



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD49/2011
NNTT Number: DCD2018/005

Determination Name: [Wavehill \(on behalf of the Wubalawun Group\) v Northern Territory of Australia](#)

Date(s) of Effect: 24/10/2018

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

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

Determination Date: 24/10/2018

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

On 24 October 2018, the Federal Court of Australia made a determination in respect of the application area that native title exists in parts of the determination area – see [Wavehill \(on behalf of the Wubalawun Group\) v Northern Territory of Australia \[2018\] FCA 1602](#).

Order 3 of the determination provides that “[a]n Aboriginal corporation whose name is to be provided within 12 months, or such further time as the Court may allow, is: to be the prescribed body corporate for the purposes of s 57 (2) of the *Native Title Act 1993* (Cth)”.

On 12 June 2019, the Top End (Default PBC/CLA) Aboriginal Corporation RNTBC was nominated as the prescribed body corporate for this determination.

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

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 - 9.

6. The land and waters of the determination area comprise part of the estate held by the members of the Wubalawun group.

7. In accordance with traditional laws and customs, the Wubalawun group includes persons who are members of the group by reason of:

(a) patrilineal descent;

(b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;

(c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) above; or

(d) descent from a person adopted or incorporated into the descent relationships referred to in (a), (b) or (c) above.

8. 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 Wubalawun group, such people being:

(a) the members of the estate groups associated with neighbouring estates;

(b) the spouses of the members of the Wubalawun group.

9. Each of the estate groups referred to in Order 8(a) includes persons who are members of the group by reason of:

(a) patrilineal descent;

(b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent; or

(c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) above.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. There be a determination of native title in the matter NTD49/2011 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 12 months, or such further time as the Court may allow, is:

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

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

5. The parties have liberty to apply for the following purposes:

(i) to establish the existence of any public work (including any adjacent land or waters), as defined in the NT Act, that is said to fall within para 7 of Schedule D to this determination;

(ii) 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 ORDERS AND DETERMINES THAT:

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.

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

4. In the event of any inconsistency between the description of an area in Schedule A and the depiction of that area on the map in Schedule B, the written description will prevail.

Native title holders (s 225(a))

5. The native title is held by the persons described in Orders 6 - 9.

6. The land and waters of the determination area comprise part of the estate held by the members of the Wubalawun group.

7. In accordance with traditional laws and customs, the Wubalawun group includes persons who are members of the group by reason of:

(a) patrilineal descent;

(b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;

(c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) above; or

(d) descent from a person adopted or incorporated into the descent relationships referred to in (a), (b) or (c) above.

8. 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 Wubalawun group, such people being:

(a) the members of the estate groups associated with neighbouring estates;

(b) the spouses of the members of the Wubalawun group.

9. Each of the estate groups referred to in Order 8(a) includes persons who are members of the group by reason of:

(a) patrilineal descent;

(b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent; or

(c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) above.

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

10. Subject to Orders 12, 13 and 14, the native title rights and interests of the members of the Wubalawun 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.

11. Subject to Orders 12, 13 and 15, the native title rights and interests of the persons referred to in Order 8 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))

12. The native title rights and interests referred to in Orders 10 and 11 do not confer:

(a) any right of possession, occupation, use and enjoyment of the land and waters on the native title holders to the exclusion of all others; or

(b) any right to control the access to and use of the determination area.

13. 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.

14. 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.

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

15. 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))

16. 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.

17. The non-extinguishment principle applies to Bore RN29014 validly constructed on Lot 19 Town of Larrimah by or on behalf of the Power and Water Corporation.

Definitions

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

- (a) “**land**” and “**waters**” respectively have the same meanings as in the NT Act;
- (b) “**Native Title Act**” means the *Native Title Act 1993* (Cth);
- (c) “**the Commonwealth**” means the Commonwealth of Australia;
- (d) “**the Northern Territory**” means the Northern Territory of Australia

REGISTER ATTACHMENTS:

- 1. Schedule A -Written description of the determination area, 1 page - A4, 24/10/2018
- 2. Schedule B – Map of the determination area, 1 page - A4, 24/10/2018
- 3. Schedule C - Areas where native title exists, 1 page - A4, 24/10/2018
- 4. Schedule D - Areas where native title does not exist, 2 pages - A4, 24/10/2018
- 5. Schedule E - Other Interests, 1 page - A4, 24/10/2018

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.