



HOW HEALTHY IS YOUR NATIVE TITLE CORPORATION?

Material considered within this checklist:

- | | | | |
|----------------------------------|--------|------------------------|--------|
| 1. Management of the Corporation | Page 2 | 3. Directors Behaviour | Page 4 |
| 2. Legal Compliance | Page 3 | 4. The Future | Page 6 |

Native title corporations hold, manage, and protect recognised native title rights and interests. These corporations should:

- ❖ be managed in a way that is transparent and promotes accountability;
- ❖ act in accordance with the law; and
- ❖ ensure their directors act professionally, responsibly and plan for the future.

MPS Law has worked with native title corporations (RNTBCs) and Aboriginal and Torres Strait Islander corporations across Australia and has developed this checklist to assist you in determining how healthy your corporation is. We encourage you to read this document in conjunction with our heritage survey checklist, native title benefits checklist, RNTBC AGM checklist and template letter agreement for heritage surveys in native title land. These documents are available from the MPS Law website.

For a complimentary discussion about this checklist and your responses, please email this completed checklist to info@mpslaw.com.au.

Your name: _____

Your role: _____

Corporation: _____

(and ICN if known)

Date: _____

Note: This document is intended as a guide only to assist directors and members in ensuring their corporation is well managed. This does not constitute legal advice. The issues and questions set out are of a general nature and may not reflect your specific circumstances. There may be additional and important issues that should be considered when evaluating the actions of the corporation. If you or your organisation has a legal problem you should obtain professional advice from a legal practitioner.

Liability limited by a scheme approved by professional standards scheme.

Management of the corporation

Transparency and accountability are essential to native title corporations. Does your corporation have:

A code of conduct for members and directors?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A membership form and fair membership approval process?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A membership register that is properly maintained?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A process for making, recording and checking financial decisions?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A risk management plan?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A written heritage survey process and policy, which can be viewed by members?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
Access to financial advice?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
Access to legal advice?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
Agreements with local governments, councils or shires about decision making?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
An operational budget that explains the corporation's income and expenses?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
If native title claims have been resolved, a plan for progressing the compensation process?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
If the corporation has employees, a clear separation between the role of the board and the role of employees (like a General Manager or Chief Executive Officer)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure

Management of the corporation

Mining agreements that reflect the corporation's current circumstances? Yes No Unsure

Policies and procedures for handling complaints and questions from members? Yes No Unsure

Legal Compliance

The law can be difficult to understand. Ensuring your corporation is acting in accordance with laws can be complex.

Are all resolutions properly recorded in minutes? Yes No Unsure

Are these minutes available for inspection? Yes No Unsure

Does the corporation have detailed records of its financial transactions? Yes No Unsure

Does the corporation regularly review its financial processes, including payroll processes? Yes No Unsure

Does the corporation regularly review its rule book? Yes No Unsure

Does your corporation comply with reporting requirements to the Office of the Registrar of Indigenous Corporations? Yes No Unsure

Does your corporation provide detailed reporting and information to members? Yes No Unsure

Legal Compliance

Has your corporation followed, and / or intend to follow, the decisions of native title holders for native title decisions?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
Have all directors and contact persons consented (and are these consents filed)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
Have directors and related parties to directors received benefits that have been approved by members?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
Have minutes of directors meetings and annual general meetings been recorded and signed (which means being approved by those who were at the meeting as being accurate)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure

Directors Behaviour

Director's hold an important and sometimes difficult role in the corporation. Directors must act professionally and must always act in the best interests of the corporation. Does the board have?

A conflict of interest register?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A diversity of board membership?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A financial literacy training program?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A governance training schedule?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure
A process (or processes) to ensure traditional laws and customs are considered and respected?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unsure

Directors Behaviour		
A process to review and update the risk management framework?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
A process to review and update the strategic plan?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
A record of training completed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
A risk management framework?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
A strategic plan?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Does the board maintain an asset register?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Does the board regularly review the financial position of the organisation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Does the board review insurance policies?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Does the corporation have a directors induction process?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Equal representation of male and female directors?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Independent directors?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure

The Future

It is important the corporation plan for the future. Your corporation's plans should reflect your capacity and your goals. Has your corporation considered and /or implemented the following?

A communication strategy for member engagement?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
A newsletter for members?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
A safe and secure document storage service or process?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
A skills-based and transparent process for the nomination and election of directors?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
A well-maintained website?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
An overall strategic plan, which may include a group charter?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
Cultural programs to continue on-Country engagement, particularly with younger members?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
Do members understand your governance structure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
Emergency support and assistance for members?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure

The Future		
Employment and training programs for members?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Establishing an office or arts centre in the native title area?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Establishing caring for Country programs, employing rangers, or other methods to ensure Country is protected?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Long-term funding arrangements for corporation operation costs?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Preservation of language programs to assist in community wellbeing?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure
Processes for meeting conduct and organisation, including board meeting preparation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Unsure