



## **Review of the Assessment Process Carried Out in Relation to the Kulaluk Lease Area**

**Prepared for The Northern Territory Heritage Council**

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**Cover Photo:** NT News 20th May 1971 – Page 1 photo of Bobby Secretary - this report broke the story of Bobby's claim to Kulaluk and heralded the sympathetic approach taken by the Editor, Jim Bowditch, to the Larrakia claim.

## Executive Summary

This report is the “objective and thorough historical analysis” that The Chair of the Lands Planning and Mining Tribunal, Mr Greg Cavanagh, directed the Heritage Council obtain before reassessing the heritage significance of the Kulaluk.

On the basis of this historical analysis, this report invites the Heritage Council to find that the Kulaluk Lease strongly meets criteria covering: cultural history (s.11(a)), special association with a community or cultural group (s.11(g)) and special association with the life or works of a person of importance in the Territory’s history (s.11(h)).

The place, Kulaluk, strongly meets these criteria because:

Chief Minister Paul Everingham’s decision to grant the Kulaluk Lease was the first and only occasion when a government has acted on the claims by Larrakia to land within the town area on the basis of their ancient and enduring traditional attachment to the country – despite such claims being made, and their moral basis recognised, throughout Darwin’s 145 year history.

The Kulaluk claim, as part of a cluster of similar claims based on spiritual significance arising in the Northern Territory in the 1960s had a major influence on the policy that, after Self Government, has arguably had the most effect on the Northern Territory - that is Aboriginal land rights.

The history of Kulaluk is located within a recurring tradition of claims and assertions by the Larrakia of both their enduring rights to land within the town area and their special relationship with the people and government of Darwin based on a shared history and expectations of a reciprocal acknowledgement of these rights.

The dramatic way in which the Kulaluk claim was first prosecuted, in particular the creation of the Larrakia flag and the symbolic raising of that flag over the Supreme Court in the Northern Territory brought the Larrakia claim to national attention and is now an iconic part of our history.

Kulaluk has a special association with the life and works of a number of people who have been important in the Territory’s History. The cast of historically important characters whose lives have been touched by Kulaluk is large. Within the meaning of section 11(h) that the Heritage Act, Kulaluk has a special association with the lives of

Bobby Secretary and his sister Topsy Secretary, Prince of Wales, Jim Bowditch, Bill Day and Paul Everingham among others.

This report invites the Council when reconsidering its decision to reflect on the question: significant to whom? Implicitly, the answer is: the wider community, for most criteria set out in section 11 of the Heritage Act. Criterion (g) is more specific.

This criterion requires the Heritage Council to assess:

*“whether [a place] has a strong or special association with a particular community or cultural group, for social, cultural, or spiritual reasons including the significance of a place to Aboriginal people as part of their continuing and developing cultural traditions (section 11(g))”.*

This task necessitates engaging with the “particular community or cultural group” to gain an understanding of what they see as the significance of the place. This approach is considered best practice when assessing significance for public purposes. The Larrakia who nominated Kulaluk do not believe that they have been given a chance to explain the significance that Kulaluk has for their community.

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## Introduction

The Chair of the Heritage Council, Dr Brian Reid outlined the Client's requirements (summarised in the Consultancy Brief - Appendix 1) at a meeting with David Ritchie and the Director of the Heritage Branch, Department of Lands, Planning and Environment, Michael Wells 1 April, 2015. This report has been prepared to satisfy the requirements of the Lands and Mining Tribunal who, in the decision delivered on 30 December 2014, set aside the decision of the Heritage Council in relation to Kulaluk (10 October 2014) and directed that the Council: "commission and obtain an objective and thorough historical analysis" of all the relevant material pertaining to the definitions and criteria specified in Sections 10 & 11 of the Heritage Act before reconsidering their decision (Appendix 2).

In addition to the directive from the Tribunal, this report also is a review of the assessment process undertaken by the Heritage Branch of the Department of Lands Planning & Environment.

The report is structured in three sections:

- an "objective and thorough historical analysis" of all material relevant to the decision of the Heritage Council (including references to and copies of key material);
- an analysis to determine whether or not the original assessment report was reasonably thorough, balanced and unbiased;
- an analysis to determine whether or not the Heritage Council can be said to have adequately considered the historical importance of the site prior to making its decision.

## Historical Analysis

### Instructions to the Northern Territory Government Resident – 1870

*"The Government surveyors will be instructed to leave reserves of lands for the use of the aborigines so to secure them free access to water and an ample supply of wood for canoes, implements of the chase, &c. and the knowledge of the habits of the natives which you will acquire will, probably, enable you to assist in selecting the best sites for these reserves, so as not to interfere with their favourite hunting grounds, or places of resort"*  
*[Instructions from the Commissioner of Crown Lands to the Northern*



*Territory Government Resident and Protector of Aborigines – 1870 (South Australian Government 1870)].*

### Purpose of this Historical Analysis

The Heritage Act requires the Heritage Council to determine the “heritage significance” of a place by evaluating its aesthetic, historical, scientific and social significance using eight interrelated criteria (Appendix 3). The assessment report prepared for the Heritage Council by the Department concluded that Kulaluk met several of these criteria. Specifically, Kulaluk is a place that is important to the Territory’s cultural history, and that it has the potential to contribute to an understanding of the Territory’s history and that further it has a strong or special association with a particular community or cultural group. The assessment report concluded that Kulaluk did not have special association with persons of importance in the Territory’s history and found this criterion only “marginally met”.

The Heritage Council resolved not to “proceed further with the process of heritage listing”(Reid 2014). The Council outlined their reasons for decision as: “the place did not meet the threshold of significance required to warrant proceeding further”. This conclusion was reached after applying their policy approach that requires a place to have a “strong association” with a “significant historical event” (Appendix 4). Factors influencing this decision included that: the Council did not consider the criteria were strongly met in relation to the entirety of the area constituting the application (Dr B Reid pers. com. 1 April 2015).

The Chair of the Lands Planning and Mining Tribunal, Mr Greg Cavanagh, took a different view and in overturning the Heritage Council’s decision, found that the criteria covering: cultural history (s.11(a)), special association with a community or cultural group (s.11(g)) and special association with the life or works of a person of importance in the Territory’s history (s.11(h)) are all “strongly met”.

Mr Cavenagh directed the Council conduct an “objective and thorough historical analysis” to provide a sound basis for the Council to reconsider their finding on how strongly the application meets the relevant criteria, before making a decision on whether to recommend the Kulaluk Lease area to be listed in the NT Heritage Register (Appendix 2: page 8).

The purpose of this historical analysis is to examine the significance of the Kulaluk Lease (Kulaluk) in the history of the Territory and the nation. The significance of Kulaluk is in large part derived from it being the land returned to

the Larrakia by the Territory Government in recognition of their prior ownership.

In the words of the Chief Minister, Paul Everingham:

*“the land on which Darwin is situated belonged to the Larrakia before the white man first came to the Northern Territory, and now Mr Bobby Secretary is to receive the title to part of their land” (Northern Territory News 1979).*

This necessarily involves an analysis of the history of the Larrakia in Darwin and in particular, of the official recognition of the Larrakia as the original occupants and owners of the land where Darwin is now situated.

The historical analysis is based on a reexamination of primary sources including newspapers and archival records as well as some material not previously covered in other studies (including some oral accounts). This analysis builds on the comprehensive histories of Kulaluk authored by Krimhilde Henderson (Henderson 1984) and Samantha Wells (Wells 1995) that were funded by the Australian Heritage Commission and on Bill Day’s personal history of the “Gwalwa Daraniki Movement” (Day 1994). This section also draws on the Heritage Assessment prepared for the Council by the Heritage Division of the Department of Lands Planning and Environment (Heritage Branch 2014).

### [The Larrakia and Port Darwin 1839 -1911](#)

In 1839 the Larrakia told surveyor Stokes from The Beagle about “ummera” [Damoera] their word for “eye” and the name for the sacred spring where fresh water seeped like tears. “Lameroo”, as the first settlers in Darwin recorded it thirty years later, became the main source of fresh water in the new township. Lameroo Beach was also the location of the permanent Larrakia community until the early 20th century.

When GW Goyder’s surveyors arrived from Adelaide in 1869, around 500 Larrakia lived on Darwin Harbour. Their architecture comprised small “beehive shaped” dwellings made of light timber frames thatched with grass to make them mosquito proof (Finniss 1865). The friendliness of the Larrakia to the surveyors is a dominant theme in their journals and the reports. Goyder recognised that Darwin Harbour was the traditional territory of the “Larakeeyah” and that neighbouring groups across the Howard River to the east were the “Woolner-Larakeeyah” (Goyder 1869). Sixty

Larrakia camped adjacent to the first settlement at Fort Point and became central figures in the first years of the settlement.

Within the first year of the new settlement a daily marketplace was established where bartering and exchange could take place between expedition members and the Larrakia. Items of European food and technology were exchanged for Aboriginal artifacts, bush tucker and specimens of local flora and fauna. When the first pole of the Overland Telegraph line was raised, the Larrakia danced at the official ceremony. Later that year (October 1870) three Larrakia men travelled with members of the expedition back to Adelaide returning to Port Darwin the following year. In 1875 there were 300 Larrakia recorded living at Port Darwin and Southport (Wells 2003).

Official recognition of the place of the Larrakia in the emerging township was a recurring theme in the early history of Darwin (up until 1911 called Palmerston). The instructions issued by the Commissioner of Crown Lands in the South Australian Government to the first Northern Territory Government Resident in 1870 sets out 12 points to guide good relations with the Larrakia and the Aboriginal people of the Northern Territory in general (Wells 2003). The points cover themes that are still aspired to in Aboriginal policy today: recognition of traditional language law and culture, provision of appropriate health and welfare support, imposing law and order, prohibiting alcohol and sexual abuse, fostering employment and business opportunities and, as the quote at the beginning of this section indicates, recognition that the Larrakia need land.

The Northern Territory as part of the Colony of South Australia was established on the principles of the Wakefield Scheme whereby land was surveyed and sold to finance colonial infrastructure and attract settlers. A proviso to the Letters Patent stated:

*“Provided always that nothing in these Letters Patent contained shall affect or be construed to affect the rights of any Aboriginal natives of the said province to the actual occupation or enjoyment in their own persons or in the persons of their descendants of any lands therein now actually occupied or enjoyed by such natives”* (Reeves 1998) pp.15-16.

This proviso was in direct conflict with approach required of Goyder and other Government officials in establishing the settlement at Port Darwin. Their purpose was to survey and alienate to the Crown, land suitable for settlement and commercial development, in particular land attractive to investors. Broadly speaking, this is the approach adopted by all subsequent administrations in the Northern Territory and

explains why recognition of Aboriginal interests in land has proved so difficult. So, while the Larrakia played an important role in the social, cultural and economic life of the early settlement their proprietary right to the land on which the settlement was built was not recognised. As the settlement grew, “*the rights of [the Larrakia] to the actual occupation or enjoyment*” of their land were progressively diminished. Where official reservations of land for the Larrakia were made it was always on the margins of the settlement and, as the settlement expanded these areas were resumed. This pattern continued through to the end of the 20<sup>th</sup> century when Larrakia ownership of land around Darwin was legally recognised for the first time, first by the granting of the Kulaluk lease and later in the findings of the Kenbi Land Claim (Gray J 2000).

In 1873 lands “north of the park lands at Port Darwin and lands across the harbour from Darwin on each side of the Blackmore River from Southport to Tumbling Waters” were designated “for the use of Aborigines”.

The Government Resident, Mr J L Parsons, belatedly recommended to the South Australian Government that reserves be established in the hope that they would provide a place for the repatriation of the Aborigines already living on the fringes of the settlement. In 1884 Parsons, reported to his superiors in Adelaide:

*“It appears to me that reserves but imperfectly meet the case - though large reserves ought, I think, to be proclaimed - because native life is essentially nomadic, and because the imperious demands of hunger take him to where the water-lily roots, yams, and game are to be found. Serious and unhappy conflict can only be avoided by a strong sense of justice and consideration for the natives on the part of the Europeans, and probably not even then”* (Parsons 1884).

In 1882, the area now forming the suburbs of Nightcliff and Rapid Creek was set aside for an Aboriginal reserve and site for a Jesuit Mission. This area included the northern tip of present day Kulaluk (see Map 1). A Jesuit Mission founded at Rapid Creek, with the intention of ministering to a pristine Aboriginal population was a complete failure. The Jesuits were unable to attract a stable population of Larrakia from their established camps at Lameroo Beach and Fort Point. However a group of Wulna from the Adelaide River area soon became the dominant group at the mission. By 1886, fifty to sixty Wulna regularly camped at the mission and a plan to bring the whole “tribe” to the mission was discussed. However the following year the mission was the catalyst in a series of armed conflicts between the Larrakia and groups from the hinterland. The Jesuits concluded that both the Wulna and Larrakia were beyond redemption (MacKillop letter dated 3 August 1888 quoted in: (O’Kelly 1967).



Figure 1 Detail of Goyder's 1891 'Plan of Palmerston & Sections Adjacent to Port Darwin' showing location of the Aboriginal reserve at "Night Cliff" includes northern end of present Kulaluk lease area [DLPE Historic Map ID 1068].

In 1889 J L Parsons wrote: *"I state most confidently that the first duty of the State is to declare reserves, and within these reserves to give the native tribes absolute rights and sole control"* (Parsons 1889). By this time in his period of office, Parsons had a good understanding of the risk of serious harm to the Larrakia, other Aboriginal groups and the broader society of the Port Darwin settlement if this issue was not dealt with. His use of the phrase, *"absolute rights and sole control"* is the closest acknowledgement of what we now call "land rights" in the next 60 years. It is also an early manifestation of a repeating pattern in the administration of the Northern Territory where long-term residents and experienced senior government officials, who voice the need to recognise Aboriginal interests, are ignored.

The areas eventually gazetted as reserves were small and located on the basis that the land had no foreseeable value to the colony rather than on the basis of the lands' importance to the Aboriginal groups of the area. They included the Larrakeyah Reserve, bordering the Adelaide River near Acacia Gap, and the Woolner Reserve, which included Cape Hotham in Escape Cliffs area and black soil plains bordering Chambers Bay from the mouth of the Adelaide to the Mary River, and the Woolwonga Reserve located north of the goldfields area between the Adelaide and Mary Rivers. The Wangaits Reserve located, on the freshwater wetlands between the Finniss and Reynolds River, was also established in the same year. The four reserves were proclaimed on 3 March 1892 and gazetted on 20 April (South Australia 1892).

The Larrakia community remained at Lameroo Beach. The mission relocated to the Daly River. By the end of the 1880s other uses had been found for all this land and the Government decided to establish a gazetted reserve for the Larrakia well out of town. The Larrakeyah Reserve, (approximately 20<sup>2</sup> miles) at Acacia Gap near the Adelaide River on the far eastern boundary of Larrakia country, was gazetted in April 1892 and remains Aboriginal owned land today. At the time though, the Larrakia chose to stay in town and in 1885 there were 150 Larrakia living at Lameroo Beach.

By the turn of the century around 100 Larrakia were resident in Darwin and European residents pressured the government to move Aboriginal camps from the city (Northern Territory Times 1898). In 1909 the Palmerston District Council attempted to have the Larrakia camp at Lameroo Beach removed and all Aboriginal people barred from entering the town. The Government Resident intervened stating that: "Lameroo Beach had been the their traditional camping ground" and the Larrakia "as citizens of South Australia" has as much rights to go where they chose as anybody else (Northern Territory Times 1909). The Larrakia were allowed to remain but camps of all other Aboriginal groups were demolished. In Adelaide, a new Aboriginal policy was being developed that established quite different objectives.

### The Larrakia in Darwin 1911 -1970

In 1910 the South Australian Government legislated for the protection and control of Aborigines. In 1911 the responsibility for, and the control of the Northern Territory passed to the Commonwealth government. The South Australian legislation remained in force until the introduction of the Commonwealth Aboriginals Ordinance in 1918. The new Commonwealth administration, following recommendations by Baldwin Spencer, who believed Aborigines in towns had lost their traditions (Austin 1997) p.41, planned to progressively integrate part-Aboriginal people with the general community; to place strict control on Aborigines living in or near towns; and to segregate Aborigines who had not yet been in sustained contact with settlers on large reserves (Spencer 1913). However, "policy and practice reverted to attempts to segregate all Aborigines" including the Larrakia, from settler communities (Reeves 1998). When the Commonwealth assumed control of the Northern Territory 50 Larrakia were recorded living in Darwin and one of the first acts of the Commonwealth officials was to evict them from Lameroo Beach and relocate them to a purpose built camp at Myilly Point. This area became the officially sanctioned place

of residence for all Aboriginal groups in Darwin, and was known as the “Kahlin Compound”.

The Kahlin Compound was surrounded by barbed wire, curfew laws were enforced and the resident Superintendent and his staff determined most aspects of the lives of people living there. In 1923, there were 81 Larrakia residents but by this time some Larrakia had relocated to Koolpinyah Station, on Gunn Point, the Eastern side of their country (Ritchie 1998). Others, through intermarriage, became integrated with Darwin families and were living elsewhere within the Darwin community. Ironically around this time, the traditional knowledge of the Aboriginal groups to their land was acknowledged in the first documented attempt to record place names. The Administrator of the Northern Territory, J A Gilruth, commissioned the superintendent of the Kahlin Compound, F L Godfrey, to map the place names used by the “different tribes” along the coast. Godfrey’s list of Larrakia place names in the Darwin and Cox Peninsula region contains many names that are still in use by Larrakia people today (Godfrey F L 1914).

In 1934 Larrakeyah Barracks was built at Emery Point adjacent to Kahlin beach. This prevented access to the Larrakia initiation ceremony ground known as Gundal. Against the background of this military buildup and plans for more residential development the Government decided to close the Kahlin Compound and establish a new place to accommodate Aborigines living there (Austin 1997) p.97. In March 1936 one of the first public protests by Larrakia people against the progressive alienation of their land was led by Larrakia elder Ichungarrabilluk also known as “King George”. The *Northern Standard* reported King George’s address to the Chief Protector:

*“...the Larrakia people are saltwater people and would not be prepared to live away from the sea. This is all the country we have left, and the government should leave us on it years ago we had our camps on Lameroo Beach and I was born there as were most of the old men of our tribe. Our water supply was the present site where the baths are now built”* (Northern Standard 1936).

The Acting Chief Protector of Aborigines, W B Kirkland, reported to the Administrator of the Northern Territory that the Larrakia were in fact happy to move to the new location and remarked that the new compound was within their tribal area and close to “centres of totemic and ceremonial significance”. Seventy years later, Justice Mansfield, in his judgment on the Larrakia claim to Native title in the Darwin area, found that this material established the Larrakia were aggrieved that the government had not honoured the status of the Larrakia as prior occupants of Darwin and that the



Chief Protector clearly understood the need to accommodate the need for the Larrakia to be proximate to “centres of totemic and ceremonial significance” (Mansfield J 2006). The significance of this in the history of Kulaluk is; firstly that the importance of coastal sites of “totemic and mythological significance” was strongly asserted by the Larrakia and secondly, for this reason, the area comprising present day Kulaluk was part of the larger area reserved for the new compound.

Kahlin was relocated to Bagot following the 1937 cyclone. The proportion of Larrakia among the Aboriginal groups living in Kahlin had declined and this trend continued at Bagot. The original area set aside for Bagot included all the land to the west of the current site to the coast, including Ludmilla Creek. But like previous land reserved for Aboriginal use in Darwin, the area was progressively reduced. Some of the resumed areas of the original Bagot reserve became the focus of the first Larrakia land rights claim – the claim over Kulaluk, in 1970.

In this period there was no suggestion in official thinking that Aborigines had proprietary rights to the land they lived on. As Sir Paul Hasluck, Minister for Territories from 1951-1963, reflected:

“those sympathisers with Aborigines who thought that the creation of a large Aboriginal reserves was a good thing did not focus their attention on any question of “land rights”, but rather on ensuring that the reserves were maintained for the use and benefit of the Aborigines and are not whittled away bit by bit whenever someone found another use for a reserve. They also argued that if new needs arose, sufficient further reserve should be made to meet those need ... so far as I can recall, any case made for setting aside more land for Aborigines in the pre-war years was generally a case based on their need ... I doubt whether the idea of land rights had any currency at that time.”(Hasluck 1988) pp. 106-107.

By 1939 the Government regarded assimilation as the desirable policy objective and John McEwen, the Minister for the Interior, released the policy called “the New Deal” designed to achieve this for Australian Aborigines. The central premise of this policy was that the government recognised Aborigines as a separate group but this separateness would only be supported while they were making progress towards assimilating into Australian society (Wells 1995). In Darwin and the Northern Territory this policy was given impetus by the military presence in World War II (WW2).

As part of the defense build up in WW2, Bagot was taken over for military use and residents evacuated to Delissaville (Belyuen) on the Cox Peninsula, Koolpinyah Station between the Howard and Adelaide Rivers (Long 1992) and Berrimah Reserve on the outskirts of Darwin, colloquially known as “Bagot No.1” (Dewar 2010) p.15. On 19 February 1942 Darwin was bombed and as the air raids continued over the next

two years, most Larrakia were evacuated from Darwin to the control camps in the hinterland where they worked for the military in various roles from assembling munitions to domestic duties. The War precipitated a number of changes; although the Army settlements had been in operation for less than four years they provided a setting for the Larrakia to establish lasting connections with Aboriginal groups from further afield, in particular groups from the Daly River. Unintentionally the Army settlements had promoted a vision of a more egalitarian future yet to come (Berndt and Berndt 1987). This future was not realized when the Larrakia and other Aboriginal people returned to Darwin after the War.

In 1945 the Native Affairs Branch resumed control of Aboriginal affairs in the Northern Territory and developed a patrol service whose job it was to control the drift of Aborigines to towns, develop reserves, train Aborigines and provide health services.



was reopened and more Larrakia became employed in the reconstruction of Darwin (Dewar 2010). The wages paid to Aborigines were fixed under the Aboriginals Ordinance of 1918 at less than 20% of the wages paid to other employees. Between 1947 and 1952 this became the catalyst for a series of strikes by Aboriginal workers living at Bagot and led to an enduring connection with the Darwin branch of the Australian Workers Union (NAWU), an awareness of the principles of human rights and that they were the subjects of discriminatory legislation (Wells 1995) p.63. Larrakia man, Fred Nadpur Waters was a leading figure in these strikes and Native Affairs Branch officials had him removed from Darwin to Haasts Bluff so “he will be in completely strange country with no opportunity of impinging his ideas [on others]” (Moy 1951).

The NAWU newspaper, *The Northern Standard*, at that time Darwin’s only newspaper, supported the strikers. *The Standard* “...kept an ever watchful eye on the activities of the Native Affairs Branch with a vigilance not previously known in Darwin” (Wells 2001) p.73. Bobby Secretary’s father, Frank, worked for Don McKinnon the Editor of the paper. Ted Egan, then a cadet Native Affairs Patrol Officer, recalls:

*“Frank Secretary was an amazing man. He got his name because he worked at the Northern Standard office where he used to help with the typesetting, even though he could not read or write: he simply recognised the symbols. Mirror image symbols mind”* (Egan 1997) pg 58-59.

At that time Bobby Secretary was living at Bagot and working for the Army at the Larrakeyah Base on Emery Point. Egan recalls an occasion in 1953 where he assisted Bobby Secretary in a plea of “not guilty” to a charge of being in Darwin town area after the curfew that applied only to Aborigines, on the basis that as a Larrakia he “owned” the town area:

*“I emotionally told the Court it was a ‘national disgrace’ that a Larrakia man named Bob Secretary (son of Frank) could be charged with being in a prohibited place - the town area of Darwin, between sunset and sunrise. I explained that Bob was walking to work at the ironically named Larrakeyah army base at the time of his arrest, and I went on, passionately, “if Your Worship pleases, Darwin belongs to the Larrakia”. [The Magistrate] Fatty Nicholls gave me a look which clearly said: “you’ll learn, son. Fortunately, I never did”* (Egan 1997) pp. 63.

It is noteworthy that Egan’s sympathies (excused by his youth) were counter to the official approach at the time which held that discontent among the Larrakia and Aboriginal people in general did not arise from felt injustice or a result of discriminatory policy and practice but rather as a result of the influence of external agitators who had other motives for “stirring up strife” quoted in:) p.86. This was also

the initial response from government officials 20 years later when Bobby Secretary led the land claim over Kulaluk.

The Welfare Ordinance passed in 1953 and the new “Welfare Branch” led by Harry Giese replaced the “Native Affairs Branch”. Under this legislation, Aboriginal people were classified as “wards” of the state and thereby excluded from the rights, obligations and responsibilities of citizens. This status could be changed if an individual could demonstrate by their manner of living that they could independently engage in the wider community (Wells 1995). Under this approach a person would remain a ward as long as they adhered to traditional cultural practices; in particular speaking distinct languages and living with kinsmen in proximity to totemic sites and country. Welfare Branch programs were designed to prepare Aborigines “...for a future life living in a wider community than the tribe” (Long 1992) p.123, in other words: to enter the wider community as individuals. Aborigines living on settlements, including Bagot were thought of as being in a transitional stage.

Nonetheless the Darwin Welfare Branch officials understood that the Larrakia had a special status within the City by virtue of their prior occupation. By 1959, there was debate over the proposed removal of the Bagot Aboriginal Reserve to a new site further away from the town. In the previous decade Darwin’s population had grown by 300% and there was continued pressure to release more lands for housing (Dewar 2010). The Darwin Town Council was reconstituted in 1957 and within two years Darwin was proclaimed a city (Dewar 2010) p. 19. Mirroring his predecessor 50 years earlier, the newly appointed Lord Mayor demanded that the government relocate all land reserved for Aborigines well outside the municipal boundaries and argued that leaving the Aboriginal community at Bagot was the equivalent of “...putting it in Smith Street” (Northern Territory News 1959). Harry Giese, like his counterpart 50 years earlier, opposed this proposal, and in an address to the Northern Territory Legislative Council, argued the case on the grounds that the Larrakia connection to Darwin must continue to be honoured:

*“...it ought to be known to members that the tribal group that occupied the area over which the downtown area now extends was called the Larrakeah group. We have still in Darwin remnants of that very proud group of people and they are still located in the tribal area in the city of Darwin. ... of the 270 odd natives resident on Bagot some 200 belong to that group of people and this is their tribal area. Are we going to suggest now, Mr President, that they should be dispossessed?” quoted in: (Mansfield J 2006) (Paragraphs 573-574).*

Giese knew he had the support of his Minister, Paul Hasluck, but in December 1963 Hasluck became Minister for Defence and, against a background of continued rapid economic growth in Darwin, the new Minister for Territories, "Ceb" Barnes, approved the resumption of most of the land originally gazetted as the Bagot Reserve. On 27 May 1965 Bagot was reduced from 743 acres to 57 acres (Wells 1995) p.225. The area now forming Kulaluk lease was part of the area resumed.

Coinciding with Paul Hasluck's departure, successive federal Ministers presided over the resumption of most of the land reserved for the Larrakia and other Aboriginal groups in Darwin and large areas of reserve land in the Darwin Hinterland was also resumed and sold. At the same time, living conditions in Bagot declined. Most Aboriginal men at Bagot were unemployed as a consequence of the Arbitration Commission decision on equal wages, decline in unskilled jobs and competition from people arriving from interstate in response to promotions by the Department of Territories. This meant "the gap between the increasingly affluent settler community and the impoverished residents of Bagot had widened so much that the two communities almost never came together" (Wells 1995) p.219. Bobby Secretary's decision to move his family from Bagot to Kulaluk, a uniquely Larrakia place where his father had taken him as a child, was a response to all these circumstances.

By the 1960s the issues of Aboriginal citizenship and wage equality in the Territory were brought to a head and resolved by the repeal of the Welfare Ordinance, amendments to the Licensing Ordinance, the decision by the Conciliation and Arbitration Commission on equal wages and the Constitutional changes following the 1967 Referendum. The repeal of the Welfare Ordinance signaled a change in the paradigm for achieving social change. In this period the community rather than the individual, and hence "community development" was seen as the "starting point in bringing about assimilation" (Wells 1995).

The injustice arising from the failure to recognise the rights of Aboriginal people to land had been clearly stated: in the 1963 Yirrkala Bark Petition, by the Gurindji strikers in 1967 and specifically in the Gove Land Rights case commenced in 1968. The government had no policy response to the view expressly stated in the Bark Petition, and by the Gurindji that: distinct cultural traditions linking them with their land were inseparable from both their individual and group identity and that they expected government to assist them to maintain this separate identity. This view coalesced around the concept of land rights. Land Rights became a watershed in



Aboriginal policy in the 1970s and is the policy context that influenced, and in turn was influenced by, the events leading to the granting of the Kulaluk lease.

### The Larrakia and the Kulaluk Claim in the Context of Land Rights

Today Aboriginal people in the Northern Territory have a legal interest in over 98% of the land and Territorial Seas. These interests are proprietary and arise from the Aboriginal Land Rights (NT) Act 1976, the decision of the High Court of Australia in Mabo v Queensland (No 2), the Native Title Act 1993 and relevant decisions by the courts by which these Acts have been developed and amended. All this has occurred since the passage of the Land Rights Act in 1976, although, as outlined in the previous section, the imperative to recognise Aboriginal land rights and the changes in government policy that initiated these reforms emerged a decade earlier. The Larrakia claim to Kulaluk and other land around Darwin in the early 1970s had an important influence on this process.

The Land Rights Act was conceived in the shadow of Blackburn, J.'s decision in the Gove Land Rights Case, otherwise known as: Milirrpum v Nabalco. The Act may be seen as the response by the reformist Whitlam Government to the lacunae in the nation's moral and political fabric resulting from the fact that Aboriginal traditional rights to land were not recognised at common law - symbolised by the popular fiction of terra nullius. In the Gove Land Rights Case the Rirratjingu and Gumatj plaintiffs argued, among other things, that the basis for their traditional entitlements to land lay in their relationship to sacred sites located on their land. Blackburn, J. however found that this relationship to sites and hence the relationship to land which flowed from it was spiritual or religious rather than proprietary (Blackburn J 1971).

Against the authority of this legal construction of Aboriginal people's relation to land the Aboriginal Land Rights Commission under Woodward, J. laid the foundations for the Land Rights Act. The central concept of Woodward's model legislation was a scheme whereby Aborigines able to demonstrate their spiritual relationship with land could be granted legally recognised property rights. Hence proof of spiritual relationships became a key test for recognition of Aboriginal traditional owners (Ritchie 1999).

The first report of the Aboriginal Land Rights Commission documented the dispossession of the Larrakia people in the Darwin area and their desire to acquire title to land in and around Darwin for community living purposes (Woodward J 1973).



In his second report Woodward included a separate section on Aboriginal sacred sites (Woodward J 1974). His recommendations relating to the protection of sacred sites contained in this section formed the basis for the relevant sections of the Land Rights Act and subsequent Northern Territory legislation.

Perhaps one of the most important of Woodward's findings was that there is "no clear dividing line" between "sacred" sites and those otherwise of significance (Woodward J 1974) [para 517]. Woodward also emphasised the distinction between sites that were important to living Aborigines, of "contemporary religious importance" (Woodward J 1974) [para 535] and places that may have been significant in the past and which had been the focus of earlier legislation designed to protect "Aboriginal cultural" relics (Ritchie 1994). Equally important is Woodward's recognition that Aborigines' personal identification with the land, focused on sacred sites, means they are vulnerable to "grave offence and deep hurt" if their sites are damaged (Woodward J 1974) [para 521].

All these concepts have been part of official government policy and enshrined in law in the Northern Territory for 40 years so it is difficult to recall the dissonance this created both in the government administration and in the wider community when they were first widely voiced in the early 1970s. The Larrakia claim to Kulaluk was first asserted publically in the Northern Territory News on 20th May 1971 (Northern Territory News 1971).

Bobby Secretary had, already some experience of political protest. As outlined in the previous section, his father Frank worked as an assistant typesetter on the Northern Standard and knew the Secretary of the NAWU. In 1953 Ted Egan defended Bobby against a charge of "being in a prohibited place - the town area of Darwin, between sunset and sunrise" on the basis that Bobby was a Larrakia and "Darwin belongs to the Larrakia".

### [Kulaluk Claim 1971 -1973](#)

On 27 April 1971, Mr Justice Blackburn ruled against the Yirrkala people in their case against Nabalco and the Commonwealth of Australia.

The first Newspaper story on Kulaluk quoted Bobby Secretary's statement of claim as: "This is our land ... we belong here" (Northern Territory News 1971) which was elaborated on 27 May when the News reported that Bobby Secretary said that, Kulaluk "has been a special place for our people for all time". Further, that Kulaluk is

one of a number of special places including the frog cave at Casuarina Murrmajak at Shoal Bay, the Vernon Islands which he said had been given to him by his father (Belyuen) near Delissaville and Bilaworro a spring of fresh water at Parap. Bobby Secretary is quoted as saying: "all our places are gone or in danger of disappearing. We want to tell Mr Giese about Kululuk, and ask him to save it for us".

On 29 June 1971 District welfare officer Bill Gray reported on a meeting between Bobby Secretary and Norman Harris and Welfare Branch Field Officer Mr Damaso that took place on 23 June:

*"Bob Secretary described how as a child he used to go with his father on hunting trips in the Nightcliff area. They used to drink at a fresh water hole. Recently he and another Larrikia man went looking for the freshwater. They found it by poking a stick into the ground where the grass was green even in the Dry. They found the ground to be soft, and hollowed out fresh water soak. The land around the soak is part of 'Kululuk' which spread from the hospital to Nightcliff. The soak itself is seaward of the Paspalis Drive-In. When asked if the area had sacred significance (was it corroboree ground) Mr Secretary said "no". Mr Harris said "yes"(Gray 1971).*

The report prepared by Bill Gray for his superiors, contains three elements. The report lists six Aboriginal people who "have an interest in the area" and significantly only two are identified as Larrakia. Bobby Secretary's long-standing association with the Kululuk area is recorded as dating from his childhood when his father took him to the spring there. Secondly, the report documents a conversation about whether or not the area was a "corroboree ground" and if so, could it be built on? Thirdly the report expresses uncertainty about how to "handle this particular case" (Gray 1971).

Each of the Aboriginal people mentioned in this report are identified by their "tribal" affiliation. This identification is derived from the database of Aborigines that had been compiled initially as the "Register of Wards" under the Welfare Ordinance (Northern Territory of Australia 1957). The Wards Register was not established to record traditional affiliations. In fact it was established under a policy that saw traditional affiliations as irrelevant to the future of Aboriginal people. As a result the information on traditional names, and cultural and linguistic identity in this database were well known to be wildly unreliable and often misleading (Stanner 1979) p. 43.

Nonetheless it was still the practice of Welfare Branch in 1971 to include "tribal" affiliations derived from this database a matter of course in official briefings and this led to the scepticism about the legitimacy of the people making the claim to Kululuk.

The first response to Bobby Secretary's claim by the Northern Territory Administration is documented on the Welfare Branch file titled "Land – Matters Affecting Aborigines – Kulaluk Camp 1971-1975" [F 985 1972/493]. The file was originally named "Larrakeyah Land Rights Claim" indicating that from the outset there was a clear understanding of the basis of the claim even if there was uncertainty about how to handle it.

The file was created following the Northern Territory News reports on the 20th and 27th of May 1971. The first item in the file is a press clipping from the Northern Territory News dated 28th of June that reported on the meeting between Welfare Branch field officers and Bobby Secretary and Norman Harris on 23 June 1971. Dated the day after the newspaper report appeared the memorandum, by the District Welfare Officer Bill Gray, belatedly explains the actions taken following the initial claims reported in the Northern Territory News on the 20 and 27 May 1971.

When officials from the Welfare Division of the Northern Territory Administration first considered Bobby Secretary's claim to land at Kulaluk, the idea of a "land claim" had no official status. Since the repeal of the Welfare Ordinance the emphasis of policy and programs administered by the Welfare Division had been on "community development". Part of their work was to determine what communities were worthy of government support on the basis of whether or not they were viable by assessing access to essential services, proximity to places of employment for their residents and the likelihood of residents being able to engage in the economic life of the wider community.

The first inspection of the area of the claim determined it was located on unalienated Crown Land. The Northern Territory Government's policy on the granting of legal interests over Crown Land has been consistent for decades - simply put, applications for a grant or to purchase Crown Land are assessed largely on the basis of the likely benefit to the economy or community recreational or social interests – grants were regularly made for clubs or religious organisations. Kulaluk did not meet these criteria.

It appears that in 1971 the corporate knowledge in the Welfare Branch about the Larrakia was limited. As part of their background research they consulted a long out of print book - *Australasia and the Oceanic Region* published in 1876 (Willey 1876) and painstakingly retyped an extract that describes the "Larrakeyah Tribe", and placed it on the file. There is no indication of any corporate memory of the sentiments

of their head of department Harry Giese, about the status of the Larrakia made by before the Legislative Council only 10 years earlier (quoted in the previous section).

On 6 July 1971 the head of the Branch, Harry Giese in the role of Assistant Administrator Welfare, directed the Branch to investigate the claims made by the Larrakia group in respect of that Kulaluk waterhole area at Nightcliff, and in particular report on the following aspects:

- a) *the numbers and if possible names of Aborigines who have traditionally used the site as a camping area, or who have some other traditional association with it;*
- b) *the extent of the area sought by the group*
- c) *whether*
- d) *the waterhole and its immediate environs form any part of a known Aboriginal myth, story or song and;*
- e) *comments on the cohesiveness of the group seeking preservation of the site and the degree of their attachment to it (Giese 1971).*

This directive made it clear that the Welfare Branch would assess the Kulaluk claim for its potential to be managed under the provisions of Native and Historical Objects and Areas Preservation Ordinance (NT) 1955 – 1961. This legislation had been in force since the mid-1950s and was the antecedent to the current Heritage Act. This legislation allowed the Administrator to prescribe an area of Crown Land “relating to the aboriginal (sic) natives of Australia which is of technological or anthropological interest” (section 3). This law had been amended a decade earlier to perform the function of protecting Aboriginal ceremonial, burial and initiation grounds that since the early 1950s had been protected under provisions contained in the Police and Police Offences Ordinance (NT) 1954. These laws had been passed to give Native Affairs Patrol Officers authority to intervene and keep people away from active ceremony grounds and burial caves to avoid a breach of the peace if Aboriginal custodians of such places took matters into their own hands.

*Assessment procedures developed under the Native and Historical Objects and Areas Preservation Ordinance (NT) 1955 – 1961 were based on the approach that: “...the Northern Territory Administration is aware to the desirability of protecting and preserving Aboriginal treasures and sites, [however] **in the Territory they are so numerous that only the most important will probably be considered** [emphasis added]” quoted in: (Ritchie 1994).*

Against this background, Bill Gray, District Welfare Officer, set about assessing Bobby Secretary's claim to Kulaluk. It soon became apparent that Kulaluk would not be considered significant enough to protect under this legislation.

On 12 July 1971 on National Aborigines Day, Bobby Secretary, his sister Topsy, carrying a banner: "I'm Larrakia and Proud of It", along with other supporters marched to the Government Offices in Mitchell Street to reiterate their claim to Kulaluk.



Figure 3 NT News 13 July 1971 Annotated clipping from Welfare Branch file [CRS F985 1972/943 Land Matters Affecting Aborigines – Kulaluk Camp].

The NT News reported that: “the march was aimed at drawing attention to tribe’s claim on the camping site and waterhole off Coconut Grove” (Northern Territory News 1971). This march coincided with the march in South Australia at which the

Aboriginal flag, designed by artist Harold Thomas, was first flown at Victoria Square in Adelaide. A clipping of the NT News report annotated with the names of Larrakia protesters was attached to the Welfare Branch file. Officials were concerned that the report included criticism that the government had done nothing about their undertaking to resolve the claim. The next day they arranged another meeting with Bobby Secretary at Kulaluk, this time with Larrakia elder Tommy Lyons whom they had brought across from Delissaville.

The report of discussions with Tom Lyons focused on the significance of the area as a potential site of significance under the Native and Historic Objects and Areas Preservation (NT) Ordinance 1961.

*“The site was indeed at one time regarded by members of the Larrakeyah tribe tried as an area of some significance. Kulaluk referred to a continually running Spring which is now in fact a small waterhole at the back of the Paspaley Drive-In. This waterhole still exists and is in fact fed by the same spring.*

*Mr Lyons remembers that on approximately three or four occasions ceremonies (circumcision ?) were held at this particular site. The area was taboo to women and uninitiated males and was also avoided by the Larrakeyah people. From my discussions it would appear that Kulaluk was in fact a ceremonial ground of some importance. Asked whether or not the ground still held that same significance, Mr Lyons was adamant in that due to the fact that women and uninitiated persons have camped on the site, the area can no longer be regarded as being special.*

*Mr Lyons indicated that many years ago the Larrakeyah had moved to land adjacent to that area now known as Delissaville and it was here that a ceremonial ground was in existence and it was this ceremonial ground that was of true significance. The ceremony to which Mr Lyons referred was called \*\*\*\*\* but I am unsure in my own mind as to whether this was a circumcision ceremony or a larger age grading ceremony.*

*Mr Lyons indicated that he had no intention or wish to return to Kulaluk and in fact gave me to understand that the area was not regarded as a camping ground. He did indicate however, that as the people who had connections with Larrakeyah were now camping there, he had no objections if they were continued to do so. So far as he was concerned the area was no longer of any significance” (District Welfare Officer 1971).*

The report goes on to conclude:

*“that it would be very difficult to estimate the numbers of aborigines who have traditionally used the site as a camping area. I would suggest that any aboriginal he knew the significance of that area would never have used the site as a camping area, consequently I feel that it would be wrong to say that the area was ever a traditional camping area. Certainly with the passing of*

*time the area would have become a convenient spot of rest and replenish for those who were not aware of the traditional significance of the site.*

*The exact extent of the area sought by the group is again difficult to determine but it would appear to me to include all the area which is at the moment I'm touched by housing developments and could be described as having an area measuring approximately 2 acres.*

*As to whether or not the waterhole and its immediate environs form any part of the Aboriginal myth, story or song, I can only repeat that Mr Lyons regarded the area as a site where a certain ceremony was performed and that the site was itself taboo to all women, children and uninitiated males. These taboos have long since been violated, consequently Mr Lyons regards the place as having no significance.” (District Welfare Officer 1971)*

*“With regard to the cohesiveness of the group seeking preservation of the site I'm inclined to think that those interested in: our most unstable group. Mr Bobby Secretary is unemployed, Mr Richard Rankin is unemployed and has just recently being taken to court for non-payment of fines. Mr Johnny Fejo has left the site and his whereabouts is now unknown. Both Richard and Johnny were unemployed at the time they were at Kulaluk. Mr Roy Madbault who is at present camping at the site is also unemployed and to my knowledge has been unemployed for many months. Old Roger from Bathurst Island is unemployed and has been for the best part of 12 months. Topsy Secretary, who is a well-known patron of the Dolphin Hotel, is also unemployed. All in all we can't regard this group as being either stable or economically self-supporting. As to the degree of attachment to this site, I can only relate once again the words of Mr Lyons when he said that the people now camping at Kulaluk do not know “the real reason for that place” but they could stop there if they want it. It is my personal opinion that the attachment to the area has been to a large degree generated by outside influences, those influences having had no association with the Larrakeyah” (District Welfare Officer 1971).*

*Finally, from enquiries made, there seems to be little chance of other persons who may claim affiliation with the Larrakia of wanting to return to Kulaluk” (District Welfare Officer 1971).*

This report is unequivocal, the Kulaluk claim was assessed as not meeting the criteria necessary to be protected under the Native and Historical Objects and Areas Preservation Ordinance nor did the group making the claim meet the criteria of a viable community that could be supported under the government's community development program. The report dismissed the claim as having been made by Aboriginal people with no coherent traditional knowledge about the significance of the area and who had been supported by “influences having had no association with the Larrakia”. In the normal course of events this may have been the end of the matter.

We can now see that the sense of frustration and injustice that precipitated the move by Bobby Secretary away from Bagot was widely felt by Aboriginal people in the



Northern Territory at the time and had already precipitated the iconic statements of claim at Yirrkala and at Wave Hill. Government Aboriginal policy was by 1970 at a point where it had run out of ideas. The Holt, Gorton, McMahon governments in Canberra had not been able to respond to the growing dissatisfaction among Aboriginal people. Any energy and purpose that had accompanied the policies of the Hasluck Menzies era had dissipated with the repeal of the Welfare Act and Aboriginal policy in the Northern Territory had become moribund.

### The Darwin Fringe Camps

In the period from the mid-1960s through to the end of the 1970s a unique Aboriginal cultural community developed around shared experience and residence in the unofficial camps in and around the city of Darwin. The reasons for the emergence of this cultural community lie in the reforms of the early 1960s that removed the legal restrictions that had previously governed most Aboriginal people in the Northern Territory: In particular restrictions on movement and the restriction on drinking alcohol. An understanding of this cultural community is necessary to understand the social context of the Kulaluk claim and public protest in 1971-1972.

At the beginning of the 1970 Wet season, a census of unofficial Aboriginal camps in and around Darwin conducted by the Welfare Branch estimated the number as around 30, although because of the Wet season some were not said to be currently in use. "Galalak" or Kulaluk was one of the camps recorded; located near a freshwater spring adjacent to the Drive-In (Henderson 1984) p.10. In 1975 it was estimated that there were 23 urban camping sites that Aborigines recognised and used and that five of these "were sites held in permanent occupation" (Sansom 1980) p.8. Kulaluk, Knuckkeys Lagoon (also known as the "10 Mile") and Railway Dam were all permanently occupied but unofficial fringe camps.

Basil Sansom documented the social organisation and economy of these unofficial fringe camps in the early 1970s:

*"The fringe camps of Darwin, each in their turn, belong to specific mobs whose members have been drawn from among the population of countrymen whose antecedents and location [are on the stations and communities of the Top End of the Territory]. Furthermore, while in town the people of the camps remain countrymen in the sense that their activities are not assimilated to urban structures. Men and women encountered in the fringe camps will not have regular urban employment. ... What I want to note is the absence of significant capital accumulation in the lives of countrymen and women who all live from hand to mouth. The whole population of those who call one another*

*countrymen is made up of people who are entirely without property” (Sansom 1980) pp.6-7.*

The social life of Darwin had developed around the consumption of large quantities of alcohol<sup>1</sup>. This consumption was overt and celebrated: from the songs of Ted Egan to a new festival first held in the Dry season of 1974. The Beer Can Regatta centred around the accumulation of large quantities of empty beer cans (Wells, Dewar et al. 2005) p.84, (Dewar 1999) p.134, (Egan 1997). The social life of the Aboriginal fringe camps in Darwin mirrored the preoccupation with alcohol in the wider community (Sansom 1976).

The freedom to participate in this social activity had only been held by Aboriginal people since the end of restrictions in 1964. Before then any Aboriginal person found drinking anywhere was liable to summary arrest.

The economy of the fringe camps centred on: “the business of organising the grog”. Permanent residents provided safe places for visiting countrymen to camp and participate in the drinking culture and visitors reciprocated provided money and their physical support to activities promoted by the camp leaders (Sansom 1980) pp.44-75. A camp’s status was linked to the status of its leaders. The leaders status was in turn dependent on his “style” – his ability to “bring out the bamboos<sup>2</sup>” for ceremony and command attendance at events that demonstrate status and authority ... “they are generally acknowledged as Masterful Men, Singing Men, Dancing Men and drinking men [who] accept a measure of responsibility for the well-being of visiting drinkers” (Sansom 1980) p. 63.

The network of permanent and temporary camps around Darwin were led by these senior Aboriginal men with both authority earned from their ceremonial status and their life histories of work in the Darwin hinterland. These men had their formative experiences in the years before the War, had usually worked for the Army and were now experiencing unemployment as a consequence of the equal wages decision. Aboriginal people in the camps were able to give a voice to their collective frustration and participate in group expressions of their dissatisfaction - centring on land rights. These men had experienced first-hand the injustices of the Welfare Act years and valued their new-found freedom and autonomy. They deeply valued their traditional affiliations, their kinship ties and links to their traditional country. Bobby Secretary as

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<sup>1</sup> Darwin, in 1980 was, according to Guinness Book of Records, the city with the highest rate of beer consumption – at a staggering 230 litres per person.

<sup>2</sup> Top End name for didgeridoo.

the leader of the Kulaluk camp held a special status as one of the senior traditional owners of the land on which all the other camps were located and as a consequence the leaders of the other camps accorded him a special status and were obliged to reciprocate accordingly when asked to do so (Commonwealth of Australia 1982).

The role of the leaders of these groups and the values of the society in which they operated were unlike those in official Aboriginal communities such as Bagot:

*“In Darwin, a fringe dweller need call no white man boss on the grounds that the men in question is his employer. This means that the fringe dweller has retreated from the relationship of authority that is characteristic of interracial dealings. Further, freedom from employer to employee boss-ship is an advantage that fringe dwellers value. To express the matter in their own terms, [the leaders] of the fringe dwelling mobs devote themselves wholly to “black-fella business”. They can thus assert their independence from both wage labour and unemployment benefits... The disengagement that fringe-dwelling men enjoy is to be won by striving. They have to work to turn Darwin camps into regional centres. To do this, all possible means are used to ensure that a permanent fringe-camp will be a place of continuing and significant activity.”) p.8-9.*

The protests arranged by Bill Day with Bobby Secretary in the last months of 1971 were regarded by the leaders of the other camps, in particular Railway Dam and Knuckeyes Lagoon where Bobby Secretary had a kinship connections, as significant events and as such they were disposed to participate.

To stage a successful event required a leader to be able to call in obligations created in the reciprocal economy of the camps. The social organisation of the Darwin fringe camps in the period when Bobby Secretary first made his claim to Kulaluk was an important factor in the ability of Bobby as leader of the Kulaluk camp to mobilise support from the leaders of the other permanent camps, notably Railway Dam and Knuckeyes Lagoon.

The unique cultural grouping associated with the unofficial camps of Darwin was probably in existence for around 15 years. By the end of the 1970s the opportunities arising from Land Claims to traditional country under the Land Rights Act enabled expatriates who had been living in Darwin to return to their traditional country and the energy that had created the iconic protests in support of land rights in the early 70s became focused on particular land claims. By the end of the 1970s the Larrakia had lodged claims over the Cox Peninsula, and Vernon Islands. Four other major land claims had been lodged by the traditional owners of country in the Darwin hinterland. The fringe-camp culture changed towards the end of the 1970s as the permanent

camps were made official through the granting of special purpose leases and programs were put in place for housing and communal facilities. At the same time the drinking culture of Darwin was suppressed by programs aimed at tackling alcohol abuse, in particular the introduction of breathalysers and drink-driving laws and later, the introduction of the 2 km laws.

### The Kulaluk Claim Gathers Support

The Welfare Branch had not counted on the ability of the Larrakia to mount a successful media campaign that placed their issues in the emerging policy realm of “Land Rights” – that is a claim to an interest in land on the basis of prior traditional ownership. The Larrakia could not have done this without Bill Day.

Bill Day had come to Darwin in 1969 and like many others decided to stay. Bill found part-time work on the waterfront and developed friendships with families with deep connections with Darwin. These included people who had knowledge of the Aboriginal protests in the 1950s and who supported the Gurindji at Wave Hill. One of these was Parap, the son of Fred Nadpur Waters (Carment and James 1992). As outlined in the previous section, Nadpur had organised and led the Aboriginal strikers in the late 40s and early 1950s, supported by the Australian Workers Union and the Northern Standard newspaper. Parap introduced Bill Day to the son of Frank Secretary, his father’s old countryman (Day 1994, pp. 9-13). Bill Day attributes much of the success of the protests, that he would subsequently help orchestrate, to the strategy and personal influence of Parap) pp. 14-16. Parap also took part in these early protests designed to raise public attention about the Larrakia claim (Detective Sergeant D F Alexander 1971). The other important factor that ensured the success of the Larrakia claim was the support of Jim Bowditch, the Editor of the NT News. By 1971, Jim Bowditch had been Editor of the NT News for 17 years. Jim Bowditch along with Douglas Lockwood ensured the local Darwin newspaper provided historical and political context to their reporting of Aboriginal affairs and in the 1950s had championed the cause of Aboriginal people whose personal freedoms had been removed by the operation of the Welfare Act and prior to the Kulaluk claim he had run several editorial pieces supporting the Gurindji walk-off from Wave Hill (Carment and James 1992) p.18. Jim Bowditch personally knew veterans from the 1950s protests including journalists from the Northern Standard, members of the AWU and central figures including Fred Nadpur Waters the father of Parap, who had introduced

Bill Day to Bobby Secretary. Bill Day broke his first story on the Kulaluk claim to the media by telephoning Jim Bowditch (Day 1994, p.14).

As I have already covered in the previous section there was a prevailing view in the Northern Territory Administration, a legacy from the 1950s Cold War era, that Aboriginal people were largely happy with their lot and that any political action that they may appear to be involved with was more likely than not to be a result of outside “stirrers”. This was the construction placed on Bobby Secretary’s claim in 1971 by District Welfare officer (Mick Ivory for) Bill Gray.

### [The Central Role of Leaders from Knuckeyes Lagoon Camp](#)

Members of the Knuckeyes Lagoon community (see Appendix 5) were central in all the public protests and demonstrations in the months from mid-1971 through to the hearings by the Interim Land Commissioner in 1974. Bill Day refers to the debt owed to “Brinkin” men like Major Bangun, Roy Kelly and Leo Pudpud however it was the Malak Malak brothers Long Harry Adams and Nugget Major who had played significant roles in the formative phase of the Larrakia claim to Kulaluk. Long Harry Adams was the man who actually hoisted the flag outside the Northern Territory Supreme Court in November 1971. Nugget Major was vocal at the first hearings of the Aboriginal Land Rights Commission held at Kulaluk in June 1973.

Welfare Branch and Special Branch records show that the involvement of the men from Knuckeyes Lagoon gave government officials particular concern (Detective Sergeant D F Alexander 1971, Doolan 1971). This was due in part to the fact that the Knuckeyes men had a reputation of having been politicised following a walk off from one of the pastoral leases on the Finniss River. And also the fact that they were self-sufficient bushman who after their regular work in the cattle and buffalo hunting industry finished, as a consequence of the award wages decision, had lived successfully shooting crocodiles and selling hides to the tannery at Berrimah. In other words these were tough, self-sufficient men who nobody would want again on the wrong side of.

### [Welfare Branch Begin to Assess the Kulaluk Claim](#)

A statement about the proposed meeting with Tommy Lyons, had been released to the media and on 17 July the Northern Territory News report headed “Admin. Looks Into Larrakias Land Claim” recorded that:

*“no legal action has been taken to protect the claimed aboriginal burial ground near Totem Road an administration spokesman said yesterday... the NTA spokesman said a general investigation of the claims to Kulaluk was now underway” (Northern Territory News 1971).*

To keep the issue alive, Bill Day publically approached the Darwin Historical Society to “collect information that would help the Larrakia Aboriginals in their bid for land rights” and this too became a headline: “Larrakias in Plea for Aid” (Northern Territory News 1971)



Figure 4 NT News 9 September 1971 report that the Kulaluk claim is rejected [CRS F985 1972/943 Land Matters Affecting Aborigines – Kulaluk Camp].

To put the matter to rest, the Welfare Branch issued a press statement that the claim by Larrakia Aboriginals to an area near the Drive-In theatre had been rejected. The NT News reported:

*“An Administration spokesman said yesterday the Welfare Branch had made a very thorough investigation into the significance of the area. The Kulaluk area was at one time regarded by the Larrakia as a ceremonial area of some significance but since then women and other uninitiated people have been given access to the area so it can no longer be regarded as retaining any special ceremonial significance. It has occasionally been used by Aboriginals as a camping place for a small number of people. Of these only the small family group can be traced as of Larrakia descent.*

*The others are members of a shifting population who cannot be regarded as permanently occupying the site near the waterhole the spokesman said. He also commented on another land claim dispute involving Territory Aboriginals.*

*He said they were in now nine families who describe themselves as Gurindji occupying government build houses<sup>3</sup> on the Wave Hill Common” (Northern Territory News 1971) [see figure 3].*

#### Bill Day’s Media Campaign Frustrates Welfare Branch Officials

Bill Day ensured there was an immediate response. The following day the NT News ran the story:

*“Larrakia Leader Wants Compensation on Nightcliff Land” The report quoted Bobby Secretary: “If Mr Giese or anyone else want us to move from the Kulaluk (sic) they ought to have to pay us market value for this land” and that “he would continue to fight to keep the land”.*

The story also commented on the fact that nobody from the Welfare Branch had talked to Bobby Secretary before announcing the decision to reject the claim in the media (Northern Territory News 1971) [see figure 4].

Three weeks later on Monday 4th October the first of a series of sit-ins was staged to block traffic on Bagot Road. The NT News ran the headline: *“Bagot Road Sit-On (sic) a Land Rights Protest”- about 20 Aboriginal men, women and children sat on the Bagot Road yesterday blocking traffic as part of their campaign to win rights to land behind the Drive-In theatre at Nightcliff”* (Northern Territory News 1971).

Welfare Branch immediately followed up with a visit to Kulaluk. Two things are made clear in the subsequent report of this visit: firstly, *“Bobby at first denied that there had been any influence by Europeans but later admitted that the instigator was Mr Bill*

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<sup>3</sup> Vincent Lingiari and the Gurindji strikers had said in 1966 that they would not accept the government housing built for them on the settlement – this statement by the NT Administration suggests that both the Gurindji and Larrakia claims are over.



Day, already known to this Branch". Following the visit to Kulaluk, Patrol Officer Jack Doolan visited Knuckey's Lagoon:

*"to contact Nugget Major, Peter Greenant (Malyon) and other Daly River people who were involved in the protest. No further information was obtained, except that Bobby Secretary's group would be supported by the Brinkin and Malak Malak people" (Doolan 1971).*

On 19 October Welfare Branch became aware of the third edition of Bill Day's newsletter Bunji (Gray 1971) which claimed credit for the successful sit-in demonstration.



Figure 5" NT News 4 October 1971 report of first Bagot Road "sit-on" [CRS F985 1972/943 Land Matters Affecting Aborigines - Kulaluk Camp].

Land rights remained an issue in the media. On 26 October the NT News reported: *"Federal Government Ministers have rejected recommendations on Aboriginal land rights"* made by The Council for Aboriginal Affairs, chaired by Dr HC Coombs, who had presented the Yirrkala people's case for the government to legislate to protect their rights to traditional lands following the adverse findings by Blackburn J. in the Gove Land Rights Case. The report heralded a Prime Ministerial statement on the matter in coming months (Northern Territory News 1971).

On 1 November Bill Day organised the second sit-in to black traffic on Bagot Road) p.144. The official report was unequivocal that: *“they were protesting over the development of a piece of land they know as Kulaluk which they claim is a sacred area to the Larrakia people”* (Burchett 1971). The following day the NT News ran a follow up story on the Larrakia’s approach to the Historical Society in which the President, Peter Spillet, outlined some 19<sup>th</sup> century references to the Larrakia in Darwin but, without citing any evidence, reiterated the position of the Welfare Branch that: *“Although it is part of the former territory of the Larrakia tribe. I doubt if Kulaluk has any real religious or ceremonial significance to the people there”* (Northern Territory News 1971) [see figure 6].

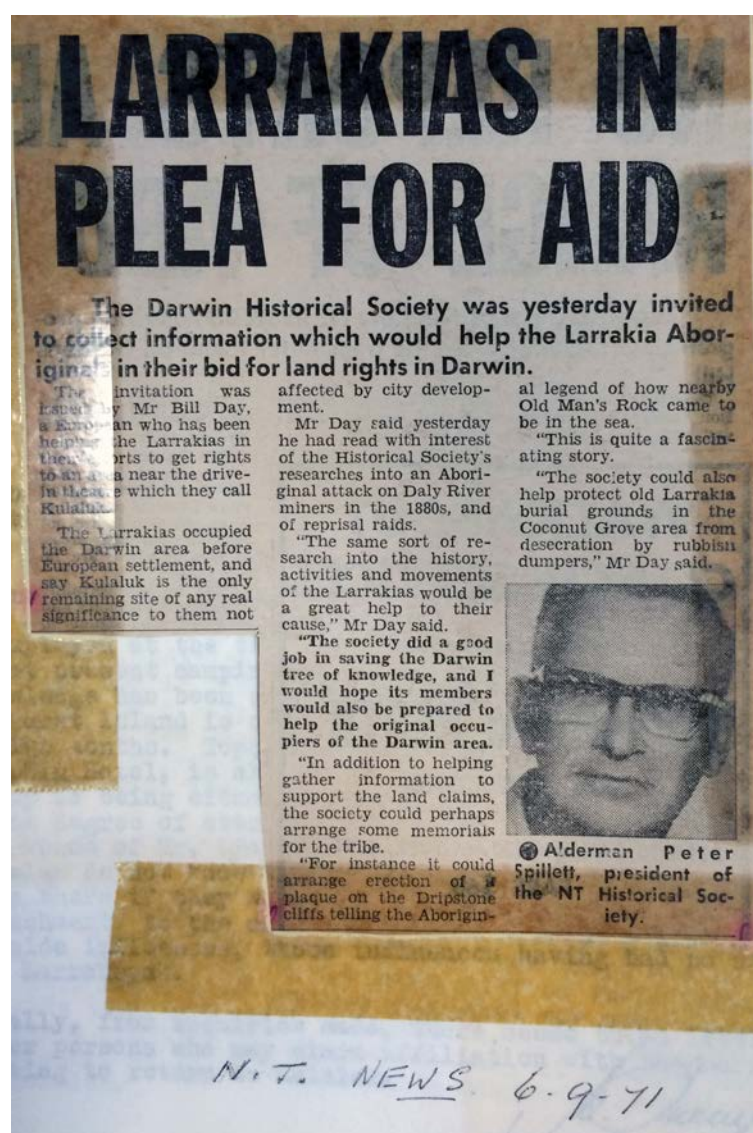


Figure 6 NT News 6 September 1971 Bill Day's approach to the NT Historical Society [CRS F985 1972/943 Land Matters Affecting Aborigines – Kulaluk Camp].



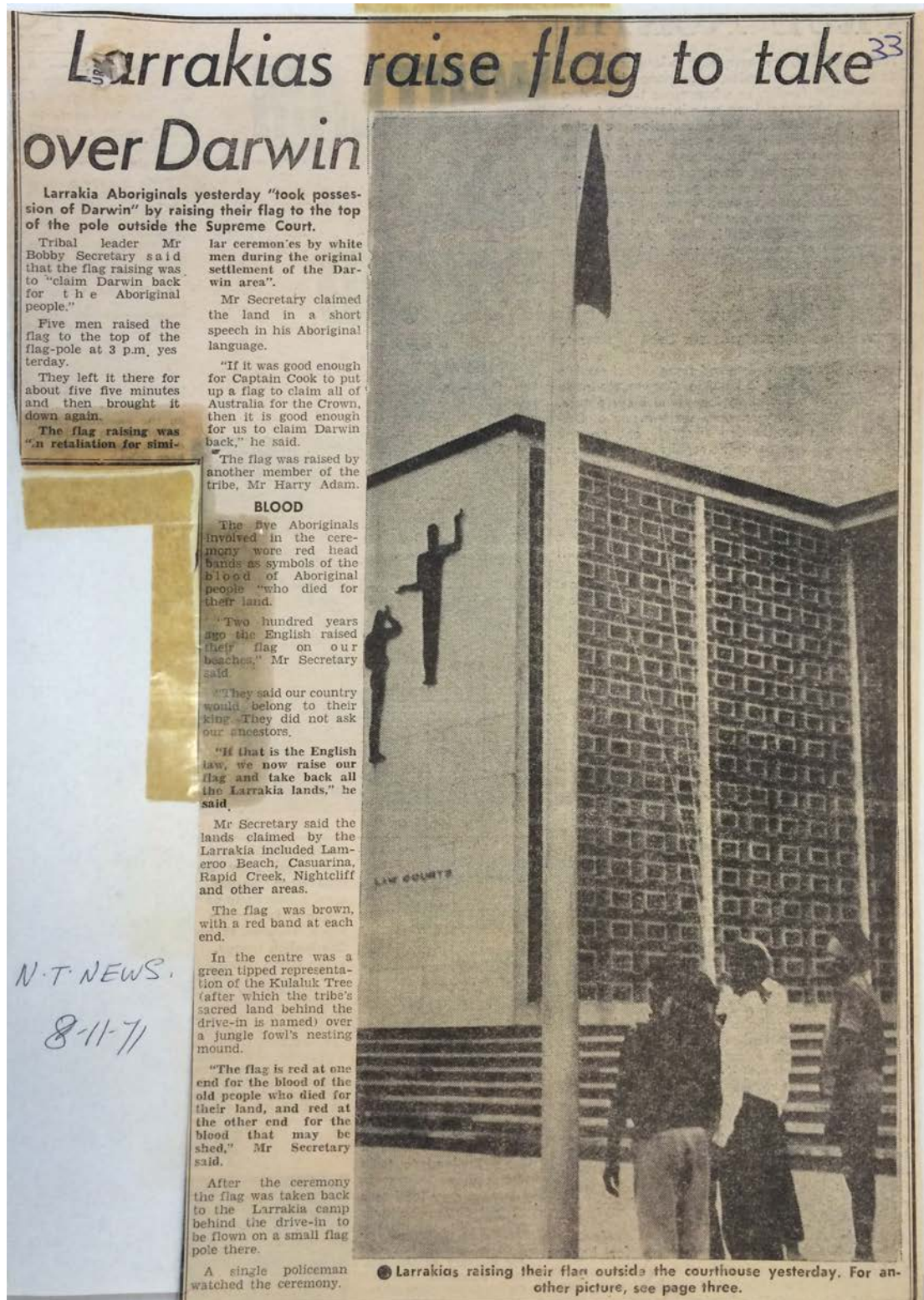


Figure 7 NT News Iconic photo of the Larrakia flag being raised over the Supreme Court

A week later on Sunday 7 November, Bill Day orchestrated one of the most celebrated protests in the history of Darwin, the raising of the Larrakia flag on the flagpole at the Supreme Court to "take back possession of Darwin for the Larrakia".

The NT News under the headline “*Larrakias Raise Flag to Take Over Darwin*” reported Bobby Secretary’s explanation of the symbolism of the flag’s design:

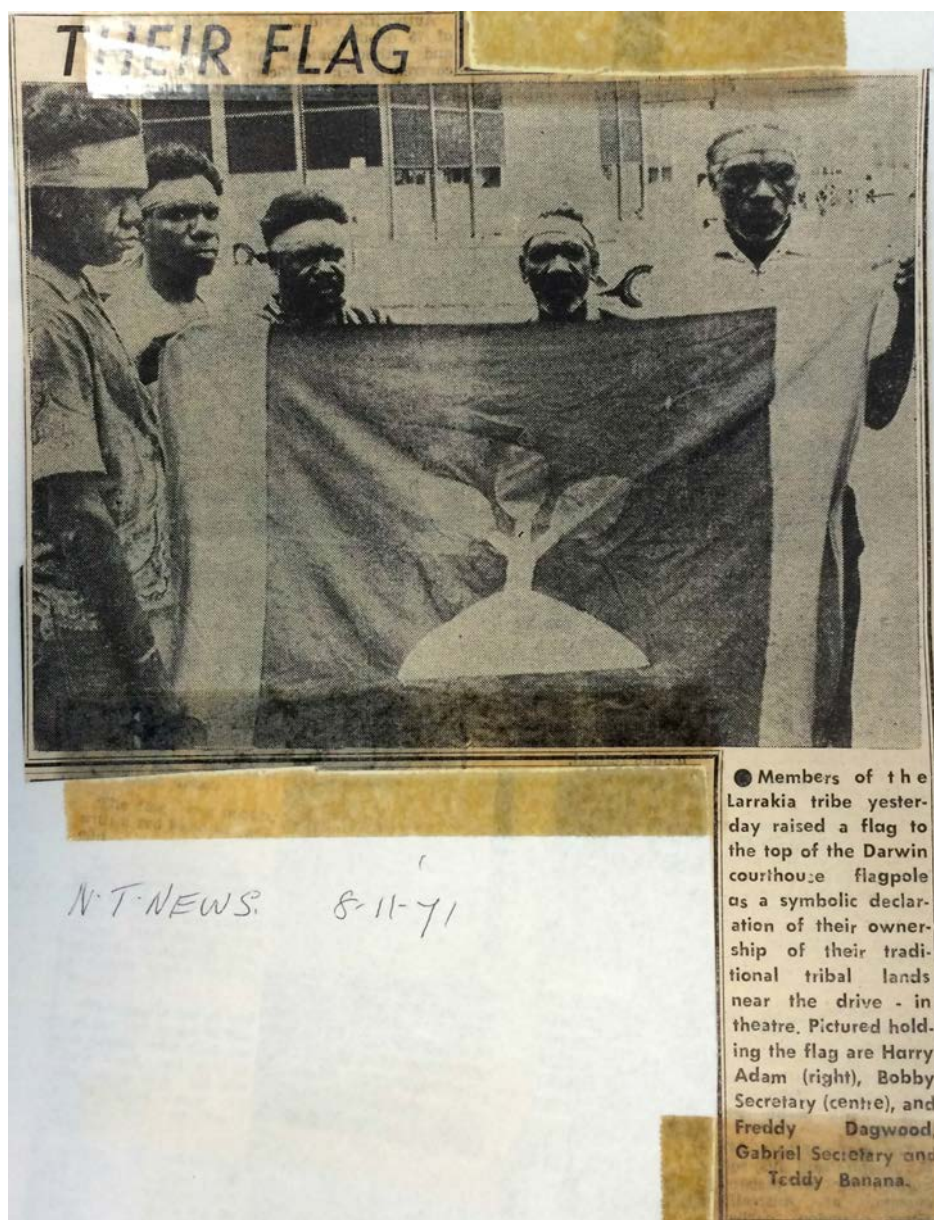
*“the flag is red at one end for the blood of the old people who died for their land and red at the other end for the blood that may be shed” (Northern Territory News 1971) [see figures 7 & 9].*

This was the first time the newly designed Larrakia flag had been seen in public, and was actually run up the flagpole by Long Harry Adams a Malak Malak man from the Daly River area, then living at Knuckey’s Lagoon) pp. 23-25. The Knuckey’s Lagoon Mob had connections to the protests of the 1950s and had decided to assist Bobby Secretary’s claim after an approach by Bill Day’s Aboriginal mentor, Parap p.16. The names of several Knuckey’s Lagoon residents appear in official records of most staged protests including the sit-ins on Bagot Road (Burchett 1971).



Figure 8 1972 Kulaluk Camp building with list of claimants (from Buchanan 1974)





**Figure 9 NT News Bobby Secretary (center) with Long Harry Adams (right) and Larrakia Flag**

#### **Kulaluk Campaign Attracts National Attention - Including from ASIO**

The blockades of Bagot Road had attracted national media attention but the raising of the Larrakia flag over the Supreme Court got the attention of the Canberra press gallery (Henderson 1984). From this point onwards the inability of government agencies to satisfy, what were portrayed as the legitimate grievances and claims of Bobby Secretary, attracted wider political support for a new policy approach. Kulaluk began to influence the still emerging policy debate over recognising Aboriginal claims based on traditional connections with their land.

In the build up to the 1971-1972 Wet Season further demonstrations were staged: another Bagot Road sit-in as well as publicised threats to stop the train to Pine Creek

and cut the telegraph line to Adelaide. By this time, the Police Special Branch were investigating the demonstrations, interviewing participants and making it more difficult to carry out planned actions. Significantly, in so far as it gives an idea of the long shadow cast by the Cold War, the Special Branch reported to ASIO that: *“very reliable and confidential sources advise that William Bartlet Day is not a communist and recently declined to be associated with them...”* (Detective Sergeant D F Alexander 1971).

They also reported to ASIO that: *“...News reporters and a photographer were on the scene prior to the arrival of police. I spoke to the NT News reporter Christopher McComas who told me that James Bowditch had telephoned him at 5 AM that morning and ordered him to fully cover the demonstrations”* (Detective Sergeant D F Alexander 1971). The implications in this report are clear: the government should be aware that the Editor of the NT News, Jim Bowditch, is collaborating with Bill Day to ensure the Larrakia get good publicity.

#### [Prime Minister McMahon rejects land rights legislation 1972](#)

The Prime Minister William McMahon issued his statement on Australia Aboriginal policy on 26 January 1972. In the statement he made it clear that the federal government had decided not to “simply translate Aboriginal affinity with the land into some form of legal right under the Australian legal system”. Instead the government had decided to create a new form of lease for land an Aboriginal reserves to be known as as “special-purpose leases” that differed from existing leases in the Northern Territory in that they would allow a combination of uses for general purposes - as long as the Aboriginal applicants could satisfy the requirements of the NT Land Board (Prime Minister of Australia William McMahon 1972) . As public expressions of Aboriginal dissatisfaction with the McMahon government mounted throughout 1972, the recognition of land rights became one of the many issues separating the McMahon government from the Whitlam opposition.

This statement of direction from the Commonwealth government signalled to the NT Administration that the most appropriate way of dealing with the Larrakia claim for Kulaluk would be by considering a special purpose lease. In mid-1972 an application was lodged by the Aboriginal Development Foundation on behalf of the Larrakia for a lease over land surrounding the Kulaluk waterhole on Lot 4543, Town of Nightcliff. An instruction was issued by the Director for Lands to his counterpart in the Welfare Branch: “could you please liaise with the applicants to ascertain what area exactly

they are requiring and what developments they propose for this area” (L A Scott 1972). By the time the lease application for the area around Kulaluk spring had been lodged by the Aboriginal Development Foundation and was being processed in the last half of 1972, it was apparent to Departmental Heads in Canberra that there was likely to be a change of government and to hold off any actions pending the result of the election (O'Brien 1972, Henderson 1984).

#### The Long Process to a Special Purpose<sup>4</sup> Lease Begins.

The passage of the Crown Lands Amendments Bill 1972 foreshadowed in the Prime Ministerial Statement, enabled Aboriginal reserve land to be leased to Aborigines for commercial projects. This task of issuing a lease was, administratively speaking, was much more straightforward than assessing the degree of traditional attachment under the legislation for the “preservation of native areas” nonetheless it was to take until the end of the 1970s before this long-drawn-out application was finalised.

The process became protracted as a consequence of the uncertainty created by the still emerging policy and subsequent legislation surrounding land rights and in part as a result of the bureaucratic paralysis created by changes of government in Canberra, the implementation of self-government for the Northern Territory in 1978. All of this was further complicated by the destruction wrought by Cyclone Tracy on Christmas Eve 1974 and the subsequent administrative hiatus as a consequence of lands and planning matters being brought under the control of the Darwin Reconstruction Commission.

A detailed account of how the boundaries of the Larrakia’s lease application came to be settled and the way in which the structure of the land owning body, the Gwalwa Daraniki<sup>5</sup> Association was devised are contained in the histories compiled by Henderson, Wells, and Day and the report prepared in 2014 by the Heritage Branch of the Department of Land, Planning and Environment (Henderson 1984, Day 1994, Wells 1995).

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<sup>4</sup> The “special” in “Special Purpose Leases” was because for the first time it was considered that protecting features of the land that significant according to Aboriginal tradition was a legitimate lease purpose for Aboriginal leasees.

<sup>5</sup> “Gwalwa Daraniki” means “our land” in the Larrakia language.



### The National Aboriginal Land Rights Conference Darwin 1973

By 1973 the events at Kulaluk had reached national attention and the Australian Security Intelligence Organisation (ASIO) was receiving regular reports on the activities of supporters of the claim.

The report from the Darwin Regional Director, dated 10th of May 1973, to ASIO headquarters, stated that:

*“Police Special Branch report that the Department of Aboriginal Affairs has requested Violet Stanton, NT to organise a conference in Darwin from the 17th through 20th of May 1973 on Aboriginal Land Rights and Housing.*

*Mrs Stanton is further reported to have said that the conference may involve militant occupation of buildings such as the Northern Territory Legislative Council Chambers and the Department of Aboriginal Affairs.*

*The report notes that Bill Day “supporter of Gwalwa Daraniki” is involved and continues: Police special branch has provided notice of this conference to government departments concerned, and has also alerted outback police stations to provide information of movements to Darwin of possible delegates. Police Special Branches in Brisbane and Sydney have also been contacted by Northern Territory Special Branch. Regional Director Northern Territory (ASIO) has contacted Regional Directors Queensland and South Australia regarding this conference. The Administrator of the Northern Territory was given the above information on 10 May 1973” (Regional Director ASIO 1973).*



Figure 10 NT News 15 June 1973 reports demonstration at National Land Rights Conference

The conference took place on 14 June 1973. Maria Rigney brought one of the early productions, made by her and her husband Joe Lane (Lane 2013), of the Aboriginal flag, designed by Harold Thomas, to the conference. One of the motions of the conference was to endorse this flag as the National Aboriginal flag (Day 1994).

This was the second National Land Rights Conference and was to become a major influence on the development of the national movement in support of the recognition of land rights based on Aboriginal tradition. The success of this conference was in part because: for the first time Aboriginal leaders from remote Australia, in particular Western Australia, Northern Territory and northern Queensland were brought together with representatives from the southern states. The conference was also a success because delegates were united on the last day in a collective demonstration of support for the Kulaluk claim carried out in the style that has already been come nationally associated with Bobby Secretary's group, that is: the sit-down blockade of Bagot Road. This spontaneous demonstration was a reaction to the conference being told that the notice proclaiming the Kulaluk claim at the site behind the Drive-In, had been torn down by developers and that Bobby Secretary had been told "put that notice up again on my land and I will shoot you"! The NT News reported the conference and subsequent demonstration in full:

*[The Larrakia had] "posted signs on the soon to be developed residential area warning potential buyers that the land was under claim and they bought blocks at their own risk. 'Whites', according to Mr Bill Day, waterside worker and consultant to the tribe, 'tore down the signs and threatened to shoot any Aboriginal who replaced them'.*

*Traffic on Bagot Road was halted for about 20 minutes. The blockade was finally broken by a white woman who crashed across the footpath in a four-wheel drive vehicle. "White bastard", Tiwi girls yelled at her. But mostly the demonstrators and trapped motorists were good-humoured. Some were sold cold drinks by Greek merchants.*

*Later, about 50 demonstrators marched to Kulaluk and posted both the warnings to would-be purchasers and the claims to the land.*

*They met no interference. Police, who were not about when the road was blocked, accompanied the marchers. They took some names but that is all. A friendly policeman warned Mrs Vai Stanton a member of the Aboriginal Development Foundation and organiser of the conference, that \$.50 for a permit to assemble would be \$.50 well spent.*

*Young militants from New South Wales and Victoria were the driving force of the decision to demonstrate. But once it was made it had the support of the delegates. 'I thought we should wait until after the conference' said Mr*

*Vincent Clark, waterside worker from Port Headland. 'But we are all together now'.*

*As well as supporting the Larrakias, the delegates wanted to publicise their conference. 'We want all Australia to know that it's being held here', said Mr Don Farmer Director of the Aboriginal Advancement Counsel in Perth. 'And we want our so-called black national leaders, who are not here, to get the message' (Loisou 1973).*

This event made the conference national news. The endearing influence of the conference has been well documented and is an important component of the significance of Kulaluk in the land rights movement not only in the Northern Territory but also nationally. Leith Duncan in an article written in 1974 assessed the conference:

*"The conference for the formation of the National Aboriginal Consultative Committee<sup>6</sup>, in February, brought together something like 80 blacks, known for their concerns about Aboriginal rights and their activities in various Aboriginal movements throughout Australia. Some were very conservative, some were very militant, and there were all shades of you in between. They met together to discuss what was happening and to plan strategies in preparation for a representative consultative body. If there was a slight preponderance of people from the southern states and urban areas at that conference, then the Aboriginal-organised Land Rights Conference in Darwin in June [1973] redressed the balance. At that conference there were far more people from the Northern Territory, Western Australia and Queensland, from rural areas in particular. To provide continuity between these two conferences there are a number of people who had attended both, so people were able to mix and talk about protest if they wished." (Duncan 1974)(pp. 60-61)*

*Cheryl Buchanan's [AUS Race relations field officer] "...name appeared in National U<sup>7</sup> and also in The Digger<sup>7</sup> as a contact for donations toward sending delegates to the Darwin Land Rights Conference. Later she travelled through Queensland to organise delegates from that state to go to the conference and she went to the conference herself." (Duncan 1974) (p. 62)*

*"After the conference, six Aborigines from the southern states, including Cheryl Buchanan, stayed behind to give support to protest in Darwin, and to assist with the writing up of motions and resolutions from the conference."... "Two days later Fred Fogarty flew to the Labour Party conference at surfers Paradise. A statement was prepared for him with the help of Lola Watson, Ross Watson and Cheryl Buchanan. He flew down to Sydney to raise the funds and get support from there."(Duncan 1974) (p. 63)*

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<sup>6</sup> National Aboriginal Consultative Committee (NACC) 1973 - 1977

<sup>7</sup> National U the newspaper published by the National Union of Australian University Students between 1966-1975. The Digger was published in Melbourne between 1972 -1975.

Less than six months later Fred Fogarty led a violent protest against surveyors working on the contested land adjacent to the Kulaluk Camp (Lindsay 1973). Bill Day described the scene:

*“Fred looked a formidable sight in the rear, wearing an Army tin helmet bearing the words, “look out!” painted in white across the crown. Dog chains were wrapped around his massive hands and a travel bag loaded with Molotov cocktails hung from his shoulder” (Day 1994 p.49).*

This event was widely reported and heightened the national reputation of the Kulaluk claimants. This militant action became emblematic in the land rights movement, in part to due the reputation gained during the Darwin Land Rights Conference but in particular to the advocacy of Cheryl Buchanan (Buchanan 1974).

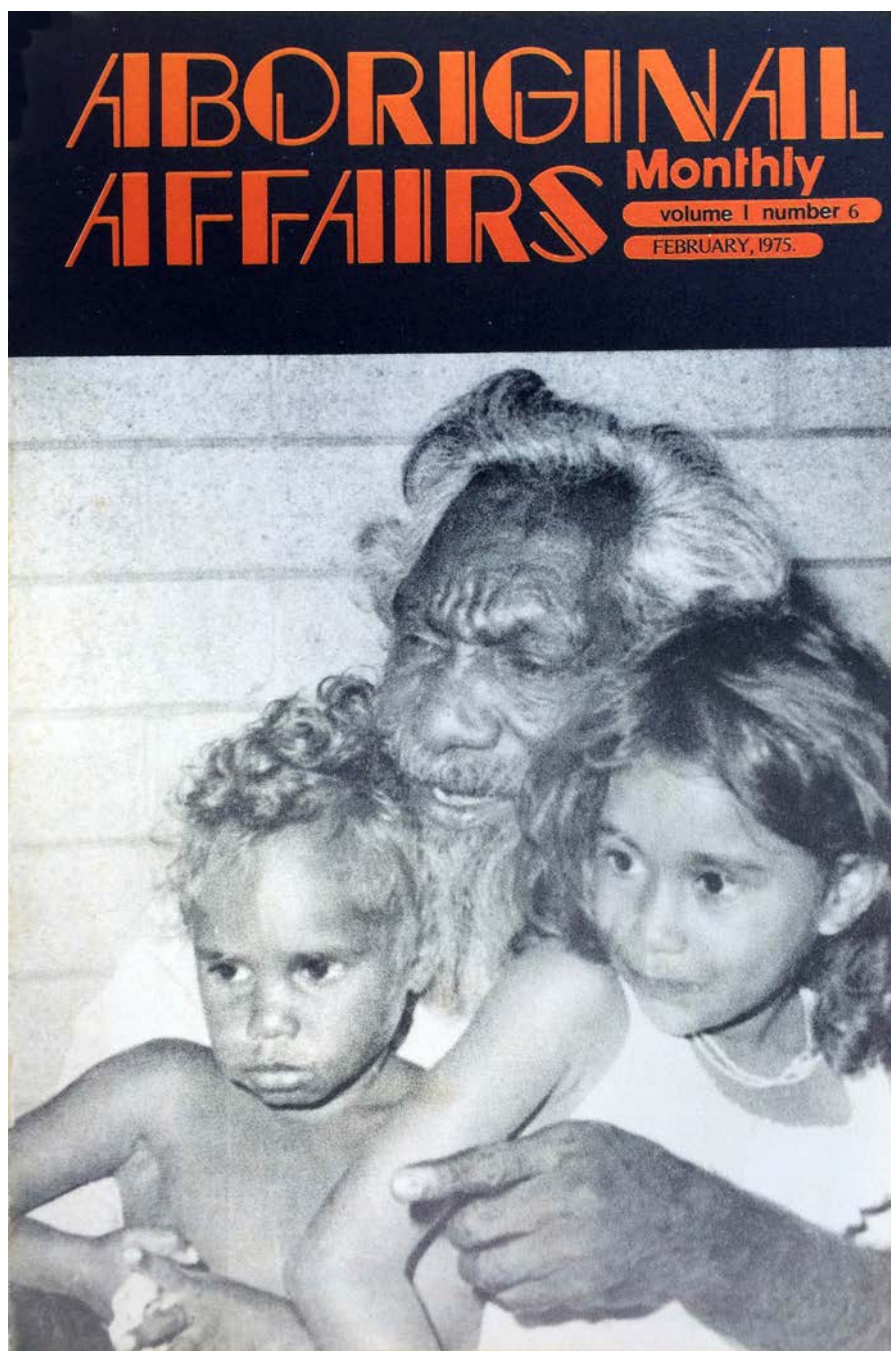


Figure 11 1975 February - Bobby Secretary and grandchildren evacuated to Melbourne after Cyclone Tracy. [Photo: Peter Hewitt, Melbourne Herald]

### Land Rights Era

The newly created Department of Aboriginal Affairs, responding to the reports of the interim Land Commissioner and with the prospect before them of a “needs provision” in the proposed Land Rights Bill, concentrated their efforts on planning acquisition of properties and the excision of living areas. Kulaluk did not fit neatly into any of these categories. The emerging policy on land rights offered another approach.

Less than a fortnight before the National Aboriginal Land Rights Conference in Darwin in June 1973, the Aboriginal Land Rights Commission chaired by Justice

Woodward visited Kulaluk along with the new Minister for Aboriginal Affairs, Mr Gordon Bryant . At Kulaluk Justice Woodward heard from the Larrakia including Tommy Lyons and Bobby Secretary as well as leaders from other fringe camps including a deputation from Knuckey's Lagoon comprising Major Bangun, Johnny Wave Hill and Nugget Majar (Commonwealth of Australia 1973).

The escalation of the Kulaluk claim into national headlines following the National Land Rights Conference and the subsequent firebombing of the surveyor's truck, led Gordon Bryant to contemplate whether to bypass the deliberations of the Aboriginal Land Rights Commission and appoint a separate committee of enquiry to make recommendations on how to handle the situation. He was dissuaded from this course by his departmental head in Darwin, Ray McHenry, who counseled:

*"While appreciating the claims of this group one cannot put aside the national implications of what the government will do here ... I wonder whether it would be preferable to wait the outcome of the Woodward commission deliberations rather than for any tribunal pre-conceding what the outcome of the commission's recommendations will be" quoted in: (Henderson 1984).*

The Federal Minister acquiesced and instead appointed (then) legal academic, Gareth Evans, to provide him with an independent report. Gareth Evans spent four days in Darwin and in his report stated that if further pressure is put on the group by neighbouring development:

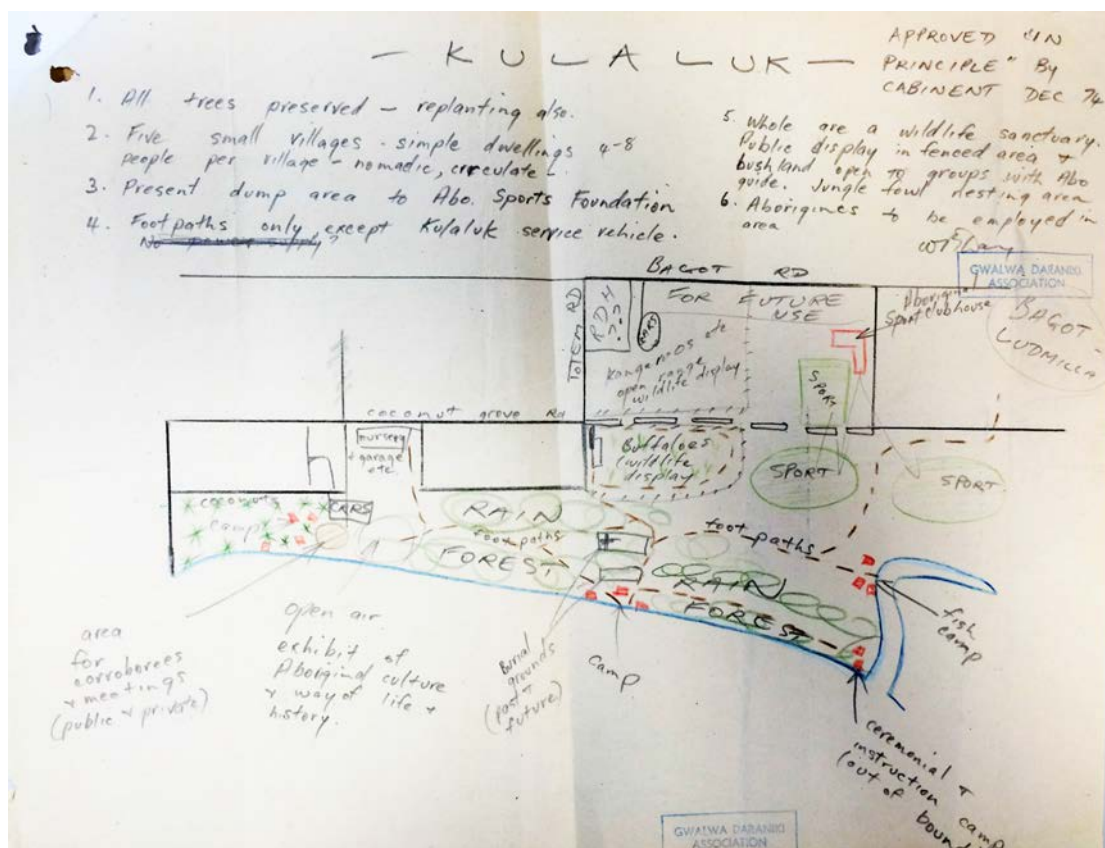
*"... It is apparent that they will be pressed by Bill Day and others to make a formal claim to title in, at the least, both the existing and the Sabrina Block bordering it to the south and that the government will not be able to sit for ever on this claim" ... "I have no doubt that if the Sabrina Holdings development is not stopped, there will be further major disruptions and embarrassments for government" quoted in: (Henderson 1984).*

This view of the situation influenced successive Ministers and plans were set entrain to compulsorily acquire the necessary private land to ensure the Kulalak camp was not built out.

Gareth Evans report was the first to recognise that the area between Bobby Secretary's Kulaluk camp and the Ludmilla Creek system was also significant to the Larrakia and recommended that a possible solution would be to offer a lease over the entire area. Evans also advised that dealing with the Larrakia in a "one-off" settlement was preferable to trying to apply some universal principles as a way of resolving the claim which could have "politically embarrassing precedents for the resolution of Land Claims by fringe-dwellers in southern states". This advice was



accepted and the government began negotiations with the adjoining landowners for the acquisition of the land necessary to make the Kulaluk claimants and offer that they could not refuse (Henderson 1984).



**Figure 12 Kulaluk development plan circa. 1974 sent to Darwin Reconstruction Committee in April 1975 [CRS E171 1977/147 Development Kulaluk 1975 - 1977]**

The Federal election in 1974 resulted in the acquisition being put on hold while a source of funds was approved. The energy of the publicity campaign led by Bill Day had dissipated and public opinion and political sympathy turned against the Kulaluk claimants following issue number 27 of Bunji that included instructions of how to make a petrol bomb to use if the Whitlam Government lost the forthcoming federal election.

When Justice Woodward released his second report in April 1974 (Northern Territory News 1974) he recommended that the government:

*"Is proceed to the acquisition of this general area for aboriginal living purposes, paying the necessary compensation to those whose interest in the land would be extinguished by such acquisition"* (Woodward J 1974).

This accorded with the advice the government had already received from Gareth Evans. Justice Woodward also recommended that the title of the land should be held



by trustees nominated by the Northern Land Council (Woodward J 1974). These recommendations formed the basis of subsequent decisions, and the delay in actually issuing a title to the Larrakia was largely a result of bureaucratic duck-shoving caused by the failure of the government to fully fund the acquisitions. No action was taken pending the anticipated report by the Interim Land Commissioner, Justice Ward that was eventually filed on 23 June 1975. In the aftermath of Cyclone Tracy, the Commissioner had held hearings into the Larrakia claims throughout the Dry season of 1975 (Ward J 1975). These claims were never finalised because of changes to the Land Rights legislation. Justice Ward also recommended that a special-purpose lease be granted to the Larrakia “for the purpose of establishing, developing and maintaining a communal settlement for the use of the Larrakia and other associated Aboriginal peoples”(Ward J 1975).

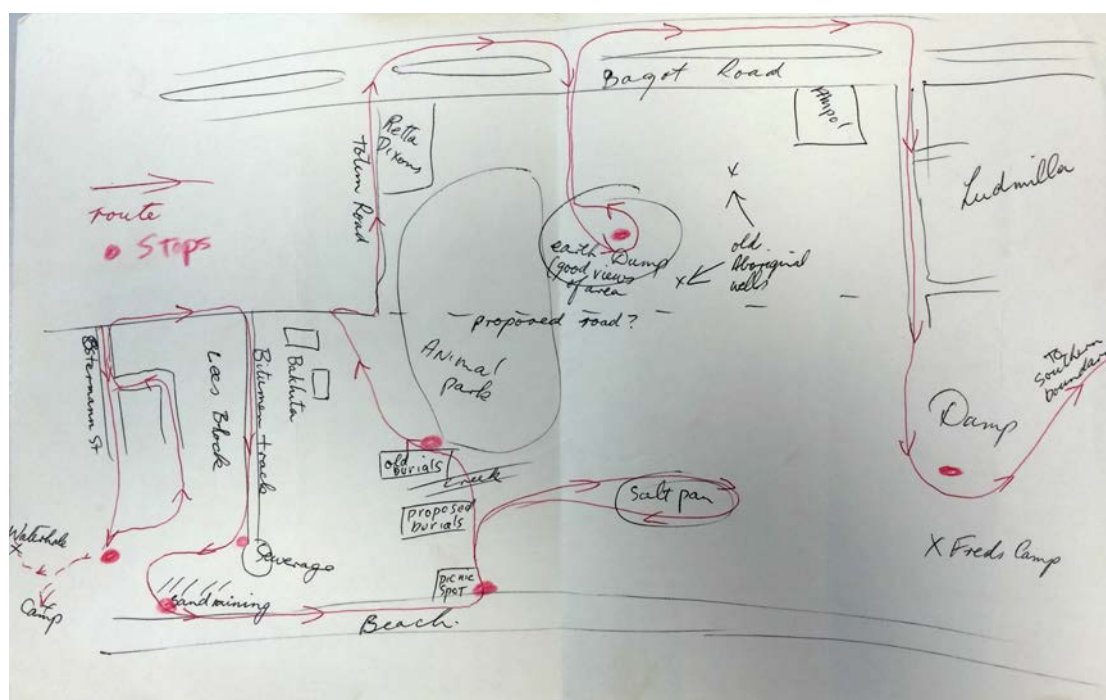


Figure 13 Mud map prepared for Justice Ward's visit 20 May 1975 [CRS E1508 4/880 Part 2 Land area Kulaluk 1977 - 1977].

Krimhilde Henderson summarised the situation:

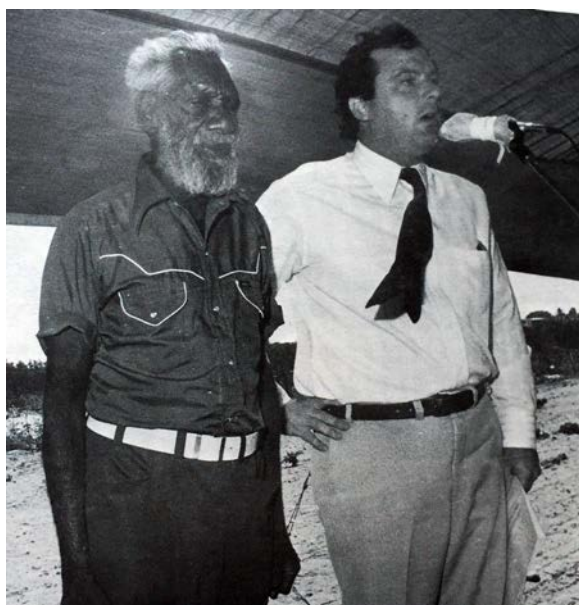
*“At the end of the 1975, the prospects for the Kulaluk land claim were not as bright as they had seemed a year before with the in-principle Cabinet decision and then later with the Ward report. The ministers who had taken a personal interest were gone. The legislation, which would have given a stronger legal basis the claim, had lapsed when Parliament was prorogued with the fall of the Whitlam government on 11 November. And there was a new government determined to cut “frivolous expenditure” and which was less committed to Aboriginal land rights” (Henderson 1984).*

For the next two years the main pressure on government to resolve the issue came from the landowners lobbying to have their land compulsorily acquired at, what government officials believed to be inflated prices. The matter was again delayed by the 1977 federal election and it was not until March 1978 that the Minister for the Northern Territory approved the issuing of the lease with the condition that it would contain clauses allowing the proposed arterial road to the northern suburbs to be constructive without cost to the Commonwealth.

Matters were still not resolved at the time of self-government and the final decision to settle the matter now rested with the Chief Minister of the Northern Territory, Paul Everingham.

#### Everingham Grants the Lease 1979

When, on 1 July 1978, Paul Everingham became the Chief Minister of the self-governing Northern Territory, the Kulaluk lease application had still not been resolved. Funding for the acquisition that had been promised by the Commonwealth did not eventuate and the landowners involved increased the pressure on the new government to resolve the issue. In September the Federal Minister for Aboriginal affairs declined any further Commonwealth assistance in the matter on the grounds that it was now the responsibility of the Northern Territory government.



**Figure 14 1979 Bobby Secretary and Paul Everingham at the handover ceremony [photo NT News]**

Paul Everingham visited Kulaluk in December 1978 and outlined his offer. He would offer a lease to the Larrakia as long as they accepted an excision to accommodate a

proposed arterial road linking the northern suburbs of Darwin. Having received tacit support from Bobby Secretary, he put the offer in writing:

*“As soon as the survey of the road is completed and excised from the lease, title to all of the remaining land will be issued within three weeks of that date and I shall take great delight in personally handing the title over to you”*  
quoted in (Henderson 1984).

Over the next six months negotiations took place to finalise this offer. Importantly the Gwalwa Daraniki Association was determined by government officials, in consultation with the Northern Land Council, to be the most appropriate legal entity to hold the lease.

The formal handover of title to the Kulaluk special-purpose lease took place on 25 August 1979 before a crowd of over 300 (Northern Territory News 1979). The title was handed over by the Chief Minister Paul Everingham and so he became the first head of government to grant title to land within a capital city to the original Aboriginal owners of the area and the first head of government in the Northern Territory to acknowledge the enduring relationship of the Larrakia to the land on which the City of Darwin is built:

*“The land on which Darwin is situated belonged to the Larrakia before the white man first came to the Northern Territory, and now Mr Bobby Secretary is to receive the title to part of this land”* (Land Rights News 1979).

Kulaluk was by then, eclipsed by another Larrakia land claim. When the Land Rights Act came into operation on 26 January 1977 an area of 4,091 hectares of traditional Larrakia land on the Cox Peninsula, comprising the former Delissaville Aboriginal Reserve, was scheduled as Aboriginal land. The adjacent unalienated Crown Land was also now potentially claimable.

On 22 December 1978, the new Northern Territory Government made regulations under the Town Planning Act (NT). These regulations covered an area of 4,350 square kilometres around Darwin and included the area of the Cox Peninsula. The intention of the 1978 regulations, was to ensure the Cox Peninsula was not available for claim, because it fell within the definition of ‘town’ in the Land Rights Act and therefore outside the definition of ‘unalienated Crown land’. Notwithstanding these developments the Larrakia lodged their claim over this land on 20 March 1979. The claim became known as the Kenbi Land Claim.

It took over 30 years and two appeals to the High Court before the Kenbi land claim was resolved in favour of the Larrakia. In that time the Mabo decision on Native Title

and the Blue Mud Bay decision on the intertidal zone opened further possibilities for the Larrakia. On 29 June 2011, the Commonwealth and Northern Territory Governments and the Northern Land Council signed the historic heads of agreement to settle the Kenbi land claim by the granting a portion of the claimed land as freehold to a body nominated by the Northern Land Council for development, with the balance of the land in the north west area of the claim, to be inalienable freehold, transferred to an Aboriginal land trust established under Northern Territory legislation.



Figure 15 1983 Fish Camp, Kulaluk [photo Library AAPA Collection]

### Concluding Observations

Darwin was settled and developed more recently than other Australian capitals and from the beginning there were explicit objectives to recognise the rights of the Larrakia. Official recognition of the Larrakia as the original owners and later, distinctive citizens of the emerging city of Darwin has been an underlying theme in our history. Well into the 20<sup>th</sup> century the Larrakia lived freely at their traditional camp at Lameroo Beach in the heart of the growing township. This situation ended in 1912 when all Aboriginal people in Darwin were forced to live in the Kahlin Compound. Over the next 60 years a pattern of dispossession led to those Larrakia who did not intermarry within the wider community being forced out to the margins of the settlement and subjected to strict government controls. In the 1970s new laws recognised traditional rights in land and later the 1993 Mabo decision on Native Title created the opportunity to redress this situation. By the end of the 20<sup>th</sup> century the

rights of the Larrakia to land around Darwin were officially recognised. Today the Larrakia are again visibly engaged in the cultural, economic and political life of the City and as the primary land owners of land on the Cox Peninsula, will have a major influence over the growth of the City in the 21<sup>st</sup> Century.

The early history is relevant for two reasons. Firstly, the Kulaluk land claim process intersected patterns of interaction between Aborigines and Europeans that had their origins in the early years of settlement. These processes can only be understood through an understanding of their historical origins. Secondly, events in the early years of colonisation influenced the way in which Aborigines in this area have been subsequently constructed and re-constructed by the settler culture. The Kulaluk land claim and the application before the Heritage Council is recognisably a part of this continuum.

There are a number of other repeating patterns of history that become apparent when examining the historical significance of Kulaluk. The most enduring of these is the pattern of good intentions and broken promises and reneged on agreements that mark the official recognition of the Larrakia as prior owners of the land on which the city of Darwin now stands. Some of these repeating patterns are uncannily similar. In the first years of the 20th century the Mayor and local government officials attempted to have the Larrakia evicted from their long-standing camp at Lameroo Beach and have them relocated outside the town boundaries. At this time the Administrator of the Northern Territory stepped in and, on the basis that the government owed the Larrakia recognition as the first owners of the land, insisted that they be allowed to stay. Almost exactly the same series of events reoccurred at the end of the 1950s when the newly constituted Town in Council publicly demanded that the government resume the land set aside for the community at Bagot and again on this occasion the Minister for the Interior Paul Hasluck and his head of Department, Harry Giese, intervened to prevent this happening.

From the time it first came to official attention, Kulaluk has been a problem for the Northern Territory administration. It is ironic that back in 1971 when Bobby Secretary first publicised his claim in the NT News the only administrative mechanism for dealing with the claim was an assessment under the heritage laws applying at that time. So the first administrative act taken by the Northern Territory government in relation to Kulaluk was to find that the area did not meet the criteria set out in the



### Native & Historic Objects & Areas Heritage Preservation (NT) Ordinance

(Commonwealth of Australia 1955-61).

It was only later, after the Federal Government had introduced a new form of lease specifically designed so that Aboriginal people could get title to land under the Australian legal system that, the predecessor<sup>8</sup> of the present Department under the stewardship of Vern O'Brien assessed Kulaluk under new criteria. But even when the lease was granted in 1979, conflicts over protecting heritage sites within the lease quickly emerged.

Perhaps the other recurring cycle is the difficulty of responding to what the Larrakia really are asking. Talking to the Larrakia (whose statements comprise Appendix 6) and who are represented by Larrakia Nation, they feel that the problems have occurred because decisions about the nature of land tenure the terms of the lease have made it easy to create legal interests for outsiders to use the land commercially but made it difficult to protect things the Larrakia believe really matter.



Figure 16 1983 Fish Trap, Kulaluk [photo Library AAPA Collection]

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<sup>8</sup> Lands Branch, Northern Territory Administration

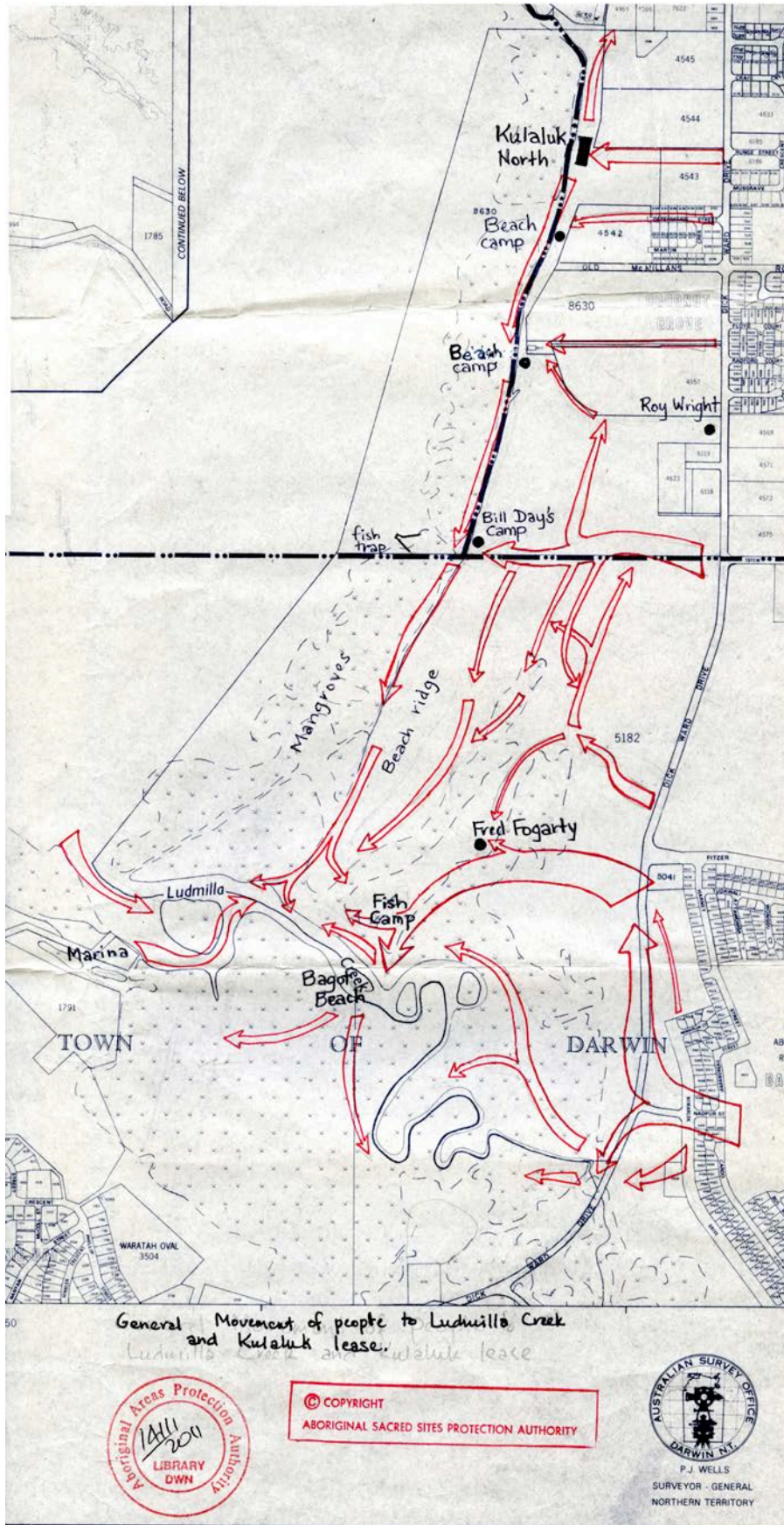


Figure 17 1983 General movements of people using Kulaluk Lease [AAPA Library #14111/2011]



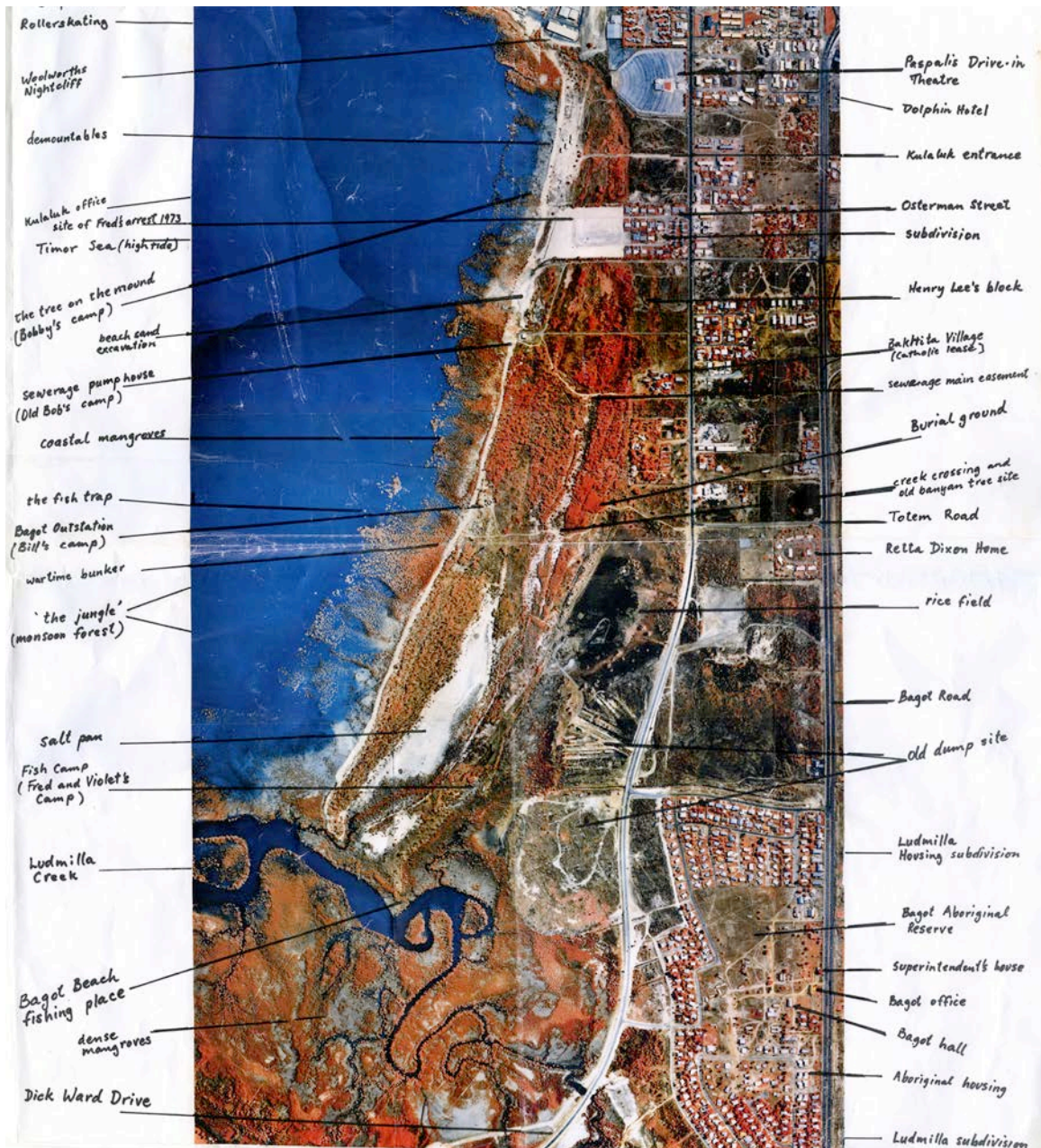


Figure 18 Aerial Photograph annotated with significant places [AAPA Library #14055/2010 Recommendations for a Kulaluk Wilderness, Heritage and Education Park - Day, B. Vol.2]

## The Assessment Report

When a heritage nomination is accepted by the Heritage Council under the terms of the Heritage Act, the Act then requires the Heritage Council to “assess the heritage significance” of the place within six months by determining if and to what extent the place meets the heritage assessment criteria (see s23 and s24 of the Act).

The Heritage Branch, assists this deliberation by preparing an “assessment report” with the purpose of providing the Council with an independent assessment to contextualise information supplied by the nominator.

The consultancy brief includes a requirement to review the assessment report prepared by the Heritage Branch to determine: whether or not the original assessment report was reasonably thorough, balanced and unbiased and whether or not the Heritage Council can be said to have adequately considered the historical importance of the site prior to making its decision.

The context for making this assessment is also established in the brief. The Heritage Act requires that from the time a nomination is accepted, the assessment must be completed within six months. This means that assessment reports must be completed within a limited time frame. It is normal practice for the Heritage Branch to prepare a report on the significance of a nomination to assist the Council in carrying out their functions. In the absence of specific guidance by the Council, the assessment follows a structure in which information is assembled against each of the eight criteria set out in the Heritage Act and on the basis of this information reaches a conclusion as to whether or not the proposed nomination meets each or any of the criteria. The brief notes that: “In the same year (2013-14) that the nomination was received for the Kulaluk Lease Area, seven other nominations were received by the Heritage Council” and further: “Nonetheless there is an expectation that assessment reports be thorough and balanced in their approach. There is no problem with using secondary sources, but it is expected that primary research be carried out where necessary”.

The central component of the Heritage Branch Kulaluk assessment report is the history chapter. This chapter is 28 pages long and sets out to provide a brief history of the Larrakia in Darwin as well as focusing on the history of the Kulaluk lease in detail. The history chapter draws heavily on the work of Samantha Wells (Wells

1995) and Krimhilde Henderson (Henderson 1984) and Day (Day 1994) and all these sources are acknowledged throughout the chapter (Heritage Branch 2014).

The writing style throughout the chapter is clear, thorough and free from obvious bias. The broad themes of the relationship between the Larrakia and the colonists in the early years of settlement are covered, as are shifts in official policy and the relationship of the present claim to the history of Bagot Compound and the changes in government policy that accompanied the repeal of the Welfare Ordinance in the early 1960s.

A significant part of the history is taken up with recounting the administrative delays caused by changes in the approach by successive governments and by the timing of external events including Cyclone Tracy and the commencement of Self-Government. While some of this history is quite interesting, this ground has already been covered by Henderson and Wells and Day and it arguably did not assist the Heritage Council in focusing on the real issues of significance pertaining to this application.

The significance report summarises information about the burial grounds within the Kulaluk area in a separate section titled “ceremonial grounds and burial grounds within the Kulaluk lease area”. A significant fact that is relevant to the strength of feeling by the Larrakia for the burial grounds in the vicinity of Old Totem Road is that these burial grounds have been officially acknowledged on plans prepared by Lands Branch of the NT Administration during Post-War reconstruction. These maps are readily available on the Department’s website [e.g. map number 983 agricultural blocks Nightcliff 1949 and map number 1052 Town of Nightcliff and environs 1950]. The fact that the Department has acknowledged these burial grounds in official records three generations ago is in itself significant (I can recall no other similarly marked “native burial ground” in the Darwin municipal area) and is the sort of information that could have been useful for the Council.

The history chapter of the assessment does not really explain why the nomination meets the various criteria. The summary of the various plans for the development of the area are also interesting but the way they are presented is not linked to the central question that the Council has to answer: what is the significance of the area to the community that nominated it? This has possibly contributed to the decision taken by the Heritage Council that the nomination does not strongly meet the relevant criteria (and discussed elsewhere in this report).

As discussed in the section of this report covering: “The Process of Assessing Significance adopted by the Heritage Council under the Heritage Act”, in order to adequately assess a nomination that is likely to meet the heritage assessment criteria under section 11(g) it is essential to determine how the relevant “community or cultural group” see the place to be significant. The assessment report does not adequately do this.

The historical methods appropriate for an assessment such as this could include a social history component, that is the experiences of ordinary people in the past or cultural history where the approaches of anthropology and history are used to examine cultural constructions of historical experience and how these relate to the way groups see the significance of a place as embodying the continuum of events leading from the past to the present. This is quite an ask for a report done on a very limited time frame.

## The Heritage Council’s Decision

### [The Process of Assessing Significance adopted by the Heritage Council under the Heritage Act](#)

The Heritage Act requires the Heritage Council to determine the “heritage significance” of a place by evaluating it’s aesthetic, historical, scientific and social significance using eight interrelated criteria.

When a heritage nomination is accepted by the Heritage Council under the terms of the Heritage Act, the Act then requires the Heritage Council to “assess the heritage significance” of the place within six months by determining if and to what extent the place meets the heritage assessment criteria (see s23 and s24 of the Act).

The Heritage Branch, assists this deliberation by preparing an ‘assessment report’ with the purpose of providing the Council with an independent assessment to contextualise information supplied by the nominator.

### [Heritage significance](#)

The Heritage Council must determine the ‘heritage significance’, of a nominated place. The Council must work within the eight “heritage assessment criteria” in the Heritage Act which in turn are based on national criteria adopted in 1998 by the National Heritage Convention (HERCON).

In the Council's submission to Mr Greg Cavenagh it was acknowledged that they found this value "difficult to measure". This is because the Council believes that, arguably, almost any place in the Northern Territory could meet at least some of the Act's broadly stated criteria.

To ensure that their assessment of significance is rigorous, the Heritage Council has a policy on how the criteria in the Act will be applied. This is to create a higher threshold than is possible by literally following the Act, allowing the Council greater discretion to exercise their judgment before coming to a decision. In the case of the Kulaluk application, the application of this policy enabled the council to decide that: while Kulaluk was important to the course, or pattern of the Territory's cultural history, it was not strongly important and that it did not have a strong association with a significant event or a phase in the Territory's history.

When the Heritage Council determines a place is of heritage significance, then the Heritage Council must seek public submissions as to whether, the place in question should be permanently declared as a heritage place.

If the Heritage Council decides that a place "is of heritage significance" under the terms of s25(1) of the Act, several things follow. The Heritage Council is required (under s26 of the Act) to seek public submissions. Also, the Minister must (under s37 of the Act) provisionally declare the place as a heritage place.

The purpose of provisional protection is to protect the place until a final decision is made about whether it should be permanently declared as a heritage place. This decision-making process takes some months, and during this period the place in question has the same protection as a place permanently declared as a heritage place. No work can be carried out without approval.

The Council believes that this consequential "interim protection" creates an imperative for the Heritage Council "to have a high degree of confidence that the place in question meets the threshold of significance required to warrant proceeding further with the process". The effect of this approach is that in circumstances such as the Kulaluk nomination the Council's decision prevents the nomination proceeding to the public consultation phase where some of the more complex issues surrounding the significance of a place to a "particular community or cultural group" (and what this may mean for the preservation of that significance) can be resolved.



### Archaeological Sites and Human Remains

The emphasis on the burial site on the Kulaluk lease has disproportionately influenced the way the Heritage Council has focused on the assessment of significance of the nomination of Kulaluk as a whole. Simply stated, the Heritage Act gives presumptive protection for all Aboriginal archaeological places (by making them 'heritage places'). These are defined as places that "relate to the past occupation of the Territory by Aboriginal or Macassan people". Usually these are the stratified deposits left by past occupation containing charcoal, stone tools, shells and broken bones and sometimes, human remains. The presumptive protection under the Act means that the Heritage Council is not required to make a decision as to whether or not the site are protected.

In addition to archaeological sites the Heritage Act also presumptively protect archaeological objects: "relics that relates to the past occupation of the Territory by Aboriginal or Macassan people". The definition of a relic includes human remains and burials artifacts. The effect of this is that any Aboriginal human remain may not be damaged, removed or interfered with. There have been many cases in the Northern Territory where Aboriginal burial sites exposed during works have, once they have been identified, necessitated the works to cease. In certain other cases, with the collaboration and consent of Aboriginal custodians the bones have been removed and reburied at a different location.

Although the Tribunal made findings relating to the likelihood of burials based on consideration of the archaeological report, for the purposes of the assessment of significance for the Kulaluk lease, the archaeological assessment (of the likelihood of burials in one area of the lease) was not central to the Council's overall decision. The main purpose of this archaeological investigation was to give some comfort to the developers of that region that there was a low risk of inadvertently exhuming human remains and triggering the presumptive protection provisions in the Act.

### Another Approach to Assessing Significance of Heritage Places

#### The Purpose of the Heritage Council

The reason that the governments have enacted laws to protect heritage is because there is an understanding across the community that the cohesiveness of a community, that is, the ties that bind the community to place and a shared history all rely on shared memories. Shared memories in turn are triggered and sustained by continuities in the natural and built environment.

Citizens expect their Governments to do things that foster community cohesiveness including, where practicable, maintaining and protecting those aspects of the natural and built environment that communities regard as important to their shared memories and hence sense of history and place.

*“Places of cultural significance enrich people's lives, often providing a deep and inspirational sense of connection to community and landscape, to the past and to lived experiences. They are historical records, that are important expressions of Australian identity and experience.”(International Council on Monuments and Sites 2013)*

A place listed on the Territory Heritage Register, we hope, will retain its significance for future generations that, for their part, should respond to its message. In the case of Kulaluk: “what our ancestors achieved and suffered should not be surrendered to oblivion”. That ability of future generations to be addressed by and respond to a place is independent of whether the place contains a building or monument or whether we have a reason for commemorating it in connection with some historic event.

*“In the latter case we say that the memory sanctifies a place, and here the Swiss will think of Rütli, the clearing in the woods where their Confederation was founded, the English of the little island of Runnymede, where the Magna Carta was signed, and the Americans of Gettysburg.” (Gombrich 1991)pp. 75-76.*

The Northern Territory Heritage Council has listed places on the Heritage Register that are significant because they are “sanctified by the memory” of an historic event. The most analogous place to the Kulaluk Lease on the NT Heritage Register is the “Wave Hill Walk-off Site” (Heritage Conservation Services 2006).

### **The Centrality of Community in the Assessment of Significance**

The idea that the wider community, as a third party, has a legitimate interest in places and buildings that may be owned by individuals is well understood and all modern heritage legislation including the Northern Territory Heritage Act has established processes to mediate between the wider community interest and the interest of individual landowners.

*“The cultural significance of a place and other issues affecting its future are best understood by a sequence of collecting and analysing information before making decisions. Understanding cultural significance comes first, then development of policy and finally management of the place in accordance with the policy. This is the Burra Charter process.” (International Council on Monuments and Sites 2013)*



It is a comparatively routine matter for the Heritage Council and the Heritage Division to assess and deal with applications for heritage listing that arise from an interest other than the landowner and that in many cases are initially at least opposed by the landowner.

The work of the Heritage Council is to assess the significance of places, such as Kulaluk, that have been nominated to be included on the Heritage Register in order that their significance can be conserved. The Heritage Act defines the meaning of Heritage Significance: “the heritage significance of a place or object includes its aesthetic, historical, scientific and social significance” (section 10).

The question: significant to whom? is answered implicitly in the eight criteria set out in section 11 of the Heritage Act as being the wider community. Criteria (g) is more specific. This criteria requires the Heritage Council to assess:

*“whether [a place] has a strong or special association with a particular community or cultural group, for social, cultural, or spiritual reasons including the significance of a place to Aboriginal people as part of their continuing and developing cultural traditions.(section 11(g))”.*

This task necessitates engaging with the “particular community or cultural group” to gain an understanding of what see as the significant of the place. This approach is considered best practice when assessing significance for public purposes.

*“Significance” refers to the values and meanings that [places] have for people and communities ... creating opportunities for communities to access and enjoy, and to understand the history, cultures and environments of Australia”* (Russell and Winkworth 2009). And further:

*[The assessing] institution and its staff are no longer the sole authority on meaning. Best practice recognises that many people may have an interest in heritage places and contribute to an understanding of their importance. Knowledge and relationships are enhanced by engagement with interested people and communities. Significance assessment recognises the importance of people, places and context in understanding places. It is a process that investigates and analyses the meanings and values of places, facilitating the sharing of ideas and information.”* (Russell and Winkworth 2009)

This is particularly relevant to the assessment of the significance of the Kulaluk lease that is significant to both the Darwin Larrakia and wider Aboriginal community and also the Darwin and wider Australian community.

The application by Larrakia Nation to have the Kulaluk Lease area listed on the Heritage Register (Appendix 6) draws the Council's attention to “strong cultural,

historical and natural heritage values for the Larrakia community” [including] “being the living area and burial place for a number of the most prominent historical Larrakia elders”. And for both the Larrakia and the wider community the major role of Kulaluk has played in the development of Aboriginal land rights in the Northern Territory. It is important that the Council recognise that the “natural values” referred to are important because they are held to be particularly valuable to the Larrakia – they are not asserting that they are unique if assessed in relation to similar natural landscapes and ecosystems across the Territory.

As outlined in the History section of this report, one of the main reasons that present generations of Larrakia hold Kulaluk to be so significant is that it is the landscape that embodies the heroic actions of the leaders in the late 60s and early 70s who, challenged the government and the citizens of Darwin to recognise the Larrakia claim to prior ownership of the city. The celebrated land rights protests, including the sit-downs on Bagot Road and the hoisting of the flag over the Supreme Court are all the more significant because Bobby Secretary, the Larrakia leader in Darwin at that time, was able to command the support of the leaders of the other Darwin fringe camps in particular Knuckeyes Lagoon and Railway Dam to his cause.

The Larrakia who nominated Kulaluk do not believe that they have been given a chance to explain the significance that Kulaluk has for their community:

*“Heritage doesn’t consult with us! This stuff is more important than a 100-year-old church. Does Heritage even acknowledge that Eric Fejo exists? Do they acknowledge that I’m human? What are they going to do when they find a skeletal remains?” (Eric Fejo May 2015 Appendix 6).*

### Resolving Constraints Imposed by Statutory Time Frames

The Heritage Council feels constrained by the requirement to complete their assessment within six months of a nomination being received and accepted. The Kulaluk nomination is unusual. Although the Council has, in the past, considered listed the Wave Hill Walk-Off Site on the Heritage Register, that nomination was made by the National Trust for its iconic significance in the recognition by the Australian government of Gurindji Land Rights. The place was nominated for its significant for the Australian community as a whole. The fact that that site took several years between the time the nomination was accepted and when it was placed on the Heritage Register was due to the fact that the Aboriginal owners of the land on which the Wave Hill Walk-Off Site is situated were at first bemused by the Council’s interest having no understanding of the purpose of the Heritage Act or the value to

them of having the site listed on the Northern Territory Heritage register (Heritage Branch 2014).

In cases, such as Kulaluk, where the nomination originates from the community for whom the place has special significance, the Council having determined that the assessment process will be complex (and this will be the case in nearly all nominations that are assessed under the criteria in section 11(g) of the Act) could defer accepting the nomination and instruct the Heritage Branch to undertake preliminary consultations with the nominator and/or the particular community or cultural group for whom the place has a special association. The purpose of this preliminary work would be to establish what information is likely to be needed and what process should be followed in assembling the necessary information to make a sound assessment of heritage significance.

In such cases the Council could reassure the nominator that this was not a decision tantamount to rejecting the nomination but rather a signal that the Heritage Council, while disposed to accept the nomination, understands that the significance of the place is multilayered and that a full understanding of the significance to the relevant community requires direct engagement with the community. Approached in this way the nominator should understand that the place they are asking to be listed is unlikely to be adequately dealt with within the six-month statutory timeframe (particularly as there are always other nominations that must be dealt with at the same time).

## Appendix 1 Consultancy Brief – Review of Assessment

### KULALUK LEASE AREA

#### CONSULTANCY BRIEF

#### REVIEW OF ASSESSMENT

### 1 BACKGROUND

The Northern Territory *Heritage Act* ('the Act') allows anyone to nominate a place to be included on the NT Heritage Register.

The Act then requires the Heritage Council to assess the heritage significance of the place by applying the heritage assessment criteria which are set out in section 11 of the Act.

In reality, an 'assessment report' is prepared by the Heritage Branch within the Department of Lands Planning and the Environment.

In preparing the assessment report, the Heritage Branch gives due consideration to any information supplied by the nominator, but also conducts its own research.

The 'Kulaluk Lease Area' in Darwin was nominated by Ms Donna Jackson on 5 June 2014 – refer Attachment A. The Council accepted the nomination on 13 June 2014.

The Heritage Branch prepared an assessment report which was considered at a meeting of the Heritage Council on 5 September 2014 – refer Attachment B.

The Heritage Council was required, under section 25(1) of the Act, to make a decision as to whether or not the Kulaluk Lease Area was of heritage significance. In effect, this would mean that Council would then be required to seek comment on whether the site should be given permanent protection under the terms of the *Heritage Act*.

The Council:

- . (a) agreed to defer its decision under section 25(1) of the *Heritage Act*;
- . (b) asked the Heritage Branch to seek legal advice as to whether Council could decide to seek comment on giving permanent protection to only part of the site, including if there could be negotiations with the nominator; and
- . (c) recommended that archaeological research be carried out in relation to the purported burial ground near the intersection of Dick Ward Drive and Totem Road, with a further report to be provided to Council; and that in the meantime the Department and the Minister use whatever means within their power to protect the site until Council has had the opportunity to consider the results of the archaeological research, and the legal advice referred to in (b).

The Heritage Branch sought legal advice from the Solicitor for the Northern Territory. In summary, the advice was that the Heritage Council was entitled to seek comment on only part of the site. Furthermore, Council was entitled to discuss the matter with the nominator, and ask her whether she would be prepared to restrict her nomination to only part of the site.

The Heritage Branch discussed the matter with the nominator, who did not wish to modify the nomination.

Archaeological research was subsequently carried out on the purported burial ground. The Archaeological report concluded that there was no evidence of skeletal remains, nor any evidence that any burials had ever occurred on the site – refer Attachment C.

On 10 October 2014, after considering all of the above, Council resolved *not* to proceed further with the process of heritage listing.

Ms Jackson was advised of Council's decision and of her right to have the decision reviewed.

On 27 November 2014, the Heritage Branch received advice that Ms Jackson had applied to the Lands Planning and Mining Tribunal for a review of the decision.

The Tribunal made a decision about this matter on 30 December 2014 – refer Attachment D.

In summary, the Tribunal has set aside the decision of the Heritage Council and referred the matter back to the Council for reconsideration. Furthermore it has directed that before reconsidering the matter the Council “commission and obtain an objective and thorough historical analysis of all relevant material” that was used in making its decision.

## **2 CONSULTANCY**

The Heritage Council has decided to appoint a person independent of the Council, with appropriate expertise, to conduct a review of the assessment process carried out in relation to the Kulaluk Lease Area.

In the same year (2013-14) that the nomination was received for the Kulaluk Lease Area, seven other nominations were received by the Heritage Council. The *Heritage Act* requires that in each case the assessment be complete within six months. Therefore assessment reports are completed within a limited time frame.

Nonetheless there is an expectation that assessment reports be thorough and balanced in their approach. There is no problem with using secondary sources, but it is expected that primary research be carried out where necessary.

The purpose of this consultancy is to review the assessment process undertaken by the Heritage Branch, and:

- determine whether the assessment report was reasonably thorough in its approach, including whether all obvious sources of information were used in its preparation; and
- determine whether the assessment report was balanced in its approach and avoided undue bias, either in the selection of sources, or the interpretation of the material available, or in the presentation of material; and
- determine whether, after having sought and considered additional information Council can be said to have adequately considered the historical importance of the site prior to making its decision; and
- provide Council with any key material uncovered in the course of the consultancy that was not considered by the Heritage Council and should have been.

## Appendix 2 Larrakia Nation v Heritage Council NT – Decision of Mr Greg Cavanagh LMPT 174

M11 - 12.8 - Attachment B

CITATION: LPMT 174-2014-H (21454518)

PARTIES: LARRAKIA NATION

v

HERITAGE COUNCIL NT

TITLE OF COURT: LANDS PLANNING AND MINING  
TRIBUNAL

JURISDICTION: HERITAGE ACT

FILE NO(s): LPMT 174-2014-H (21454518)

DELIVERED ON: 30 December 2014

DELIVERED AT: DARWIN

DECISION OF: Mr Greg Cavanagh, CHAIRPERSON

Judgment category classification: B  
Judgment ID number: LPMT 174  
Number of paragraphs: 17

M11 - 12.8 - Attachment B

IN THE LANDS, PLANNING AND MINING TRIBUNAL  
AT DARWIN IN THE NORTHERN  
TERRITORY OF AUSTRALIA

No. LPMT 174-2014-H

BETWEEN:

**LARRAKIA NATION**

Appellant

AND

**HERITAGE COUNCIL NT**

Respondent

DECISION

(Delivered on 30 December 2014)

**THE APPEAL TO THE TRIBUNAL**

1. Pursuant to its rights contained in Part 4.1 of the *Heritage Act* (NT) (“the Act”), the appellant has appealed a decision of the Heritage Council. This is the first ever such appeal under the Act, and will be the last to this Tribunal as the Northern Territory Civil and Administrative Tribunal (NTCAT) takes over jurisdiction from 1 January 2015. The decision is in relation to the Kulaluk Lease Area within urban Darwin. The Act allows affected persons to apply for a review of the merits of a reviewable decision of the Council:

90. Reviewable decisions and affected persons

- (1) A reviewable decision is a decision mentioned in Schedule 1.
- (2) An affected person, for a reviewable decision, is a person mentioned in Schedule 1 for the decision.



## 91. Review notice

- (1) A review notice, for a reviewable decision, is a written notice stating the following:
  - (a) the decision and the reasons for it;
  - (b) that an affected person may apply to the Tribunal for a review of the merits of the decision;
  - (c) the period allowed for applying for the review;
  - (d) how to apply for the review.
- (2) The validity of a reviewable decision is not affected by a failure to give a review notice to an affected person for the decision.

## 92. Application for review

- (1) An affected person for a reviewable decision may apply to the Tribunal for a review of the merits of the decision.
- (2) The application must be made within 28 days after:
  - (a) the affected person receives a review notice for the decision; or
  - (b) if the affected person does not receive a review notice for the decision – the day the person becomes aware of the decision.

2. The review and proceedings relating thereto are governed by Division 1A of the *Lands, Mining and Planning Tribunal ("LMPT Act")*. The following sections of this Act are relevant:

## 21E Review procedure

- (1) In hearing an application for the review of a reviewable decision, the Tribunal must review afresh the merits of the decision.
- (2) In doing so, the Tribunal is not bound by anything done by the decision maker in making the reviewable decision.
- (3) Without limiting subsection (2), the Tribunal may:

- (a) consider evidence that was not considered by the decision maker; and
- (b) disregard evidence that was considered by the decision maker.

3. Furthermore:

21F Decision on review

- (1) In deciding the application, the Tribunal may:
  - (a) confirm the reviewable decision; or
  - (b) set aside the reviewable decision and substitute its own decision; or
  - (c) set aside the reviewable decision and refer the matter to which the application relates to the decision maker for reconsideration.
- (2) In referring the matter to the decision maker, the Tribunal must give the directions it considers appropriate for the reconsideration of the matter.
- (3) The Tribunal may make the incidental orders it considers appropriate to give effect to its decision.
- (4) The Tribunal must give reasons for its decision.
- (5) If the Tribunal substitutes its own decision for the reviewable decision, the substituted decision is (other than for Part 4.1 of the *Heritage Act*) taken to be the decision maker's decision.

4. Pursuant to section 21F(2) above, I held a "directions hearing" with the parties on 5 December 2014 and made the following orders:

- 1. Order parties deliver by close of business (4.21pm) on 19 December 2014 any further and all written material and submissions relevant to this review to the Registrar.
- 2. Respondent to furnish Appellant with copy of relevant file within seven days.

5. Accordingly, I apprehend the appeal procedure to be in the nature of a “de novo” hearing, ie, a fresh review. The merits of the original application to the Heritage Council are considered without reference to its decision; there is no search for an error by the Heritage Council.
6. However, in my view, whereas I do not pay attention to the decision by the Heritage Council, I may (and indeed should) have regard to the Council’s own investigations and conclusions. In this regard, I agree with the quoted words from a New Zealand Court (“Principles of Planning Law”, Leslie Stein, Oxford University Press), page 265:

It is ... true that hearings in the Environment Court are rehearings conducted de novo. However the Court does not have to ignore the fact that Council officers and the Council had already covered the same ground. The evidence the Council broadly conveyed to the Court regarding the Council’s own investigations and conclusions with respect to a proposed plan itself represents fresh evidence before the Environment Court. The Court is entitled to rely upon that evidence in the absence of specific issues to which their attention is drawn. The Court is not expected to conduct the type of broad-ranging inquiry that would have been appropriate if the whole exercise were approached afresh.

7. Accordingly, I have sought the whole of the relevant file from the Heritage Council in relation to their decision. A copy of this file is mentioned in order No. 2 made by me on 5 December 2014.
8. The Heritage Act (NT) has, inter alia, the objects of:

Section 3 Object of Act

- (1) The object of this Act is to provide for the conservation of the Territory’s cultural and natural heritage.
- (2) The object is achieved by:
  - (a) declaring places and objects of heritage significance to be heritage places and objects; and

- (b) declaring classes of places and objects of heritage significance to be protected classes of heritage places and objects;

9. Section 10 of the Heritage Act defines the meaning of “heritage significance” as follows:

Section 10 Meaning of heritage significance

The heritage significance of a place or object includes its aesthetic, historical, scientific and social significance.

Section 11 Meaning of heritage assessment criteria

The heritage assessment criteria for a place or object are as follows:

- (a) whether it is important to the course, or pattern, of the Territory’s cultural or natural history;
- (b) whether it possesses uncommon, rare or endangered aspects of the Territory’s cultural or natural history;
- (c) whether it has potential to yield information that will contribute to an understanding of the Territory’s cultural or natural history;
- (d) whether it is important in demonstrating the principal characteristics of a class of cultural or natural places or environments;
- (e) whether it is important in exhibiting particular aesthetic characteristics;
- (f) whether it is important in demonstrating a high degree of creative or technical achievement during a particular period;
- (g) whether it has a strong or special association with a particular community or cultural group for social, cultural, or spiritual reasons, including the significance of a place to Aboriginal people as part of their continuing and developing cultural traditions;
- (h) whether it has a special association with the life or works of a person, or group of persons, of importance in the Territory’s history.

Section 12 Meaning of conservation and interpretation of places and objects

(1) The conservation of a place or object includes the maintenance, preservation, restoration, reconstruction, adaptation and interpretation of the place or object for the retention of its heritage significance.

(2) The interpretation of a place or object is the way of presenting the heritage significance of the place or object.

10. It is within the context of the foregoing definitions that the Heritage Council concluded that the Kulaluk lease area is not of heritage significance. Accordingly, a review notice in accordance with Section 25 of the Heritage Act was forwarded to the appellant on the 21<sup>st</sup> October 2011. The Heritage Council's reasons for the decision are tersely put as "the place did not meet the threshold of significance required to warrant proceeding further with the process".
11. In accordance with the provisions of the LMPT Act, the appellant filed an application for review received 25<sup>th</sup> November 2011.
12. In my view, the heritage assessment criteria set out in section 11 of the Act are disjunctive in nature, ie, not each and every one of the criteria need be satisfied to classify a place as having heritage significance. However, I do find that if the significance hinges on one or a few of the criteria, then the weight involved in making a favourable decision increases.
13. The Council's own assessment concludes on the available evidence that the following criteria, inter alia, are met, and I quote their own heritage assessment report page 41, 42 and 43:

**“(a) Whether it is important to the course, or pattern, of the Territory’s cultural or natural history;**

The granting of the original Special Purpose Lease for Kulaluk to the Gwalwa Daraniki Association in 1979, after an eight-year long struggle for recognition as the original landowners can be considered a significant event in the Territory's cultural history. It was the first

granting of a title to traditional owners in an urban environment.  
This criteria is **met**.

- (c) Whether it has potential to yield information that will contribute to an understanding of the Territory's cultural or natural history;**

The Kulaluk Lease Area contains Aboriginal sites of cultural significance and burial grounds, of which the extent of boundaries remain undetermined. Archaeological surveys and excavations could yield further information and provide answers to other research questions. This criteria is **met**.

- (g) Whether it has a strong or special association with a particular community or cultural group for social, cultural or spiritual reasons, including the significance of a place to Aboriginal people as part of their continuing and developing cultural traditions;**

The Kulaluk Lease Area has a strong and special association with the Gulumirrgin (Larrakia) people for social, cultural and spiritual reasons, as it contains a Gulumirrgin burial ground. This burial site was traditionally used by the Larrakia and other local Aboriginal inhabitants of the area.

There are a number of different cultural sites of significance within the Kulaluk Lease Area and a number different traditional owners or custodians claim to speak for the land in question. These factors point to the significance of the place to Aboriginal people. This criteria is **met**.

- (h) Whether it has a special association with the life or works of a person, or group of persons, of importance in the Territory's history.**

Even though a small group of people originally stood up for the land rights struggle that resulted in the Special Purpose Lease at Kulaluk being handed over, they are generally not widely recognised or well-known within the Territory as a whole. This criteria is **marginally met.**"

14. And summarises:

"The Kulaluk Lease Area has been assessed against the relevant criteria established under the *Heritage Act*. It has been assessed as meeting Criterion (a), (c), (g) and marginally meeting (b) and (h).

The following statement of heritage value is presented for consideration by Council:

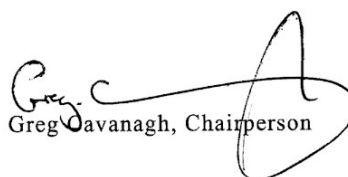


*The Kulaluk Lease Area symbolises the first land grant made to the Larrakia people in acknowledgement of their longstanding traditional ownership and occupation of land and seas in the Darwin region. After an eight-year long struggle for recognition, it was the first land title granted to an Aboriginal group in an urban environment in Australia.*

*The Kulaluk Lease Area has a strong and special association with the Larrakia people for spiritual, cultural and social reasons. The area is believed to contain a burial ground which has traditionally been used by the Larrakia and other Aboriginal people."*

15. The Heritage Council procured an archaeological report that found no evidence of the existence of Aboriginal burial grounds. Therefore, I apprehend that section 11(c) criteria may not be said to be met to an extent. However, on the material submitted, in my view, sections 11(a) and (g) are strongly met and section 11(h) is not "marginally met", but also strongly met.
16. Unfortunately, the material submitted, both in the original application and to this Tribunal, does not appear to have been subjected to rigorous and objective historical analysis. In my view, such an analysis needs to be done before a decision is made on the heritage significance.
17. Accordingly, pursuant to section 21F(1)(c) of the Act:
  1. I set aside the reviewable decision and refer the matter back to the Heritage Council for reconsideration.
  2. I direct that the Council commission and obtain an objective and thorough historical analysis of all the relevant material pertaining to sections 11(a), (g) and (h) criteria of the Act before reconsideration.

Dated: 30 December 2014

  
Greg Oavanagh, Chairperson

## Appendix 3 Heritage Council Policy on Applying Heritage Assessment Criteria

# HERITAGE COUNCIL

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## POLICY ON APPLICATION OF HERITAGE ASSESSMENT CRITERIA

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**ENDORSED BY COUNCIL:** 5 October 2012

### Background

The Heritage Council must assess the heritage significance of a place by applying the heritage assessment criteria set out in s11 of the *Heritage Act*.

### Purpose

The purpose of this Policy is to guide the Heritage Council in the application of the heritage assessment criteria.

### Policy Statement

The Heritage Council will assess the heritage significance of places by applying each of the heritage assessment criteria set out in the *Act*, using the following for guidance:

- . **(a) whether it is important to the course, or pattern, of the Territory's cultural or natural history;**
- . A place would meet this criterion if it demonstrated a strong association with a significant event or a phase in the Territory's history, including the era prior to human occupation of the continent, Aboriginal occupation, European Settlement, and more recent events such as World War II. A place would not meet this criterion if the association was incidental or unsubstantiated, or if the event or phase was of dubious significance; nor if the fabric of the place had been so altered that it no longer had the ability to demonstrate a particular association.
- . **(b) whether it possesses uncommon, rare or endangered aspects of the Territory's cultural or natural history;**
- . A place would meet this criterion if it was the only place remaining (or one of very few) of its class; or if it was able to clearly demonstrate at least one uncommon, rare or endangered aspect of the Territory's history.

A place would not meet this criterion if it was one of many similar places, or if it did not have the ability to demonstrate an uncommon, rare or endangered aspect of the Territory's history.

**(c) whether it has potential to yield information that will contribute to an understanding of the Territory's cultural or natural history;**

This equates to 'research' or 'scientific' significance.

A place would meet this criterion if it had the potential to yield substantial new information which has the capacity to contribute to our understanding of the Territory's history.

A place would not meet this criterion if it had already been thoroughly researched, or if any new information gained was likely to be of little importance; or if it was only likely to yield information which is readily available from other places.

**(d) whether it is important in demonstrating the principal characteristics of a class of cultural or natural places or environments;**

This equates to 'representative value'.

A place would meet this criterion if it was a fine example of its class, with many or all of the principal characteristics or features of a class of place that is significant in the Territory.

A place would not meet this criterion if it was a poor example of its class; or did not include, or had lost, the range of characteristics or features of a class.

- . **(e) whether it is important in exhibiting particular aesthetic characteristics;** A place would meet this criterion if it was widely acknowledged as being aesthetically distinctive or beautiful, or having landmark qualities. A place would not meet this criterion if the qualities referred to were not widely acknowledged; nor if its appeal or qualities had been permanently degraded
- . **(f) whether it is important in demonstrating a high degree of creative or technical achievement during a particular period;** A place would meet this criterion if it was widely acknowledged as representing a high degree of creative or technical achievement during a particular period. A place would not meet this criterion if the qualities referred to were not widely acknowledged; nor if it had lost the ability to demonstrate a high degree of creative or technical achievement.
- . **(g) whether it has a strong or special association with a particular community or cultural group for social, cultural or spiritual reasons, including the significance of a place to Aboriginal people as part of their continuing and developing cultural traditions;**

- . Almost any place may hold some value for an individual person or a small group of people, but to meet this criterion a place would need to demonstrate a strong association with an identifiable community. A place would not meet this criterion if the association was tenuous or unsubstantiated; nor if it was only important to the community for amenity purposes; nor if it was highly valued only by a few individuals.
- . **(h) whether it has a special association with the life or works of a person, or group of persons, of importance in the Territory's history.**
- . A place would meet this criterion if there was a strong association between the place and the person (or group of persons). In addition, the activities of the individuals in question need to widely recognised as being significant in the history of the Territory. A place would not meet this criterion if the association was tenuous or unsubstantiated.

## Appendix 4 Letter from Larrakia Nation in support of their nomination dated 5 June 2014



Culture Empowering Community

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 ABN 56 531 057 147 ICN: 3170

Darwin's Traditional Owners

5 June 2014

To whom it may concern,

I am writing on behalf of Larrakia Nation Aboriginal Corporation with respect to the proposed heritage nomination for the Kulaluk area.

Larrakia Nation believes it is important that this area be nominated for the NT Heritage Register. It has strong cultural, historical and natural heritage value for the Larrakia community. As well as being the living area and burial place for a number of the most prominent historical Larrakia elders, it has also played a major role in the development of Aboriginal land rights in the Northern Territory.

We believe that these outstanding heritage values should be investigated and recognized, and we hope that this will lead to the area being placed on the NT Heritage Register.

The Larrakia Nation is the representative body of the Larrakia (Gulumirrgin) people, the traditional owners of the area in question. The area of heritage value largely corresponds with the Kulaluk leases, for which there is a Special Purpose Lease (1979) and a Crown Lease (1987) held in perpetuity. The current leaseholders are the Gwalwa Daraniki Association, who holds the lease on behalf of the Larrakia people.

The nomination has been discussed with a number of board members, including our chair, and they are in support of the nomination. Due to the current development threat to the area, we think it is important that this nomination is considered by the NT Heritage Council at the earliest opportunity. A formal motion in support of this nomination will be forthcoming at the next board meeting.

Yours faithfully,

James Pilkington  
 General Manager  
 Larrakia Nation Aboriginal Corporation



## Appendix 5 Knuckey's Lagoon Community

Knuckeys Lagoon also known as the 10 Mile Railway Siding has been a camping place for Aboriginal groups since the 1880s (Eylmann 1908: 161). As a result of the expansion of the City of Palmerston, Knuckey's Lagoon community is now regarded as a "town camp".

The origin of the "10 Mile community" referred to in official records was the early temporary Berrimah native settlement (or Bagot No. 1) established in buildings vacated by the Army in 1946 and disbanded with the return to the original Bagot settlement in 1950 (Sweeney 1949a: 3-4). By the 1970s it was officially recognised that the area had become a Wet season camp for people from the Daly and Finniss River areas as well as some of the buffalo hunting areas to the east of Darwin. Up until 1973 the community at Knuckey's Lagoon had no official status and had no facilities or services provided. The "walk-off" by workers at Roslyn Plain (Finniss River) in the late 1960s was seen by Welfare Branch officials as precipitated, at least in part, by the influence of union organisers working in Darwin fringe camps (Doolan 1973). The present day Knuckey's Lagoon community owes its officially recognised origins to concern by Northern Territory Administration officials that members of the community were falling under the influence of "left wing officials" of the Australian Workers Union. A Welfare Branch report of 1973 records that the Knuckey's Lagoon community *"have no claim on this area on the grounds that it is tribal land or has an tribal significance, but seems to have acquired squatters' rights by virtue of their long occupation which goes back at least over 20 years"* (Doolan 1973: 1). The report went on to note that *"tin sheds erected by the Waterside Workers Federation and other groups have impressed them much more than promises"* and urged the Welfare Branch to commence discussions with the community to determine housing needs and a more stable future for the community.

In 1973 the Aboriginal Land Rights Commission recommended that land at Knuckey's Lagoon, along with other areas around Darwin be set aside as housing areas (Woodward J 1973: Paragraph 158). The community, through the Aboriginal Development Foundation, was granted a special purpose lease and the Department of Aboriginal Affairs arranged for the construction of several new houses.

For fifteen months in 1975-76 anthropologist Basil Sansom conducted fieldwork at Knuckeys Lagoon under a research fellowship from the Australian Institute of

Aboriginal Studies. This research formed the basis for several reports and publications (Sansom 1976b; Sansom 1976c; Sansom 1980a; Sansom 1982).

## Appendix 6 Statements in Relation to Kulaluk Lease Area

David Morris, principal lawyer at the Environmental Defenders Office NT, took the following statements in May 2015. They were prepared for the purpose of providing the Heritage Council with an understanding of the significance that Kulaluk holds for contemporary Larrakia, and in the case of Ted Egan and Jack Phillips the significance Kulaluk has for those in the community that have been associated with Larrakia people and their place in the history of our community.

### Statement of Donna Jackson

#### 1. How do you identify as Larrakia?

Through my father, Robert Browne, Grandmother Nancy Browne, and my Great Grandmother, Topsy Garamanak.

#### 2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?

I was told my Great Grandmother, Topsy Garamanak was part of the protest on Bagot Road and that she's in one of the videos of the protest on Bagot Road. She lived at Kulaluk.

I was involved in the Kenbi Land Claim and I know that Kulaluk was the first ever land claim ever lodged. I heard there was a men's ceremony about land rights at Kulaluk. It was a pivotal point for Aboriginal people, because it was a white fella process that gave us some land that we could have that place to protect and live.

I thought, well I always had the feeling, we don't need to worry about this piece of land. It's in Larrakia hands. It was the one piece of bush in Darwin that we had, that we didn't need to worry about. It was ours. However, since that old lady, Topsy Secretary and others passed, it's been a never ending nightmare and application process after application process.

With Kenbi still unresolved, it might be only bit of land that Darwin Larrakia mob have any say over. It might be the only bit ever given back to Larrakia people.

#### 3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?

In the early part of my life and working on Larrakia ethnobiology of flora and fauna, we sat down with Topsy talking about plants and animals. I remember her talking of her angst at the units being developed on Kulaluk and the interference with the Rainbow Serpent Dreaming. We also spoke with Prince of Wales, talking about plants and animals and dreaming stories.

I attended Topsy's funeral at Kulaluk.

#### 4. How do you feel about the current ownership and management of Kulaluk.

Clearly, I'm devastated that they keep slicing it up and sell it to the highest bidder.

The amount of weeds, rubbish, not properly maintained houses and not allowing some Larrakia people to live there has a significant impact on our elders. They're dismayed by the clearing.

I don't feel comfortable walking around that place because of the bullying and intimidation. It was never meant to be this way.

Donna Jackson

21/05/2015

## Statement of Eric Fejo

### 1. How do you identify as Larrakia?

I'm Larrakia man from my father and my father's father.

### 2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?

My recollection of when this all started was that Kulaluk and Bagot were meeting place for the older people, I was a young boy. We knew how important that country was, we were taught that.

We had got all these things against us, we didn't mingle with the greeks, we didn't mingle with the chinese and we didn't mingle with the non-indigenous people at that time.

Where we grew up 5-6 generates of Fejo's living at Bagot. Old Man Secretary at Kulaluk, my dad used to call him uncle. I remember seeing Jack Phillips and Bill Day, giving us ideas about how we could fight another way, instead of with violence to achieve what we wanted. To get the right that was inherited to us as being Larrakia. They showed us how to do that without violence.

I remember stopping the traffic on Bagot Road, all that stuff. That really influenced a lot of my life about standing up and fighting for our identity, our right to be here. I remember the referendum, Mum and Dad getting dressed up in their Sunday best. That was just before the Kulaluk struggle, it was all building up, building up. Bill Day gave us a different perspective on how to attack the issue, and we did.

They took the Australian Flag off the courthouse and put the Kulaluk Flag up 1970 or 71 – I specifically remember that. I remember the following year Joe Fejo took that flag to Brisbane and then to the tent embassy. Until 1999, when they shut that tent embassy down, that flag flew proudly there. The National Museum of Australia got hold of that flag. But in 2002 there was a repatriation of 87 remains that were taken away from here in Canberra. Francesca Cubillo, she gave me the flag then.

I marched with that flag on May 1<sup>st</sup>. This flag has a big part to play in Kulaluk, I still have that flag.

The old people didn't know about how to deal with governments, who did what they

want, take what they want. I can't understand how governments can just change the law. When they put in Dick Ward Drive, extended it from totem road all the way through, when they done that, early 80s – no such thing as Native Title and no-one knew better. That road should never have happened.

We're Larrakia, this is our country, let it be! The old people would not be happy with what's happening there now.

I wouldn't be who I am without them, the old people, the ones who fought for Kulaluk. On that old crossing, sitting there in shorts and barefoot, I remember that. Outside of that, I remember two of dad's brothers went over to where the islands are and the RAAF used to do live bombings, talk about courage and influence. I remember being in awe when they sat on islands while live bombings happened. That stopped the airforce doing live bombings – that's how much they cared for their country.

Circumstances you know nothing's changed, my old people loved and cared for my ancestral home and nothing has changed from my perspective.

### **3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

My recollection of Kulaluk is as a kid growing up, I wasn't brought up in Bagot, I was in Rapid Creek. I had freedom to roam. I had to be home before the street lights came on that was all. Our playground was all the way along the coast, boundary was the northern side of East Point.

We were told (I had 5 other brothers) places we couldn't go. One place was where the totem poles were. Where Dick Ward Drive is now, that never used to be there. Corner of Retta Dixon, Dick Ward would stop there, Mimirama wasn't there. It was all bush through there. All mangroves, mainly mangroves. There were certain places where we weren't allowed to go. We weren't allowed to go into the burial or totem areas unless we had adult supervision.

I remember going in there, getting mud crab, long bum, we would have to walk around those sites and walk right around.

### **4. How do you feel about the current ownership and management of Kulaluk.**

Hardest thing about Kulaluk's current management is how much I love this country. I've been a custodian for the best part of 15 years. I consult regularly with anthro's at AAPA. People come and go you know, no offence mate, but we're still here. I know the stories; I keep them to the best of my ability. I tell the anthro's, and they draw the lines but we know the real lines the low mark, the high mark, the trees, the seasons. Every inch on the map.

So when I see things like this, the development at Kulaluk, it really hurts. I can't understand for the life of me, I don't own much at all, I would rather be like that than, you know, what ever the circumstances, you know mate, when the land's gone, it's gone forever. You can't bring it back.

Whatever the circumstances, It doesn't justify development. The other ways, tourism, cultural talks, ecosystems, history, underground waterways. There has to be other ways to generate income.



I had a discussion with them, there is a thing called work as a way to get income in.

Look there's ceremony ground around part of this area. We know about that. My law says, women have nothing to do when we talk about ceremonies. I fear there's a girl talking when she should not be talking.

This government changed the rules after that election, they took authority away from AAPA and said nothing, anything that's not man made doesn't matter. Heritage doesn't consult with us! Certain trees are more important than anything, underground water.

This stuff is more important than a 100-year-old church. We are trees, we are animals. That's what they call totems. I don't endorse NT Heritage. It's insulting that this can happen in this place.

AAPA to their credit, consult with people who have knowledge. Heritage don't, full stop. They allowed a casino to be built on my family's burial ground. That's what they want to do now. They will do ground disturbance on virgin country – if they find remains, they won't go through AAPA, they'll go through Heritage! Does Heritage even acknowledge that Eric Fejo exists? Do they acknowledge that I'm human? What are they going to do when they find a skeletal remains?

The Gwalwa Daraniki is doing anything they want, are we a tribe, or are we just individuals? I've been brought up that we're part of a tribe, Secretary's are part of Larrakia tribe, Browne's are part of Larrakia, they're not the Larrakia, Fejo's we're a part of Larrakia, not Larrakia. One clan group does not make the tribe. Old people consulted together. They got no history that mob.

I'm sick of having to justify myself to other people. Us mob, this is our home, we've got nowhere to go. My father said at 2 fella creek in 1995, to Ian Gray – “people like you mob come and go, us mob, we've got nowhere else to go”

I don't know where she's getting these ideas that she can abandon customary law.

Eric Fejo 21/05/2015

## Statement of Victor Raymond

### **1. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?**

My mother was involved in the native title etc. You can see what they did to Larrakia, they split us up. That's crap right there; Secretary should never have that role as so.

Back in the 70s I was a teenager I wasn't interested in politics, but when the truth comes out about history it was significant that place, we're imprisoned in our own country. That was the only place given back, but it's gone back to one person. When we go there, they look at us like we're strangers. A lot of bad blood.

**3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

It is our country it come from our ancestors.

**4. How do you feel about the current ownership and management of Kulaluk.**

Everyone has the same thoughts, but we're not coming together to tell our story.

Victor Raymond

22/05/2015

**Statement of Tony Lee**

**1. How do you identify as Larrakia?**

My mother and further back.

**2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?**

I was only a young fella. But I remember that mob protesting on Bagot Road. My old lady she got fighting for that land there for all Larrakia. When uncle mob took me through, they showed me chinaman well, gunabibi site and a pukumani place there's also a women's area. Mini snake dreaming. Sacred sites and NLC have all that stuff. But I knew early on that was a special place, sacred place.

My family they stopped the bombing there and they got the land at Kulaluk. They had that big protest there, Bobby Secretary, aunty. Significant because they signed that petition that went to the queen. I'm not a political beast but that empowered me a lot, knowing about those fights. It helped me, you know in the sense of my identity as an Aboriginal man.

Mum sowed up that flag for him, I remember that flag, I remember her sowing it up. It was the first Aboriginal flag in that sense you know. I think the other flag came later, but for me at least that was the first Aboriginal flag

**3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

You know where Chin's mob has cleared, we were out bush there a lot. When we were in town we'd sit down with them. I know where the Gunabibi site is and I've felt the mini snake dreaming.

You can still get crab, stingray all that stuff down there. Still today we go and get our traditional bush tucker down there. But they're blocking it off, bit by bit. We might need to build dug out canoes to paddle in there soon. On the east point side you can see the fish traps the old men used to use.

**4. How do you feel about the current ownership and management of Kulaluk.**

If they get rid of that bush land for the sake of greed, it will be a sad day. They got that land for all L. We weren't going to humbug them, but now they're doing this what else can we do.

I don't think they fully understand what they're doing when they sell off that land. They break Aboriginal law, it's a white lease, but those leases are null and void under Aboriginal law, it was never terra nullius. They're using corporate land law to get access to Aboriginal land. They're only thinking about the dollar, but what about the future. It's the saddest thing.

Tony Lee

21/05/2015

## Statement of Rodney Browne

### 1. How do you identify as Larrakia?

My Great Grandmother Blanche, she's Larrakia. Her husband was Wulner. Her daughter is Topsy Garamanak, my Grandmother, she lived at Kulaluk, she was an important Larrakia ceremony woman.

### 2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?

I was a teenager when there were the big struggles at Kulaluk, that was in the early 70s.

I worked at Bagot in the early 70's, we did some work in Kulaluk. It was really nice then because all the elders were still alive then. Then when they passed it all became a fight. Helen Secretary never spoke to anyone, she just went and took it, and that's wrong.

I was there at the Bagot Road protest, I was sitting on the road too. Nearly got run over that day, I went there in the morning and some bloke nearly ran me over. It was emotional that day, all of it, people swearing, people screaming. A lot of people angry, yelling at us, stuff like "get of the road you black cunt".

It was like we were losing everything, the government steamrolled everything. They want it, they take it. I remember feeling this is my home, and yet it's not my home. I remember thinking this is our land, why you want to take it off us.

Lots of people fought for that land, Fejo's, White's, Rankin's. Bobby was a big fighter. Now it's like people fought for the Secretary family, not for all Larrakia, that's not right. But the other families didn't have white lawyers. And now, like the Rankin's, they're nearly all dead. They fought for years, here and Belyuen, what they got? What we got? Nothing!

Bill Day wrote a book back in the day, called Bunji, saying that my grandmother, Topsy was fighting for the land. I spent a lot of time there, you know. My family are here, Darwin, that land, Kulaluk, that's where my ancestors live.

### 3. How has Kulaluk been significant in your life, how is it significant to the

## **Larrakia people?**

Kulaluk was significant in my life. It was a little place we got, in the urban suburbs. Larrakia people, because of Helen Secretary, she's choosing who can go there, like she's a queen. That's not right.

In the late 50's it was the last Gunabibi there, significantly that is a sacred place. Some of the blokes who went to that ceremony are still alive.

If you've got people buried there if you got big ceremony there a place is sacred. Gunabibi is a big ceremony, my sons today still do it. The place is sacred, the place is sacred. I'm too scared to walk on there now, and yet all my life I walked through there, hunt through there. There's nothing traditional about Helen Secretary.

No one understands the meaning of the place. The spirit is there in the land; you can't just take it out!

James Gaykumangu is a senior elder, we got different outlook on spiritual things me and James, different to Helen.

When they gave it back, I was thinking whom they giving it back to. When you got a lease with your name on it, you're the boss. That land at Kulaluk should go back to Larrakia Nation, they're doing things for the people, not for themselves. The leases should be cancelled and given to Larrakia Nation, it shouldn't be for just one family.

## **4. How do you feel about the current ownership and management of Kulaluk.**

I went to Kulaluk a couple of years ago to have a camp there and they told me to leave, I told them to piss off...that's my home, that's what dollars do to you.

I walk in there now, and I don't feel like it's home. That's not right. I feel like I've got Larrakia people staring at me, going we're going to call the cops.

Local people have applied to live there, and she won't let them. Like a queen. I put in for a house, Helen said he's not local, he's not family, so I couldn't move in there. Got people from Wave Hill living there – she's done stuff for herself, not for Larrakia.

Rodney Browne 21/05/2015

## **Statement of Peter Browne**

### **1. How do you identify as Larrakia?**

My Grandmother is a Larrakia elder, Topsy Karamanak

### **2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?**

I was just a little boy. For me Kulaluk, I remember I was looking after old Topsy, taking her water, she was a sick, she had leprosy. We used to take her water and things. I was living at Bagot with the Fejo's and all that. They were marching, they were stopping cars on the road, that Baggot Road. It was a pretty good way to stop the whole town, block that road off. Everyone was out to fight for that land, no matter who they were.

Back then, when we were fighting it was a time when Larrakia was one, speaking as one, fighting as one. Now it's different, lawyers cutting up the cake, lawyer here, lawyer there, lawyer everywhere.

The people who fought for Kulaluk made me feel strong you know, I didn't know I was Aboriginal, that fight made me know I was an Aboriginal person. I was living with the Fejos. They taught me a lot with that fight you know. Now I'm really strong with my Aboriginality and I'm strong with my identity.

### **3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

I used to go fishing there, used to catch mud crabs. Everything was down there. Drag netting at certain times of the year, go down there and get crabs. You could see it was significant, the history of the place, see the middens down there and people were still going down there to get long bums.

I remember my mother being in the bush down there at Kulaluk. I remember that. I remember being scared, because I didn't think I was Aboriginal, I thought I was a white fella and the white fellas be telling me not to spend time with black fellas.

I remember a lot of ceremony down there, lot of funeral. Lot of Gumatj mob with funeral down there, Tiwi mob, big meeting place and there was big ceremony down the back near the Larrakia Nation. People would come and camp and ceremony all night. Now they want that land for development, they've raped that land.

### **4. How do you feel about the current ownership and management of Kulaluk.**

Now there's too much rubbish down there. There are no more long bums down there. Back in the old days I could go down to Kulaluk, I felt it was

home there. We're chasing identity, Kulaluk is part of that, some of them, they just chasing money.

It's a big disaster where money is the most important thing, not the land, not the family. It's one big money grab. I just call it greed. One family is more greedy.

I can see the future they're going to win because money talks and the shit walks. No time for ceremony man.

Peter Browne

21/05/2015

## **Statement of Mary Raymond**

### **1. How do you identify as Larrakia?**

My mother was Larrakia and her brother and sisters, I know them all.

### **2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?**

Well, the only think I know is that Victor Williams, he was my brother, he put a

perpetual claim on Kulaluk. He wanted that bit of land so that Aboriginal people could have that land.

I know that they used to get out on the road and with their banners to fight for that country. I was maybe in my 20s, between 20 and 30. I believe that people were angry that white man was trying to take their land. They understood the Aboriginal culture and law. They didn't fight for nothing because their culture and laws were strong in those days. They had a flag down there; people still talk about that today.

Couple of Secretary brothers, they were in on the land rights, they couldn't just fight for themselves, there were all Larrakia people there, Aboriginals aren't really like that, not just in it for one family.

I know that my brother thought that was a nice place for all Aboriginal people to have something, some land, but now we have nothing.

That made us proud to know that we had that and that we fought for that. Now it means nothing. It's just plain greed, the white man have no respect for us. Look at the law now, they want to close the outstations, they want us to come into the towns from all the outlying settlements. There's been an ongoing disrespect of our culture, our way of life.

### **3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

My mother used to spend a lot of time at Kulaluk. All the Aboriginal people knew me down there, Aboriginal people we keep things in our head, we don't write it down.

The burial ground down there. I was at a meeting where people said they're going to put cement over it, and they will, how disgusting. Imagine if that was proposed on white cemetery, just put cement over your graves. It's so disrespectful.

My uncle used to travel from Darwin on a special route for ceremony and they used Kulaluk to stay there. It was their country, they knew it. As more white people came on, it was harder. They were treated like dogs.

### **4. How do you feel about the current ownership and management of Kulaluk.**

I believe the Secretary girls are doing away with it. I don't know how they became bosses. It annoys me, the current management, the girls there want to sell off bits and bits and its not right – we're Dungalaba and they're Dungalaba.

They've got greedy lawyers for that land. One day maybe they build on that land and all over that graves. Maybe the spirit comes out for them. My countrymen and their spirits are very strong.

Mary Raymond

21/05/2015

## **Statement of Kathy Williams**

### **1. How do you identify as Larrakia?**



I know I'm Larrakia, it's past on from generation to generation. From the day I was born I know I am Larrakia. I know Aboriginal law, I respect it.

**2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?**

My uncle (Vic) put the first claim in, but it was for all Larrakia people. Along the way things have been confused, probably because a lot of the Larrakia community just gifted it to the Secretary people by not doing anything. Legally it's not right, my uncle lodged the first land claim over that area on behalf of all Larrakia people.

When they fought for this land, they fought because Kulaluk is a sacred site, doesn't anyone get that? Land rights / sacred sites it's the same thing.

**3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

It's a sacred site. Kulaluk is a sacred site and it should not be touched. Under Aboriginal law, if something happens on that site, something will happen to Darwin. That's sacred that place. If people would just start mediating around here and ask why these people want to build on a sacred site. Does anyone have respect for Aboriginal law? I'm a traditional women, my father is from West Arnhem Land, Larrakia always married into West Arnhem Land. We're strong and Aboriginal law is strong. It's just no one has the sense to get up and be outspoken.

Aboriginal law, it's based on respect, just like white man's law. But Aboriginal law, we hold our elders – they're on top – they're our kings and queens. Kulaluk it's sacred, why would that development be allowed.

**4. How do you feel about the current ownership and management of Kulaluk?**

The Secretary's have just lost their culture. The dollar signs are more important to them. The Secretary's they're my cousins, you know, I'd be willing to sit down with them and see if we can work something out.

Kathy Williams

21/05/2015

**Statement of Daphne Talbot**

**1. How do you identify as Larrakia?**

Old Topsy Garamak my Grandmother

**2. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?**

Old Bobby secretary, Johnny Fejo, they did a protest on Bagot Road. Johnny Fejo was my brother. I looked up to him for doing that, for that fight. He always came to our house so I remember him talking about it. It was a big moment, it went Australia wide now. Johnny fought for that. He didn't fight for that so they could sell it off, He fought so that culture could be strong, so his grandchildren could have something to

look forward to, I don't think it was so one family could sell it off.

I lived at Kulaluk for 10 years. I worked with Helen for most of that time; it was a good place, then, but now. That flag they did, I remember that.

I thought it was for all Larakia when they did that. I'm glad it was given back to Larrakia, but not all Larrakia are benefiting, just one family.

### **3. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

I lived at Kulaluk for 10 years. I'd just moved back from Darwin from QLD. Helen's brother said there's a house. I moved out because of big problems with Helen, they didn't like the idea of other people getting the credit.

It was a significant place; I went down there when I was a little girl to visit my Grandmother, my Mother's Mother. It was a good place; my kids grew up there.

I think Larrakia people feel real strong for that area. There was a bit of a protest there, just before they cleared it. I can understand, I feel angry (angry there's nothing I can do) sad, (sad for the old people).

Not all Larrakia are benefiting, and it was supposed to be for all of us, for our culture to stay strong.

### **4. How do you feel about the current ownership and management of Kulaluk?**

She wants to sell it all off now, I don't agree with it, but they hold the lease don't they? Now you drive past that area and it's no good. From what I can see, they cleared that land, there's a cemetery there. How did she let that happen when family buried there? Once people start building there, they'll build over it. It's just sad to see the place going the way it's going, a long time

ago it was a good place to live. I used to be proud that I lived there and the upkeep of it.

Daphne Talbot

21/05/2015

## Statement of Ted Egan

### **1. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?**

In 1952 I was appointed to the native affairs branch in Darwin as a Cadet Patrol Officer. I was in Darwin region for next 3 years. During that period I came to know every Aboriginal person living at Bagot in a permanent or semi permanent fashion. The Ordinance was still in operation then – it's strange, looking back on it now really, but I did things like issue people permits to go to pictures etc.

I was involved in the day to day affairs of Bagot and Town of Darwin. Between 52 and 55, I witnessed/attended, well I used to do the funerals. Sometimes we'd take a body on back of ute to humptydoo or some other place for the funeral. Back then there were alot of Tiwi people in Darwin. Every Department had a senior Tiwi man working at front desk at that time, they were highly respected people around the town. Major Domos as I used to call them. They used to know everyone and everything. I reckon between 52 and 55 I attended at least 50 A funerals in Darwin. They were mostly at McMillan's Road, but also others places like Humptydoo, Adelaide River, Pine Creek as well. But during that period I went to at least 4 Tiwi Funerals on Totem Rd. If you turn right onto Totem Road, if you're coming from Nightcliff, well they were in there, about halfway between Dickward Drive and Bagot, off to the right. They had burials and Pukamani Poles in that area.

I remember, I knew Frank Secretary worked at Northern Standard, he was Bobby's Dad. If you read my book 'Justice All Their Own', I tell a story of in 1952 when Bobby Secretary was living at Bagot and working at the army base. One night he was walking to work (he was on night duty), he was walking from Bagot to Larrakeyah and got arrested for being in a prohibited place between sunrise and sunset, I defended him in court next day – I said do the Magistrate, this charge has got to be thrown out. I said the Larrakia are the owners of Darwin. That was the sort of thing that happened you know.

I hadn't heard work Kulaluk at that time, or of Gwalwa Daranika but I remember the protests and certainly I remember the one day where there was a sit down across the road at Bagot. Also there were strikes in Darwin, led by Lawrence Urban and Fred Waters Nudpurr – they were all on strike for better conditions, but also for recognition of the Larrakia people who had nothing.

I remember a famous photo of the group of about 10 people sitting on the ground, blocking any traffic. There was a bloke driving a front wheel excavator, he was the first vehicle being held up. There were lots of jokes about using the bucket to pick them all up and sweep them off the road, but he didn't. I don't think much was taken seriously before then.

They built a pretty substantial building at the back of Bagot there and initiated pretty well any young fella they could grab. They put Prince of Wales through

the law there. Frank Secretary put him through, after that they were Larrakia by law.

### **2. How has Kulaluk been significant in your life, how is it significant to the**

**Larrakia people?**

I was surprised when they built there. Bagot Road used to be much bigger back then of course and they were certainly done like a dinner in the carve up of Bagot for all that Government housing. They were left just with the Kulaluk, the sand-fly area. It was regarded as a place where people went to go and get crabs. No one lived there permanently at that time, they were all in Bagot; because of the Ordinance they had to be. But people went there to get crabs and fish.

**3. How do you feel about the current ownership and management of Kulaluk?**

If they decide to develop that area at Kulaluk and that's the decision acceptable to the Larrakia, I wouldn't have any right to dispute it. However, it should be a decision of all the surviving descendants of the Larrakia. If they're being coerced or anything like that, well it's pretty sad.

Ted Egan

22/05/2015

## Statement of Jack Phillips

### 1. What are your recollections of the Land Rights struggle, and Kulaluk's place in it?

I was with Bill Day, 71, I was down there helping Gurindji's fence off their land for the purpose of land rights. Bill helped organise the Kulaluk people. We both joined together, he formed the GWD, it was originally for land rights, to fight for land rights, originally the constitution said anyone can join and two non-aboriginal people – Bill and Me.

It was 71, I took Vincent Lingiari down there and told Vincent and Bobby, you two are leading the fight for land rights in the NT. You two are the only people fight in the NT. Kulaluk and Wave Hill.

Vincent came down with his men, Gurindji's. I said to them you got to take action, like at the wharf. You got to take action. Bill organised a march from Bagot, that really started the land rights movement up here.

There were about a dozen traditional Larrakia people, Dolly, Parap Parap, they were all for fighting for their land, like the Gurindji's. The Gurindji's led the land rights movement and the Larrakia joined them.

Kulaluk, Gordon Bryan came there in 72. How much land are you claiming? "As far as you can see". He asked Bobby Secretary about the land behind Kulaluk, and Bobby said that's Kulaluk, that's all our Larrakia land.

Bobby and others were very very strong. It became well known around Australia, and Bobby Secretary too. He said he wanted to protect the land, the ceremony grounds, the burial grounds and have the land itself, left as it is. They wanted the land just left along, they were adamant about that.

They wanted to protect the sacred sites.

Kulaluk now, is the most important area in Darwin. It's virtually the last piece of Larrakia land left. They were given a lease by Woodward J, on the grounds that they wanted to protect the land. He also recommended that the land be handed over the Larrakia people, the Kulaluk people, Bagot people, ceremony people and Tiwi Islanders.

The rezoning now, that's ceremony ground. Between there and behind McDonalds there's women's business there. Most Aboriginal people don't want to talk about their ceremony grounds. But they'll have to go public if they want to protect it.

I know about the ceremony grounds because I dropped ceremony men off there in 71. They had a ceremony in there.

That area is so significant, it's a jewel in Darwin. Anywhere in the world would love to have that land and clean it up a bit and have appropriate management

of the land and sites. It could be fantastic. The whole purpose of the lease was as a land claim because they were being pushed into a corner, they got the lease to protect themselves and the land.

That was what GWA was supposed to be about, protecting the land for all the Larrakia people. Justice Woodward agreed that a lease should be handed over to an Aboriginal board for management of all Larrakia.

**2. How has Kulaluk been significant in your life, how is it significant to the Larrakia people?**

Back in about 75, some of the wrong people moved in. They decided they would make money from the land, and they've done it ever since. Those people there, they're not traditional, no culture, no language, no respect for the ceremony grounds and the land and the spirits.

They were never taught their culture. Kulaluk mob have all lost their culture.

The management of the site is just appalling; they've got no interest in the land at all, they don't protect it. The Minister should take the lease off them; they don't deserve to have the lease. It should be revoked. I believe the lease should be revoked and handed over to Larrakia people, it's been taken over by developers.

Signed

..... Jack Phillips

Dated 22/05/2015



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