

Kulaluk 2

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INTERIM ABORIGINAL LAND COMMISSION (N.T.)

RE: AN APPLICATION BY LARRAKIA AND  
ASSOCIATED ABORIGINES FOR LAND  
COMMONLY KNOWN AS KULALUK

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TRANSCRIPT OF PROCEEDINGS

BEFORE HIS HONOUR MR. JUSTICE WARD

Interim Aboriginal Land Commissioner

AT DARWIN ON MONDAY, 26TH MAY, 1975 AT 10.05 A.M.

(Continued from 22.5.75)

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MR. H. BRADLEY appeared for Northern Land Council

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HIS HONOUR: Well in resuming this inquiry, first of all I would ask Mr. Wilson to read a written submission that has been made by Mr. Day. I am asking him to read this early in the piece, because I think it is a matter of some importance and could possibly resolve some very difficult issues.

THE ASSOCIATE: "My name is William Bartlett Day. I live at 39 McMinn Street. I have been working with the Kulaluk people for four years since April 1971. Amongst the surviving Larrakias, as amongst all aboriginal people, I have found resentment that their land was taken without any agreement, treaty or compensation.

Symbolically the Aborigines raised a flag outside the Courthouse on November 7th 1971. Although they can claim all Darwin, the Larrakias people always insisted that they did not want to displace any person who had settled on Larrakia land. An exception was the Army, who controlled Goondal, a ceremonial site on Emery Point. The survivors of Larrakia have been pushed back into a swampy coastal strip, known to them as Kulaluk.

They have been left in relative peace there, presumably because no one else wanted this land. At the same time they had a long seasonal association with the area because of the numerous native fresh water wells. When even this low lying area began to be sub-divided - unwisely as we now know - the Aborigines made a stand.

Never in my discussions have the Aborigines expressed any interest in our having Kulaluk for financial reasons such as lease backs, land values etc. If this was the case, a more lucrative area would have been chosen. The boundaries which we drew of Kulaluk that Judge Woodward deliberately avoided improved areas, such as Tropicus Nursery, the Drive-In and Birdland. Mr. Henry Lee's entire agricultural lease was included in the claim because we knew that the Government was negotiating to compulsorily acquire that block for town planning reasons.

We believed that the block might then be sub-divided. The acquisition of Mr. Lee's so-called agricultural lease was a decision of town planners before it became a definite part of the Kulaluk land claim. The same reasoning might be used to include any areas that will be acquired because of the surge line. I am against the extended claim if it is going to delay a decision because further delays will be further demoralising.

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THE ASSOCIATE (continuing): The claim as I know it is the claim advertised by this court, and I support its acceptance in full. The claim includes a narrow beach and this is an important feature. It has a natural footpath going deep into the area. The Crown has proved to be incapable of controlling this foreshore. For example, no prosecutions followed the cutting down of mangroves at the foot of Austerman Street; the removal of sand dunes from the Coconut Grove foreshore. The very numerous acts of illegal dumping and the driving of vehicles along the beach. The Aborigines would be in a better position to police this illegal use of the foreshore. In four years patrolling the area, I have not seen any public use made of this beach by non-Aboriginals. It is not the type of beach popular to the public, being cut off from the sea by a 50 metre wide barrier of dense mangrove forest. Some people venture across the mud flats of the bay at low tide, but I do not envisage the Aborigines preventing this because of the natural barrier of mangroves. There are already leases in Francis Bay that extend to low tide levels. Lydmilla Creek is used by the public mostly by boats at high tide. The aborigines do not plan to stop this public use but to control it. They are better placed than a Fisheries Inspector to detect illegal use of the waters. In removing a mudcrab from its hole some people dig out the hole and thus erode the banks. The crabs should be removed without digging out the hole. This way the same hole can yield mudcrabs time and time again. How can the Aborigines control this sort of detail if they do not have legal rights over the creek area? I consider that the creek is more important to the Aborigines than the drive-in. The Kulaluk claim as advertised should be granted in full, including any adjoining areas to be acquired because of the surge lines. It is most important that there should be no further delays. I am completely confident that the acceptance of this much publicised claim will prove to be the turning point for the Aboriginal people, especially of course, the Larrakias. With a gradual settlement of long standing grievances the Aboriginal people can redirect their energies to rebuilding morale. I predict a renaissance of Aboriginal culture to follow the granting of land rights. Obviously the people are going to have to accept more responsibility for their behaviour. There will be work to be done, a society to rebuild and bludgers will not be tolerated. Regarding the resentment of a minority of the non-Aboriginal public, I believe the deep resentment of the Aboriginal people has more historical justification. It was the purpose of this Government to resolve this injustice to a people who have lived on this continent for at least thirty thousand years. Correctly the Government believes that this course is the only way to ensure a happy multi-racial society. The alternative

MR. WILDERS (continuing): An area of hostel accommodation for single male and female Aboriginal workers and students.

Let us now go back to the claim at hand, namely Kulaluk. I would like to point out to you Your Honour, that we shall keep in mind that while the circumstances surrounding each claim may differ, the principles which are involved in one case will also be appropriate for any other claim. In assisting to define the area of the claim, I have, in recent months, spent some time with the Aborigines interested in Kulaluk. I have in addition, both on my own account and in conjunction with others, carried out research with regard to the people and the claim.

As a result of my enquiries I feel able to make the following points for Your Honour, to assist in determining this claim.

Departmental records indicate that there are approximately 26 full blood Aborigines who can claim descendant of the Larrakias.

HIS HONOUR: Is that patrilineal or matrilineal?

MR. WILDERS: Matrilineal and patrilineal, both Your Honour.

From my own knowledge however, I am aware that there are also a number of people of part-coloured descent who could be regarded, depending on the flexibility of the rules, as Larrakias. In addition to the Larrakia people, there are other tribes that show an interest in Larrakia land, including Kulaluk. They include the Worgai people, who indeed, seemed in the last hundred years or so, to have absorbed much of the Larrakia blood and in addition the Tiwi people have close connections with the land of the Larrakias.

People who have a real interest in the ground of the claim known as Kulaluk include not only those referred to in paragraphs 1 and 2 above, but in addition, there are many people living at Bagot, and indeed in the wider community within Darwin, who make use of the land being claimed in this submission. They use it for fishing, swimming, and the children use it for playing.

The adult people of Bagot mix freely with the adults of Larrakia blood and I believe that occasional ceremonies are still held.

The Kulaluk land claim is important to the Aborigines, partly because of the grave sites, which are there, the sites as Your Honour has been - has seen, cover a fairly extensive area between Totem Road and the Beach. The Kulaluk land claim is important because it includes one of the last remaining natural occurrences of fresh water



The Larrakia Tribe are acknowledge to be a salt water people. It is on the coast that the Aboriginals have in the past, and still do, find their sustenance. Their culture and beliefs are highly interwoven with the sea and its inhabitants. While this does not mean that they never venture inland, I should be surprised if they would ever be found more than a few days travelling distance from the sea. The beach area of the claim therefore Your Honour, is of the utmost importance. The people still catch fish and shellfish regularly for eating. Their camp is immediately adjacent to the beach and their lives are interwoven around it.

11 Your Honour has heard evidence of the effect that the surge and any outlines will have on the land claim in Kulaluk. Perhaps their major affect to that policy surrounding these lines will have is that it will make the area largely economically unviable.

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Widders - Secretary of NLC

Submission by William Bartlett Day to the Interim Aboriginal Land Commissioner, Mr. Justice Ward.

My name is William Bartlett Day, I live at 39 Mc Minn Street. I have been working with the Kulaluk people for four years, since April 1971.

Amongst the surviving Larrakias, as amongst all Aboriginal people, I have found resentment that their land was taken without any agreement, treaty or compensation.

Symbolically the Aborigines raised a flag outside the courthouse on November 7<sup>th</sup> 1971. Although they can claim all Darwin, the Larrakias people always insisted that they did not want to displace any person who had settled on Larrakia land.

An exception was the Army who control Goondal, a ceremonial site on Emery Point.

The survivors of the Larrakia have been pushed back into a swampy coastal strip known to them as Kulaluk. They have been left in relative peace there, presumably because no one <sup>else</sup> wanted this land. At the same time they had a long <sup>seasonal</sup> association with the area because of the numerous native freshwater wells.

~~It was~~ When even this low lying area began to be subdivided (~~the~~ unwisely as we now know) ~~that~~ the Aborigines made a stand.



~~Tropics Nursery and Birdlands.~~

Never in my discussions have the Aborigines expressed any interest in having Kulaluk for financial reasons such as lease-backs, land values etc. If this was the case a more ~~suitable~~ <sup>lucrative</sup> area would have been chosen.

The boundaries which we drew of Kulaluk for Judge Woodward deliberately avoided improved areas, such as Tropics Nursery, the Drive-In and Birdlands.

Mr. Henry Lee's entire agricultural lease was included in the claim because we knew that the government was negotiating to compulsory acquire that block, for town planning reasons. We believed that the block might then be subdivided. The acquisition of Mr. Lee's so called agricultural lease was a decision of town planners—before it became a definite part of the Kulaluk land claim.

The same reasoning might be used to include any areas that will be acquired because of the surge line.

I am against the extended claim if it is going to delay a decision because further delays will be very demoralizing.

The claim as I know it is the claim advertised by the court and I support its acceptance in full.

The claim includes the narrow beach and this is an important feature. It is a natural footpath going deep into the area. The Crown has proved to be incapable of controlling this foreshore.

For example, no prosecutions followed

the cutting down of mangroves at the foot of Ostermann Street, the removal of sand dunes from ~~the~~ <sup>the Coconut Grove foreshore</sup> ~~the~~ <sup>the</sup> ~~road~~ <sup>road</sup>, the very numerous acts of illegal dumping and the driving of vehicles along the beach.

The Aborigines would be in a better position to police this illegal use of the foreshore.

In four years patrolling the area, I have not seen any public use made of this beach by non-Aborigines. It is not the type of beach popular to the public, being cut off from the sea by a fifty-meter-wide barrier of dense mangrove forest.

Some people venture across the mud flats of the bay at low tide but I do not envisage the Aborigines preventing this ~~use~~ because of the natural barrier of mangroves.

There are already leases in Frances Bay that extend to low tide level.

Ludmilla Creek is used by the public mostly by boats at high tide. The Aborigines do not plan to stop this public use but to control it. They are better placed than a fisheries inspector to detect illegal use of the waters.

In removing a mud crab from its hole some people dig out the hole and thus erode the banks. The crab should be removed without digging out the hole - this way the same hole can yield mud crabs time and time again. How can the Aborigines control this sort of detail if they do not have legal rights over the creek area?

I consider that the creek is more



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important to the Aborigines than the Drive-in.

The Kulaluk claim as advertised should be granted in full, including any adjoining areas to be acquired because of the surge line.

It is most important that there should be no further delays.

I am completely confident that the acceptance of this much publicized claim will prove to be the turning point for the Aboriginal people, especially of course the Larrakia.

With the gradual settlement of long standing grievances, the Aboriginal people can redirect their energies to rebuilding morale.

I predict a renaissance of Aboriginal culture to follow the granting of Land Rights. Obviously the people are going to have to accept more responsibility for their behavior. ~~I hope that~~

There will be work to be done, a society to rebuild and 'bludgers' will not be tolerated.

Regarding the resentment of a minority of the non-Aboriginal public, I believe ~~it is~~ the deep resentment of the Aboriginal people has more historical justification ~~and that~~ It was the purpose of this government to resolve this injustice to a people who have lived on this continent for at least 30,000 years. Correctly they government believes that this course is the only way to ensure a happy multiracial society. The alternative — the extinction of Aborigines as a people is not possible or desirable. W.B. Day 24/5/75