

APPS LAW

**Role and responsibilities
in PBCs explained**



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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.

Who are the Native title holders?

Native title holders are the people recognised in the native title determination as holding native title rights and interests in the native title area. If a native title holder is not a member of the PBC, they don't have the same rights as members. For example, they cannot attend PBC meetings or vote about whether to appoint a director.

Native title holders can:

- Exercise their native title rights in the native title area
- Attend native title meetings and have a say about decisions that are being proposed on their country that may impact native title rights and interests
- Become a member on registration of the PBC by attending the pre-incorporation meeting and consenting in writing
- Apply to become a member of the PBC by following the process in the PBC rule book
- Contact their PBC to ask for information about what is happening on their country or to tell the PBC about any native title concerns

Who are the Members?

Members are native title holders who have applied to the PBC to become members and have been accepted as members. Members must comply with the rule book. Members can:

- Apply to the court for an order where they have been subjected to oppressive conduct ¹
- Ask the directors to call a member's meeting ²
- Propose members' resolutions ³
- Attend and participate in members' meetings
- Appoint a proxy to attend a meeting in their place if the PBC rule book allows it ⁴
- Participate in decision making at member's meeting ⁵
- Nominate and appoint directors ⁶
- Remove directors ⁷
- Nominate and be appointed as a director if they are eligible under the rule book ⁸
- Can view the minutes of members' meeting ⁹
- Check and update their details on the members' register at the AGM ¹⁰

1. CATSI Act, ss 166.1 and 166.5.

2. CATSI Act, s 201.5.

3. CATSI Act, 201.4.

4. CATSI Act, s 201.100.

5. CATSI Act, s 201.115.

6. CATSI Act, s 246.15.

7. CATSI Act, s 249.15.

8. CATSI Act, s 246.1.

9. CATSI Act, s 220.10.

10. CATSI Act, s 180.5.

Who are the Directors?

The directors are appointed by the members to lead the work of the PBC. Directors have a big job to do. They have a responsibility to put native title first and make decisions for the benefit of all native title holders. They must

- Comply with their directors' duties including the obligation to disclose conflicts of interest ¹¹
- Ensure the PBC has enough money to pay its bills when they are due ¹²
- Receive and consider membership applications
- Call general meetings ¹³
- Call directors' meetings ¹⁴
- Attend directors' meeting and participate in decision making at directors' meeting ¹⁵
- Consult with and obtain the consent of native title holders before making a native title decision. ¹⁶
- Sign agreements when authorised to do so ¹⁷
- Engage with stakeholders and be the contact point for third parties engaging with the PBC
- Appoint a CEO to oversee the operations of the PBC if they choose to do so.

Directors are always horizon scouting, reviewing strategy and risk. Directors should avoid getting involved in operational issues where possible.

Who is the Chief Executive Officer?

The CEO is appointed by the board to carry out the day-to-day operations of the PBC. The CEO's role may include:

- Working with the directors to set a strategic plan
- Developing and implementing an operational plan and budget
- Make operational or financial decisions within the budget and relevant delegations
- Renting and maintaining office space
- Recruiting, hiring, and managing staff and setting their remuneration
- Risk management
- Stakeholder engagement
- Advising the board of directors on operational matters
- Supporting the aspirations of the directors, members, and native title holders.

11. CATSI Act, Division 265 and 268.

12. CATSI Act, s 531-1.

13. CATSI Act, s 201.1

14. CATSI Act, s 212.5.

15. CATSI Act, s 212.25.

16. PBC Regulations, r 8.

17. CATSI Act, s 99-6.

Who does what in the PBC?

Decision	Native Title Holders	Members	Directors	CEO
Appointing directors		✓		
Processing membership applications			✓	
Hiring a CEO			✓	
Hiring corporation staff				✓
Ensuring the PBC has enough money to pay its bills			✓	✓
Making financial decisions			✓	✓
Making operational decisions			✓	✓
Consenting to the PBC making a native title decision	✓			
Consenting to the PBC making a compensation application	✓			
Calling meetings		✓	✓	
Appointing an auditor		✓		
Changing the rule book		✓		

Decision	Native Title Holders	Members	Directors	CEO
Lodging reports			✓	
Notifying ORIC about changes to the corporation			✓	
Signing agreements			✓	
Managing contracts				✓
Contributing to a strategic plan	✓	✓	✓	✓
Settling a strategic plan			✓	
Implementing a strategic plan				✓
Overseeing risks			✓	
Implementing risk management frameworks				✓