

Keywords: The resignation of Koolpinya Barnes was followed by the departure of Larrakia Development Corporation CEO, Greg Constantine, who resigned in June, 2011. Larrakia Nation vs Northern Land Council Gwalwa Daraniki Association Kenbi Northern Territory Cox Peninsula

Aboriginal People of Darwin: Larrakia Representative Groups

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2012

Introduction

Discussing the Kenbi land claim under the heading, 'Primary spiritual responsibility', Walsh (1989a:29) states that 'primary spiritual responsibility is a corporate issue' in Larrakia territory. That is 'overall spiritual responsibility is held by the totality of Larrakia' (*ibid*). Sutton (1998:109) also suggests that 'most Larrakia have lost specific clan affiliations and all, or almost all, now identify with the whole of Larrakia country as land-holders'. In light of the previously presented authority of the Danggalaba clan in the Kenbi Claim Book (Brandl *et al* 1979), the concept of corporate responsibility is questionable. Indeed Walsh (1981:8) lists the members of the Danggalaba clan and notes:

While these people are acknowledged as owners it is the Secretary family, especially Bobby Secretary, who are regarded as mainly being responsible for the Darwin area. Prince of Wales and Olga Singh have been seen as being principally responsible for the Cox Peninsula and off-shore islands. In discussions with the Belyuen Community about Larrakia land people have usually deferred to the Kalalak mob (the Secretary family).

Similarly, on the Cox Peninsula, Justice Peter Gray (2000: Para 6.3.6) found:

The overwhelming tenor of the evidence, however, is to accord primacy to members of the Tommy Lyons group, particularly Raelene, Jason and Zoe Singh. In my view, this is the result of a recognition by members of the Belyuen group that the inheritance of Tommy Lyons and his classificatory brothers, Crab Billy Belyuen, King George and Frank Secretary, gives rise to a primary entitlement and a primary responsibility.

Although in some case Larrakia decision-making structures may have survived, as indicated above, there is an obvious need for incorporated bodies to represent Larrakia interests. Of these, there are many, the main ones being Larrakia Nation Aboriginal Corporation, Larrakia Development Corporation, Gwalwa Daraniki Association, and the Kenbi Danggalaba Association, amongst others. Larrakia interests are also represented by the Northern Land Council and the Bagot Community Inc.

Larrakia claims

The Larrakia Association was formed in 1983. This association, open to people of Larrakia descent, included land rights issues among its aims but provided a focus for any issues affecting Larrakia people. Around the same time (August 1983) a group of urban Larrakia wrote to the Northern Land Council seeking to be added

to the list of claimants (Olney 1991:Para 7.2.4). Sutton (1998:106) argued that incorporated bodies like the Larrakia Association should be seen as part of the 'new tribes' movement. Optimistically, he wrote:

Many of the new tribes of Australia have become legally incorporated. These are partly exercises in attempted fixity. The Larrakia Association is just such a formal body. It is evidence that members of the wider group of Larrakia people can, as far as practicable, act as a formal body with respect to the tribe's landed interests. Contested definitions of who is Larrakia are not solely the province of informal day-to-day cultural and social life, but may also have a formal manifestation from time to time.

As Scambray (2007:156) relates, in 1994 on the eve of a Northern Territory election, Tibby Quall representing the 'Kulimbringing Land Council' and supposedly the Danggalaba clan, held a press conference to announce a native title over all vacant crown land within the city limits. The announcement had a divisive effect on the Darwin community. As a result, immediately following the election, NLC Director Darryl Pearce and Larrakia Richard Barnes attended a pre-organised meeting at Kulaluk where the Larrakia were at pains to distance themselves from the claim. A report in *Land Rights News* (August 1994:5) on the claim and the subsequent meeting pleaded for reconciliation:

At the meeting an angry senior Larrakia said that 'all Darwinians must live together and love one another', and wanted to reassure all that no one was in danger of losing any land or houses, both Aboriginal and non-Aboriginal.

'What the Larrakia want however, is for the NLC to look at what interests the Larrakia have in land in the Darwin area, and for those interests to be recognised,' [said Mr Pearce following the meeting].

'This includes the proposed Palmerston suburb of Rosebury [sic]. The NT Government have advertised for any interest in land for the Rosebury area to be expressed. The Larrakia want that potential interest in land to be expressed,' said Mr Pearce.

A photograph accompanying the above article is captioned: 'Larrakia spokesperson Richard Barnes, right, speaks with NLC Director Darryl Pearce at a meeting with the Larrakia at Kulaluk in June' (*ibid*).

In 1996, the Northern Land Council (NLC) represented the Larrakia in their native title claim over Darwin. As a result of concern by the public, the NLC delivered a pamphlet to every Darwin household, entitled: 'How will a native title claim over Darwin affect me?' (NLC 1996). Under the heading, 'Larrakia and Development', the pamphlet notes: 'Larrakia people are not against development. Like any landowner, the Larrakia expect to be notified and compensated for any development on their land.'

The pamphlet comments on five contested sites, including Palmerston where, 'a native title claim on the land for the new suburb of Rosebury and Bellamack was lodged in 1994' (NLC 1996; also see Lawson 2002:17). Another area of contention was East Arm Port, where, 'The NT government did not properly notify the

traditional owners under the NT Land Acquisition Act.’ According to the pamphlet (NLC 1996), in 1995 the Larrakia stated in good faith they would not obstruct the development pending a settlement offer from the NT Government. By December 1996, no offer had been tabled. The NLC (1996) continued, ‘In public areas, the Larrakia are proposing coexistence – Larrakia native title can coexist with the use and enjoyment of reserves, parks and beaches by the general public. Larrakia want to protect important sites and the environment, including our valuable mangroves.’

Larrakia Nation Aboriginal Corporation

The Larrakia Nation Aboriginal Corporation (LNAC) was registered on 25th May, 1998, and has been described as ‘an umbrella organisation for members of the larger Larrakia family groups’ (LNAC 2001). Outlining some of the achievements of the LNAC, a one-page history lists ‘negotiated outcomes’ in the first four years of the organisation (*ibid*). In 1999 on behalf of Larrakia people the LNAC negotiated with the NT Government regarding native title rights along the proposed railway corridor. The LNAC requested some areas of land in place of monetary compensation and were offered Karu Park (site of the old Retta Dixon Home) and a small section of Bullocky Point. Plans were then made to build a cultural centre on the Bullocky Point site (Spowers 2001). LNAC also negotiated with the Phillips Oil Company, to allow construction of a gas plant at Wickham Point (LNAC 2001).¹

In the year 2000, Aboriginal Land Commissioner Mr Justice Gray eventually found in favour of the Kenbi Land Claim on Cox Peninsula, made under the *Land Rights (NT) Act, 1976*. Gray ruled that six traditional owners survived but noted that 1,600 claimants would benefit. In answer to NT Government fears that planning and development were threatened by the decision, Chief Executive Officer of the NLC Norman Fry said. ‘Aboriginal people in the Territory are just as keen to see Darwin and the NT grow and progress as any other Territorian. This view was confirmed by Larrakia spokesperson Mr Bill Risk who was quoted as saying in *Land Rights News* (March 2001, p.11):

There is no threat to development from the confirmation of our land rights. Larrakia people have always made it very clear that we are not anti-development on our land, provided our rights are recognised and protected. We have already shown we can negotiate ‘win-win’ outcomes in our agreement over LNG plant at Wickham Point.

Bill Risk has also said, ‘It is important Larrakia secure a solid economic future and education, whilst maintaining connections to country and strong friendly connections with our traditional neighbours’ (LDC 2011:7).

¹ Scambary (2007:156) writes: ‘Prior to the conclusion of the Kenbi Land Claim, three non-claimant applications under the NTA were lodged by the Northern Territory government in respect of a proposed subdivision in Palmerston, the new East Arm Darwin port, and the site for the liquid natural gas plant at Wickham Point in Darwin Harbour.’ Scambary cites National Native Title Tribunal (NNTT) file no. DC94/1, NNTT file no. DC94/4 & 94/5 and NNTT file no. DC95/1 respectively (Scambary 2007:156, footnotes 5, 6,7).

More recently, disputes within the Larrakia Nation led to the Office of the Registrar of Indigenous Corporations (ORIC) placing the LNAC into 'special administration' in October 2010 (see Adlam 2010a, 2010b, 2011b; Langford 2010b). This appears to have been resolved and LNAC programs continue apace, as discussed in a later section of this report.

The Larrakia Development Corporation

The Larrakia Development Corporation (LDC) was officially incorporated under the Corporations Act in February 2002. At the same time the Larrakia Development Trust was established to hold the monies paid to Larrakia native title claimants to withdraw their claims to certain lands in and around Darwin (LNAC 2009a). The LDC describes itself as 'a vertically integrated company, specialising in all aspects of the urban housing industry. It is owned and managed by the traditional owners of Darwin and its surrounds – the Larrakia people – who hire in additional expert advice as required'(LDC 2008:2).

Amongst their achievements, the LDC agreed to forgo possible native title rights in the Rosebery, Bellamack and Archer areas of Palmerston in return for the opportunity to purchase a sizeable parcel of land from the NT Government at the going commercial rate. The Corporation then borrowed \$1 million to purchase 50 hectares in Rosebery from the NT Government. The Board's strategy was to open the land for commercial development, whilst retaining cultural aspects such as naming rights and natural surrounds (LDC 2008:4).

In 2006, the LDC Board approved a Distribution Policy to Larrakia, funded from fifty percent of the investment income earned by the Corporation. Larrakia families can apply for grants for educational scholarships, business establishment capital, first home buyer grants, funeral expenses and erection of headstones on the graves of past elders, aged care and cultural preservation (LDC 2008:8). Also included under the auspices of the Distribution Policy are a range of various sponsorships that the Corporation donate to various sporting clubs, crime spotters, theatre groups and a raft of community projects, amongst others.

The Northern Land Council is presently the sole shareholder of the Larrakia Development Corporation under a trust deed on behalf of the Larrakia People. The trust, dated 8 February 2002, provides that the sole share may only be transferred at the direction of the Larrakia to a body corporate established after a finding by a Court that the Larrakia are the native title holders of land in the Darwin region and which resolves any internal dispute as to the composition of the Larrakia group (Fry 2007). As the representative organisation established by and for the Larrakia people, the Larrakia Nation claim that it was to become the Prescribed Body Corporate under Native Title regulations 'pursuant to Section 56(2) or a determination pursuant to section 57(2) of the *Native Title Act, 1993* (LNAC 2007). However, following the failure of the Larrakia native title claim the NLC has refused to transfer the control of the Larrakia Development Corporation to the Larrakia Nation, claiming the Nation does not possess the 'significant commercial expertise required to perform the critical shareholding function' (*ibid*).

The LDC and Kenbi

On 5 April 2007, Justices French, Finn and Sundberg of the Full Federal Court dismissed an appeal on *Mansfield* (2006). In the judgement, French *et al* (*Risk v Northern Territory of Australia* [2007] FCAFC 46 (5 April 2007)² cite *Mansfield*'s decision that the Larrakia people do not have native title over the Darwin area (Area A). The *Mansfield* (2006:Para 14) decision states:

I have therefore reached the conclusion that the Larrakia people that is the present society comprising the Larrakia people, do not now have rights and interests possessed under the traditional laws acknowledged, and the traditional customs observed, by the Larrakia people at sovereignty. That is because I do not find that their current laws and customs are 'traditional' in the sense explained in *Yorta Yorta*.

However, it wasn't until January 2009 that an 'in principle agreement' was reached between the Northern Territory Government, the NLC, and the Tommy Lyons group. The deal came almost eight years after the NT Government's decision to withdraw from the long running legal battle waged by the previous CLP government and settle the matter through negotiation. The LDC chief executive, Greg Constantine said he hoped for a prompt approval of the January 2009 settlement from the Federal Government. (See also: 'Thirty-Year Title Fight settled', *Saturday Extra, NT News*, January 31, 2009, p.19-20; Adlam 2009a; Day 2011:15). According to the website of the Larrakia Development Corporation (<http://www.larrakia.com.au/>):

The Kenbi Claim affects over 600 square kilometres of Cox Peninsula. The 'in principle agreement' reached between the government and Northern Land Council has assigned 15,000 hectares of this land as Territory Freehold to be managed by the Larrakia Development Corporation for commercial development. The remaining 52,000 hectares will become communally held Aboriginal Land, managed similarly to Arnhem Land.

The Board of the Larrakia Development Corporation is now looking forward to fine-tuning plans to develop employment and commercial opportunities to benefit all Larrakia and other Aboriginal people on the Cox Peninsula pending the final stage of the Kenbi claim process... Chairman Koolpinyah Barnes said the project and financial experience gained by the corporation will be further utilised when Kenbi is finalised.

'The Board looks forward to continuing to work for all Larrakia on new commercial opportunities on Cox Peninsula as well as continuing and growing our Darwin projects,' Mr Barnes said.

Peter Murphy (2009:20) adds: 'In the case of Kenbi, the existence of the LDC allowed the Northern Land Council, the legal guardian of Aboriginal land rights in the Top End, to sign off on a deal

² French et al (2007) <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCAFC/2007/46.html?stem=0&synonyms=0&query=French%20Finn%20Sundberg%20FCAFC%2046>

which leaves approximately 15,000 ha of Aboriginal land as freehold instead of inalienable freehold title, which is harder to utilise in modern market terms.’

Amongst other projects over the past seven years, Larrakia Development Corporation has developed the multi-million dollar Darla subdivision at Palmerston, established the award-winning Larrakia Homes company and the steel company, Saltwater Construction. In July 2009, the *NT News* printed a statement by ‘Corporation Chairman Koolpinya Barnes’ announcing that a trade training school for will be started on land owned by the corporation near the Darwin Port Precinct at Berrimah (*NT News* July 15, 2009). Also in July, Koolpinya Barnes announced that distributions to senior Larrakia people would be increased from ‘\$200 per quarter to \$250 per quarter, or \$1,000 per year’ (*NT News*, July 10, 2009, npn).

The origins of the LDC have been explained by Peter Murphy (2009:20):

The Northern Land Council, a statutory authority of the Commonwealth government, is not a business organisation. But its members saw the need for an Aboriginal grouping to turn land rights and subsequent Native Title laws into business and job opportunities for Aboriginal people...

The late Les Toy, a developer whose family still holds the L J Hooker franchise in Darwin, and Norman Fry, the then manager of the Northern Land Council, worked the idea through with Larrakia people like Bill Risk, Laurie Cubillo, Koolpinyah Barnes and Kelvin Costello....

Norman Fry allocated \$10,000 ‘seed’ money from NLC funds to get the newly-formed Larrakia Development Corporation registered and on its financial feet. The rest is history...³

LNAC v LDC

Another side of the story is told by the Larrakia Nation Aboriginal Corporation (LNAC) in a 2008 media release (Jackson 2008:1) which claims:

The LDC as a corporate entity, and its Chair Richard Barnes, have no absolutely no cultural nor legal authority, to make decisions on the use of Larrakia land, outside of its original terms of reference to develop Rosebery and Darla in Palmerston.

When the Larrakia Nation enquired about the handing over of the sole share of the LDC to the ‘peak representative body’ for the Larrakia People (in their view, the Larrakia Nation Aboriginal Corporation), the NLC responded in ‘insulting legal terms, essentially informing [the LNAC] that NLC will choose the recipient of the share, stating they favour the LDC’ (Jackson 2008). In fact, the NLC manager (Fry 2007:1) stated:

The Larrakia Nation, by its rules and through its practice, performs important community and cultural functions, but could not be said to possess the significant commercial expertise required to

³ The *NT News* columnist Peter Murphy (Murphy 2009:20) admits that he was once employed by the LDC.

perform the critical shareholding function. The NLC further understands that there is little support within the Larrakia group, and its constituent families, for the proposition that the Larrakia Nation perform this function. In these circumstances the NLC is not prepared to accede to your suggestion that the shareholding be transferred to the Larrakia Nation.

The LDC and the LNAC previously clashed over plans to develop Middle Arm in Darwin Harbour. In a full-page advertisement signed by CEO Greg Constantine, 'Koolpinyah Richard Barnes' praised the decision by Inpex, to consider Middle Arm as a potential site for their \$12 billion liquefied natural gas plant. In the advertisement, Barnes said:

The Larrakia Development Corporation has already expressed interest to formalise an MOU agreement with Inpex as we have in the past with Bechel, Waterfront Corporation, Sitzlers and others. This is a two way street, we supply Inpex with on-the-ground support, labour and the backing of the majority of Larrakia people, and they provide genuine business and employment opportunities for them. Our discussions with Inpex was on the understanding that the company was continuing with its environmental impact study of the area and will isolate any archaeological sites such as middens and artefacts that may be found there.

Our track record in fostering this kind of partnership has built us a positive reputation in assisting proponents of major projects. It's been a win-win for both sides, particularly for the Larrakia – we have placed over 150 Larrakia and other Aboriginal people in jobs over the past three years... (Constantine 2008:4).

The Larrakia Nation's acting chairwoman, Donna Jackson, responded in strong language, pointing out that the Larrakia Development Corporation has no authority over Aboriginal land at Middle Arm. In an article headed, 'Gas plant location squabble', (*NT News*, May 10, 2008, npn), Ms Jackson was quoted as saying:

The LDC is a corporate entity. It and its chair Richard Barnes have absolutely no cultural or legal authority to make decisions on the use of Larrakia land, outside of its original terms of reference.

In an 'Open Letter to Darwin' (*NT News*, September 27, 2008, npn) the Larrakia Nation informed the public that LNAC did not support the Inpex development. The statement continued:

We have repeatedly informed Government and the Northern Land Council of this. The Larrakia Development Corporation (LDC) is not representative of the Larrakia people. Their board of directors is appointed by the Northern Land Council, which holds the shares of this corporate entity. The LDC does not consult us and is not accountable to us. We do not know any details about deals done between the LDC, Inpex and the NT Government in the name of Larrakia.

The Larrakia people have repeatedly stated that we place major and utmost importance on the preservation of our ancestral land and sea country. We do not believe that the Inpex gas development is compatible with our ideals, beliefs and our culture.

Donna Jackson has also made it clear in public statements that the LNAC opposes the full scale industrialisation of Middle Arm, including the Inpex LNG plant, the Arafura Resources proposal for a uranium processing plant and the Dow Chemicals plant (*Nuclear Territory News*, October 2008:4). Donna Jackson added:

The Larrakia Nation agreed to the formation of the Development Corporation (as advertised by the NLC) under the provision that LDC would sit under Larrakia Nation, and seek full consultation, consent and guidance from Larrakia Nation on all issues relating to our land and culture.

Obviously from the above comments, since 2006 when Judge Mansfield ruled that native title had been extinguished in Darwin the Larrakia Development Corporation has manoeuvred to usurp the functions of the LNAC with the support of the NLC and the local media. In 2008, LDC CEO Greg Constantine (2008:4) expressed a commonly held view concerning the failure of the Larrakia native title claim:

The Larrakia Development Corporation has grown from strength to strength and while disappointed on the one hand, acknowledges on the other the dismissal of Native Title on Darwin land has removed uncertainties and strengthened confidence for industry to do business in town. It sees the development of Middle Arm as a positive step forward in building a better future for Darwin and its traditional landowners, the Larrakia.

Donna Jackson represents a different view point. She told Graham Ring from the *National Indigenous Times* (Ring 2008:28) that she was not blindly anti-development; however, she is concerned about the mushrooming of 'Aboriginal development corporations' designed to facilitate development on Aboriginal land. Donna emphasised:

Over time these [corporations] can become more powerful than the people that they supposedly represent. Aboriginal people who worry for country need to keep a close eye on these corporations and make them fully accountable to the people. We are the sovereigns of our country and we should never forget that, nor let others forget.

Ironically, there are Larrakia families living in poverty in town camps who might apply this message to the LNAC itself.

The Larrakia Trust fund

In 2008 the *Northern Territory News* reported on 'one of the most important announcements in Australia's history' (Adlam 2008:npn). The report on the Inpex deal was accompanied by a photograph of the painted

Kenbi Dancers dancing in loin cloths for the seated Federal Minister for Resources and Energy, Martin Ferguson, Inpex President Naoki Kuroda and Chief Minister Paul Henderson ‘as the \$12 billion Inpex plant was announced...’ Adlam (2008:npn) continued:

The only sour note in the day was the abuse hurled at people leaving the press conference by the Larrakia Nation’s Donna Jackson. The Nation’s bitter enemy, the Larrakia Development Corporation, an Aboriginal run commercial enterprise that puts indigenous workers in jobs, wholeheartedly supports the gas plant. Its members weren’t out in the hot sun – they were in the air-conditioning inside buttering up Inpex executives for future Aboriginal job opportunities.

On 30 June, 2009, proceedings were commenced in the Northern Territory Supreme Court by Robert Mills, James May, Kathleen Browne, Audrey Tilmouth, Joseph Browne, Donna Jackson and Bilawara Lee as Larrakia people on behalf of themselves and their families. The purpose of the proceedings was to obtain orders from the Court to repair the mechanism in the trust structure to ensure that control of the trust was to be in the hands of a corporation ‘properly representative of and controlled by Larrakia people’ (LNAC 2009a:1); see also: ‘Larrakia group takes NLC to court’, *NT News*, October 9, 2009, npn).

According to the LNAC statement (LNAC 2009a), the intention of the creators of this trust structure was that the Larrakia native title claim would determine the Larrakia people who held native title rights. The LNAC would be an organisation which represented and was controlled by these native title owners which would then run the trust and hold the trust assets (LNAC 2009a). However, as previously discussed, the native title claim resolved that the Larrakia had lost their connection, under the Native Title Act at least. Furthermore, according to the affidavit signed by the seven plaintiffs, there is doubt over who are the Larrakia following the Mansfield decision in 2006. The affidavit states (LNAC 2009b:7, paragraph 22.2):

[T]here is uncertainty over the persons who fall within the definition of ‘Larrakia People’. On one view, with the failure of the Native Title Claim, no one falls within that definition. On another view, it is only the persons who were included in the Native Title Claim at the time it was made and not, for example, their children. Either of these constructions would be contrary to what it appears was the intention behind the establishment of the trusts, i.e., to establish a trust for the benefit and advancement of the Larrakia in perpetuity.⁴

Inpex MOU

More positively, the Larrakia Development Corporation Pty Ltd Newsletter (December 2009a, Issue 27) reported that the Chairman of the LDC and the Managing Director of INPEX, Seiya Ito, had signed a Memorandum of Understanding (MOU) ‘that will guarantee jobs for Aboriginal workers on the \$12 billion gas project’. Mr Naoki Kuroda, President of INPEX, said: ‘We are very pleased we have established a strong

⁴ The affidavit (LNAC 2009b:13, paragraph 38) points out that ‘the Secretary family headed by Lynette Shields and Helen Secretary are Larrakia but not members of the LNAC nor are they associated with any of the current board members of the LDC.’

working relationship with the Larrakia'. The INPEX President continued, 'INPEX recognises the Larrakia people as the traditional owners of the Darwin region, and is working with them to secure a sustainable economic future for all Larrakia' (LDC 2009b:1; see Adlam 2009b).

At the signing of the MOU, NT Chief Minister Paul Henderson said that INPEX had demonstrated its commitment and good corporate citizenship through its notion to put its roots down in Darwin. Mr Henderson noted that everybody was a winner by the agreement between INPEX and the Larrakia.

'The Territory is one step closer to a world-class project, the prospects for indigenous Territorians will be lifted and INPEX has the backing of the traditional people of Darwin', Chief Minister Henderson said (LDC 2009b:2).

Changes at the LDC

By 2010, there had been a change of leadership at the LDC. On October 6, 2010, the *Northern Territory News* reported, 'Larrakia chair hangs up his boots'. The article continued:

One of the Northern Territory's most influential indigenous leaders retired yesterday. Koolpinyah Barnes stepped down as chairman of the Larrakia Development Corporation after seven years. Under his leadership, the corporation grew from a small construction company to a major developer. It has many job-creation deals with big enterprises, including Inpex, and is building a trade training centre in Darwin. The corporation established its credibility through the five-stage Darla housing subdivision at Palmerston. It later branched out into repairs and maintenance, landscaping and a bus service. Mr Barnes, one of the few surviving Larrakia speakers, said that the corporation should never forget its 'cultural roots'. The organisation spent \$500,000 of its profits on Larrakia people, increasing to \$1 million this financial year. Barrister and father of five, Nigel Browne, 32, has taken over the chair.

The resignation of Barnes was followed by the departure of CEO, Greg Constantine, who resigned in June, 2011. Under the heading 'Larrakia chief steps down', the *NT News* reported (June 7, 2011, npn; see also Adlam 2011a):

Greg Constantine resigned as chief executive of the Larrakia Development Corporation yesterday. He will leave in August after holding the job for a total of nine years. Mr Constantine, who has been a regular fixture on the *NT News' 150 Most Powerful List* each year, was instrumental in the corporation's commercial success, including the Darla housing subdivision in Darwin, the building of the \$4.5 million Larrakia Trade Training Centre, the Lyons housing estate and the jobs agreement with Inpex. He said it was time to step down. 'I believe now is the right time to bring new blood to lead the Larrakia Development Corporation into its next phase,' he said.

Meanwhile, Australia's longest running land rights claim reached a milestone when legislation was passed in the NT Parliament to set up a trust for traditional owners. Chief Minister Paul Henderson revealed that the Heads of Agreement between the Federal and Territory Governments included the Larrakia Development Corporation as preferred developer (see Adlam 2009a). In response, the Chair of the LNAC Board, Emily Browne, protested that the process of establishing the Kenbi Land Trust Act did not include appropriate consultation with traditional owners (Henderson 2011; Hind 2011). However, in the *National Indigenous Times* (December 14, 2011, p.6) the Northern Land Council Chief Executive Officer, Kim Hill, defended the decision to enlist the LDC to develop lands under the Kenbi Land Claim and denied that traditional owners had not been consulted. Kim Hill said, 'The NLC's ongoing and comprehensive consultations demonstrate overwhelming support by Larrakia families for the Larrakia Development Corporation.' Mr Hill added, 'Larrakia Development Corporation has successfully completed other major developments in recent years, including new suburbs at Palmerston and properly distributed benefits under the trust deed to the Larrakia' (*ibid*).

Conclusion

Following the failure of the Larrakia native title claim there is confusion over which incorporated body is to be the holder of the trust fund to benefit Larrakia. As the controlling body for a trust fund established in 2002, the Northern Land Council has somewhat arbitrarily decided that the Larrakia Development Corporation is the representative body to administer the trust and also to develop lands flowing from the Kenbi land claim decision. The late Peter Murphy (2009:20) also suggested the NLC has a financial interest in the *status quo*. The Larrakia Nation Aboriginal Corporation disputes the manner of this decision and the legitimacy of the LDC to represent Larrakia families.

In addition, following the Mansfield decision in 2006, legal advice questions who properly falls within the definition of 'Larrakia People'. The same advice alleges that the primary traditional owners for the Darwin area are not represented by either Larrakia representative body, in that it is stated in an affidavit (LNAC 2009b:13, paragraph 38), 'The Secretary family headed by Lynette Shields and Helen Secretary are Larrakia but not members of the LNAC nor are they associated with any of the current board members of the LDC.'

It has been a theme of this report that so-called Aboriginal 'representative bodies' are invariably not truly representative. The on-going dispute that is documented above seems to confirm that suspicion, making the task of companies wishing to work with traditional owners a difficult one. At best it can be said that the divisions are as a result of the disruption to Aboriginal society since settlement – the removal of children and in particular the division of Larrakia people into Wards and citizens between 1936 and 1964. While the recognition of land rights and native title is a welcome development, it also has contributed to the disputes that otherwise could have been resolved internally according to customary law.

This report does not intend to make a judgment on the dispute between the LNAC and the LDC and others, except to recommend that intervening companies do not inflame the situation by taking sides. For example,

the Ichthys Gas Field Development Project Draft Environment Impact Statement (2009:456) refers to the LDC's past chairperson as 'senior custodian', when it is doubtful that such a statement can be culturally justified (see Day 2009). Hopefully the analysis provided in this report will assist in observing Aboriginal cultural protocols and be a guide through the minefield of Aboriginal politics.

One recurring theme in this report is that the Larrakia are generally a welcoming and pragmatic people who acknowledge that commercial developments can provide employment and opportunities for their future generations. In 1996 Bill Risk, stated, 'When negotiations over developments are approached in good faith, with everyone's rights respected, development agreements will be negotiated by the Larrakia' (Risk 1996:10). Undoubtedly, Bill Risk spoke for the majority of Larrakia when he said, 'Larrakia people have always made it very clear that we are not anti-development on our land, provided our rights are recognised and protected.'

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