

Summary of “Review of the Assessment Process Carried Out in Relation to the Kulaluk Lease Area” prepared for the Northern Territory Heritage Council. A Report by Dr David Ritchie, Capricornia Consulting, 31 May 2015.

Dr David Ritchie's report to the Heritage Council does not address the concerns of many who have led the campaign to have the 301 hectare lease registered as a heritage site to preserve a Green belt stretching from East Point through Ludmilla Creek and the Kulaluk lease and beyond. These aspirations are covered by the heritage values under (b), (d), (e) and (f) of the Heritage Assessment Criteria. Although the Kulaluk Lease encompasses a priceless area of urban bushland and mangroves, David Ritchie suggests the natural values of the lease are not unique. The heritage value lies in the area's significance to the Larrakia and other Aboriginal people because the landscape embodies the heroic actions of the ancestors who fought to have their land claims recognised.

Rather than an environmental study, the Ritchie report confines itself to an “objective and thorough historical analysis”. Despite such limitations, the report comes down very strongly in support of registering the Kulaluk Lease Area as heritage under the NT Heritage Act. The report was commissioned in response to the Larrakia Nation Aboriginal Corporation's nomination of the whole lease area in June 2014. The subsequent Heritage Branch report found the nomination satisfied section 11(a) of the Heritage Act in that the struggle of the Larrakia for Kulaluk was a significant event in Territory history. The lease area also satisfied Section 11(c) in containing sites of cultural significance, including burials, and that there was a strong association with a particular group. Previously, the Heritage Branch had ordered Archaeological excavations to confirm burial sites on a development block at the end of Totem Road. In regard to Sections 11(h), special association with a person or group of persons of importance in territory history, the earlier Heritage Branch report concluded that this criteria was only 'marginally met'.

Following these findings, the LNAC appealed against the Heritage Council decision not to accept the nomination. Magistrate Greg Cavanagh found that the Section 11(b) had been 'strongly met', concluding that four criteria had been satisfied. And as Cavanagh states, the more criteria met, the stronger the case for nomination. As a result, Magistrate Greg Cavanagh set aside the Heritage Council decision and a comprehensive historical analysis was ordered. Despite ample historical documentation, Cavanagh expressed concern about the lack of evidence for the claimed burial sites.

Dr David Ritchie was then commissioned to write the comprehensive historical analysis. He was well qualified for the task. He is a past head of the Aboriginal Areas Protection Authority and also of the Department of Lands, Planning and Environment.

In his report, Ritchie recognised the significance of the Kulaluk Lease Area in the history of the Territory. The report notes that “for the first time government acted on claims by Larrakia to land in the town area” and that the Larrakia campaign for land rights had a major influence on NT policy, in that the Land rights Act shaped the future direction of Northern Territory development. In emphasising the recurring tradition of claims by Larrakia in Territory history, Ritchie describes the raising of a flag to claim back Darwin on November 7, 1971, as “an iconic part of our history.”

Addressing section 11(h), “a special association with a number of people”, as accepted by Cavanagh, Ritchie strengthens this criteria by naming a cast of characters including Jim Bowditch and Paul Everingham. Perhaps he could have added Dick Ward, Gough Whitlam, John Loizou and others named throughout the report. The report also emphasises the significance of the lease to the wider community as well as the Larrakia and notes that the Larrakia feel they have not had a chance to explain what the land signifies to them. Ritchie notes that it is essential to determine how a community or cultural groups see a place to be significant and seems to be suggesting the more time is needed (page 67) by suggesting that the Heritage Branch could defer a decision that “requires more time for direct engagement”. Perhaps it was that the Ritchie report answered many of these doubts because the nomination moved onto the public submissions stage in March 2016 and Ritchie comments that by that stage the Heritage Council normally has a “high degree of confidence that the place in question meets

the threshold of significance required.”

Ritchie gives a summary of a “shared history” and how the Larrakia participated in the cultural and economic life of Darwin although prior ownership was not recognised in any meaningful manner. There is a summary of early occupation with Goyder's survey in 1869 as a land grab, ignoring the Letters Patent issued to the colony of South Australia. A map of Nightcliff shows an Aboriginal Reserve extending into the northern parts of Kulaluk. There had been a pattern of giving and taking continued to 1936 when King George the Larrakia leader described his people as 'Saltwater people’ in choosing the bagot Reserve as a replacement for Kahlin Compound, described as “close to centres of totemic and ceremonial significance.” However, as Ritchie notes, setting aside reserves was a recognition of needs, not rights.

Ritchie describes the Larrakia role in World war 2 and the following strikes led by Larrakia man, Fred Nadpurr waters and Lawrence Urban, who was consulted in the early days of the Kulaluk claim. Then, as during the land rights era, dissatisfaction by Aborigines was blamed on external agitators rather than injustice. A statement by Ted Egan tells of burial grounds along Totem Road (pp96-7). The creation of camps around the town where Aboriginal campers prided themselves of having “no boss” is noted, but little is said of the division artificially created between Wards and citizens up to 1964.

Ritchie mentions various protests that were widely publicised in the 1970s. He summarises a Welfare Branch report that claimed the Kulaluk area was no longer significant, and that the group there was “unstable”. The first point has been proved wrong by history and the second point fails to understand the bonds of kinship. As noted, at that time it was generally felt that Aboriginal people were happy with their lot and “stirrers” were to blame for any unrest.

A strength of the Ritchie report is that it recognises it was not just Larrakia making claim to land in Darwin, and that a debt is owed to other groups, especially Knuckeyes Lagoon and One Mile Dam campers. However it should be noted that these groups are closely interrelated with the Larrakia at Kulaluk. The response of the government was to think in terms of community living areas rather than land rights, an attitude that applies in Darwin until the present times and has become enshrined in the Land Rights Act of 1976. There is also a trend towards emphasizing values of spirituality in the movement to conserve the Kulaluk Lease Area.

A powerful endorsement of the heritage nomination is Ritchie's belief that the raising of a flag outside the Supreme Court in 1971 was “one of the most celebrated protests in the history of Darwin”, an event that Ritchie describes as “iconic”. He writes that the protests began to influence the still emerging policy debate over the recognition of Aboriginal land rights. Although he mentions the National conference held in Darwin in June 1973, Ritchie strangely fails to note the call for treaties or the 1000-signature Larrakia petition to the queen, which is now a valued item in the National Archives collection. Similarly the report does not put into context the important role played by Fred Fogarty,, a Queenslander who was jailed for his part in violent protests at Kulaluk in July 1973. Neither does the report explain how the lease came to be issued to an incorporated association rather than a land trust, as was intended. A lease was convenient for the government because it did not require assessing traditional attachment,

In his summary of the importance of early colonial history, Ritchie lists relevant points:

- a) repeating patterns of interaction which had their origins in the early years.
- b) Aborigines are constructed and reconstructed. For example Kulaluk has gone from reservation to rights, to real estate and now a return to spiritual values in native title debates.
- c) a history of broken promises.
- d) saving land by using existing laws is not necessarily a good fit and is open to manipulation.

On page 66 Ritchie describes the Kulaluk landscape as embodying “the heroic actions of the leaders”, and quotes a comment that “What our ancestors achieved should not be surrendered to oblivion.” He says “places of cultural significance enrich people's lives, often providing a deep and inspirational sense of connection to community and landscape, to past and to lived experiences that are historical

records.” A examples of significant spaces given by Ritchie are Runnymede where the Magna Carta was signed and to Gettysburg. In the Northern territory, the nomination of the Kulaluk Lease Area is compared to the wave Hill Walk-off site, that has been registered under the Heritage Act. However, unlike the Save the Green Belt activists who push for heritage registration of Kulaluk, Ritchie does not assert that the natural values of the lease are unique in relation to other ecosystems in the Territory. Importantly, Ritchie stresses “The idea that the wider community or a third party has legitimate interest in places and buildings that may be owned by individuals is well understood in Heritage legislation.” He describes as “a routine matter” applications from an interest other than the landowner which in many cases are opposed by landowners” (p.65). The report concludes on pages 85 to 95 with statements recorded by Larrakia members and others. Included is a statement in support of heritage listing by a past employee of the Gwalwa Daraniki Association who hold the lease. Overall, the Ritchie report is a resounding endorsement of the heritage registration of the 301 hectare lease.