



How the NNTT can help you resolve a native title PBC dispute

The *Native Title Act 1993 (Cth)* (NTA) has a new section (s 60AAA) that allows the NNTT to help Prescribed Bodies Corporate (PBCs) and native title holders with any disagreements they have. NNTT assistance can support the resolution of disputes for the benefit of all native title holders. The NNTT has a staged approach to assisting native title holders and PBCs to manage native title disputes. Once we know the

background to your concerns, our team will help you get the right information, which might include putting you in contact with other people who may be best suited to help you. If this isn't enough, and everyone involved agrees, the NNTT can provide mediation assistance. Everyone will have the opportunity to be heard. The NNTT may also be able to help you in some other ways that will be designed to meet your needs.

1

Finding solutions yourself

Have you tried doing what your PBC's rule book says about resolving native title disputes?

Most PBC rule books describe steps to follow when attempting to resolve disputes. The process might be a traditional one, or the group may have decided on another way to resolve disputes. Sometimes the process is just a broad series of steps and timeframes.

Check the PBC's rule book for guidance about your concerns. For example:

- What does it say about who is eligible to be a member of the PBC?
- Does it say anything about how the PBC board manages membership applications?
- What does it say about decision-making processes?
- What does it say about how the PBC will deal with native title disputes?
- Have you tried to start a process to resolve your concerns according to the PBC's rules?

The representative body for your area can often help with disputes and may have mechanisms to deal with

your concerns. Are you willing to speak with your representative body about the dispute?

Often the best way people can work out disagreements or disputes is to find a way themselves to come up with a solution that everyone agrees with.

2

Contact the NNTT

If you are stuck, give us a call, email us or come into the office.

The NNTT is here to assist native title holders and PBCs to find their own solutions. We know it can be hard to find the right way to resolve a dispute.

Our experienced team, which includes native title holders, can talk with you and help you find a way to sort things out. Sometimes talking to the right people who can give you good information might be all you need.

It will help if you know what outcomes you are seeking when you ask for assistance from the NNTT.

3

Working together so you can find the right information

Let's talk about what information or people might be able to help you.

Together we can go through the concerns you have about how your PBC is running. It will help if you can give us as much background information as you can – things like who is involved, what you think is the problem and what you have done to try to work things out.

Our team won't provide you with advice, but we can assist you to clarify the issues that concern you, what information might be missing and sort out exactly what you are trying to achieve.

Information gathering

It's important for the NNTT to understand why you are seeking assistance. You can talk to us about:

- the nuts and bolts of the dispute and the people involved
- what objectives or outcomes you are looking for
- what the Court has said when it made your native title determination
- whether your PBC's rule book clarifies anything about your concerns
- what your PBC's rule book says about resolving disputes
- your group's decision-making processes
- the cultural protocols your group operates under.

4

Fitting all the pieces together

The right information might be enough for you to sort things out.

We will work with you to facilitate your access to the right information and to talk to the right people so that you can work out the best solution.

We will try to get the information to you as soon as possible.

Facilitation

Facilitation means helping you to access information and arrange discussions with people, which empowers you to find your own solutions.

Facilitation can help you:

- understand what the Court has said in its determination when your native title was recognised
- understand the PBC's obligations under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act) and the PBC Regulations under the NTA
- talk to the Office of the Registrar of Indigenous Corporations or your representative body
- access the NNTT's mapping services
- talk to directors or members of the PBC or other native title holders.

If information is not enough to solve your problem, you can decide if you need a bit more assistance for the dispute to be managed, or even resolved.

You must be aware that we cannot give you legal advice.

5

Have you thought about mediation?

The NNTT can provide mediation assistance so everyone can be heard.

When information isn't enough, the NNTT can provide mediation assistance. This is when everyone affected by or involved in a dispute can have a say about how to fix it.

Finding ways to resolve a dispute or conflict can take time and energy and can be frustrating. Disputes distract native title holders from managing their native title properly. Everything works better when

disputes are sorted out. Mediation is a great way for people in disagreement to talk to each other. When people disagree about things, having a person who does not take sides can help people see things a bit more clearly.

The NNTT has mediators who understand that Indigenous decision-making processes are unique and that no one size fits all. We know that agreement-making and dispute management processes must represent the values of the group and the laws and customs of the native title holders. Sustainable solutions to native title disputes are only possible when they take into account culture, local needs and capacity.

Before the NNTT agrees to mediate, all the parties involved in the dispute will have to agree that they want to try mediation to manage or resolve the issues.

6

Dispute resolution

The NNTT has mediators experienced in native title who can help you to resolve your native title dispute.

If everyone agrees that they want to find a solution, NNTT mediators can work with the parties to design a culturally responsive and appropriate mediation process.

Mediation

Every conversation the parties have with the NNTT about the dispute is really important.

If everyone involved is well informed and fully prepared to discuss the issues, the right process can be developed for everyone to talk freely with the goal of finding agreement.

The mediation process should support your community's values, needs and cultural authorities. NNTT mediators can assist the parties to work together to agree on things like:

- choosing a culturally appropriate location in which to hold mediation meetings
- making sure the right people are at the table
- making time for consultation with decision-makers who are not at the table
- ensuring that any decisions or agreements are only made when the parties are clear about the process they are following and understand what they are agreeing to
- recognising the leadership, authority and direction that might be provided by Elders – especially if they are not involved in the actual mediation
- that men's and women's business may need to be managed differently and separately
- the time it might take for people to meet and discuss issues and make decisions.

The NNTT understands that the parties have the right to manage their own decisions and disputes. The right mediation process can get people talking together to identify and explore the causes of the dispute and decide on potential solutions.

NNTT mediators are committed to the principle of self-determination for all the parties who participate in mediation. We are committed to supporting PBCs and native title holders to find their own solutions to resolve or manage native title disputes.

You can contact the NNTT for any further information about the matters discussed in this fact sheet:

- National Native Title Tribunal – PO Box 12440, George Street Post Shop, Brisbane Qld 4003
- If you need someone to contact you about a PBC matter, email PBCassist@nntt.gov.au or telephone (07) 3052 4040.
- Information is also available at www.nntt.gov.au

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