

IN THE FEDERAL COURT OF AUSTRALIA
NORTHERN TERRITORY DISTRICT REGISTRY

NTD6026 of 1998
NTD6039 of 1998
NTD6009 of 1999
NTD6010 of 1999
NTD6011 of 1999
NTD6002 of 2000
NTD6003 of 2000

BETWEEN:

KEVIN LANCE (TIBBY) QUALL ON BEHALF OF
THE DANGALABA CLAN

Appellant

AND:

NORTHERN TERRITORY OF AUSTRALIA

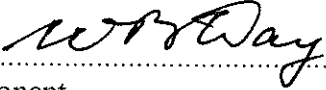
Respondent

AFFIDAVIT

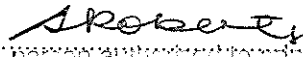
On 13 October 2010 I **William Bartlett Day** of Unit 2, 15 Tenth Avenue Maylands in Western Australia, **affirm and say** as follows:

1. I am a consulting anthropologist with a Doctor of Philosophy ("PhD") in anthropology from The University of Western Australia.

This is page 1 of the Affidavit of **William Day**
Affirmed 13 October 2010


Deponent

Robert James Welfare
Robert Welfare Barristers & Solicitors
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Darwin NT 0800
Reference: RJW09093


Witness

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EXPERIENCE

2. From August 1996 to February 1998 I conducted field work in Darwin for my PhD thesis, *Fringe dwellers in Darwin: cultural persistence or a culture of resistance?*
3. I was also a resident in Darwin from May 1969 to June 1985 during which time I assisted the Larrakia people and others in making land claims.
4. From 2001 to 2003 I was employed by the Pilbara Native Title Service preparing connection reports and genealogies for various Pilbara native title claimant groups.
5. From 2003 to 2006 I was employed by Gumala Aboriginal Corporation as an anthropologist preparing genealogies, writing family histories and making documentary videos of ceremonies.
6. From 2006 to the present I have participated in heritage surveys in the Pilbara with native title claimants and mining companies and have written reports of those surveys according to the guidelines of the Western Australian *Aboriginal Heritage Act, 1972*.
7. During May 2009 I have been employed by the Martu Idja Banyjima native title claimants as an anthropologist to advise in mediation meetings organised by the National Native Title Tribunal in Karratha, Western Australia and to critique the work of other anthropologists.

LARRAKIA CLAIMS

8. From 1971 to 1979 I conducted research with Larrakia-speaking traditional owners to prepare Larrakia claims to land rights. My research was later submitted to the Aboriginal Land Rights Commissioner Mr Justice Woodward in 1973 and the Interim Aboriginal Land Commissioner Mr Justice Ward in 1975. Both Commissioners found in favour of the Larrakia claims which I had prepared in association with surviving Larrakia people.

WJ Day

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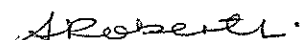
9. I also published a newsletter called 'Bunji' between 1971 and 1985 to publicise the Larrakia claims. The purpose of this publication was to generate public interests and attention in the Larrakia claims to their ancestral lands.
10. I am the author of the book, 'Bunji: a story of the Gwalwa Daraniki Movement', published by Aboriginal Studies Press in 1994. This book was drawn from primary sources, and details a history of the struggle of Larrakia people in the Darwin area.
11. In 1973 at the request of the Aboriginal Land Rights Commissioner Mr Justice Woodward in association with Larrakia elder Topsy Secretary I prepared a Larrakia genealogy. I did not keep a copy of this genealogy. Annexed to this Affidavit and marked "WBD1" is a copy of the said genealogy.
12. A file held by the National Archives of Australia in Canberra, Series Number A4252, control symbol 33, item 'Gwalwa Daraniki, Series of correspondence' was closed until 16 August 2004 and contains the genealogy of Larrakia families drawn by myself in 1973 in accordance with information supplied by Topsy Secretary. Annexed to this Affidavit and marked "WBD2" is a copy of the letter from the Australian Archives dated 23 June 2004 to myself.
13. Another relevant file 'Transcript of Notes of Discussion, Kulaluk, Darwin, Northern Territory, 02 June 1973' was previously marked 'not yet examined' and as a result of my payment and request is now marked 'Open, date of decision 14 May 2009'. The discussions were between Bobby Secretary, Captain Bishop, Tommy Lyons, Bill Day (self) and others and Mr Justice Woodward, the Aboriginal Land Rights Commissioner.
14. In his decision Mr Justice Mansfield (*Risk v Northern Territory of Australia*, [2006] FCA 404: 2006: Para 839) stated: 'In the 1970s the [Larrakia] land claims drew interest to the Larrakia culture and there has since been a revival of the Larrakia community and culture. A large

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number of people who now identify as Larrakia only became aware of their ancestry during these land claims, and acquired much “knowledge” at this time.’ However, the 1973 genealogy was prepared before the passing of the *Aboriginal Land Rights (NT) Act, 1976* and before the so-called ‘revival’ of the Larrakia language group.

15. The significant points of the rediscovered 1973 genealogy are:
 - (a) the genealogy supports the claims of the Batcho family that there were mistakes in the genealogies prepared by the Northern Land Council (NLC).
 - (b) the genealogy is evidence that cognative descent was a recognised principle of descent.
 - (c) the genealogy confirms the membership of the danggalaba clan.
 - (d) the genealogy shows the names of those who Topsy Secretary identified as Larrakia before the so called revival of the Larrakia people in the late 1970s and 1980s.
16. The genealogy has a dot marked beside some names. A note says that ‘[dot] indicates these people speak the [Larrakia] language’. There are fifteen dots. Beside the genealogy is a note: ‘Names underlined in red would consider themselves eligible for land rights. There are eighty-two names underlined.’
17. To my knowledge the genealogy prepared by Topsy Secretary and myself was not produced as evidence in either of the Kenbi land claims (Olney 1991: *Kenbi (Cox Peninsula) Land Calim Report by the Aboriginal Land Commissioner*; Gray 2000: *The Kenbi (Cox Peninsula) Land claim No. 37: Report and recommendations by the Aboriginal Land Commissioner*) or the Larrakia native title claim (*Mansfield 2006: Risk v Northern Territory of Australia*, [2006] FCA 404).
18. If read in conjunction with the 1973 Topsy Secretary genealogy, the Northern Land Council genealogies provide evidence of a connection from

the 1973 Topsy Secretary genealogy to an ancestor living before sovereignty.

19. Topsy Secretary was a recognised Larrakia leader. In 1991 the Aboriginal Land Commissioner, Mr Justice Olney (*Kenbi (Cox Peninsula) Land Claim Report by the Aboriginal Land Commissioner* 1991: Para 9.20), stated, '[Topsy Secretary] is clearly a leader among the Larrakia people in the Darwin area as were her brother Bobby and her father Frank before her.'
20. The Larrakia people that I knew in the 1970s and 1980s are the same people listed on the Topsy Secretary genealogy. Despite public calls for all Larrakia to support the land claims in 1971 and a classified advertisement in May 1973 in the Northern Territory News, to my knowledge no additional names came forward. The public notice in 1973 stated: 'All Larrakia Tribe descendants who are eligible for land rights - you are invited to meet Judge Woodward at Kulaluk 10a.m. June 2nd'. Annexed to this Affidavit and marked "WBD3" is a copy of the classified advertisement. Annexed to this Affidavit and marked "WBD4" is a copy of the news paper article "A Call Out For All Larakias".
21. Mr Quall and other members of his group have been consistent in identifying as Larrakia and were recognised as such in the 1970s.
22. The Kenbi Land Claim book (Brandl et al *The Kenbi Land Claim to vacant Crown land in the Cox Peninsula Bynoe Harbour and Port Patterson areas of the Northern Territory of Australia*. Darwin: Northern Land Council 1979) is dedicated to 'a number of knowledgeable traditional owners and others' who had died before the claim book was published. The names and dates cited include: 'Dolly Garinyee and Topsy Karamana [sic] died in 1973, Victor Williams in 1977, Tommy Lyons, or Imabulg, in 1978, and, most recently, Johnny Fejo, in November, 1979.' These Larrakia leaders were alive at in 1973 when Topsy Secretary prepared the genealogy for Mr Justice Woodward (see 'Songs of death to lament lost link', *NT News*, December 28, 1973). Annexed to this Affidavit and marked "WBD5" is a copy of the news paper article 'Songs of death to lament lost link'.

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23. I was not consulted by the Northern Land Council during the Kenbi land claim before Mr Justice Gray and the Larrakia native title claim before Mr Justice Mansfield, although my writings were used in evidence. However, Mr Justice Mansfield (*Risk v Northern Territory of Australia*, [2006] FCA 4042006: Paras 407, 408) refers to 'an interview transcript between Bill Day and George Munggalu, taken on 1 July 1975' and 'another interview between Bill Day, Tommy Imabul and Sam Fejo' and also notes that 'Tommy Imabul then showed Bill Day where "men's business" had taken place.' In these three cases, the interview and inspection cited were both conducted by Mr Wilders of the Northern Land Council, and not myself.
24. In 2000 Mr Justice Gray cited the Kenbi Land Claim book (Brandl et al 1979) which listed seven people who fell within the definition of traditional Aboriginal owners in the Land Rights Act with respect to the land claimed. They were: Bobby Secretary, Topsy Secretary, Gabriel Secretary, Prince of Wales, Olga Singh, Rachel (or Paula) Thompson and Kathleen (or Dolphin) Minyinma. Mr Justice Gray (Para 2.18.1) adds: 'These persons were considered to have as their principal dreaming, or *durlg*, the *danggalaba*, or crocodile'.
25. In 1991, Mr Justice Olney (1991: Para 9.21) cites page 428 of the Kenbi hearing transcript:
- MR PARSONS: Prince, what is that dreaming belong you? What is that dreaming for you?
- PRINCE: Danggalaba.
- MR PARSONS: And what that mean in English?
- PRINCE: Crocodile.
26. In the Kenbi Land Claim, Brandl et al (1979:172) say they asked the question: "'Who owns the claim area?'" and have been told that 'the *danggalaba* clan owns it'.
27. Mr Justice Gray (2000: Para 4.21) cites the 'Descent criterion of the Danggalaba group: The principle of descent on which the group is said to

W.D. Day

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have been formed is descent from an ancestor recognised to have been a member of the Danggalaba clan.'

28. Mr Justice Olney (1991: Para 7.3.5) states: 'The pre-eminence of the danggalaba clan means that all surviving members of the danggalaba clan automatically have a publicly recognised entitlement to Larrakia country but for those with a filiative link to some member of the danggalaba clan two conditions should be satisfied: they must accept their birthright and they must demonstrate an active interest in that country.'
29. The genealogy prepared by Topsy Secretary in 1973 shows Frank Secretary, King George, Billy Balyun [sic], Tommy Lyons and a Larrakia female (the mother of Dolly Gurinyee and Didja Batcho) as siblings. The four men and their descendants also comprise the danggalaba clan in the Kenbi Land Claim.
30. The 1973 genealogy shows that the mother of Didja and Dolly was a Larrakia woman who was the sister of the above males. The genealogy shows that the spouse of the mother of Didja and Dolly was a Larrakia man who was the uncle of 'Peter Mundine'. Later research by the Northern Land Council names the mother of Didja and Dolly as Blanchie.
31. The report by Mr Justice Gray (2000: Para 4.5.3) notes that 'Tommy Lyons, Crab Billy Belyuen, King George and Frank Secretary are described in the evidence as "brothers" Evidence of their respective lineages is sketchy and inconsistent. Dr Walsh's genealogy shows them as being of the same generation but not having common parents or grandparents That is to say, they saw themselves as brothers, even if they did not have the biological relationship of brothers. This acknowledgement of classificatory relationships has carried forward to the next generation.'
32. The Topsy Secretary genealogy suggests that the descendants (i.e. Dolly and Didja) of the classificatory 'sister' of the four 'brothers' was accepted by Topsy Secretary and others as members of the same clan as Bobby Secretary, Topsy Secretary, Gabriel Secretary, Prince of Wales, Kathleen Minyinma, Olga Lyons and their children.

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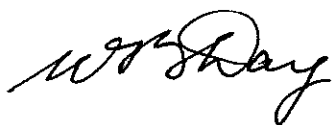
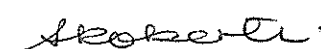
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33. In 1983 the Larrakia Association was formed. Around the same time (August 1983) a group of urban Larrakia wrote to the NLC seeking to be added to the list of claimants (Olney 1991: Para 7.2.4).
34. The Kenbi Land Claim book (Brandl et al 1979:155) used the model of a patrilineal descent group as defined by Professor Stanner during the Walpiri land claim, 'through the paternal and grand-paternal line from a common ancestor or founder' (Toohey *Claim by the Warlpiri and Kartangarurru-Kurrintji. Report by the Aboriginal Land Commissioner* 1978:24). Mr Justice Olney (1991: Para 7.1.8) comments: 'The authors say that this conforms to the way in which the living members of the danggalaba clan see themselves and the way in which they are publicly identified.'
35. In a 1989 report entitled 'Ten Years On', Michael Walsh (*Ten years on: a supplement to the 1979 Kenbi land claim book* Darwin: Northern Land Council 1989:24) on behalf of the Northern Land Council proposed 'the Larrakia language group' as an alternative model of a local descent group. Mr Justice Olney (1991: Para 7.2.2) comments: 'Whatever the situation in 1979, 10 years later the primary basis for constituting a local descent group in, the claim area is said to be affiliation through the language label, Larrakia.'
36. 'Ten Years On' (Walsh 1989:24) states: 'The mode of recruitment to the local descent group is filiation. This principle may be matrification, patrification or both ... The Finnis [Toohey *Finniss River land claim: Report by the Aboriginal Land Commissioner* 1981] and Malak Malak [Toohey *Daly River (Malak Malak) land claim. Report by the Aboriginal Land Commissioner* 1982] claims have perhaps excited more interest than any other for Larrakia.... The outcome of these two claims appears to have led the Larrakia to a reassessment of the term "traditional" with respect to land claims...'
37. The report 'Ten years On' (Walsh 1989) recorded that the danggalaba clan had been depleted by the deaths of Bobby Secretary and Paula Thompson.

In a foreword to the report, the authors said that Olga Singh had also died on April 28, after the report was prepared. The authors [Frank McKeown, Elizabeth Povinelli and Michael Walsh] comment: 'No other person worked harder than Olga Singh over the past ten years to make this land claim succeed' (Walsh 1989:3).

38. Commenting on 'Ten Years On', Mr Justice Gray (2000: Para 2.18.2) wrote: 'The Danggalaba clan therefore consisted of only four patrilineal descendants' and that the NLC proposed 'an alternative model of the appropriate claimant group the Larrakia language group. At the time, in excess of 700 people had been identified as members of the Larrakia language group through matrification, patrification or both.'
39. The Topsy Secretary genealogy of 1973 includes 82 people who identify as Larrakia, plus more unnamed children. Had this genealogy been available the genealogy could have confirmed a principle of recruitment to the danggalaba clan by filiation, to include the descendants of Dolly Gurinyee and Dedja Batcho.
40. By 1989, precedents in land claims allowed patrilineal and matrilineal descent (Toohey 1981, 1982: Kearney *Nicholson River (Waanyi/Garawa) Land Claim. Report by the Aboriginal Land Commissioner* 1984, *Jawoyn (Katherine area) land claim: report by the Aboriginal Land Commissioner* 1988). These precedents could have allowed for a more inclusive danggalaba clan as confirmed by the 1973 genealogy. Instead, the NLC changed the Larrakia model from the restricted patrilineal danggalaba clan to all-inclusive 'Larrakia language group' (see Sutton 1998: 'Top End: the Larrakia' in P Sutton, *Native Title and the Descent of Rights*. pp. 103-113. Perth, WA: National Native Title Tribunal). The effects of this change are discussed in a following paragraph.
41. The Arnhem Land leader, James Gaykamangu, writes: 'Gurrinyee (or Garrinyi) was a Larrakia lady 'queen', like matriarch. She was a cultural leader for womens' [sic] ceremonies during 1953, and she called everyone to come in for that last Gunabibi ceremony. When Joy White and Margaret

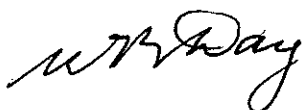
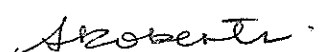
Woody as young girls used to hear the sound of a boomerang, all the girls go inside the house, because it is a respect of the culture. They were too young to understand that the Gunabibi ceremony was starting' (Gaykamangu 2010).

42. Until her death in 1973, Dolly Gurinyee was an important ceremonial leader and it would not have been possible to consider a danggalaba clan without her being included in it. Certainly, in 1973 Topsy Secretary included Dolly Gurinyee and her nephew Victor Williams in the same descent group as the members of the danggalaba clan.
43. Mr Justice Olney was not persuaded by the change of approach by the Northern Land Council and dismissed the Kenbi claim in 1991, claiming that the danggalaba clan was doomed to extinction.
44. In 1992, in an appeal before Northrop Hill and O'Loughlin JJ, in the Full Court of the Federal Court of Australia held that "local descent group" in the definition of "traditional Aboriginal owners" in the Land Rights Act was not to be confined to a patrilineal group ... the underlying principle of recruitment to a group must be some form of descent, that need not be seen in a biological sense, and persons not claiming biological affiliation may be adopted into and become part of the group...' (see Blowes 1992:15).
45. Northrop Hill and O'Loughlin JJ (at p.553) held that 'The particular principle of descent in operation will depend upon the circumstances of the particular case ... The point is that the principle of descent will be one that is recognised as applying in respect of the particular group. Further, there is no reason why the particular principle of descent traditionally operating may not change over time... (cited in Blowes Northern Land Council & Others v Olney J, The Aboriginal Land Commissioner & the Attorney General for the Northern Territory. Full Court of the Federal Court of Australia, Darwin; Northrop Hill and O'Loughlin JJ, 27 February 1992; (1992) 105 ALR 539. Aboriginal Law Bulletin, Vol 2 no. 58, pp.14-15 1992:15).

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46. In 2000, Mr Justice Gray (Para 28) found that 'the only claimants who fell within the definition of "traditional Aboriginal owners" in the Land Rights Act, with respect to the land claimed, are the members of the Tommy Lyons group.
47. Mr Justice Gray (2000: Para 4.3.2) stated: 'The members of the Tommy Lyons group identify four deceased men as their relevant ancestors. They are Tommy Lyons, Crab Billy Belyuen, King George (also known as George King) and Frank Secretary. They are regarded as having been brothers, and are acknowledged to have had close connections with, and major ceremonial and other responsibilities for, the land claimed.' The 'Tommy Lyons group' therefore coincides with the ancestors shown on the Topsy Secretary genealogy, except for the exclusion of the Larrakia woman who was the ancestor of Dolly and Dedja Batcho.
48. In 1997 'the Danggalaba claimant group' was separate to the 'Tommy Lyons group' and the 'Larrakia group'. The consultant anthropologist to the Aboriginal Land Commissioner, John Avery, wrote: 'The Danggalaba group consists of seventeen claimants who had been among the Larrakia claimants but who saw their claims arising on a different basis to that of the other Larrakia. Their principle contention is that mistakes were made in the genealogies that have made it appear that they are separate to the Tommy Lyons group. They say they (and the Tommy Lyons group) are the Danggalaba and that the Danggalaba claimants are the traditional Aboriginal owners of the land (*Avery Consultant Anthropologist's Report to the Aboriginal Land Commissioner 1997:57*).'
49. Had it been available, the 1973 genealogy would have confirmed the above claims of the Danggalaba group in the Kenbi claim.
50. Mr Justice Gray (Para 4.5.15) commented: 'In para. 4.22, I deal with the suggestions that the descendants of Didja Batcho are descended from [a] deceased sister of King George. Again, if that were proved to be the case, there is no evidence that any of the descendants of Didja Batcho has been

accepted by other members of the Tommy Lyons group as members of that group...'

51. The 1973 genealogy by Topsy Secretary provides evidence that seems to contradict the above statement by Mr Justice Gray (2000: Para 4.5.15), because the genealogy is evidence that Topsy Secretary included the descendants of Didja Batcho as members of the danggalaba clan by cognitive descent.
52. In addition, Mr Justice Gray (2000: Para 4.22.3) stated: 'The earliest suggestion that the descendants of Blanchie could claim descent from Pat Lawrie, by reason of his adoption of Didja Batcho, did not come until 1996. Prior to that, Yula Williams and Rona Ally, both daughters of Didja Batcho, had given evidence as to the identity of their grandparents. Both had said that Blanchie was their grandmother and Batcho their grandfather, making no mention of any adoptive grandfather.'
53. The 1973 Topsy Secretary genealogy suggests that Yula Williams was correct to claim danggalaba descent through a female ancestor, Blanchie.
54. Mr Justice Gray (2000: Para 22) commented that the Tommy Lyons group's 'core members' are Raelene, Jason and Zoe Singh. He states: 'They engage in ceremonial activity which sustains the land claimed and, in turn, the land sustains them, physically and spiritually ... The other members of the Tommy Lyons group have entitlements to share the spiritual affiliations....'
55. One other family is listed as having rights in the group. Mr Justice Gray (2000: Para 4.5.2) says 'Raelene Singh did acknowledge Rachel/Paula Thompson's children as her sisters and brothers... They must be regarded as people who have rights to be members of the group. If those rights were ever activated, the ultimate entitlement to membership of the group would depend upon acceptance by the existing members.'
56. The Topsy Secretary genealogy appears to contradict the following statement by Mr Justice Gray (2000: Para 4.23.1) in that the Batcho family

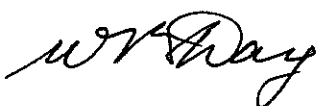
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were accepted as members of the same group as the Tommy Lyons group. In 2000, Gray states: ‘...descendants see themselves as constituting the group referred to as the Tommy Lyons group, recruited on a principle of patrilineal descent with the negotiable addition of first generation matrifiliates. They do not see themselves as members of a broader Danggalaba group, constituted by a broader principle of descent.’

57. In 1973, when I drew the genealogy for Topsy Secretary, The descendants of Dolly Gurinyee and Dedja Batcho were situated equally by Topsy Secretary as descendants of the same group as the descendants of Tommy Lyons, Crab Billy Belyuen, King George and Frank Secretary.
58. In addition, a note by Topsy Secretary on the genealogy confirms that the danggalaba genealogy accepted cognative descent in 1973. The note states:

‘Children of mixed marriages have identified as Larrakia
 - a) If their father is Larrakia.
 - b) If they were brought up by a widowed or deserted mother.
 - c) If the family lived in Darwin and had one Larrakia parent.’
59. Topsy Secretary would be unlikely to debar her own grandchildren or the danggalaba elder, Dolly Gurinyee, as ‘second generation matrifiliates’, just as she did not exclude the children of Dedja Batcho, including Topsy Secretary’s ‘nephew’ Victor Williams senior.
60. If it is accepted that the 1973 genealogy accepts cognative descent for the danggalaba clan, the statement by Mr Justice Gray (2000: Para 13.4.3) (below) concerning descent may be irrelevant. However, the statement does acknowledge a process that had already occurred according to the 1973 genealogy.
61. Mr Justice Grey (2000: Para 13.4.3) stated: ‘There is a range of possible courses by which the Tommy Lyons group may become strengthened and ensure its continued existence. A process which is known to have occurred




among Aboriginal groups elsewhere in the Northern Territory, whose patriline has died out, is that a male matriline begins a new patriline. Jason Singh and Kathleen Minyinma's son, Desmond, are the current first generation matriline males of the group. It is possible that one or both of them will have his or their children recognised as members of the group. It is possible that the group will expand its membership by recognising second, and perhaps subsequent, generation matrilineals.'

62. Referring to the Larrakia land rights protests of the 1970s, Mr Justice Mansfield (2006: Para 388) states: 'Indeed it is noteworthy that the historical record shows that people of mixed descent did not participate in any of the demonstrations outlined above.' However, the 1973 genealogy and other indicators suggest that 'people of mixed descent', including Topsy Secretary's grandchildren and the descendants of Dedja Batcho, were equally recognised as members of the danggalaba clan.
63. Witnesses from the wider Larrakia group of over 1000 members were drawn from families not included on the 1973 genealogy. Some stated that they had only become involved in the late 1980s (see Day *Larrakia Dreaming: the man named after a butcher shop: Richard Koolpinyah Barnes* 2009). Annexed to this Affidavit and marked "WBD6" is a copy of the essay *Larrakia Dreaming: the man named after a butcher shop: Richard Koolpinyah Barnes*. However, amongst those whose names appeared on the genealogy in 1973 was Victor Williams who was actively involved in the campaign for Kulaluk and the return of the Larrakia sacred site at Emery Point (Wells *Saltwater People: Larrakia stories from around Darwin*. Darwin: Larrakia Nation Aboriginal Corporation 2001:181). Victor Williams also identified grave sites on the Kulaluk claim. His name was listed on a wall of a hut at Kulaluk in 1972 as a Larrakia member. On the 1973 genealogy he and his siblings and their families were grouped with their aunt, Dolly Gurinyee, as a member of the same clan as the four classificatory danggalaba brothers.
64. Mr Justice Mansfield (2006: Para 800) wrote: '...I am not satisfied that there is a separate more confined society of Aboriginal persons comprising

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the second applicants who, alone among those who comprise what Mr Quall called the wider 'Larrakia language group', possess rights and interests under 'traditional' laws and customs by which they have a connection to the land and waters of the claim area.'

65. The 1973 genealogy supports Mr Quall's assertion that there is a separate more confined society than the NLC model of the wider 'Larrakia language group'.
66. The inclusion of many families (over 1,000 people) in the Larrakia native title claim who are not shown on the 1973 genealogy had several negative effects on the native title claim:
 - a) diluted the evidence by accepting people who had no continuing connection.
 - b) gave the impression that the danggalaba clan had ceased to exist as a separated group.
 - c) Gave the impression that there had been a break in Larrakia connection to country.
 - d) Gave the impression that there had been a revival of Larrakia laws, customs and beliefs in after the 1970s, rather than a continuous connection suggested in the 1973 genealogy.
67. The 1973 genealogy is a corrective to the wider group advocated before Mr Justice Mansfield. If read in conjunction with the Kenbi claim, the 1973 genealogy is evidence that a 'more confined' society existed, namely a cognative descent danggalaba clan consisting of the descendants of Tommy Lyons, Crab Billy Belyuen, King George and Frank Secretary and Blanchie.
68. There is no suggestion in the 1973 genealogy that a separate group known as 'the Tommy Lyons group' existed. The members of 'the Tommy Lyons group' were members of the danggalaba clan shown on the 1973

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genealogy. Evidence suggests that those who advocate a separate 'Tommy Lyons group' may identify more as Wadjigiyn-Kiyuk.

69. In fact Mr Justice Gray (2000: Para 2.21.1) states the Tommy Lyons group was named 'for convenience sake'. He states: 'When the inquiry resumed before me on 16 October 1995, two groups of claimants were represented separately by counsel. For convenience in identifying it, this group was named the Tommy Lyons group...' The separate representation suggests the formation of the Tommy Lyons group is an example of the damaging effects to social structure that can be caused by a land claim (see Reeves 1998).
70. Tommy Lyons married a Wadjigiyn-Kiyuk woman, Maudie Bennett, who passed on her knowledge to her children and grandchildren (Brandl et al 1979). Mr Justice Olney (Para 7.3.5) described how leading members of the Tommy Lyons group/danggalaba clan were taught by Wadjigiyn-Kiyuk people: 'Knowledge of their country is now being passed on to this group by very knowledgeable non-claimants such as their mother's mother, Maudie Bennett and their father, John Singh [Wadjigiyn-Kiyuk]. The eldest, Raelene, was only born in 1970 but could be expected to become a senior traditional owner as she acquires the appropriate level of knowledge. In this case the transfer of knowledge across generations is going from non-Larrakia to Larrakia (Olney 1991: Para 7.3.5).'
71. Mr Justice Mansfield (2006: Para 728) makes a similar point. He wrote: 'In my judgment, there was no sustained positive attempt to maintain at Belyuen the integrity of the knowledge and customs of the Larrakia people as distinct from those of the Belyuen community.'
72. However, Mr Justice Mansfield (2006: Para 715) also wrote: 'There was primary evidence in these proceedings and during the Kenbi Claim hearing which indicated the opinion of various members of the Larrakia community ... that the 'Belyuen people' possessed a great deal of knowledge about Larrakia laws and customs.' The 1973 genealogy suggests that through




Tommy Lyons the Larrakia knowledge held by 'the Tommy Lyons group' belongs to the danggalaba clan as shown on the 1973 genealogy.

73. In the Kenbi claim there was a reliance on laws and customs of the Wadjigiyn-Kiyuk affiliates associated with the 'Tommy Lyons group' whereas the 1973 the genealogy suggests that the members of the 'Tommy Lyons group' were in fact members of the Larrakia danggalaba clan.
74. Mr Justice Gray (2000: Para 4.6) allows for people to 'activate' their membership of the danggalaba clan. The example of Kathleen Minyinma is an example that warrants discussing in more detail: In 1991 Mr Justice Olney (Para 7.1.5) wrote: 'Kathleen (or Dolphin) Minyinma (also sometimes referred to as Kathleen Presley) is the daughter of the late Billy Minyinma whose father was Crab Billy Belyuen. The latter's father is said to have been an adopted or putative son of Tommy Lyons' grandfather. She has grown up away from the claim area with a foster family.'
75. Later in his report, Mr Justice Olney (1991: Para 9.22.5) expands on Kathleen's position: 'I have no doubt as to the sincerity of Kathleen Minyinma's desire to become more knowledgeable concerning the traditions of her forebears. It is no fault of hers that she has been denied, until recently, access to that knowledge. She strikes me as a quiet but impressive person who may one day take up the mantle of her grandfather and be a leader among the Larrakia, but however generous a view one takes of her evidence, there is nothing upon which I can base a finding that she has any spiritual affiliation to any relevant site in common with any other member of the danggalaba clan.'
76. Nine years later Mr Justice Gray (2000: Para 4.6) commented: '[Kathleen] lives in Darwin. She has spent time staying with the Singh family at Belyuen and has been introduced to sites and dreamings to a significant extent, in recognition of her entitlement to knowledge of the country ... Dr Rose explained that Kathleen herself has a health problem and cares for an ailing mother and a sickly child. She is also afraid of involvement with the group in the context of the controversies generated by this land claim. It is

W. Gray

S. Roberts

clear that the lack of continuous involvement of Prince of Wales and Kathleen Minyinma has not negated the fact that they are regarded as members of the Tommy Lyons group. Kathleen's son [Desmond], although young, is similarly accepted. Zoe Singh's two daughters, being second generation matrifiliates, are perhaps not yet clearly members of the group. It may be in due course the accepted descent criteria will be broadened, at least so as to include them.'

77. Later in his report, Mr Justice Gray (2000: Para 5.8.2) states: 'Kathleen Minyinma has been introduced to the land claimed. She has been welcomed to it by her classificatory sisters, Raelene and Zoe, and her classificatory brother, Jason. She has activated her entitlements as a member of the Tommy Lyons group.'
78. In contrast to the case of Kathleen Minyinma, is the example of Stephanie Thompson. In a conversation I had with Stephanie on 11 September 2010 she informed me that she had not yet 'activated' her membership in the Tommy Lyons group, although she calls Raelene Singh 'sister'.
79. Mr Justice Gray (2000: Para 4.5.2) briefly mentions the Thompson family: 'As well as his marriage to Maudie Bennett, Tommy Lyons married a woman called Margaret Moy, whose language was Gunwinygu. They had one daughter, Rachel (also known as Paula) Thompson. Margaret Moy seems to have remarried and to have settled in Darwin. There is evidence that Rachel/Paula Thompson declined to be involved in this land claim in the early stages of its preparation [also see Brandl et al 1979:29-30]. She is now deceased, but is survived by five children and seven grandchildren. There is little or no evidence about them, although Raelene Singh did acknowledge Rachel/Paula Thompson's children as her sisters and brothers' as Denise Goodfellow and her family, described in the autobiography, *Quiet Snake Dreaming* (2007).
80. Paula had five children, Eddie, Stephanie, Una, Sharon and Andrew Thompson. Eddie had four children, Shane, Owen, Mark and Tama Thompson. Stephanie has two children, Victoria and Jethro Thompson.

W. Gray

Skobert

Una has one daughter, Andrea Thompson. Stephanie Thompson lives in Darwin's Bagot Community where she is recognised as Larrakia by other residents. For unknown reasons, the Thompsons are not shown on the 1973 genealogy.

81. In 2010, some of the Thompson family who identify as Larrakia have expressed an interest in being included in the native title claim. They do not know why they were not consulted in Kenbi or the native later title claim. Their mother died before 1989 and they may have shared Kathleen Minyinmar's fear of involvement 'in the context of the controversies generated by this land claim'. Their friend Denise Goodfellow suggests an element of intimidation as expressed in her email to me dated 7 October 2010. Annexed to this Affidavit and marked "WBD7" is a copy of the email from Denise Goodfellow.
82. According to an anthropologist who worked on the Kenbi claim: 'In 1979 there were a number of people known to be Larrakia descendents who were not wanting to be involved as claimants. Maybe people were very insecure about how they might be targeted in the Darwin community if they were involved. Large no.'s of white fella clubs & groups were opposing the claim, nasty things were being said in the local rag & etc. ... No doubt a lot of people felt intimidated at that time about the whole process.' Which was expressed to me in her email to me dated 6 October 2010. Annexed to this Affidavit and marked "WBD8" is a copy of the said email correspondence.
83. As stated, many people not identified as Larrakia on the 1973 genealogy gave evidence to Mr Justice Mansfield (see Day 2009). He commented that 'the present laws and customs of the Larrakia people reflect a sincere and intense desire to re-establish those traditional laws and customs adapted to the modern context ... That, however, is not a sufficient factual foundation for making a determination of native title rights and interests in this proceeding' (Mansfield 2006: Para 15). However, the Larrakia people listed on the 1973 genealogy may not have felt the need to 're-establish' traditional laws and customs because by a process of succession, they were holders of those laws and customs.

W. Day

Robert

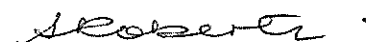
84. The process of succession laid out in the 1973 genealogy by cognitive descent was interrupted by the longest running land claim in Australia - from 1979 to 2006, if the native title claim is included. The effects on Aboriginal society from land claims are discussed by Reeves (1998). As a result of strategies by the NLC the Larrakia land claims shifted from a patrilineal clan to a wider language group, then as the claims progressed, into separate groups – ‘the Tommy Lyons group’ the Danggalaba group, the Larrakia group and the Belyuen group.
85. Once the wider group was established, it was difficult for the danggalaba group shown in the 1973 genealogy to assert their rights. Not without reason, ‘the Tommy Lyons group’ was represented separately, while others were persuaded to join the Larrakia group. However, the basic structure of the danggalaba clan shown on the 1973 genealogy remained and remains to the present.
86. In paragraph 814, Mr Justice Mansfield states: ‘However, thereafter there is progressively little evidence of the continued practice of, and respect for, the Larrakia traditional laws and customs [up] until the 1970s.’ I suggest that in the 1970s the Larrakia people were practising their laws and customs in conjunction with the Wadjigiyn-Kiyuk people on the Cox Peninsula and other groups to the east with a recognised system of succession. The land claims process has then distorted the nature of the society and interfered with the order of succession outlined in the 1973 genealogy, ignored previous hearings prior to 2010.
87. In paragraphs 832 and 833, Mr Justice Mansfield (2006) discusses ‘the breakdown in the process for the transfer of knowledge’. He continues: ‘I think that breakdown is also revealed in the current decision-making structures for the Larrakia people ... I am mindful that the numerical extent of those professing membership of (and apparently accepted as members of) the Larrakia people is much greater than during the early and middle decades of the 20th Century. However, I think it is clear that the decision-

W. B. Day

Robert

making process among the Larrakia people has been largely transferred to the Larrakia Nation. Its composition is not traditional.'

88. The Larrakia Nation is made up of representatives of eight families (Mansfield 2006: Para 695). That structure is as a result of the land claim process and is not traditional. The eight families include many who are not listed on the 1973 genealogy, while excluding several notable families who *are* on the genealogy. In addition there are families who are not represented in the Larrakia Nation at all.
89. The remarks by Mr Justice Mansfield (2006: Para 833) concerning the 'numerical extent of those professing membership' highlight how the land claim process itself has distorted Larrakia processes of succession by accepting people who were not recognised as Larrakia in the 1970s. It is not surprising that members of the Danggalaba Clan have withdrawn to their own small groups, including the Secretary family at Kulaluk, as identified in the *Gwalwa Daraniki Association Incorporated Constitution*. Annexed to this Affidavit and marked "WBD9" is a copy of the constitution. Other groups who identify as Danggalaba are the Singhs at Belyuen, the Thompsons at Bagot and the Batcho family in Darwin.
90. The 1973 genealogy clearly shows that there exists a distinct family group which elsewhere described itself as the Danggalaba Clan. Since 1973 those family members who are descendants from that genealogy, such as Raelene Singh, have continued to identify as Danggalaba although in the Kenbi Land Claim they identified as belonging to a separate 'Tommy Lyons Group'.
91. The genealogy makes clear that in 1973 there was no separate group known as the 'Tommy Lyons Group' as recognised by Mr Justice Gray in the Kenbi Land Claim. In the Kenbi Land Claim Mr Justice Gray (2000) recognised Raylene Singh and her siblings in the Tommy Lyons group as traditional Aboriginal owners.

92. In a letter written under the letterhead of 'Kenbi Danggalaba Association Incorporated' dated 31 August 2009, signed by 'Raylene Singh', she describes herself as the 'most senior Larrakia traditional owner for Kenbi'. The letter is to the Wagait Shire Council seeking a meeting with them. Annexed to this Affidavit and marked "WBD10" is a copy of this letter.
93. Raelene Singh has also welcomed people to Larrakia Country in the introduction to the Darwin Festival 2010 program. In the welcome she describes herself as 'the Elder, named most senior Larrakia Traditional Owner and authority for Larrakia Country here in Darwin, the surrounding region and across the Cox Peninsula to Kenbi...' Raylene Singh also states in the Darwin Festival 2010 Program introduction, 'Welcome to Larrakia Country. We are the true Danggalaba.' Annexed to this Affidavit and marked "WBD11" is a copy of Raelene Singh's welcome statement.
94. The Gwalwa Daraniki Association Incorporated constitution also shows that the descendants of Topsy Secretary identify as Danggalaba. The constitution states: 'Kulaluk Community means the community comprising persons who are (a) descendants of the Danggalaba Clan of the Larrakia people; or (b) married to, or in a long-term de facto relationship with, a descendant of the Danggalaba Clan of the Larrakia people.' Annexed to this Affidavit and marked "WBD⁹12" is a copy of the constitution. *WBD*
95. The Batcho family have always maintained that they belong to the Danggalaba clan as confirmed by the genealogy of 1973.
96. I suggest that these apparent separations did not exist in Larrakia society in 1973 and are a result of the land claims process, as outlined above, and as noted by Mr John Reeves QC, as he then was, his 'Report to ATSIC' "*Building on Land Rights for the Next Generation*" (p166. Canberra: ATSIC). Annexed to this Affidavit and marked "WBD13" is a copy of the page 166 from the Report to ATSIC.
97. A clan by definition cannot exist in three or more manifestations under the same name. The 1973 genealogy suggests that these apparent separate

WBD
Day

Roberts



groups belong to one and the same Danggalaba Clan who ~~are~~, in the words of Raelene Singh, are 'Larrakia Traditional Owner(s) and authority for Larrakia Country here in Darwin.'

98. All the facts and circumstances deposed in this Affidavit are within my own knowledge.

Affirmed at Perth

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this thirteenth day of October 2010

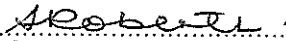
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before me:

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Deponent



A person authorised to administer oaths and affirmations for the purposes of the Federal Court

Rosemary Jacob

Solicitor

Telephone ~~8941-8995~~

AFFIDAVIT – CERTIFICATE OF COMPLIANCE

(Order 14, Rule 5A)

I, Robert Welfare certify to the Court that this Affidavit affirmed by William Bartlett Day on 13 October 2010 and filed on behalf of the Respondent complies with Order 14, rule 2 of the Federal Court Rules.

Date 13 October 2010

.....

This and the following / pages is the Annexure marked "WBD/"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010

.....
Witness A person authorized to administer oaths and affirmations for the purposes of the Federal Court

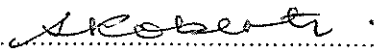
This and the following 1 page is the Annexure marked "WBD2"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010



.....
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A person authorized to administer oaths and
affirmations for the purposes of the Federal Court



"WBD 2"

Australian Government
National Archives of Australia

Mr Bill Day
Gumala Aboriginal Corporation
PO Box 419
Tom Price WA 6751

Dear Mr Day,

Your further inquiry relating to your search for the records containing the submission made to the Aboriginal Land Rights Commission in Darwin on the 2nd June 1973, and obtaining a transcript of the hearing and a copy of the Larrakia Genealogy, and the Larrakia "Treaty" document, has been forwarded to the Darwin office for response.

I have checked our Recordsearch database, and located the following record items which you may be interested in obtaining access to. Please note that any records that have an access status of *Not yet examined* will need to be examined before they can be publicly released. Also please note that any records that are less than 30 years old (ie, currently any records from 1st January 1974-Present fall into this period) cannot be publicly released except with the permission of the controlling agency.

If you are able to access the Internet and the NAA website you will be able to conduct your own searches at the following website address:
http://naa.gov.au/the_collection/recordsearch.html.

I have attached some lists from our database of possible Agencies, series and items that may be of interest to you. If you would like to lodge an access application for any of the records that are on the attached lists, or any that you are able to identify on recordsearch please contact me to advise.

If you have any further queries about the information I have sent you or would like to discuss your research further please contact me on phone (08) 8985 0327, fax (08) 8985 0399, or by e-mail at kathg@naa.gov.au.

Yours sincerely,

Katherine Goodwin
Reference Officer
NAA Darwin

23 June 2004

This and the following 1 page is the Annexure marked "WBD3"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010

..... *A Roberti* .
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affirmations for the purposes of the Federal Court

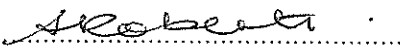
This and the following 1 page is the Annexure marked "WBD4"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010


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ported in Brisbane but earlier this week.

NT NEWS

29 May 1971 "WBD4"

A CALL OUT FOR ALL LARRAKIAS

All members of the almost extinct Larrakia tribe of the Darwin area are being called together.

Tribal leader, Mr Kooloomurinyee (known everywhere as Mr Bobby Secretary) said yesterday that this was necessary after his talk yesterday with the assistant-administrator (Welfare) Mr Harry Giese.

He had put the case for land near the drive-in theatre where he has camped for years.

Mr Kooloomurinyee said Mr Giese wanted to be satisfied that he was the spokesman for the

tribe, and to talk to all members.

Mr Giese had referred to a 14 square mile area allocated to the Larrakia some time ago.

But Mr Kooloomurinyee said this was not in the tribal area.

He hoped to get all Larrakias together within a week or so.

800 nigh

Ken Maynard (tight to ride his ba
nigh's Darwin Jay

This and the following / pages is the Annexure marked "WBD⁵"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010

.....*Roberts*.....
Witness A person authorized to administer oaths and
affirmations for the purposes of the Federal Court

"WBD 5"

SONGS OF DEATH TO LAMENT A LOST LINK

**Dolly Gurinyee and Kurramunuk are dead —
and the dwindling Larrakia tribe is in mourning.**

The two old women were among the last of the tribe members, whose personal history ran parallel to the 20th century development of Darwin.

Dolly and Kurramunuk, her sister, who was known as old Topsy Secretary died in the weeks before Christmas.

Because of their deaths the Kululuk area, now famous in Australia for its land rights claim and an alleged fire bombing will relive some of its history early next year.

Larrakia, Waugite, and Brinkin Aborigines and people from Snake Bay, Croker Island and other centres are expected to attend the mortuary rites for the sisters at the start of the dry season.

The man who will organise the ritual is Johny Fejo, grandson of Dolly and Kurramunuk and now the second most important man in the tribe.

Although the old women will be buried in the Darwin cemetery, the Aborigines intend for their spirit to remain at Kululuk.

Their clothes will be buried there, and special corroborees will be sung and danced.

Johny Fejo has a photograph of Kurramunuk.

He showed it yesterday while people at Kululuk who knew the Larrakia language chanted a burial song.

But he held the picture away from himself, say-

ing it made him too sad to look at it.

Younger Topsy Secretary, a cousin of the dead women, said the young people were being taught the sacred dances and songs.

"They understand some of what we say, but they cannot talk in the language," she said.

"There used to be a frog dance which was very important, but now only old Norman Barral at Japanese Beach knows it properly," she added.

Only about 16 of the Larrakia are left, and many are married to Aborigines from other tribes.

Tophy was married to Doug Gutchen from Thursday Island.

Earlier this year, after months of negotiations with the army, the Larrakia people visited the Larrakeyah army barracks for the first time since they were opened.

Dolly wept when she saw sacred sites she was never allowed to see as a child.

Johny Fejo and other Aborigines at Kululuk are hoping that the old women's attachment to Darwin can be preserved there by the land claim.

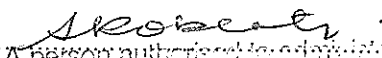
This and the following 19 pages is the Annexure marked "WBD6"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010

..... 
A person authorized to administer oaths and
Witness affirmations for the purposes of the Federal Court

This and the following / pages is the Annexure marked "WBD 7"
Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010

.....
Witness A person authorised to administer oaths and
affirmations for the purposes of the Federal Court

This and the following / pages is the Annexure marked "WBD8"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010



Witness

A person authorised to administer oaths and
affirmations for the purposes of the Federal Court

"WBD 7"

WILLIAM DAY

From: "Denise Goodfellow" <goodfellow@bigpond.com.au>
To: "WILLIAM DAY" <williambd@bigpond.com>; "Brendan Loizou" <bvloizou@gmail.com>
Sent: Thursday, 7 October 2010 3:31 AM
Subject: Re: From Adrienne McConvell nee Haritos

Hi Bill

Thanks for this information. I'll pass it on to Stephanie. I never found Paula to be intimidated by anything or anyone, except Mr. Yunupingu. However, I'm inclined to think there were other reasons she didn't take part. Maybe she didn't think she was entitled. And on that, I wonder who put the rumour around that she wasn't a 'true Larrakia' (see Quiet Snake Dreaming). I was told this at a Labor Party function. John Ah Kit and Colin Tyler are the only two names I can remember from that night.

Denise

on 6/10/10 6:06 PM, WILLIAM DAY at williambd@bigpond.com wrote:

Andienne was a co-author of the kenbi report

Bill

----- Original Message -----

From: adrienne mcconvell <mailto:adriennemcconvell@yahoo.com.au>

To: WILLIAM DAY <mailto:williambd@bigpond.com>

Sent: Wednesday, October 06, 2010 3:15 PM

Subject: Re: Fw: Stephanie Thompson

"WBD 8"

Hi Bill

Olga Singh & Maudie Bennett told Maria & myself that Margaret Moy was Tommy Lyons' (Imabulg) first wife and that their daughter was Rachel (who I understand was also known as Paula). And that Rachel married Mathew Thompson and that they had children. This is supported in the main genealogy in the Kenbi Land Claim Book. There is no doubt this family is Larrakia.

King George, Tommy Imabulg Lyons, Frank Secretary, Billy Belyuen Minyanma (sp?) were all "brothers". King George's son was Prince who I think had no children. Tommy's children were Rachel (Paula) Thompson & Olga, Frank's children were Bobby, Topsy & Gabriel and Billy's daughter is Kathleen (Dolphin) Minyanma (sp?). Kathleen was involved in the 1988 field trips & hearings with the NLC and she was recognised by everyone there as a Larrakia.

In 1979 there were a number of people known to be Larrakia descendants who were not wanting to be involved as claimants. Maybe people were very insecure about how they might be targeted in the Darwin community if they were involved. Large no.'s of white fella clubs & groups were opposing the claim, nasty things were being said in the local rag & etc.

One example I remember was when Maria & I knocked on the front door of a lady of Larrakia descent in Batchelor to inform her about Kenbi and to suggest that she may be interested in being involved, her white husband was home & we were asked to come around to the back door. She was clearly very uncomfortable and said she was not interested. No doubt a lot of people felt intimidated at that time about the whole process.

I don't know why Rachel was hesitant about becoming involved. We went to visit her at Bagot and explained Kenbi the same as we tried to inform and include all known Larrakia and there was never a question about her being Larrakia. She most certainly was referred to as Larrakia by Olga & Maudie who placed her firmly on their genealogy.

Interestingly when talking to Rachel Thompson, Margaret Moy & Lena Uralki at Bagot in January 1979 they said that the Larrakia name for Koolpinyah is Mermelma (sp?). At Humpty Doo in May 1979 old George Havelock said Mamilma (sp?) is a Larrakia word for Koolpinya.

Hope that is of some help
 Adrienne

This and the following // pages is the Annexure marked "WBD9"
Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010



Witness

A person authorized to administer oaths and
affirmations for the purposes of the Federal Court

Assn #: _____
 Doc #: BPFIX
R 933956
 A: _____ P: _____

(46)

Northern Territory of Australia

OATHS ACT

STATUTORY DECLARATION

Assn #: 602541
 Doc #: _____
R 933955
 A: _____ P: _____

11 pp.

(1) Insert name & address of person making the declaration

I, (1) HELEN PATRICIA SECRETARY
 of LOT 8630 DICK WARD DRIVE, NIGHTCLIFF, NT 0814

do solemnly and sincerely declare:

(2) Insert name of entity

I am the Public Officer of
 (2) GUALWA JARANIKI ASSOCIATION INC
INCORPORATED

(3) Insert date of meeting

The following resolution to amend the association's constitution was passed in
 accordance with the constitution at a meeting held on (3) 14 / 9 / 2006

RESOLUTION: "that the constitution (a copy of which is attached at annexure "A") be adopted."

I make this solemn declaration by virtue of the *Oaths Act* and conscientiously believing the statements contained in this declaration and accompanying application to be true in every particular.

Declared at DARWIN on the 14th day of SEPTEMBER 2006

(4) Signature of the person making the declaration

(4) [Signature]
HELEN PATRICIA SECRETARY

Before me

(5) Signature of person before whom declaration is made.

(5) [Signature]

(6) Full contact details of person before whom declaration is made legibly written, typed or stamped.

(6) Michael Chin
Barrister and Solicitor
GPO Box 738
Darwin NT 0801
Ph: (08) 89417311
Fax: (08) 89412636

NOTE: This declaration may be made before any person who has attained the age of (18) eighteen years.
 A person willfully making a false statement in a statutory declaration is liable to a penalty of \$2000 or imprisonment for 12 months, or both.

This and the following 2 pages is the Annexure marked "WBD/0"
Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010



Witness

A person authorized to administer oaths and
affirmations for the purposes of the Federal Court

"WBD'io"



KENBI DANGGALABA ASSOC. INC.
RAYLENE SINGH, CHAIRPERSON
BELYUEN COMMUNITY
GPO BOX 4111 DARWIN 0801

RAYLENE SINGH
Traditional Owner Chairperson

RECEIVED
11 SEP 2009

Kenbi Danggalaba Association Inc.
Belyuen Aboriginal Community Cox Peninsula NT
GPO BOX 4111 DARWIN 0801
Telephone 08 89482711

RY:

Mr Peter Clee
President
WAGAIT SHIRE COUNCIL

31 AUGUST 2009

RE: KENBI MEETING WITH LARRAKIA TRADITIONAL OWNERS

Dear Sir

I write to the Wagait Shire Council as the named, most senior Larrakia Traditional Owner for Kenbi and as a member of the Belyuen Community to request a meeting with your council to formally introduce myself as the authority for all matters on Kenbi, Cox Peninsula. This includes future development on my land Kenbi.

There seems to be some confusion created by parties that wish to develop my land without my consent, I wish to inform you that all future discussions concerning Kenbi will be managed personally by me.

The Northern Land Council is the representative body for traditional owners under the *Aboriginal Land Rights Act NT 1976* and they take all direction from me regarding the protection of Kenbi for the Larrakia Traditional Owners and the future development of Kenbi and this includes the Larrakia Development Corporation, owned by the Northern Land Council.

The aim of the Kenbi Danggalaba Association and the Kenbi Rangers, Belyuen Kenbi Dancers and Kenbi Tourism is to protect and preserve the cultural heritage of Kenbi including the Belyuen Community to provide cultural, social and economic benefits to the Traditional Owners, Custodians, Larrakia Families and the Darwin NT Community.

I have given no permission for development on Kenbi at this stage and are currently going through the negotiation process with the Federal Government and the Federal Minister.

The Wagait Shire Council CEO Wally Lenzerheide was approached on my behalf to arrange a meeting with the Council and I was informed that the President of the Wagait Shire Council, Mr Peter Clee did not want to have a meeting with the Traditional Owners of Kenbi.

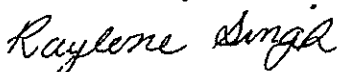
I now wish approach the entire council of the Wagait Council as a matter of courtesy for a meeting with respect to the Traditional Owners of Kenbi and to formulate a future relationship with the full council not an individual.

I am personally developing and supporting significant Aboriginal cultural programs and projects and business that involves Caring for Country including land, coast and sea management ranger program, Kenbi Rangers, to maintain control over Kenbi to increase the numbers of Aboriginal people in employment, training, service delivery, construction and numerous businesses and cultural tourism on Kenbi.

It is now public knowledge of the significant business developments that will happen with my approval after the handover of Kenbi to the Traditional Owners of Kenbi, this was formally announced by the Chief Minister, Paul Henderson in the NT Parliament in January this year and I am now working with the Federal Minister Jenny Macklin to continue the process. I announced with the Chief Minister and the Chairperson of the Northern Land Council Mr Wali Wunungmurra and CEO Kim Hill and we together made the statement in the Parliament that I will ensure that I will make decisions on Kenbi that will benefit the Larrakia Traditional Owners, the Belyuen custodians and all Larrakia families and including the residents of Cox Peninsula and Darwin, this announcement has gained the support of the Federal Minister.

As the most Senior Traditional Owner, I look forward to meeting with your council. I may be contacted to arrange the final details for the important meeting.

Yours sincerely,



Ms RAYLENE SINGH
Larrakia Traditional Owner
CHAIRPERSON
KENBI DANGGALABA ASSOCIATION

Cc: Federal Minister Jenny Macklin Chief Minister NTG Paul Henderson, Minister Rob Knight, Minister for Local Government, Minister Karl Hampton Minister for Natural Resources and Environment, Minister Warren Snowdon, Minister for Indigenous Health, Rural and Regional Health and Regional Services Delivery
Chairperson Northern Land Council Wali Wunungmurra, Kim Hill CEO Northern Land Council

The aim of the Kenbi Danggalaba Association and the Kenbi Rangers, Belyuen Kenbi Dancers and Kenbi Tourism is to protect and preserve the cultural heritage of Kenbi including the Belyuen Community to provide cultural, social and economic benefits to the Traditional Owners, Custodians, Larrakia Families and the Darwin NT Community.

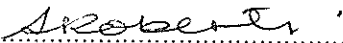
This and the following / pages is the Annexure marked "WBD//"

Referred to in the Affidavit of



William Bartlett Day

AFFIRMED before me this 13th Day of October 2010



Witness

A person authorized to administer oaths and
affirmations for the purposes of the Federal Court

raylene singh

Larrakia Traditional Owner



My name is Raylene Singh. I am the Elder, named most senior Larrakia Traditional Owner and authority for Larrakia Country here in Darwin, the surrounding region and across the Cox Peninsula to Kenbi where I lives with the Traditional Owners and Custodians of the land - in my community Belyuen.

Welcome to Larrakia Country. We are the true Dangkalabba, the Larrakia Traditional Owners of this Country where we have struggled for our land rights for many generations. We hope you enjoy your experience on Larrakia Country and celebrate our cultures and our people and everything on our beautiful land.

Welcome to Larrakia Country here in Darwin. This is our country given to us by our ancestors to look after and enjoy for future generations. Long may we celebrate our cultures, languages through art, song and dance and follow the path of our ancestors wherever we go.

When you leave Larrakia Country always remember the Larrakia and that you have travelled the sacred lands of our ancestors.

"WBD 11"

This and the following / pages is the Annexure marked "WBD 12

Referred to in the Affidavit of

A handwritten signature in cursive script, appearing to read "W B Day".

William Bartlett Day

AFFIRMED before me this 13th Day of October 2010

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Witness