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This schedule index provides information and commentary on the rules of MPS Law’s template PBC rule book, and is intended to be read in conjunction with the template rules. This index provides information on the changeability of the template rules (see the key below), commentary for the native title group’s attention and questions the native title group should consider when amending the template rule book for their group’s personal needs and circumstances.

Key:

-  **This rule is required by the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act)* and is not replaceable.**
-  **The rule is a replaceable rule under the CATSI Act.**
-  **The rule is optional and not required by the CATSI Act, and is included to support good governance.**

Preamble



Questions:

- Should the rule book have a preamble to tell the Corporation/the group's story?
- What is the story so far?
- What should the preamble include, e.g.:
 - An acknowledgement of ancestors?
 - The group's connection to country?
 - The work the claimants did for the formal recognition of the group's rights and interests to country?
 - What traditional laws and customs unite the group?
 - The role of the PBC in the community and its principles?

1. Name

Rule	Changeable	Commentary	Considerations
1.1		<p>CATSI Act s 85(3) requires that the Corporation's name must include the words:</p> <ul style="list-style-type: none"> • 'Aboriginal Corporation'; • 'Torres Strait Islander Corporation'; • 'Aboriginal and Torres Strait Islander Corporation'; • 'Torres Strait Islander and Aboriginal Corporation'; or 'Indigenous Corporation' 	<ul style="list-style-type: none"> • What should the name be of the RNTBC?

2. Dictionary and Interpretation

Rule	Changeable	Commentary	Considerations
2		This rule helps define key terms in the rule book, making the rule book easier to read and interpret	

3. Objectives

Rule	Changeable	Commentary	Considerations
3.1		<p>The rule book must include objectives; CATSI Act s 66-1(2).</p> <p>Clearly setting out the Corporation's objectives are important to:</p> <ul style="list-style-type: none"> • give the board and the Corporation a clear focus • ensure directors comply with their duty of care and diligence when authorising activities; and • allow the Corporation to receive external funding for its activities 	<ul style="list-style-type: none"> • What other objectives should the RNTBC have? Social, cultural, economic or political?
3.1(b)		It is important to remember that the RNTBC's primary function will be to perform its native title functions.	
3.1(c)		Under s 56 of the NTA, the Court will make a decision about whether the native title will be held by a Trustee or Agent PBC. The native title holders will need to let the court know whether they want a Trustee (to hold native title) or Agent (to manage native title) PBC.	<ul style="list-style-type: none"> • Should the RNTBC be a Trustee or Agent PBC?
3.1(f)		This objective allows the RNTBC to be endorsed as a deductible gift recipient. This means the RNTBC can receive donations that are tax deductible to the donors.	

Rule	Changeable		Considerations
3.2		These functions are provided for by the PBC Regulations, Regulation 6(2).	

4. Powers of the Corporation

Rule	Changeable	Commentary	Considerations
4.1		<p>The powers of the Corporation should be set out broadly to allow the Corporation to validly conduct its business.</p> <p>This rule should only be changed to include specific limitations the Corporation wants to apply to exercising its powers. For instance, are there certain decisions that should only be made through the members at a general meeting?</p> <p>The rule book can limit the Corporation's power; CATSI Act s 72-10.</p>	<ul style="list-style-type: none"> Should there be limitations on how the Corporation exercises its powers? Are there certain decisions that should be made in particular ways, such as by members at a general meeting or in accordance with tradition and custom?
4.2		<p>This rule can be removed.</p> <p>If the PBC wants to charge membership fees, it has to expressly provide for this in the rule book; CATSI act s 60-10.</p> <p>Note: ORIC firmly discourages RNTBCs to charge membership fees.</p>	

5. Members

Rule	Changeable	Commentary	Considerations
5.1 - 5.2		<p>This reflects CATSI Act s 42-10.</p> <p>People will become a member on registration of the PBC when they are named and give their consent to be a member in the application for registration.</p>	
5.3		<p>The rule book must have eligibility requirements that specifically relate to native title holders; CATSI Act ss 141-1(3) & 141-25(2). The minimum age of members is 15 years.</p> <p>Regulation 4(2)(b) and (c) of the PBC Regulations require that PBC members are native title holders or are people that the native title holders have consented to being members.</p>	<ul style="list-style-type: none"> Who are the Corporation's members? How should native title holders be represented in the Corporation (i.e. directly as individual members, or through family representatives?)

Rule	Changeable	Commentary	Considerations
5.4(a)		See CATSI Act s 144-5.	
5.4(c)		Note: the directors must accept an application of an eligible member; CATSI Act s 144-10(3A).	
5.5 - 5.6		See CATSI Act s 144-10(3A).	
5.7		See CATSI Act, s 144-10(5)	
5.8		See CATSI Act, s 144-10(8)	
5.9 - 5.10		<p>For members' rights, see CATSI act ss 66-1(3A) (having a dispute resolution process), 201-5 (calling general meetings), 201-115 (attending and voting at general meetings), 220-10 (looking at meeting minutes) and 246-1(3) (being appointed as a director).</p> <p>Note: The Corporation can have different classes of members; see CATSI Act s 153-1. For instance, the Corporation can have a class of members who can attend meetings but not vote (i.e. an observer); see CATSI Act s 158-5.</p>	<ul style="list-style-type: none"> • Should there be different classes of members with different rights? • For instance, should family members of native title holders be observer members to attend meetings, but not vote on decisions?
5.11		The rule book can impose other obligations on the members; see CATSI Act s 147-5.	
5.11(a)		<p>The constitution is a contract between the Corporation and each of its members, as well as between the members themselves; see CATSI Act s 60-10.</p> <p>As such, members must comply with the rule book.</p>	
5.11(b) - 5.11(c)		The Corporation can cancel a member's membership if they are uncontactable for over 2 years where 2 or more reasonable attempts have been made to contact the member at their registered address; see CATSI Act s 150-25.	
5.11(d)		The Corporation can cancel a member's membership if they behave in a way that significantly interferes with the operation of the Corporation; see CATSI Act s 150-35.	<ul style="list-style-type: none"> • Should the members have other responsibilities? • What should happen if members don't follow the rule book?
5.12		Members are not liable to pay the PBC's debts if it is wound up unless the rule book says so; see CATSI Act s 147-1.	
5.13		The ways someone's membership ceases is limited to those ways listed in CATSI Act s 150-1(1).	

Rule	Changeable	Commentary	Considerations
5.14		See CATSI Act s 150-1(2).	
5.15		See CATSI Act ss 150(3), 150-15(3)	
5.16		The Corporation cannot cancel a member's membership other than as provided by the CATSI Act; see CATSI act s 150-15(2A).	
5.16(a)		See CATSI Act s 150-25.	
5.16(c)		See CATSI Act s 150-30.	
5.16(d)		See CATSI Act s 150-35.	
5.17		See CATSI Act s 150-22.	
5.18		See CATSI Act ss 150-20(7), 150-25(4), 140-30(4) and 150-35(4).	
5.19		See CATSI Act ss 180-1 & 180-10.	
5.20		See CATSI Act s 180-20. Access address is for a small or medium Corporation, and registered office is for a large Corporation.	
5.21		See CATSI Act s 180-30.	
5.22		See CATSI Act s 180-35.	

6. Members' meetings

Rule	Changeable	Commentary	Considerations
6.1		See CATSI Act s 201-150(1).	
6.2		See CATSI Act s 201-155.	
6.4		See CATSI Act s 180-30.	

Rule	Changeable		Considerations
6.4(c)	Red	See CATSI Act s 201-165.	
6.5	Red	See CATSI Act s 201-145.	
6.6	Red	For 'proper purpose' see CATSI Act s 201-55 For 'reasonable time and place' see CATSI Act s 201-60.	Where should members' meetings be held?
6.7	Green		What should members talk about at general meetings?
6.8	Orange	See CATSI Act s 201-1. This is a replaceable rule.	Who should call a general meeting?
6.9	Red	See CATSI Act s 201-5.	
6.10	Red	See CATSI Act s 201-5.	
6.11	Red	See CATSI Act ss 201-15 & 201-10(3). The Corporation can apply to deny the request where the request is frivolous or unreasonable, or where to comply with the request would be against the interests of the members as a whole; see CATSI Act s 201-10.	
6.12	Red	See CATSI Act ss 201-20, 201-25 & 201-30 The rule book can require a longer notice period for meetings.	
6.13	Red	See CATSI Act s 201-35.	
6.13(e)	Orange	This rule should only be included if the rule book provides for members appointing proxies for the meeting.	
6.14	Red	See CATSI Act ss 201-25(3) & 201-25(4).	
6.15	Orange	See CATSI Act s 201-25(5). This is a replaceable rule.	
6.16	Green	This rule is optional. The rule ensures that the outcomes of a meeting will not be invalidated because of an administration error in relation to the notice. If proper notice isn't given, members will still have the right to seek relief from the court under CATSI Act s 576-1 to invalidate the meeting. To do this, the member will need to show that the failure to give proper notice amounts to a substantial injustice.	

Rule	Changeable		Considerations
6.17- 6.20		These rules give the corporation flexibility to postpone a meeting if necessary	
6.21 - 6.23		See CATSI Act s 201-40.	
6.24		See CATSI Act s 201-45.	
6.25		See CATSI Act s 201-70. This is a replaceable rule.	<ul style="list-style-type: none"> • Who should chair meetings? • How should they be appointed?
6.26		See CATSI act s 201-70(3).	
6.27		<p>This replaces the replaceable rule at s 201-70(5) that the meeting is to be adjourned on the same day the following week.</p> <p>This rule gives the Corporation more flexibility to reschedule the meeting.</p>	
6.28		This rule reflects CATSI Act s 201-75 and is replaceable.	<ul style="list-style-type: none"> • How many people should be in the room for decisions? • Do different family groups need to be in the room for decisions?
6.29		See CATSI Act s 201-65.	
6.30 - 6.31		See CATSI Act s 201-115. This is a replaceable rule.	
6.32		See CATSI Act s 201-125. This is a replaceable rule.	
6.33		See CATSI Act s 201-120. This is a replaceable rule.	
6.34			How should decisions by members be made?
6.35		See CATSI Act s 201-90. This is a replaceable rule.	
6.36		See CATSI Act s 201-100.	
6.37		See CATSI Act s 201-100.	

Rule	Changeable	Commentary	Considerations
6.38		See CATSI Act s 201-95(4). This number can be less.	Should members be allowed to appoint proxies, and if so, how many proxies can a member hold? Multiple proxies can be complicated, and caution should be given to the number of proxies.

7. Directors

Rule	Changeable	Commentary	Considerations
7.1		See CATSI Act s 241-3.	<ul style="list-style-type: none"> How many directors should there be? We recommend to provide a range or minimum of directors, and not a fixed requirement for director numbers Should there be other board composition requirements? E.g. should there be categories for people with senior cultural knowledge or young members? Should the board reflect different family groups?
7.2		See CATSI Act s 246-1(3). This is a replaceable rule, in that the rule book can allow for non-members to be directors. This is useful if the Corporation would like to support the board with directors with independent skills with special expertise.	<ul style="list-style-type: none"> Who can be a director?
7.3		See CATSI Act s 246-1. A disqualified person may only be appointed as a director with permission from ORIC.	<ul style="list-style-type: none"> Should there be independent directors with special governance, finance or other skills? Should there be other eligibility criteria? E.g. should directors live within a certain distance of the native title determination area? If so, how should they be appointed? Can family members be directors at the same time? Should there be a limit on how many terms directors can serve?

Rule	Changeable		Considerations
7.4		See CATSI Act s 246-5(4).	
7.5		See CATSI Act s 246-5(5).	
7.6		See CATSI Act s 246-15. This is a replaceable rule.	
7.7		See CATSI Act s 246-10.	
7.8			<ul style="list-style-type: none"> • How should directors be nominated? • Should there be skills-based appointments? • Should there be a nominations committee? • Can members make nominations? Or should nominations be recommended by family groups?
7.9 - 7.9(b)		<p>This rotation system allows the board to keep and share corporate knowledge with new directors, and allows new directors to learn from the continuing directors.</p> <p>It will be important to consider including rules on how to decide which directors are granted a 2 year tenure, for example a random selection or highest number of votes received.</p>	<ul style="list-style-type: none"> • Should there be a board rotation system? • How should the board rotate?
7.10		This rule reflects CATSI Act s 246-25(4). This rule makes sure that the Corporation can continue its business without breaching the rule book in the event that new directors have been unable to be appointed at a general meeting.	
7.11		CATSI Act s 212-15 allows directors to elect a director to chair their meetings, for a period decided by the directors. This is a replaceable rule.	
7.12		<p>This rule is optional and allows directors to fill vacancies on the board between general meetings.</p> <p>Note: CATSI Act s 246-20 allows the board to appoint a director to make up a quorum. This is a replaceable rule.</p>	
7.13- 7.16		This rule allows the corporation to fill vacancies on the board between general meetings.	

Rule	Changeable		Considerations
7.17 - 7.20		<p>This rule reflects CATSI Act s 246-30 and is a replaceable rule. Thought should be given to if the Corporation should have Alternate Directors or not.</p> <p>For example, directors should be elected on the basis that they are able to perform their duties as directors.</p> <p>Note: directors remain liable for decisions made on their behalf by their alternates. Caution should be applied if appointing an alternate.</p>	<ul style="list-style-type: none"> Should the corporation have alternates?
7.21 - 7.22		<p>See CATSI Act s 249-1.</p> <p>Note, the requirement that a resignation be "in writing" is a replaceable rule. (See CATSI Act s 249-5(2))</p>	
7.23		<p>See CATSI Act s 249-10.</p>	
7.24 - 7.27		<p>See CATSI Act s 249-15.</p>	
7.28		<p>See CATSI Act ss 265, 268 & 531.</p>	
7.29		<p>See CATSI Act s 268-1(1).</p>	
7.30		<p>See CATSI Act s 268-1(3)</p>	
7.32		<p>See CATSI Act s 268-1(4).</p>	
7.33		<p>See CATSI Act ss 268-20(1); 268-20(4) & (5).</p>	
7.34		<p>See CATSI Act s 252-1. This is a replaceable rule.</p> <p>An alternative drafting is: "Directors may be paid remuneration as determined by the members by resolution at a general meeting."</p>	<ul style="list-style-type: none"> Should directors be remunerated for sitting on the board? How much should directors be remunerated? Who sets directors remuneration rates?
7.35		<p>See CATSI Act s 252-1.</p>	
7.36		<p>See CATSI Act s 252-2.</p>	
7.37		<p>See CATSI Act s 284-1.</p>	

Rule	Changeable	Commentary	Considerations
7.38	Orange	As per CATSI Act s 274-10. This is a replaceable rule. Note: Directors are still responsible for decisions made by their delegates (CATSI Act s 265-50). Directors should be careful how they delegate their powers.	<ul style="list-style-type: none"> Should the directors be able to delegate their powers? If so, to whom? Will the Corporation have subcommittees? What will they do? Will the Corporation have an Elders group or another advisory group?
7.39	Red	See CATSI Act s 274-10(2).	
7.40	Orange	The rule book must say how often the directors will meet. See CATSI Act s 212-1. The Registrar suggests the directors meet a minimum of every 3 months.	<ul style="list-style-type: none"> How often should the directors meet?
7.41	Red		<ul style="list-style-type: none"> How should directors' meetings be called? Should "reasonable notice" be defined in the rules?
7.42 - 7.43	Green	The rule book can set out how directors meetings should be called.	
7.44	Red	See CATSI Act s 212-20.	
7.45	Red	See CATSI Act s 212-10.	
7.46-7.47	Orange	See CATSI act s 212-25. This is a replaceable rule.	<ul style="list-style-type: none"> How should directors decisions be made? Should the chair have a casting vote?
7.48	Orange	This rule reflects CATSI Act s 215-1 and is replaceable. For instance, a circular resolution could instead be signed by a $\frac{3}{4}$ majority.	<ul style="list-style-type: none"> How should a circular resolution be made?

8. Contact person or secretary

Rule	Changeable	Commentary	Considerations
8.1	Red	See CATSI act s 257-20.	
8.2	Red	See CATSI Act s 257-10.	

Rule	Changeable	Commentary	Considerations
8.3		See CATSI Act s 257-50. This is a replaceable rule.	
8.4		See CATSI act s 257-30.	
8.5		See CATSI Act s 257-15.	
8.6		See CATSI Act s 304-5(1).	

9. Execution of documents

Rule	Changeable	Commentary	Considerations
9.1 - 9.2		See CATSI Act s 42-25.	
9.2(b)		This rule is optional and not required by the CATSI Act.	
9.2(c)		This rule reflects CATSI Act s 42-25(2) and is not replaceable.	
9.3		This rule reflects CATSI Act s 99-1 and is not replaceable.	
9.4		This rule reflects CATSI Act s 99-5(1) and is not replaceable.	
9.5		This rule reflects CATSI Act s 99-5(2) and is not replaceable.	
9.6		This rule reflects CATSI Act s 99-5(3) and cannot be replaced.	
9.7		This rule reflects CATSI Act s 99-5(4) and cannot be replaced.	

10. Records

Rule	Changeable	Commentary	Considerations
10.1		This section is not replaceable. See CATSI Act ss 220-5 (minutes); 322-5 (Rule Book and directors, contact person's details); 322-10 (financial records) and 180-1 (register of members)).	

Rule	Changeable	Commentary	Considerations
10.2 - 10.3		See CATSI Act s 322-20. This is not replaceable.	

11. Finances

Rule	Changeable	Commentary	Considerations
11.1- 11.2		This rule is optional and is not required by the CATSI Act. You should think about how the Corporation's money should be managed in accordance with good governance and financial management principles and the objectives of the corporation.	<ul style="list-style-type: none"> • How should the Corporation's money be managed? • Where should the money be kept? • Think what the Corporation's objectives might mean about spending. • How should payments from the Corporation be authorised?
11.3		See CATSI Act s 322-10. This cannot be replaced.	

12. Auditor

Rule	Changeable	Commentary	Considerations
12.1		CATSI Act s 333-20 provides auditor requirements that are not replaceable.	

13. Annual reporting

Rule	Changeable	Commentary	Considerations
13.1		CATSI act s 333 provides annual reporting requirements that are not replaceable.	

14. Winding up

Rule	Changeable	Commentary	Considerations
14.1 - 14.2		See CATSI Act s 526-20 for voluntary winding up. This process is not replaceable.	
14.3 - 14.5		Rules 14.3-14.5 are optional and not required by the CATSI Act. They are here to ensure the proper distribution of assets in the event the PBC is wound up.	

15. Dispute resolution for members

Rule	Changeable	Commentary	Considerations
15.1- 15.5		<p>CATSI Act s 66-1(3A) requires the rule book to include a dispute resolution process.</p> <p>The Act does not specify a dispute resolution process, and the PBC can decide what an appropriate process would be in their circumstances to resolve disputes.</p>	<ul style="list-style-type: none"> How should disputes be managed? Should disputes be referred to a particular group, such as an elders group or independent person? Is there a process under traditional law and custom for disputes?

16. Dispute resolution for non-members

Rule	Changeable	Commentary	Considerations
16.1		See CATSI Act s 66-1(3B). This is not a replaceable rule.	

17. Changing the rule book

Rule	Changeable	Commentary	Considerations
17.1		See CATSI Act s 69-5. This cannot be replaced.	
17.2 - 17.3		See CATSI act s 69-20. This cannot be replaced.	