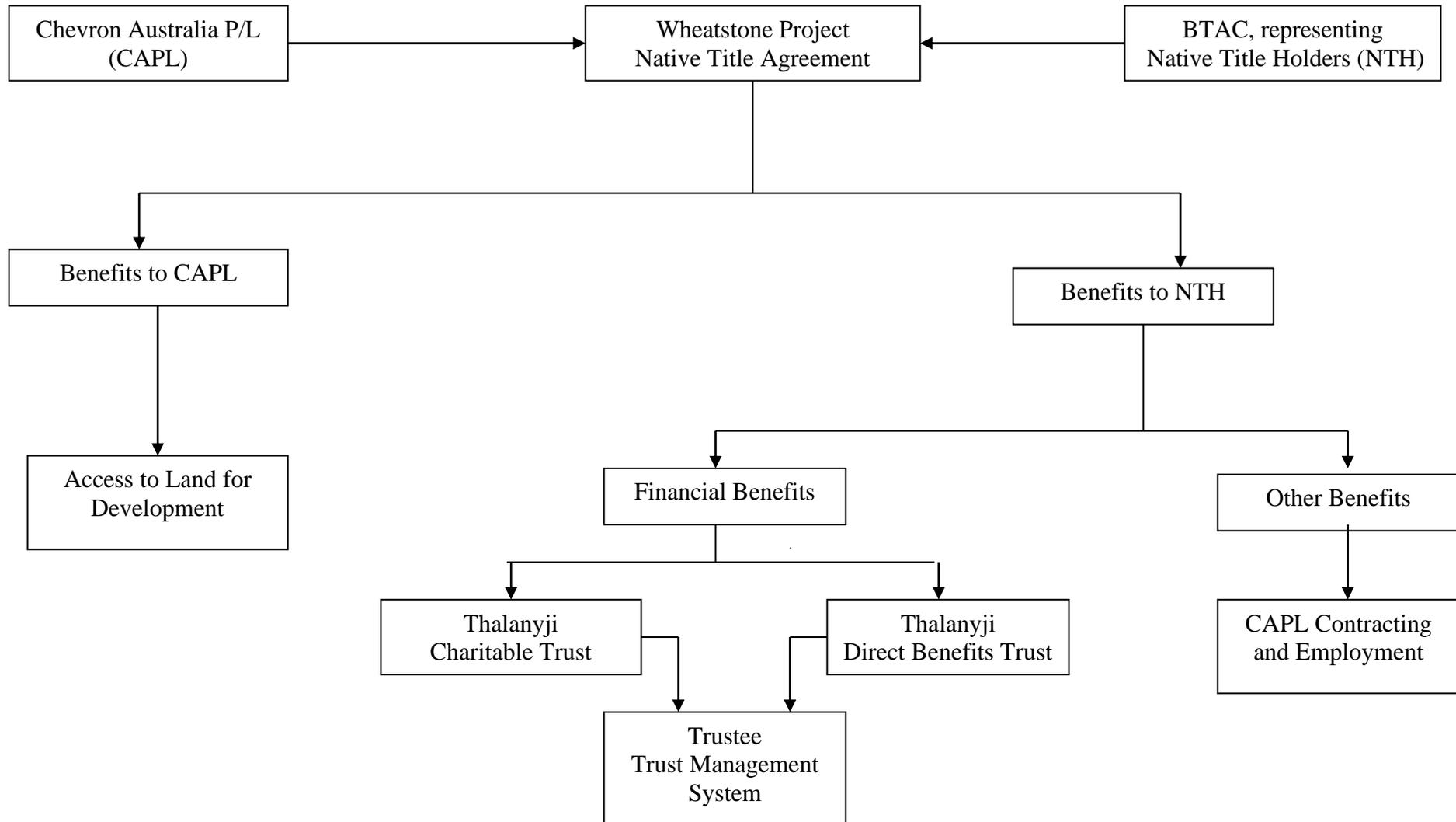
3. Review Objectives

The objectives of the Review are to:

- Conduct an administrative review in line with Section 31 of the Wheatstone Project Native Title Agreement.
- Assess the operation and effectiveness of the Thalanyji Benefits Management Structure.
- Analyse process and procedural functionality.
- Identify gaps and explore opportunities for improvement.

Attachment 3

WHEATSTONE PROJECT STRUCTURE



COMMITTEES

Implementation of the terms of the Wheatstone Project Native Title Agreement is achieved through the above structure, with the support of the following committees.

Wheatstone Project Committee (WPC)

The Wheatstone Project Committee is established under section 18 of the Wheatstone Project Native Title Agreement. It is comprised of :

- Three representatives of BTAC; and
- Three representatives of Chevron

The main function of the WPC is to a forum for the parties to the NTA to consult regarding the implementation of :commitments in the areas of :

- Indigenous heritage protection;
- Environmental protection;
- Education, careers pathways, business development, cultural preservation, and community development outcomes;
- Employment targets;
- Contract targets;
- The operations of the Thalanyji Trusts; and
- Other matters as agreed.

Trustee Advisory Council (TAC)

The Wheatstone Project Native Title Agreement at Annexure G, Section 3 requires the establishment of a Professional Trustee Advisory Committee. This has been implemented as the Trustee Advisory Council (TAC). The role of the TAC is described in Annexure G Section 3.2. It must assist the Trustee in managing its relationship with Thalanyji people, and with fostering mutual respect and cooperation. It should provide recommendations to the Trustee on the objects and terms of the trusts. It should support the relationship between the Executive Office and Thalanyji people.

Annexure G – Section 3.3 states that it must have at least five members, two of whom must be independent persons appointed by Thalanyji and approved by Chevron. A representative of the Trustee is entitled to attend meetings in a non voting capacity.

Chevron Sub Fund Advisory Committee (CSFAC)

The CSFAC is established under the authority of the Chevron Sub Fund Agreement. . Its main functions are to :

- Provide recommendations to the Trustee in relation to the Chevron Sub Fund;
- Foster respect and cooperation between the parties to the agreements.

The membership of the CSFAC is comprised of :

- Three representatives from BTAC;
- Three representatives from Chevron;
- One representative from the Trustee; and
- One representative from TAC (if the BTAC members do not include a member of TAC).