

INTERNAL REVIEW POLICY

1. INTRODUCTION

(a) Scope and purpose of the Internal Review Policy

This policy sets out how NTSCORP Limited (**NTSCORP**) exercises its internal review functions under the *Native Title Act 1993* (Cth) (**NTA**) (**Internal Review Policy**).

The purpose of this Internal Review Policy is to explain:

- i. the nature of NTSCORP's internal review functions, and when and how NTSCORP exercises these functions (section 2 of the Internal Review Policy);
- ii. how to apply for internal review of an NTSCORP decision or action (section 3 of the Internal Review Policy);
- iii. NTSCORP's process for dealing with applications for internal review (section 4 of the Internal Review Policy);
- iv. the factors NTSCORP considers when deciding applications for internal review (section 5 of the Internal Review Policy); and
- v. avenues of review if applicants are dissatisfied with a decision made upon internal review (section 6 of the Internal Review Policy).

(b) Currency and application of policy

This Internal Review Policy was adopted by the NTSCORP Board of Directors ("**NTSCORP Board**") on 14 February 2025 and applies to all applications for internal review made after that date, until this Internal Review Policy is superseded.

2. NTSCORP'S internal review functions

(a) Scope of NTSCORP's internal review functions

NTSCORP is the funded native title service provider performing the functions of a native title representative body for New South Wales and the Australian Capital Territory under Part 11

of the NTA. As such, NTSCORP has all the functions of a representative body under the NTA, including the internal review functions.

As set out in section 203BI of the NTA, NTSCORP's internal review functions are:

- i. to provide a process for registered native title bodies corporate, native title holders and persons who may hold native title to seek review by NTSCORP of its decisions and actions, made or taken in the performance of its functions or the exercise of its powers, that affect them; and
- ii. to publicise that process appropriately.

(b) Nature and purpose of internal review

A decision of the NTSCORP Board made on internal review is a decision on the merits of the case. Accordingly, the purpose of a review of an original decision or action is to determine the correct or preferable decision or action.

(c) When NTSCORP will exercise its internal review functions

NTSCORP will exercise its internal review functions when:

- i. a proper person (see section 2(d) below) applies for internal review in accordance with the process set out in section 3 of this Internal Review Policy;
- ii. NTSCORP is satisfied that it has made a decision or taken an action in the performance of its functions or in the exercise of its powers that affects the applicant; and
- iii. NTSCORP is satisfied that the application for internal review has prima facie merit and is not frivolous or vexatious

(see also step 1 of the process in section 4 below).

(d) Who may apply for internal review

A person who:

- i. is a registered native title body corporate, native title holder, or person who may hold native title; and

- ii. has been affected by a decision or action made by NTSCORP in the performance of its functions or in the exercise of its powers

may apply for internal review under this Internal Review Policy.

In this Internal Review Policy, these persons are referred to as “applicants”.

(e) How NTSCORP performs its internal review functions

NTSCORP will perform its internal review functions, when properly initiated in accordance with section 2(c) above, in accordance with the process set out in section 4 below.

3. HOW TO APPLY FOR INTERNAL REVIEW

A person or persons wishing to apply for internal review of an NTSCORP decision or action must apply in writing and submit the application either:

Via email to:

assistancrequests@ntscorp.com.au

or

By post addressed to:

The Board of Directors of NTSCORP Limited
c/o CEO of NTSCORP Limited
PO Box 2105
Strawberry Hills NSW 2012

An application for internal review must be made within 20 business days of the applicant being notified of the relevant decision or action, unless the applicant provides a compelling reason in writing with supporting evidence as to why a time extension should be allowed.

The application letter must:

- i. set out the details of the original decision or action in respect of which review is sought;
- ii. the grounds for the request; and

- iii. the decision sought by the applicant.

The letter should be accompanied by any factual material the applicant consider supports their application, apart from any materials they have already provided to NTSCORP in support of the original application for assistance (where applicable). Applicants for internal review may also choose to provide a written submission in support of their application.

4. NTSCORP'S PROCESS FOR DEALING WITH APPLICATIONS FOR INTERNAL REVIEW

A decision on an application for internal review will follow each of the following steps, depending on the particular circumstances.

Step 1 (determination of whether NTSCORP's internal review functions are properly engaged)

Upon receipt of an application for internal review, the first step NTSCORP takes is to determine whether the application properly engages its internal review functions. This assessment will generally be made by a manager or senior member of NTSCORP's legal staff who was not involved in the original decision. In exceptional circumstances, external advice may be sought on this issue.

NTSCORP exercises its internal review functions when:

- i. the applicant has applied for internal review in accordance with the process set out in section 3 of this Internal Review Policy;
- ii. the applicant is a registered native title body corporate, native title holder, or person who may hold native title;
- iii. NTSCORP is satisfied that it has made a decision or taken an action in the performance of its functions or in the exercise of its powers that affects the applicant; and
- iv. NTSCORP is satisfied that the application for internal review *prima facie* has merit and is not frivolous or vexatious.

Step 2 (written notice to applicant)

The person who has undertaken step 1, or their delegate, will provide the applicant(s) written notice of the outcome of the assessment under step 1. NTSCORP will endeavour to provide such notice within 20 business days of receipt of applications in most cases.

Step 3 (legal advice (report) about merits of the application)

If the outcome of step 1 is that the application for internal review properly engages NTSCORP's internal review functions, the next step (step 3) is to obtain legal advice about the merits of the application.

This legal advice will be sought from an external, independent solicitor and/or barrister.

The legal advice will be in the form of a written report to the NTSCORP Board on the merits of the original application for assistance or action as the case may be, together with a recommendation as to what the preferable decision or action is. The legal advice in the report will be based on:

- i. the application letter and any supporting materials provided by the applicant;
- ii. any materials that were considered by NTSCORP when making the original decision, or taking the original action; and
- iii. the factors described in section 5 below.

Where appropriate, the advice will include a brief covering memorandum to the NTSCORP Board that summarises the report, ideally in two pages or less.

Step 4 (decision by NTSCORP Board)

The NTSCORP Board decides the application for internal review at one of its meetings based on the report. The NTSCORP Board's decision is the decision of NTSCORP.

There are 4 possible decisions the NTSCORP Board may make:

- i. affirm the original decision or action;
- ii. vary the original decision or action;

- iii. overturn the original decision or action and make a new decision or action, or instruct NTSCORP's Management to make a new decision or action as the case may be; or
- iv. defer the application pending receipt of further information or advice.

Step 5 (notification to applicant of decision)

The final step is notifying the applicant of NTSCORP's decision. NTSCORP will use best endeavours to notify the applicant within ten business days of the decision.

If the decision is to overturn the original decision and accept an application for assistance (see step 6 of the Facilitation and Assistance Policy), the notice to the applicant will explain the terms and conditions of the provision of assistance (if any), and a meeting to discuss these may be arranged if necessary.

If the decision is to affirm a decision to refuse assistance in accordance with the Facilitation and Assistance Policy, succinct reasons will be provided with the notice. However, applicants will not be provided with the report containing legal advice because these documents are confidential and subject to legal professional privilege.

Whatever the decision, the notice will also contain information about the applicant's further rights of review (see section 6 below).

The time required for all of steps 1-5 to be completed will vary from case to case depending on the circumstances, however NTSCORP will use best endeavours to complete the process within 4 months of receipt of the application for internal review.

5. FACTORS NTSCORP CONSIDERS WHEN CONSIDERING AN APPLICATION FOR INTERNAL REVIEW

The factors NTSCORP considers when considering an application for internal review are the same as those that NTSCORP considers when exercising its facilitation and assistance functions. These factors are set out in section 5 of NTSCORP's Facilitation and Assistance Policy.

6. RIGHTS OF REVIEW

A person who is dissatisfied with a decision of NTSCORP made under this Internal Review Policy in respect of an application for assistance under the Facilitation and Assistance Policy may apply to the Secretary of the Commonwealth Department administering the NTA for external review of the decision under section 203FB(1) of the NTA. Details of this process will be provided to applicants in the notice provided under step 5 of the process set out in section 4 above.

The NTA does not provide any avenues of external review in respect of decisions made on internal review concerning actions of NTSCORP, as opposed to decisions made on internal review concerning applications for assistance. Applicants for internal review who are dissatisfied with decisions about actions should seek legal advice as to whether they have any available avenues of review.

7. CONFIDENTIALITY

All information obtained by NTSCORP for the purpose of considering an application for internal review will be held in confidence if NTSCORP is instructed by the applicant that this should be the case.

NTSCORP will ensure that any sensitive information relating to applications is held securely on behalf of applicants, for instance where the information is restricted on the basis of gender. Such information will carry a clear warning that access to the material is restricted according to the instructions received from the informants.

All agreements between NTSCORP, private law firms and other consultants in respect of internal review applications will contain confidentiality clauses.



Michael Bell

Chairperson of NTSCORP Limited