



Making decisions about native title and compensation applications

Before a registered native title body corporate (RNTBC) makes a native title decision or a decision to apply for compensation they must consult and obtain the consent of the common law holders whose native title rights and interests will be affected.

The RNTBC must then make the decision in line with the common law holders directions. It must also produce a certificate as evidence for every native title decision it makes.


Remember, if a decision is not made involving the right people and in the right way then it will be invalid.



CONTACT ORIC

call 1800 622 431
email info@oric.gov.au
visit oric.gov.au

NOTE: This fact sheet is not a substitute for legal advice. It is intended as a quick overview of the topic. For more detail see the CATSI Act, native title laws or consult a lawyer.

WHERE What land or waters are affected?	WHO Who speaks for that country?	WHAT What's the decision about?	HOW		DECISION	
			standing instructions and fees for services	alternative process		
What area of land or waters will either be affected by the native title decision or requires an application for compensation?	<p>What does the determination say?</p> <p>If the determination does not identify classes of common law holders then all common law holders must be consulted and their consent obtained.</p> <p>If the determination identifies more than one group of common law holders, the RNTBC only has to consult the group/s that are affected by the decision.</p> <p>Classes of common law holders may be different language groups or estate groups.</p>	To surrender native title rights and interests PBC Regulation 3(1)(a)—high level	N/A	N/A	<p>Does the group/s have a traditional decision-making process?</p> <p>Yes → USE THAT PROCESS</p> <p>No →</p>	<p>TO GIVE CONSENT OR NOT</p> <p>RECORD THE DECISION:</p> <p>PRODUCE A CERTIFICATE</p> 
		To enter into: <ul style="list-style-type: none"> an Indigenous land use agreement (ILUA) or a right to negotiate (section 31) agreement PBC Regulation 3(1)(b)—high level	<p>CHECK: If the decision is about entering an ILUA about an act by or for the benefit of the PBC, or a section 31 agreement where the PBC is the only grantee party, has the relevant group/s already given an instruction? Reg 8(2)</p> <p>Yes → FOLLOW THAT STANDING INSTRUCTION TO MAKE THE DECISION</p> <p>No →</p> <p>CHECK: Can and will the RNTBC charge a fee for its costs to negotiate the agreement?</p>	N/A		
		To allow a person who is not a common law holder to become a member of the RNTBC PBC Regulation 3(1)(c)—high level	N/A	N/A		
		To agree to include an alternative consultation process in the RNTBC's rule book PBC Regulation 3(1)(d)—high level	N/A	N/A		
		To do, or agree to, any other act that would affect native title rights and interests (except for making a compensation application) PBC Regulation 3(1)(e)—low level	<p>CHECK: Have the relevant group/s already given an instruction for the type of decision? Reg 8(2)</p> <p>Yes → FOLLOW THAT STANDING INSTRUCTION TO MAKE THE DECISION</p> <p>No →</p> <p>CHECK: Does the rule book include an alternative consultation process for the relevant group/s? Reg 8A</p> <p>Yes → USE THAT PROCESS</p> <p>No →</p>			
		To apply for compensation PBC Regulation 61(1)	N/A	N/A		