



PRESCRIBED BODY CORPORATE



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DEVELOPMENT CORPORATION

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## Communique – Update

18 April 2024

Dear Members, Common Law Holders and Community,

This communique is to provide an update to our Members, Common Law Holders and Community with regard to the status of the court matter - **Veronica Cheryl Blair & Ors v First Nations Bailai, Gurang, Gooreng Gooreng, Taribelang Bunda People Aboriginal Corporation RNTBC (PBC) & Ors QUD273/2022.**

Many questions have been raised with representatives of the PBC and PCCC Trust, this update is aimed at providing as much information as possible to our Community on the events that have taken place since our last communique on this matter.

The PBC is very aware of the time and money that has been spent on the court action. Unfortunately, the Applicants chose to pursue this matter through the courts rather than the less costly dispute resolution options available under the Rule Book or with ORIC or the NNTT. Since the matter was commenced by the Applicants, the PBC has sought to resolve the matter on several occasions, outside of the court, through mediation and the submission of offers made to the Applicants to settle the matter.

- On 4 November 2022 and 22 February 2023, the PBC, on behalf of the Respondents, participated in mediation ordered by the court and overseen by the Native Title Registrar.
- On 21 April 2023, the Federal Court made orders that **removed** the restriction that had prevented the PBC holding a Special General Meeting to consider the proposed changes to the PBC Rule Book. As part of this order, the PBC agreed that it would not hold an Authorisation Meeting or Special General Meeting (or other general meeting) to consider the proposed changes to the PBC Rule Book before 21 August 2023.
- The PBC also agreed to participate in a mediation to be conducted by the National Native Title Tribunal (NNTT), which would facilitate discussions regarding how the Authorisation meeting should be conducted and the form of resolutions regarding the proposed Rule Book changes to be put to a Special General Meeting.
- The PBC and the Applicants participated in a mediation facilitated by the NNTT on 1-2 August 2023 in Brisbane. The Parties continued mediation on 4 September. The mediation did not result in any agreed outcome so the matter went back to the Court for further directions.

The PBC and all Respondents to this matter have complied with all directions given by the Court.

### Dismissal of Certain Claims by the Court:

On the 6 September 2023, the Court **dismissed** some of the matters raised by the Applicants, this was a good outcome and a rejection of some of the wrongful claims made by the Applicants.

The Applicants' claims **dismissed** by the Court on 6 September 2023 included the Applicant's request for:

1. an order to prohibit the PBC from holding a general meeting to consider the proposed Rule Book changes that were first put to the members and common law holders at the meeting of 18 December 2022;



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2. a declaration to the effect that the proposed Rule Book changes:
  - a. were contrary to the interests of the members as a whole;
  - b. were oppressive or unfairly discriminatory against members of the PBC;
  - c. would unfairly prejudice members of the PBC; and
3. a declaration to the effect that the Special General Meeting proposed to be held on 18 December 2022 was called for an improper purpose;

After these claims were dismissed by the Court, seven matters remained before the Court. The PBC provided its response opposing these seven matters and the Applicant and their lawyer were directed to file their responding material by 6 October 2023. The Applicants did not provide anything further.

### Resolution:

On 9 November 2023, the Applicants offered:

1. To **discontinue the proceedings with no order as to costs** (other than the existing costs order made on 14 December 2022 in respect of the injunction).
2. An undertaking not to commence further proceedings seeking the same orders from the court as in the current proceedings.

**As of 14 November, the PBC on its behalf and on behalf of the other Respondents, accepted the Applicants offer to discontinue the proceedings.**

As a result, the court case was discontinued on 28 November 2023, and the Applicants will not, in the future, commence a new court case dealing with these matters. This, in our view, is an acceptance by the Applicants that the further issues they were trying to raise were not justified.

While the usual audit of the financials of PCCC showed no irregularities, for complete transparency and to assure the Applicants that there was no justification for their concerns regarding how the native title benefits were being managed, PCCC agreed to have an independent review of the PCCC audited financial statements conducted, at its own cost. This review did not validate any of the concerns raised by the Applicants regarding the financial records of PCCC.

Discontinuance of the proceedings means that the financial costs to the PBC/PCCC of resolving the matter are limited to those related to the injunction granted in December 2022. The PBC/PCCC has accepted, on a commercial basis to avoid any unnecessary legal costs, an offer of \$30,865.12 to resolve that costs order.

While the PBC/PCCC may have been entitled to recover some costs themselves from the Applicants, the PBC/PCCC have made the commercial and principled decision to forego seeking any costs order against the Applicants.

In the end, the court case will have cost the PBC/PCCC approximately \$430,000, which is money that would have been much better spent on supporting the prosperity of the four nations. The Applicants will also have borne considerable costs.

Whilst the legal costs were substantial, it was necessary for the PBC/PCCC to defend the action. The court case was brought by a small number of common law holders. The PBC defended the action in the interests of all common law holders who, as a whole, have the right to make decisions regarding how the PBC



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functions. However, the court case has cost our four nations far more than just money. The damage to the reputation of the PBC/PCCC had a serious impact on the ability to negotiate with industry. Further, it placed a huge burden on the directors personally and was a significant distraction from pursuing the opportunities that were to the benefit of all common law holders.

During the course of this Court Matter the PBC also became aware that the Queensland South Native Title Services (QSNTS) provided funding to cover some of the Applicants' legal costs. A freedom of information request revealed that QSNTS funding (approximately \$70,000) was provided:

- From unspent 2021-22 PBC support funding designated for the PBC; and
- To test questions of law including the meaning and intent of amendments to the Native Title Act and the Corporations (Aboriginal and Torres Strait Islander) Act and provide guidance to the Office of the Registrar of Indigenous Corporations in relation to the interpretation these Acts and the way it responds to concerns about the activities of PBCs.

In the view of the PBC, the use of QSNTS funding designated for the support of our PBC, to fund an action against the PBC with the goal of testing a question of law that ultimately was not even considered in the case, is wholly inappropriate and the PBC is investigating these matters.

If you require any further information or have any queries, please contact the PCCC Office via phone: (07) 4167 0037 or via email: [reception@pccctrust.com.au](mailto:reception@pccctrust.com.au)

Yours sincerely,

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