



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): NTD19/2018  
NNTT Number: DCD2019/001

**Determination Name:** [Coleman on behalf of the Wagiman and Jawoyn Bolmo, Matjba and Wurrkbarbar Groups v Northern Territory of Australia](#)

**Date(s) of Effect:** 9/04/2019

**Determination Outcome:** Native title exists in parts of the determination area

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## Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

**Determination Date:** 09/04/2019

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

On 9 April 2019, the Federal Court of Australia made orders that native title exists in parts of the determination area. Among other things, the Court ordered that:

3. An Aboriginal corporation whose name is to be provided within three months, or such further time as the Court may allow, is:

(a) to be the prescribed body corporate for the purposes of s 57 (2) of the *Native Title Act 1993* (Cth) (**the Native Title Act**);

(b) to perform the functions outlined in s 57(3) of the *Native Title Act* after becoming a registered native title body corporate.

See [Coleman on behalf of the Wagiman and Jawoyn Bolmo, Matjba and Wurrkbarbar Groups v Northern Territory of Australia \[2019\] FCA 477.](#)

On 28 June 2019, further orders were made which stated the following:

1. The Top End (Default PBC/CLA) Aboriginal Corporation RNTBC (ICN:7848) is:

(a) to be the prescribed body corporate for the purposes of s 57(2) of the *Native Title Act 1993* (Cth) (the NT Act); and

(b) to perform the functions outlined in s 57(3) of the NT Act after becoming a registered native title body corporate.

**REGISTERED NATIVE TITLE BODY CORPORATE:**

Top End (Default PBC/CLA) Aboriginal Corporation RNTBC  
Agent Body Corporate  
45 Mitchell Street  
DARWIN Northern Territory 0800

*Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations [www.oric.gov.au](http://www.oric.gov.au)*

**COMMON LAW HOLDER(S) OF NATIVE TITLE:**

**Native title holders (s 225(a))**

5. The native title is held by the persons described in Orders 6 - 10.
6. The land and waters of the determination area are held by the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group.
7. The Wagiman group includes persons who are members of the group by reason of patrilineal descent and/or matrilineal descent.
8. The Jawoyn Bolmo, Matjba and Wurrkbarbar group includes persons who are members of the group by reason of:
  - (a) patrilineal descent; or
  - (b) his or her mother being or having been a member of the group by reason of patrilineal descent.
9. Aboriginal people who have been incorporated into the Wagiman group or the Jawoyn Bolmo, Matjba and Wurrkbarbar group by adoption in accordance with traditional laws and customs of the native title holders.
10. In accordance with traditional laws and customs, other Aboriginal people have rights and interests in respect of the determination area, subject to the rights and interests of the members of the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group, such people being:
  - (a) members of the neighbouring Aboriginal groups who are resident on the determination area;
  - (b) spouses of the members of the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group (including any children of those spouses) who are resident on the determination area; and
  - (c) living matrilineal descendants of the Jawoyn Bolmo, Matjba and Wurrkbarbar group other than those referred to in Order 8(b).

**MATTERS DETERMINED:**

**THE COURT ORDERS THAT:**

1. There be a determination of native title in the matter NTD19/2018 in the terms of the determination set out below.
2. The native title is not to be held on trust.
3. An Aboriginal corporation whose name is to be provided within three months, or such further time as the Court may allow, is:
  - (a) to be the prescribed body corporate for the purposes of s 57(2) of the *Native Title Act 1993* (Cth) (**the Native Title Act**);
  - (b) to perform the functions outlined in s 57(3) of the Native Title Act after becoming a registered native title body corporate.
5. The parties have liberty to apply for the following purposes:
  - (a) to establish the existence of any public work (including any adjacent land or waters), as defined in the Native Title

Act, that is said to fall within Items 6, 7 and 8 of Schedule D to this determination;

(b) to establish the precise location and boundaries of the public works and adjacent land and waters identified in relation to any part or parts of the determination area referred to in Schedule D to this determination.

**BY CONSENT THE COURT MAKES THE FOLLOWING DETERMINATION OF NATIVE TITLE PURSUANT TO SECTION 87 OF THE NATIVE TITLE ACT:**

**Existence of native title (s 225)**

1. The determination area is the land and waters described in Schedule A and depicted on the map comprising Schedule B (**the determination area**).

2. Native title exists in those parts of the determination area identified in Schedule C being:

(a) the areas of land and waters to which s 47A or s 47B of the Native Title Act applies, and more particularly described in item 1(a) of Schedule C (**the Schedule C 1(a) areas**);

(b) the remaining areas of land and waters, being the areas more particularly described in item 1(b) of Schedule C (**the Schedule C 1(b) areas**).

3. Native title does not exist in those parts of the determination area identified in Schedule D.

4. In the event of an inconsistency in the description of an area or thing given in the text of the determination and depicted on a map, the text of the determination prevails.

**Native title holders (s 225(a))**

5. The native title is held by the persons described in Orders 6 - 10.

6. The land and waters of the determination area are held by the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group.

7. The Wagiman group includes persons who are members of the group by reason of patrilineal descent and/or matrilineal descent.

8. The Jawoyn Bolmo, Matjba and Wurrkbarbar group includes persons who are members of the group by reason of:

(a) patrilineal descent; or

(b) his or her mother being or having been a member of the group by reason of patrilineal descent.

9. Aboriginal people who have been incorporated into the Wagiman group or the Jawoyn Bolmo, Matjba and Wurrkbarbar group by adoption in accordance with traditional laws and customs of the native title holders.

10. In accordance with traditional laws and customs, other Aboriginal people have rights and interests in respect of the determination area, subject to the rights and interests of the members of the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group, such people being:

(a) members of the neighbouring Aboriginal groups who are resident on the determination area;

(b) spouses of the members of the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group (including any children of those spouses) who are resident on the determination area; and

(c) living matrilineal descendants of the Jawoyn Bolmo, Matjba and Wurrkbarbar group other than those referred to in Order 8(b).

**The nature and extent of native title rights and interests (s 225(b), s 225(e))**

11. Subject to Orders 15, 16, 18 and 19, in relation to the Schedule C 1(a) areas the native title rights and interests of the members of the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group are the rights of possession, occupation, use and enjoyment to the exclusion of all others, including the right to access and to take for any purpose the resources of those areas.

12. Subject to Orders 14, 15, 16, 17, 18 and 19, in relation to the Schedule C 1(b) areas the native title rights and interests of the members of the Wagiman group and the Jawoyn Bolmo, Matjba and Wurrkbarbar group are the rights:

- (a) to access, remain on and use the areas;
- (b) to access and to take for any purpose the resources of the areas; and
- (c) to protect places, areas and things of traditional significance on the areas.

13. Subject to Orders 14, 15, 16, 17, 18 and 19, in relation to both the Schedule C 1(a) areas and the Schedule C 1 (b) areas the native title rights and interests of the persons referred to in Order 10 are the rights:

- (a) to access, remain on and use the areas;
- (b) to access the resources of the areas.

**Qualifications on native title rights and interests (s 225(b), s 225(e))**

14. The native title rights and interests referred to in Orders 12 and 13 do not confer:

- (a) any right of possession, occupation, use and enjoyment of the determination area on the native title holders to the exclusion of all others; or
- (b) any right to control access to, or use of, the determination area or its resources.

15. The native title rights and interests are exercisable in accordance with, and subject to:

- (a) the traditional laws and customs of the native title holders; and
- (b) the laws of the Northern Territory and the Commonwealth, including the common law.

16. Notwithstanding anything in this determination, there are no native title rights and interests in:

- (a) such minerals (as defined in s 2 of the *Minerals (Acquisition) Act* (NT));
- (b) such petroleum (as defined in s 5 of the *Petroleum Act* (NT));
- (c) such prescribed substances (as defined in s 3 of the *Atomic Energy (Control of Materials) Act 1946* (Cth) and/or s 5(1) of the *Atomic Energy Act 1953* (Cth));  
in the determination area as are wholly owned by the Crown.

17. In relation to Lot 147 and Lot 153 only, the native title rights and interests do not confer on the native title holders any right:

- (a) to camp on those areas; or
- (b) to light fires on those areas.

**The nature and extent of any other interests (s 225(c))**

18. The nature and extent of other rights and interests in relation to the determination area are those set out in Schedule E (**other interests**).

**Relationship between native title rights and other interests (s 225(d))**

19. Except as otherwise provided for by law, the relationship between the native title rights and interests and the other interests is as follows:

- (a) the determination does not affect the validity of those other interests
- (b) to the extent of any inconsistency between the other interests and the continued existence, enjoyment or exercise of the native title rights and interests, the native title rights and interests continue to exist in their entirety, but they have no effect in relation to the other interests to the extent of the inconsistency during the currency of the other interests; and
- (c) otherwise, the other interests co-exist with the native title rights and interests. To avoid doubt, the doing of an activity required or permitted under those interests prevails over the native title rights and interests and their exercise, but does not extinguish them.

20. The non-extinguishment principle applies to the Alice Springs Darwin Railway validly constructed on Lots 307, 308 and 310.

### **Definitions**

21. In this determination, unless the contrary intention appears:

**'land'** and **'waters'** respectively have the same meanings as in the Native Title Act;

**'Native Title Act'** means the *Native Title Act 1993* (Cth);

**'the Commonwealth'** means the Commonwealth of Australia;

**'the Northern Territory'** means the Northern Territory of Australia.

### **REGISTER ATTACHMENTS:**

1. Schedule A - Written description of the determination area [See Order 1], 1 page - A4, 09/04/2019
2. Schedule B - Map of the determination area [See Order 1], 2 pages - A4, 09/04/2019
3. Schedule C - Map of the determination area [See Order 2], 2 pages - A4, 09/04/2019
4. Schedule D - Areas where native title does not exist [See Order 3], 10 pages - A4, 09/04/2019
5. Schedule E - Other Interests [See Order 18], 2 pages - A4, 09/04/2019

*Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.*