

Submission Objecting to Planit Consulting application to Subdivide Lot 5182 Kulaluk Lease

According to public notices in the Northern Territory News, January 9, 2015, an application has once again been made to subdivide Lot 5182, otherwise known as the Kulaluk Lease. This application follows the successful application to rezone Lot 5182 to Light Industry. Amongst many other interested people, I have lodged several objections to that rezoning and subdivision. My objections still stand and are applicable to the recent application to subdivide. Please refer to the points listed in my submission dated January 17, 2014.

Since that time, an application has been made to register the Kulaluk Lease Area of 301 hectares under the Heritage Act (NT). This application was considered and eventually rejected, although importantly the Heritage Council report recognised that the area has high significance to a much wider group than the present leaseholders.

A decision on 30th December 2014 by Greg Cavanagh SM, Chairperson, Lands, Planning and Mining Tribunal has requested the Heritage Council reconsider the Larrakia Nation application to register the Kulaluk Lease Area as a heritage site. This was the first ever appeal under the Heritage Act, and will be the last to the tribunal as the Northern Territory Civil and Administrative Tribunal (NTCAT) took over jurisdiction from 1 January 2015. (On 21 October 2014, Dr Brian Reid, Chairman of the Heritage Council informed Donna Jackson of the Larrakia Nation that the Kulaluk Lease Area “is not of heritage significance” and that the area “did not meet the threshold of significance required to warrant proceeding further with the process”).

In reviewing the Heritage Council decision, Greg Cavenagh cited the Heritage Council's assessment report, pages 41-43, which found that (a): "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 title to traditional owners in an urban environment." [NOTE: This statement is not strictly correct because the land was not granted under the Land Rights Act 1976, or to a Larrakia Trust, but to an incorporated Association. The Aboriginal Land Rights Commissioner Woodward in his final 1974 report commented that this association was not suitable to hold land title].

The Tribunal Chairman, Greg Cavanagh, also cited point (c) which found: “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.”

Criteria (c) discussed in the Heritage Council report and cited by Cavanagh notes: “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 of traditional owners or custodians claim to speak for the land in question. These factors point to the significance of the place to Aboriginal people.”

Finally the Heritage Council report cited by Tribunal chairman Cavanagh found that the criteria of point (h) was also met. That is, "Whether [the area] has a special association with the life or works of a person, or group of persons, of importance in the Territory's history." The Heritage Council found: “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 recognized or well-known within the Territory as a whole.” [Note: This is surely a subjective comment]

In summary, Tribunal Chairman Greg Cavanagh (16) found that:

The material submitted, both in the original application and to this Tribunal, does not appear to have been subjected to rigorous and objective analysis.

Accordingly, pursuant to section 21F(1)(c) of the [Heritage 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 section 11(a), (g) and (h) criteria of the Act before reconsideration.

Therefore, in consideration of Mr Cavanagh's decision of 30 December 2014, I maintain that the Planit application should not proceed at this time.

Finally, I question the legality of the present and previous applications to rezone and subdivide

the Kulaluk Lease Area Lot 5182 and Part Lot 8630. DCA chairman Peter McQueen has noted that the lease does not “belong” to the Gwalwa Daraniki Association (GDA), presumably because it is a Crown lease in Perpetuity. The Heritage Council report confirms the decisions by the Interim Aboriginal Land Commissioner, Mr Justice Richard Ward (1975) and supporting evidence that the area is of significance to a far wider group than the present “minimum of 5” members of the GDA.

What evidence has Planit and others that proves a legally acceptable agreement exists between the leaseholders and the developers submitting these many applications? The only evidence I have seen are two scraps of paper signed by a woman who claims to represent the leaseholders.

Where is the evidence that she has been legally appointed (ie AGM or Special Meeting) and where is the evidence that these scraps of paper represent the wishes of the membership (ie minutes, resolutions etc)?

- Have Planit satisfied the DCA that they have the right to make these applications over what is still public land? Where is the evidence in their glossy application reports? Has the whole presumption of legality been built on shaky ground? Perhaps only an interlocutory injunction will resolve these questions.
- What rights do the residents of Ludmilla have? Presumably when they decided to live in the area adjoining a conservation lease they did not expect to be living next to a light industry estate. The views of their parliamentary representative Dave Tollner are well known. What option has the DCA given them but to take legal action and/or apply for compensation?
- Are the public of Darwin aware that there will be traffic lights installed on Dick Ward Drive with huge signage advertising the mixed businesses of a light industry subdivision?
- Are the RAAF aware of the scale of development in the International Airport flight path?
- Are residents of Bagot Community aware that they are about to lose an area historically a part of the old Aboriginal reserve and containing sites of significance to them?
- What attempts have been made at public consultations? None that I am aware of.
- Is the DCA prepared to take the backlash when the public becomes aware of the reality of their decisions to approve the destruction of a conservation lease? Does the DCA want to go down in history as a destroyer of one of Darwin's last green spaces?

- Please take into consideration the media release “Rolling Success of our Parks” by Hon Bess Price, Minister for Parks and Wildlife, issued on 28 October 2014.

I urge you to consider these factors and the many others previously submitted to you by myself and others.

Yours sincerely

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