



Australian Government

Indigenous Land and Sea Corporation



The ILSC GROUP

PEOPLE. COUNTRY. OPPORTUNITY.

## ILSC role as a default agent Prescribed Body Corporate

Under the *Native Title Act 1993*, when Native Title is determined for an area of land or water, a Prescribed Body Corporate (PBC) must be nominated by the native title holders\*. The role of a PBC is to manage native title rights and interests.

In the rare event a PBC is not nominated by native title holders the Act allows for the ILSC to be appointed by the Federal Court to operate as a default agent PBC.

In these circumstances the ILSC will operate as a PBC for an initial five-year period or until such time as a PBC is established by native title holders.

### How we will function

The *Native Title Act 1993* and *Native Title (Prescribed Bodies Corporate) Regulations 1999* are key pieces of legislation that explain what PBCs must do and how they must function.

However, PBCs appointed by native title holders are further guided by the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* while the ILSC is governed by the *Aboriginal and Torres Strait Islander Act 2005* and *Public Governance, Performance and Accountability Act 2013*.

These separate governance arrangements mean that an ILSC PBC will manage native title differently to a PBC which is directly nominated by the native title holders. The table overleaf summarises the key differences.

### Key functions will include:

- Being an agent of native title holders in respect of matters relating to native title
- Managing rights and interests as authorised by native title holders
- Holding money in trust and investing or applying it as directed by native title holders
- Consulting with and obtaining consent of native title holders
- Certifying Indigenous Land Use Agreements (Body Corporate Agreements)
- Responding to future acts

The ILSC PBC will be replaced by a PBC nominated by native title holders when native title holders are ready to do so.

The ILSC has developed a suite of policies, guidelines and procedures to assist it to undertake its functions as a default PBC.

*\*Also known as 'common law holders'*



	Traditional PBC	ILSC PBC
<b>Guiding legislation</b>	<p><i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i></p> <p><i>Native Title Act 1993</i></p> <p><i>Native Title (Prescribed Bodies Corporate) Regulations 1999</i></p> <p><i>Native Title (Indigenous Land Use Agreements) Regulations 1999</i></p>	<p><i>Aboriginal and Torres Strait Islander Act 2005</i></p> <p><i>Public Governance, Performance and Accountability Act 2013</i></p> <p><i>Native Title Act 1993</i></p> <p><i>Native Title (Prescribed Bodies Corporate) Regulations 1999</i></p> <p><i>Native Title (Indigenous Land Use Agreements) Regulations 1999</i></p>
<b>Governance</b>	Directors are accountable to members, oversight by the Office of the Registrar of Indigenous Corporations (ORIC).	ILSC Directors are accountable to the Minister for Indigenous Affairs.
<b>Director accountability</b>	Directors elected by members at general meeting (subject to Rule Book).	Directors are appointed by the Minister for Indigenous Affairs.
<b>Membership</b>	Native title holders may be PBC members.	Native title holders cannot be members of the ILSC PBC.
<b>Rule Book</b>	Rule Book applies from registration.	The ILSC PBC does not have a Rule Book.
<b>Funding</b>	Funded by the Australian Government through the National Indigenous Australians Agency (PBC Basic Support Funding) and any other source of funding secured by the PBC (e.g. through other grant funds or projects).	The ILSC PBC will seek funding from the Australian Government as required.
<b>Native Title decision making</b>	Native title decision making will be in accordance with <i>the Native Title (Prescribed Body Corporate) Regulations 1999</i> and the <i>Native Title Act 1993</i> .	Native title decision making will be in accordance with the <i>Native Title (Prescribed Body Corporate) Regulations 1999</i> and the <i>Native Title Act 1993</i> .
<b>Future act negotiations</b>	Future act matters dealt with by PBC.	Future act matters will be dealt with by the ILSC PBC.
<b>Corporate structure</b>	PBC can undertake "other functions" including creating subsidiary corporations (e.g. a heritage or business arm).	The ILSC PBC will only have PBC functions.
<b>Choice of appointment</b>	Yes. Native title holders may appoint a trustee or agent PBC under the <i>Native Title Act 1993</i> .	No. Under the <i>Native Title Act 1993</i> , the ILSC PBC is appointed by the Federal Court when native title holders do not nominate a PBC.

## Further information

### Contact the ILSC PBC Unit

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