

Funding for Prescribed Bodies Corporate

Prepared by Aurora Intern, Leah Ginnivan
for AIATSIS

Prescribed Bodies Corporate (PBCs) face substantial challenges to meet the funding requirements needed to support the activities of native title holders (see map of PBCs). In 2005-6 the Attorney-General's Department chaired a steering committee on Prescribed Bodies Corporate. The committee included the Office of Indigenous Policy Coordination and the Office of the Registrar of Aboriginal Corporations.¹ The resulting report, *Structures and Processes of Prescribed Bodies Corporate* comments that most PBCs are not complying with their legal duties. The report does not comment on the specific reasons that PBCs are failing, but notes the current system prevents native title holders from utilising 'their native title rights to derive economic and other significant benefits', and from administering their land management obligations.² The report implies that funding is needed but refrains from designating responsibility for this to a particular government.

While each PBC will have different funding needs, they share a common need for administrative support and funding, particularly in remote areas. These may include:

- Communications facilities, including phone lines, postal services, computers and internet connection, so PBCs can communicate, including with parties proposing future acts
- Administrative facilities such as stationary, filing materials, and printers to produce and copy documents

- Storage space and facilities, to fulfil statutory obligations around record-keeping.

The Attorney-General's steering committee report also notes other potential ongoing costs for:

- Organising and running meetings of PBCs and native title holders. Consultation with native title holders is required under law but is challenged by distances especially in remote areas or when most native title holders live off-country
- Professional advice and services including legal, anthropological and financial consulting
- Training for PBC members in governance and financial management
- Employing office staff under certain circumstances.³

The Native Title Program (administered through the Department for Families, Communities, Housing and Indigenous Affairs (FaCHSIA)) adds to these lists:

- The lease of office space
- The costs of insurance, bank fees and charges
- Assistance in preparing annual reports.
- Assistance in preparing funding and grant applications
- Utility costs such as power, water and sewerage.⁴

In addition to these statutory obligations, PBCs may seek funding for other reasons. Each PBC has a unique constitution and aims. Because of this, individual PBCs may have aspirations including land management, service provision, cultural heritage preservation, and more. PBC constitutions can be searched and viewed at the [Office of the Registrar of Indigenous Corporations website](http://www.fahcsia.gov.au/sa/indigenous/progserv/land/Pages/native_title_program.aspx). PBCs which hold exclusive title may have land

¹ Attorney-General's Department, *Structures and Processes of Prescribed Bodies Corporate*, 2006 available from:

[http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(689F2CCBD6DC263C912FB74B15BE8285\)~Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf/\\$file/Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(689F2CCBD6DC263C912FB74B15BE8285)~Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf/$file/Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf)
7. (Accessed 29 June 2010)

² *ibid*, p. 6.

³ *ibid*, p. 19.

⁴ Department for Families, Communities, Housing and Indigenous Affairs, *Native Title Program*, 2009, available from: http://www.fahcsia.gov.au/sa/indigenous/progserv/land/Pages/native_title_program.aspx, p. 9. (Accessed 29 June 2010)

management responsibilities that entail costs for materials and wages.⁵ Other PBCs have stated aims that extend into cultural, educational, social and ceremonial realms. For instance, the constitution of the Tjurabalan PBC states one of its objectives as 'to preserve and maintain and enhance the traditional, economic, social and cultural way of life of the Tjurabalan people including their languages, cultural heritage and laws and customs'.⁶

Funding PBCs

Until recently no federal funding had been directly available to PBCs. A policy change in November 2007 currently allows PBCs with 'exceptional circumstances' to apply for non-recurrent funding, generally less than \$100,000 a year. A handful of PBCs have now applied for this funding. Native Title Representative Bodies (NTRBs) are also able to apply for funding through the Native Title Program on behalf of PBCs.

To provide some support to PBCs in this context, the **Australian Institute of Aboriginal and Torres Strait Islander Studies** (AIATSIS), and **FaHCSIA** have created funding toolkits for PBCs.⁷ AIATSIS has both national and state toolkits, but much of the funding outlined will be relevant to only a handful of PBCs. FaHCSIA's toolkit is focussed mainly on federal government programs which may assist PBCs.

The following are examples of possible funding options:

The Department of the Environment, Water, Heritage and the Arts offers some of the most potentially workable funding solutions for PBCs. The **Indigenous Protected Area program**⁸ supports

the management of culturally significant, Indigenous owned land for a range of purposes including promoting biodiversity and cultural resource conservation.

There is likely to be some potential support for the vital communications aspect of PBCs in the Indigenous Communications Program, administered by the federal Department of Broadband, Communications and the Digital Economy (DBCDE). This program will deliver phones to 300 remote Indigenous communities and maintain and monitor them. It also installs computers and internet and delivers computer training to around 120 communities. There is also money for satellite phones. However, this funding is restricted to communities of less than 50 people, which must be more than 2km from the nearest payphone. Under this program, PBCs would also need to share the phone line with the rest of the community, which may create problems. PBCs may not necessarily meet the criteria of 'community', because they only represent native title holders.

A possible source of funding from the private sector might be the Foundation for Rural and Regional Renewal. Many PBCs would appear to match the major eligibility criteria from the Small Grants (up to \$5000) as they offer a clear public benefit to rural communities and they contribute to social, economic, environmental or cultural renewal. Communities of less than 10,000 people are prioritised which may give remote PBCs an advantage. Indigenous Community Volunteers present opportunities for PBCs to develop grant writing skills and financial management capacity.

The AIATSIS and FaHCSIA toolkits are an attempt to pull together disparate funding sources into an accessible document. For PBCs that are organised, skilled at managing grant writing and have the capacity to administer grants, there is the potential to access a range of funding sources. Without this capacity, however, it seems difficult for new, under-resourced PBCs to sustain themselves and the activities they wish to undertake. Finding, applying for, obtaining, reporting on and acquitting

⁵ J Weir, 'Native title and Governance: the emerging corporate sector prescribed for native title holders', *Land, Rights, Laws: Issues of Native Title*, vol. 3, no.9, 2007, pp.1-16, 6.

⁶ Tjurabalan RNTBC Constitution, available at <http://www.oric.gov.au/document.aspx?concernID=103937> (Accessed 29 June 2010)

⁷ Available from <http://www.aiatsis.gov.au/ntru/RNTBCtoolkits.html> (Accessed 29 June 2010)

⁸ More information available at <http://www.environment.gov.au/indigenous/ipa/funding.html> (Accessed 29 June 2010)

Further, rather than PBCs deciding on and pursuing their own agenda, they must comply with specific program guidelines in order to receive funding. Fundamentally, most of the grants in the toolkits would not help PBCs in their administrative work.

It remains to be seen how the Native Title Program's direct funding of PBCs will influence their performances given that PBCs still need to apply for and administer the funding. As PBCs are likely to become increasingly important as more claims are settled, appropriate funding for PBCs will also become more urgent. There is real scope for policy reform and development in the PBC area.

