

# Native Title Story

**Learning about native title and prescribed bodies corporate**

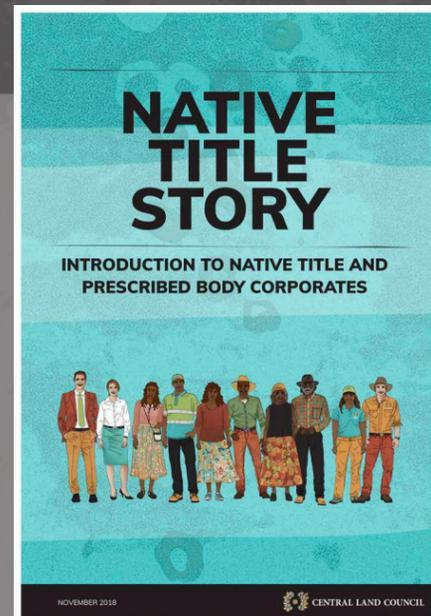


# The Central Land Council (CLC) has made information booklets to help native title holders understand native title and prescribed body corporate (PBC) business.

**Native Title Story:** Introduction to native title and prescribed bodies corporate

November 2018

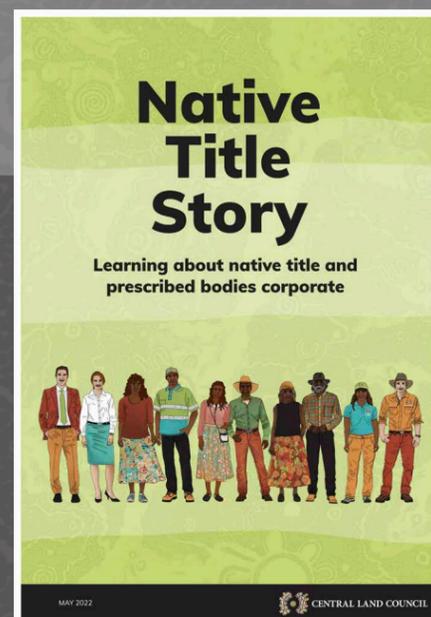
Some rules have changed, so we do not use this book anymore.



In March 2021, the government changed some of the rules in the Native Title Act so CLC made changes to the Native Title Story.

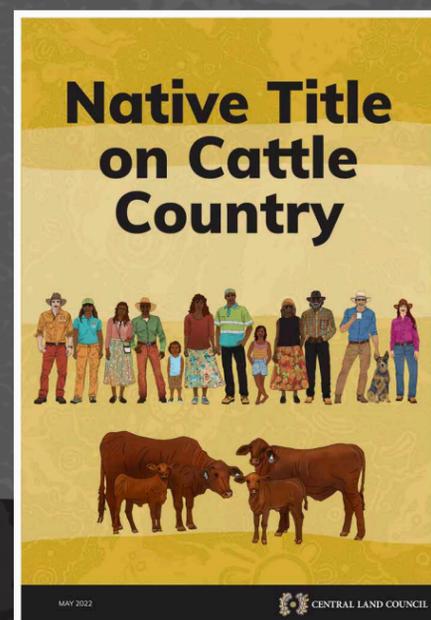
**Native Title Story:** Learning about native title and prescribed bodies corporate

May 2022



**Native Title on Cattle Country**

May 2022



# Learning about native title

## Some hard words about native title

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### Native Title Act

This is the law about how Aboriginal people can get native title and what people can do when there is native title on country. It also explains how native title rights fit with other Australian laws. Everyone, Aboriginal people and whitefellas in Australia, have to follow the rules in the Native Title Act.

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### native title determination

When all people involved with the country, like the station owner, mining company and the government, agree about the claim, then the Federal Court judge can make a native title consent determination.

At the native title determination ceremony the judge gives you a paper. The paper says that Australian law recognises your traditional laws on country.

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### native title holder

A person who is connected to their traditional country by their traditional law. The person is part of a group that belongs to country that has native title.

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### prescribed body corporate (PBC)

After a native title determination, the native title holders need to have an Aboriginal corporation (AC) to look after native title over their country. This is called a prescribed body corporate, or PBC. A PBC is also called a registered native title body corporate (RNTBC).

The PBC needs to follow traditional law and whitefella Australian law.

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### affected native title holders

If the government or a company wants to do something on land that has native title, the right traditional owners will talk up for that country.

They are called the affected native title holders.

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### Crown land

This is government land. People can lease Crown land, but most of the time, they cannot buy it.



# Can you tell me about native title?



What is native title?

Native title makes sure that whitefella law sees that Aboriginal people are still here on country. It tells everyone that we have our connection to country and our traditional law.



How do we get native title?

We make a native title claim. This is when we ask the government to recognise our native title.

We have to show the Northern Territory Government that we still follow the traditional law way on our country. Other people who use that country, like cattlemen, also speak up about the claim. Then, the Federal Court judge can make the native title determination.





When we have native title, what can we do?

We can hold ceremonies, look after sacred sites, get bush tucker, hunt and camp on our country.

When people from the government or a mining company want to do something on our country, they have to talk to the right traditional owners first.



Do we own country that has native title?

No. In the Northern Territory most of the country that has native title is Crown land. This means it is government land.

Cattlemen lease most of that country for stations.



# Where did native title come from?

More than 250 years ago, England took over Australia with their own law, called Terra Nullius. In 1992 the High Court said that Terra Nullius was wrong. The government made native title law so that everyone would know that Aboriginal people still have their traditional law and connection to country. This means the government and all Australians recognise that Aboriginal people are the traditional owners.



## What was Terra Nullius?

A long time ago, England had different ways to take over other countries. One way was that they took over land that did not belong to anyone. This way was called Terra Nullius.

This happened when:

- there were no people living there, or
- England did not recognise that the people living there had their own laws.

This is how England took over Australia. But we know that Aboriginal people were here and had traditional laws. Terra Nullius was wrong.



**“We been fighting for a long time for the station. I’ve been pushing really hard all the time to get country back, not only for my family but for all Aboriginal people. We know native title is not strong like land rights, but it gives us a chance to have a say.”**

**Native title holder, Twenga Aboriginal Corporation RNTBC**



# What happened to make the Aboriginal Land Rights and Native Title Acts?

The Aboriginal land rights law and the native title law are separate. They are not the same.

This is what happened to make the Aboriginal Land Rights Act and the Native Title Act.

## A long time ago

Aboriginal people have been here a long time. They have looked after country forever.

before 1788

land rights

native title

**1770**

The first whitefellas from England arrived in Australia. Captain James Cook landed at Botany Bay in New South Wales, home of the Gadigal people.

**1788**

Boats from England brought the first whitefellas to settle in Australia. They took over the land under their Terra Nullius law.

**1963**

The Yolngu people of Yirrkala wrote a petition on bark. The petition was a strong message that mining on their mission reserve was wrong. They sent the bark petition to the government.

The mining still happened.

**1973**

Prime Minister Gough Whitlam told Judge Edward Woodward to find a way to recognise Aboriginal rights to country in the Northern Territory.

**1966**

The Gurindji people walked off Wave Hill Station because they were not paid the right money for their work and they had no proper housing.

They started to argue with the government to get the proper money and a place to live on their own country.

**1976**

Prime Minister Malcolm Fraser made the law called the Aboriginal Land Rights Act.

**1976 - 1997**

Aboriginal land claim time. With that land rights law, some Aboriginal people got their country back.

**1982**

Eddie Koiki Mabo and 4 other Meriam men, from the island of Mer, or Murray Island in the Torres Strait, went to the High Court.

They said that the Terra Nullius law, from England, was wrong. They asked the High Court to recognise that they owned their country traditional law way.

**1992**

The High Court agreed that the Terra Nullius law was wrong. The government changed the law so that everyone could recognise traditional ownership of the country.

**1996**

The Wik people of Cape York went to the High Court. They said that their country was on a pastoral lease and that they should get native title. The judge agreed that they could have native title rights on that pastoral lease.

**1993**

The government made a law called the Native Title Act. The Native Title Act is the rules that make whitefella law recognise traditional law and connection to country.

**1997**

The government changed some of the rules in the Aboriginal Land Rights Act.

Aboriginal people cannot make any new land rights claims. The Aboriginal Land Rights Act is still there for people who hold Aboriginal freehold country.

**1998**

The government changed some of the rules in the Native Title Act. They said that Aboriginal people who belong to country on a pastoral lease can get native title.



# Aboriginal Land Rights Act and Native Title Act are not the same

## Who owns the land?

### Aboriginal Land Rights Act

The traditional owners own the country.

The government gave country back to traditional owners in the Northern Territory. The country is called Aboriginal freehold land.

Traditional owners decide what happens on the country, but they cannot sell the Aboriginal freehold land.

The Aboriginal Land Rights Act is the strongest law, stronger than other laws which are about country.

### Native Title Act

The government owns the country.

The government says that traditional owners can do some things on their country, but they do not own it.

Native title law is used everywhere in Australia.

Traditional owners cannot stop cattlemen or miners from doing business on the land. Traditional owners can try to make an agreement about what they would like to happen on that country. Traditional owners cannot stop new business or projects, but they can try.

## What land can you get?

### Aboriginal Land Rights Act

The government gave country, that is called Crown land, back to traditional owners.

Some of the country was out bush and not being used by anyone else. Other areas were used for stock routes, stock reserves and Aboriginal owned cattle stations.

Traditional owners now own that land under whitefella law.

### Native Title Act

There can be native title on pastoral leases, Crown land or even in some towns.

You cannot get native title on freehold land. A person or corporation owns that freehold land under whitefella law.



## Why do we need a corporation?

### Aboriginal Land Rights Act

The Minister has to make an Aboriginal Land Trust to hold the title to the land.

CLC manages the Aboriginal Land Trusts. This means CLC makes sure the Aboriginal freehold land is run proper way.

### Native Title Act

Traditional owners have to make a prescribed body corporate (PBC) to look after their native title rights.

The traditional owners hold the PBC and make it work for them.

CLC can help manage PBCs. This means CLC can help PBCs run proper way.



## How do people decide things?

### Aboriginal Land Rights Act

Traditional owners decide what people can do on their country.

Traditional owners use traditional law way to make decisions.

CLC listens to the traditional owners and records their decisions. This means writing down and keeping the decisions. CLC and traditional owners make sure that the right people make the decisions proper way.

If the traditional owners say “yes” to an agreement with the government or a company, they tell the CLC executive to sign the agreement. The CLC Executive will tell the Aboriginal Lands Trust to stamp the agreement.

If the traditional owners say “no”, CLC cannot sign the agreement.

### Native Title Act

PBC directors and members decide all the things about the PBC.

The affected native title holders decide what can happen on their country.

Affected native title holders can use traditional law way to make decisions.

PBC directors ask the affected native title holders what they want to do.

If the affected native title holders say “yes” to an agreement with the government or a company, the PBC directors sign the agreement.

If the affected native title holders say “no”, the PBC directors cannot sign the agreement.

PBC directors can ask CLC for help.



# How do we get native title rights?

## 1. CLC decides what land to put a native title claim over

To decide, CLC looks at:

- what is happening on the land
- what funding CLC can get to do the work
- what traditional owners are asking CLC to do.

## 2. Early research

CLC's legal and anthropology teams find out what land can be claimed.

## 3. Instructions meeting

- CLC meets with traditional owners to ask if they want to make a claim over their country.
- Traditional owners tell CLC “yes” or “no”. If they say “yes” the anthropology research starts.

## 4. Research

- Anthropologists do lots of research.
- The anthropologists use books, meetings and country visits.
- This takes a long time and a lot of money.

## 5. Research proofing meeting

The anthropologists check the research with all the traditional owners.

When the report is straight and true, they send it to the lawyers.

## 6. PBC support meeting

CLC's PBC Support Unit talks to traditional owners about:

- making a PBC
- the jobs of the PBC.

## 7. Write native title determination application

CLC's lawyers write the native title application. This is the paperwork for the court.

## 8. Authorisation meeting

- CLC's legal, anthropology and PBC Support Unit meet with the traditional owners to check the information in the application. They explain what happens next.
- If the traditional owners say that the application is straight and true, they tell CLC to send the application to the court.

## 10. Negotiations

- CLC's lawyers talk to all the people who have something to do with the land, like pastoralists, government or mining companies.
- All these people have to agree that the application is straight and true.
- The government also looks at the research. They might ask for more information.

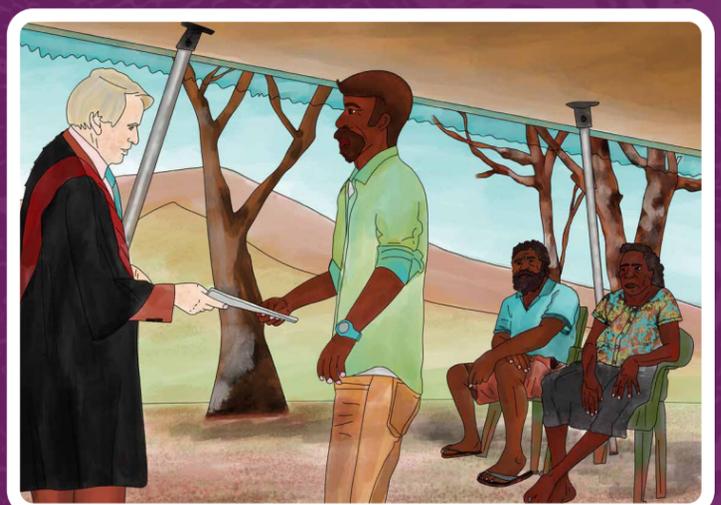
## 9. PBC establishment meeting

- Traditional owners need to have a PBC to hold native title.
- Traditional owners can choose to use an existing Aboriginal corporation or make a new one.

They tell CLC to make the PBC.

## 11. Determination

- The Federal Court judge says Australia recognises the native title for that land.
- The judge comes out on country and celebrates with the traditional owners.
- These traditional owners are now called native title holders.



## 12. PBC starts working

- The PBC looks after all native title business for that land.
- The PBC can ask CLC for help. To do this, they sign a service agreement.



# Native title rights

Your native title determination says which native title rights you have. Here are some things most people can do with native title.



You can do these things with your native title rights:



You can go on country.



You can camp on country.



You can get water from soakages, waterholes and rivers.



You can make a campfire.



You can hunt and fish native and feral animals.



You can get bush tucker, wood, ochre and other natural resources.

You can give people a present from the country.



You can look after and protect sacred sites and important places.



There are some things you cannot do:



You cannot stop people from coming on your country.



You cannot camp close to the homestead.

Most of the time, you cannot build new houses or make new outstations.



You cannot get water from bores or dams.



You cannot light fires to clear country or hunt.



You cannot hunt cattle or other animals that belong to someone.

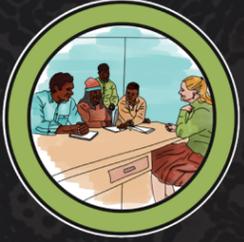


Sometimes, you cannot sell things from country for big money.





**You can do these things with your native title rights:**



**You can talk about a project, like mining, and try to make an agreement.**



**You can say how other Aboriginal people can use your country.**



**You can teach, hold meetings, ceremonies and funerals on country.**

**You can put someone's grave on country if you get approval from the Northern Territory Government.**



**You can take anyone to your country to help you with cultural activities and research.**



**There are some things you cannot do:**



**You cannot stop or veto a project, like mining.**

**Sometimes you can use other laws to try stopping projects from happening on country.**



# Learning about PBC work

## Some hard words about PBCs

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### rule book

The rule book tells PBC members and directors:

- what they can do with the PBC
- who can be a member of the PBC
- how members and directors have to manage the PBC.

The rule book is also called a constitution.

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### member

A member is someone who belongs to a PBC.

The rule book says who can be a member. When a person wants to be a member, they have to fill in a membership application form.

At the directors' meeting, the directors check the rule book to make sure that person can become a member.

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### member register

This is a list of all the PBC members. It has their name, phone number and address.

The member register also shows when someone started and stopped being a member.

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### director

At the AGM, all the PBC members have to choose a smaller group of members to be directors. The directors make sure the PBC is managed proper way.

The directors have to:

- know what the PBC is doing
  - ask questions at directors' meetings
  - ask for help if they cannot manage the PBC by themselves.
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### directors' meetings

All directors get together to hold meetings. At these meetings, the directors talk about the PBC business and decide how to manage the corporation. More than half of the directors have to be at the directors' meetings to make decisions.

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### annual general meeting (AGM)

All the members go to a big meeting. At this meeting, the directors have to tell the members what business the PBC has been doing and wants to do. Members also choose the directors for the PBC. Some PBCs have an AGM every year. Some PBCs have an AGM every 3 years.

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### minutes

Minutes are the information that the PBC keeps about what happened in a meeting.

Minutes are the proof of:

- who was at the meeting
- what people talked about
- what people decided.

The PBC has to keep minutes to show what the members or directors decided in the meeting.

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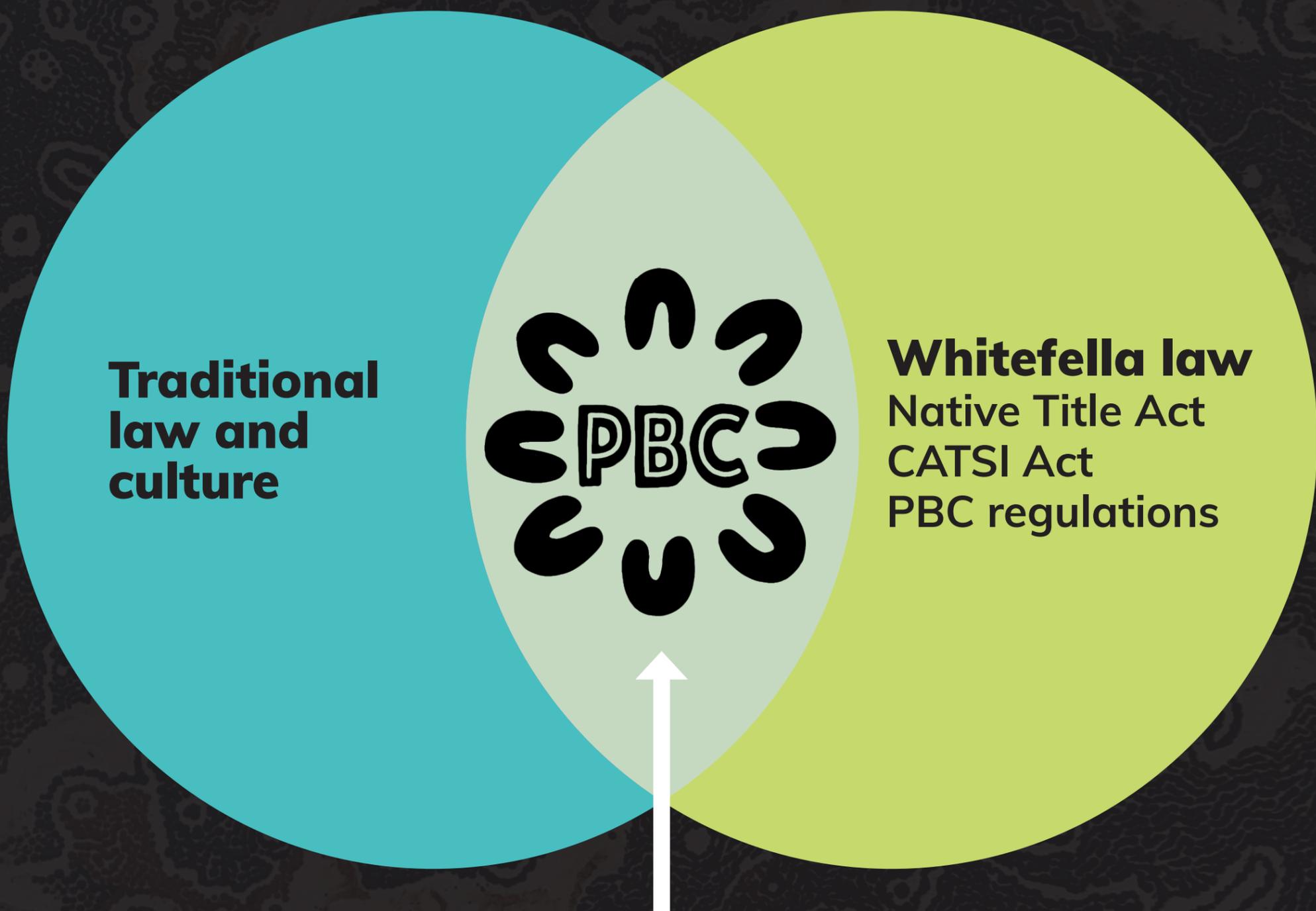
# Who holds and manages the PBC?

- Traditional owners hold the PBC and make it work for them.
- The directors manage the PBC.
- The members and directors have to follow the rules in the PBC rule book.

**The PBC can ask CLC for help and advice.**



# The PBC has to work 2 ways: traditional law way and whitefella law way



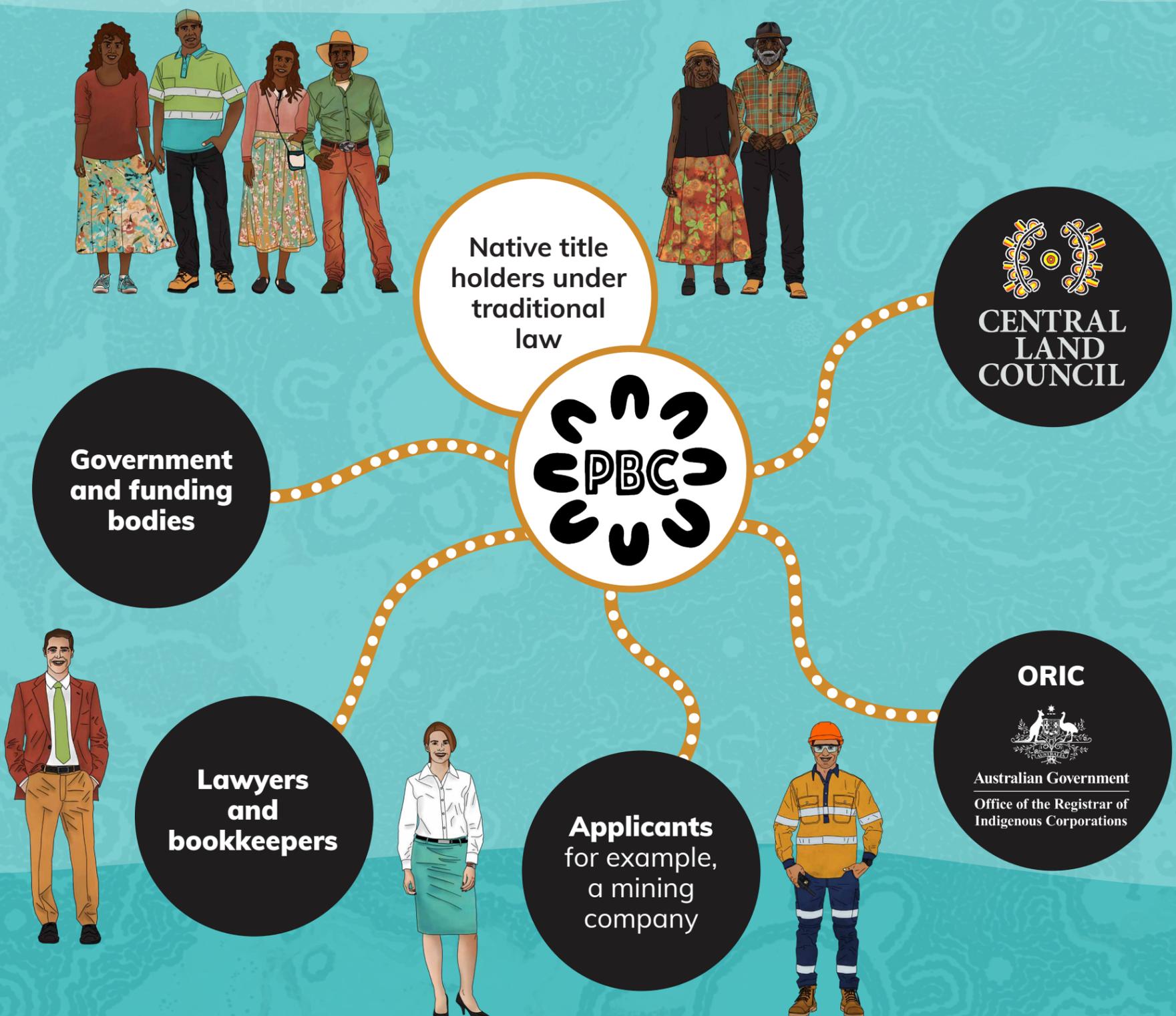
**The PBC sits in the middle. The PBC has to do proper way by both laws.**

# What does a PBC do?

A PBC holds the native title rights for the traditional owners in the determination area.

## A PBC has many jobs.

- It helps native title holders talk to people who want to do something on their country. People who want to do something new on country, need to know who to talk to. They can talk to PBC directors. The directors have to listen to the traditional owners who talk for that country.
- It gives the paperwork to the government to show that the PBC is doing its job proper way. The directors do the paperwork at directors' meetings and AGMs.
- Native title holders can decide if they want their PBC to do other work for them as well as native title work.



# People on native title country

When traditional owners get native title, they are called native title holders. The PBC looks after their native title rights.



The PBC looks after the native title rights for native title holders.



A native title holder can ask to be a member of the PBC. Members can help make decisions for the PBC.



Members choose a small group of members to be directors. Directors make sure the PBC follows the rule book and whitefella law. Directors do the big jobs in the PBC to make sure it follows the rule book.



Sometimes people, like a mining company or the government, want to do something new on country that has native title. They need to talk to the traditional owners. The traditional owners who speak for that country are called the affected native title holders. They decide if the PBC should sign the agreement.



# What can native title holders do?



## I am a native title holder

- I can be a member of the PBC.
- I can go to meetings and talk about my country.

## I am an affected native title holder

Other people want to do something new on my country that has native title. This means I am an affected native title holder.

- I can talk up and ask questions about what is happening on my country.
- I can tell other affected native title holders about meetings.
- I can help decide things about my country with other affected native title holders.



## I am a PBC member

I have to follow the PBC rule book.



- I can go to the annual general meeting (AGM).
- I can choose directors and vote for them at the AGM.
- I can become a director if members vote for me.
- I can ask directors to have a meeting if 4 or more members agree.
- I can ask directors questions at the meeting.
- When the PBC holds other meetings, I can go to the meetings.
- I can talk and help decide things at the meetings.
- I can ask directors to make changes to the rule book. The changes can only be made if other members agree.
- I can read the minutes, money story, and auditor reports. I can also ask questions.
- I can check that my own name, phone number and address are true in the PBC member register. This is the big list of all members.
- I can tell the PBC not to show my phone number or address.
- I can ask other native title holders to become members.
- I can help make or check the strategic plan to find out what other members want to do and share my ideas. The strategic plan is all the ideas about what the PBC wants to do.

## I am a PBC director

Members voted for me to be a director.

I have to be a member and follow the rules in the PBC rule book.



- I have to help decide things that are good for the affected native title holders and members.
- I have to help organise directors' meetings, general meetings and AGMs.
- I have to go to those meetings.
- I have to help decide what the PBC wants to do and make a strategic plan.
- I have to check if the meeting minutes and reports are true, and speak up if they are not.
- I have to check the rule book to see if someone can become a member.
- I have to tell other directors when I have a conflict of interest. This is when something that is good for me and my family might not be good for other people.
- I have to make sure I know what the PBC is doing, so I ask questions to understand.
- I have to make sure that someone pays all the PBC bills.
- I have to check if the financial reports are true and done proper way. I can ask questions to understand.
- We can hire a manager. Then we have to make sure they do a good job.
- I have to talk with other people, like the government or companies, who want to do something new on country. I have to find out what they want to do.
- I have to talk with all the affected native title holders when someone wants to do something new on their country.
- I sometimes have to sign a certificate of consultation and consent after the PBC talks to the affected native title holders.
- I have to sign native title agreements if the affected native title holders say "yes".



# Native title holders decide how to use land

Affected native title holders make decisions about using land.

This is because they are the decision makers for country traditional law way.

The Native Title Act says people have to talk to native title holders when they want to do something new on native title land, like mining.

The Native Title Act says people do not have to talk to native title holders when they want to do things like run cattle stations, do research or make films.

**We decide these things in this way.**

1. The directors talk to the affected native title holders.

2. The directors help the affected native title holders negotiate with the people who want to do something new on country.

3. The affected native title holders can make decisions traditional law way. They tell the directors what to do.

4. The directors do what the affected native title holders say.

Directors do not decide things.  
They listen to the affected native title holders.

# Native title holders decide how to manage the PBC

This can be about:

- holding PBC meetings, like directors' meetings and AGMs
- making the PBC strong and making money for the PBC
- managing money and people who work for the PBC
- doing other work that is not native title business.

The directors and members make these decisions.

If the PBC has a manager, the manager can also make these decisions.

We decide these things in this way:

**We decide these things in this way.**

The directors, members and manager follow the rule book proper way.

They talk and agree about how to help affected native title holders and members.





Do I talk to the PBC when I want to go to my country?



No. When you have native title rights, you can hunt, camp or visit a sacred site on your country. You do not have to ask the PBC.



Can the PBC do other work, that is not native title business?

Yes. The PBC can manage businesses and make money. The PBC can sell things or deliver services. They can have meetings with government and other people about what the native title holders want to do.

It is good to put these ideas in the PBC strategic plan.





Why are there so many different mobs in one PBC?

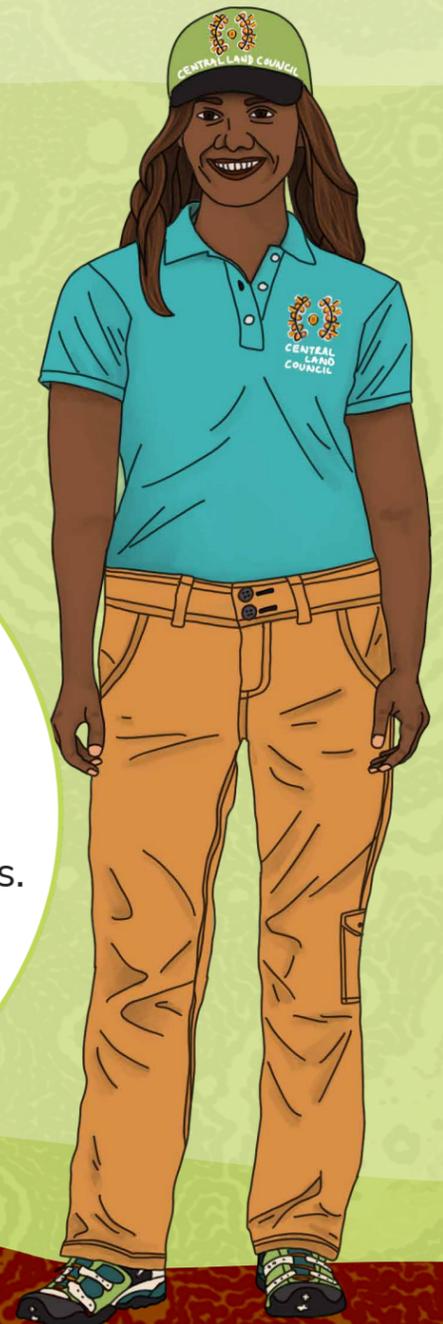
There are 3 reasons.

1. A PBC is for the whole native title claim area. The area of a landholding, or an estate group is sometimes difficult to map. This is because there are no clear boundaries and country can be shared between more than one group.
2. The boundaries of groups can change.
3. It would be a lot of work to manage many PBCs for one claim area.



Why do some people have 2 or more PBCs?

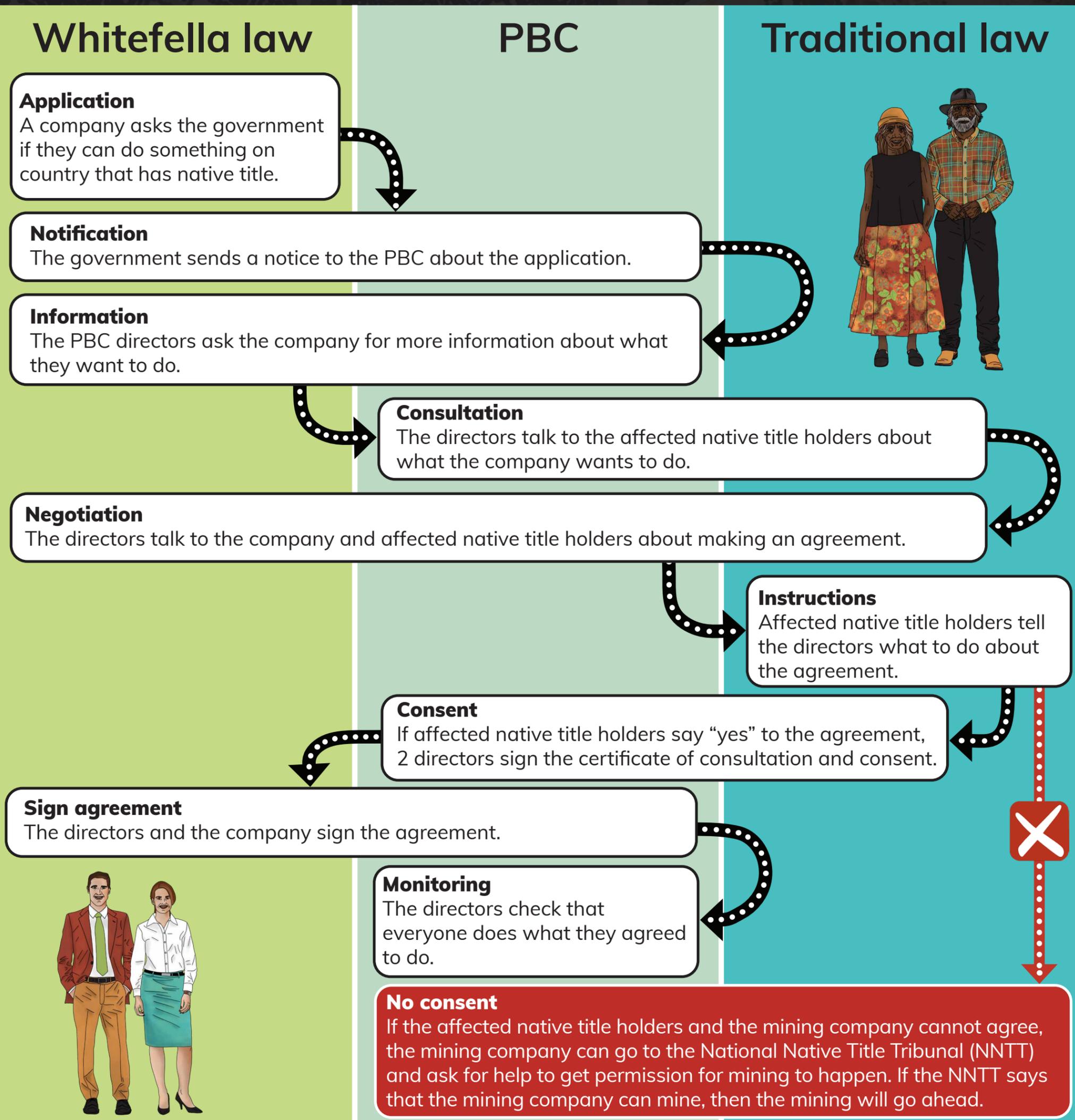
Most native title claims in the CLC region follow pastoral lease boundaries to make the research easier. Traditional owner boundaries are not the same as station boundaries. So, some people have connection to country on 2 or more stations. Also, some people have connections to different country in traditional law.



# After a native title determination, what happens when other people want to do something new on our country?

For example, what happens when a company wants to mine on country?

There are things we have to do under whitefella law, PBC rules and traditional law. Directors have to work 2 ways.



# How does CLC help with native title business?

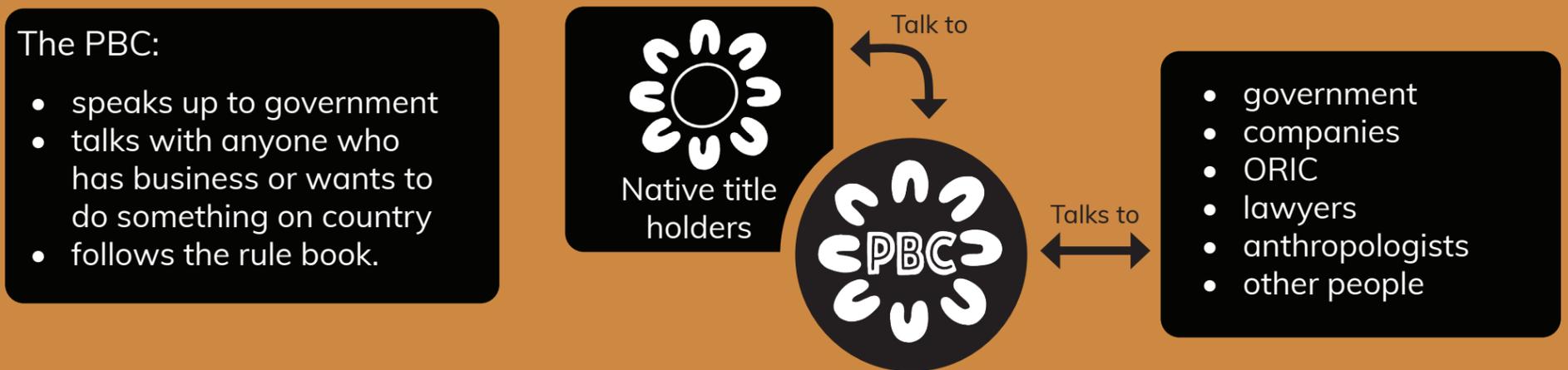
## Before native title claim

CLC is for all Aboriginal people in the southern half of the Northern Territory.



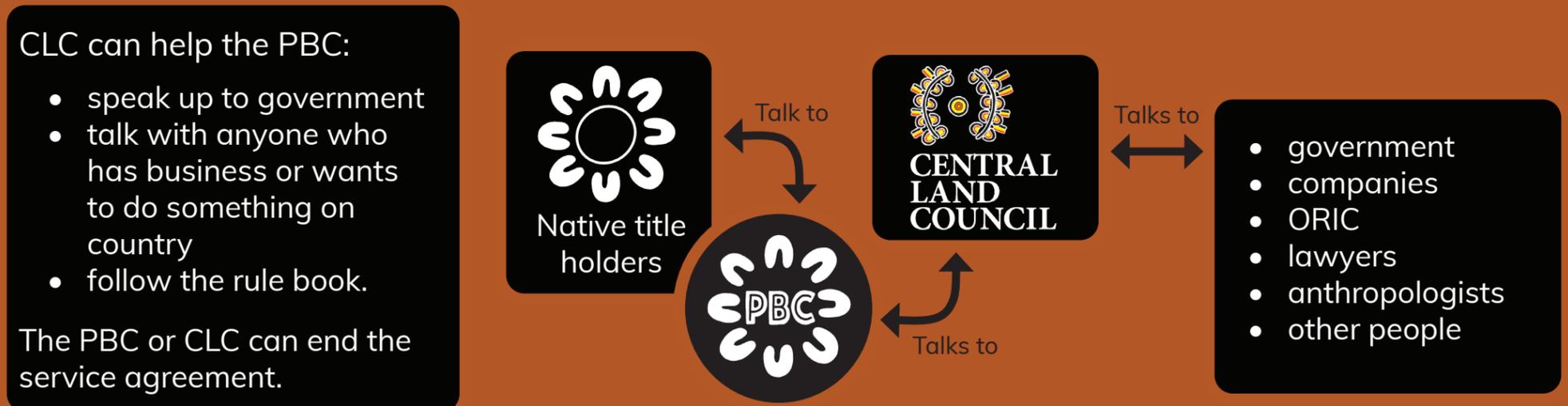
## After native title determination

Native title holders now have a PBC.



## When the PBC has a service agreement with CLC

CLC can help the members and directors manage their PBC.



# **A service agreement is the paper that says how CLC and the PBC work together**

**There are jobs for the PBC and jobs for CLC.**

## **These are the PBC jobs**

- The PBC can ask CLC to help with native title business and managing the PBC.
- Directors need to tell CLC if the PBC is in trouble or in court.
- The PBC has to keep information to do with CLC private.

## **These are the CLC jobs**

- The PBC members and directors have to work together with CLC to do their job.
- CLC helps the PBC members and directors with native title business and managing the PBC.
- CLC has to talk with affected native title holders who have to make decisions about their country.
- CLC can try to get money to help the PBC. If the PBC wants money to do a project, CLC can help apply for government money.
- CLC cannot help with money story, like the bookkeeping, accounting and tax. But sometimes CLC can help the PBC find someone else to help with those jobs.
- CLC has to keep information to do with the PBC private.

**CLC and the PBC have to follow the same rules and laws.**



## **The Acts in this booklet**

- Native Title Act 1993
- Aboriginal Land Rights Act 1976
- Corporations (Aboriginal and Torres Strait Islander) Act 2006
- Native Title (Prescribed Bodies Corporate) Regulations 1999





**CENTRAL  
LAND  
COUNCIL**

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