

What is a prescribed body corporate?



When the court makes a determination that native title exists, native title holders are required by the *Native Title Act 1993* to establish a body corporate to represent them as a group and manage their native title rights and interests.

This body is called a 'prescribed body corporate' (PBC). A PBC is a native title corporation that may hold and/or manage native title for the whole group.

Once the corporation is established by the native title holders, and approved by the court, it is entered onto the National Native Title Register and becomes a registered native title body corporate.

What do PBCs do?

Once a PBC is registered it is the legal body used to contact the native title holders and to conduct business between the native title holders and other people with an interest in the area such as pastoralists, governments or developers.

Where the native title holders were registered claimants before a determination and able to participate in the right to negotiate process, the PBC takes on this role. This means PBCs represent native title holders in any future act or indigenous land use agreement negotiations which might happen for the determined area of land.



Moses Akiba of the Moeyngu Koekaperr Dance troupe, Saibai Island.

Moses Akiba leads a ceremonial march one month after the Saibai native title determination was handed down by the Federal Court. As recognised native title holders, the Saibai people of the Torres Strait, established a prescribed body corporate to represent them as a group and manage their native title rights and interests.

“The role of prescribed bodies corporate is to protect and manage the native title, in accordance with the wishes of the relevant Indigenous people, and within the requirements of the legislation.” – David Martin, anthropologist.

Types of PBCs

At the time the court makes a determination that native title exists, the court will request that the native title holders choose what kind of PBC they want. Native title holders can choose one of two alternatives:

- the native title is held in trust by the PBC; or
- the native title is held by the common law holders of native title and the PBC acts as their agent.

In both cases, the PBC can only agree to doing things that will affect native title if it has consulted with any native title holder who will be affected by that decision and they have given their consent.

If native title holders don't choose either arrangement, then the court will decide that native title must be held directly by the members of the group. This means that the PBC will be the agent of the native title holders.

The type of PBC that native title holders choose will depend on what sort of legal relationship they want to have with the PBC. The alternatives have different legal consequences and implications. Before choosing a type of PBC, native title groups should seek legal advice and consider each option carefully.

For other fact sheets in this series and more information about native title and the Tribunal's services please contact the National Native Title Tribunal, GPO Box 9973 in your capital city or **Freecall 1800 640 501**. A wide range of information is also available online at **www.nntt.gov.au**. The National Native Title Tribunal has offices in Adelaide, Brisbane, Cairns, Darwin, Melbourne, Perth and Sydney.

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Resolution of native title issues over land and waters.



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