

45 Ellengowan Drive  
Brinkin NT 0810  
04 March 2015

<http://www.dlp.nt.gov.au/>  
Strategic Lands Planning,  
Department of Planning,  
PO Box 1680,  
Darwin, NT 0801

Dear Sir

**Re: Proposed Three Lot Subdivision Part Lot 5182, Darwin, and Part Lot 8630, Nightcliff, No. 213 Dick Ward Drive (end of Totem Road).**

I strongly oppose the application to subdivide the above portion of the Kulaluk lease granted as a Special Purpose Lease for community use in 1979. Please refer to my submission and attachments dated 22 January 2015. Additional objections follow:

Planit Consulting has been engaged by Ernie Chin's Dragon Lady Pty Ltd and Poilet Pty Ltd to apply for the subdivision of a portion of the Kulaluk Lease Area in three lots opposite Totem Road on Dick Ward Drive. Despite protests by Larrakia and supporters, the land, rezoned LI (Light Industry) in March 2014, was cleared of vegetation in early May, 2014. Protesters disputed the legality of the clearing and wood-chipping of an Aboriginal site on community land soon after the land had been rezoned. Apparently this was in accordance with the Planning Act although there was no further hearing before the DCA. Rumours have it that the "bulldozer politics" of the sudden and pointless clearing of a disputed site was as a result of discussions between the developer, Ernie Chin, and the Chief Minister, Adam Giles.

One third of the land that is the subject of the Planit Consulting P/L application is shaded as "Extent of Burial Place", bordered in blue on a map prepared by the Aboriginal Areas Protection Authority (AAPA Authority Certificate C2014/011). The southern boundary of the revised area as advertised by Planit also appears to have been widened to include a restricted work area shown on the above AAPA map as "Sacred Tree".

Maps in the Planit application to subdivide the land are totally inadequate. The maps do not show how the land is to be subdivided or if there is to be access to the Kulaluk Lease through the subdivision. Previous applications show 14 Lots with a narrow lane through the subdivision providing access to the Kulaluk burial ground. Neither do maps in the latest application by Planit show how the "Sacred Tree" site is to be protected, or if and how the area designated by AAPA as "extent of burials" is to be

protected, apart from the statement that: “In the unlikely event that any skeletal remains are uncovered, all works are to cease immediately and the AAPA is to be notified.” The methodology of the archaeology excavations on the site has been criticised in my previous submission.

The lack of clear maps showing the subdivision is important because the proposed Light Industry area is on land that has traditionally provided the only all-weather access to the burial ground, the Ludmilla Creek and forest and beach areas of the lease. The area is also potentially a site for an entrance statement to the lease on the busy Dick Ward Drive. A laneway through a Light Industry subdivision would be a poor substitute (presumably the “owners” would lock the gate).

According to Planit, a Development Permit was granted in December 2014 for the filling of the land (PA2014/0410) to raise the ground to raise the site above the primary and secondary surge zones, which was why the rezoning was refused by a previous Minister, Gerry McCarthy, on 30 November, 2010. To dump tonnes of fill onto the site that may contain burials and to raise the level by over a metre is to add insult to injury and is highly offensive to Aboriginal people. Please refer to my previous submissions for more supporting evidence.

Planit correctly point out that a similar report was previously lodged, with submissions closing on January 23, 2015. In this application the boundary of the subdivision appeared to have been extended into the area of the Kulaluk lease that is zoned Conservation (although subject to a Caveat with Gwelo Investments). After objectors drew attention to irregularities in that application, a Deferral Letter from the Development Consent Authority dated 13 February requested further information.

In the present application, two pink signs on Dick Ward Drive were originally attached to the fence of the lease with a closing date of 23 January, to be replaced by two pink signs with a closing date of 06 March, 2015. Enquiries revealed the two pink signs in each case were necessary because the application intrudes onto two Lots, Lot 5182 and Lot 8630, both part of the Kulaluk lease. Of concern is the manner which the application has been advertised with the whole of the Kulaluk lease shaded in grey in the NT News (February 20, p.52) and in yellow on the Lands, Planning and Environment website. All other applications advertised under the Planning Act are shown as specific blocks. Why isn't the Planit Consulting P/L application similarly clearly shown? In my opinion, this point alone is enough to disqualify the Planit application.

As stated by Planit in their detailed revised application, the Development Consent Authority (DCA) requested details of how storm water drainage is to be managed as part of the subdivision. To comply, Planit has attached a letter from Helen Secretary dated 16 February 2015 as “Appendix E, Statement from Adjoining Landowners”. Ms Secretary describes herself as “Director” of the Gwalwa Daraniki

Association (GDA), when in fact under the constitution of the GDA signed off by Michael Chin in 2006 she is the President, although no evidence has ever been produced to confirm that allegation.

In her letter Ms Secretary states: “We, the Gwalwa Daraniki Association ... understand that, as a result of this [Planit] application, stormwater from Specific Use Zone (SD44) subdivided land will be discharged onto the adjoining Lots which are in our ownership. This letter is to confirm that we, the Gwalwa Daraniki Association, as legal owners of the adjoining land have no objection to stormwater being discharges onto land at Part 5182 (213) Dick ward (sic) Drive, Town of Darwin and Part Lot 8630 (95) Dick Ward Drive, Town of Nightcliff.”

In reply to the above, I point out that the Chairman of the DCA emphasised to Michael Chin at a previous hearing that the Kulaluk Crown Lease in Perpetuity is “not their land”, it being leasehold. In addition, the so-called “Director” has no authority to grant “permission” to discharge stormwater from a light industry subdivision into a conservation zone; neither has evidence ever been produced to support the authority of Ms Secretary and “we the Gwalwa Daraniki Association” to make binding agreements with Planit, Gwelo, Halikos, Dragon Lady, Jape, Poilet or anyone else. What are the terms of these so-called agreements, how were they decided, who were the office bearers and how is it possible to enter into binding commercial agreements as an incorporated Association?

Quite apart from the legality of the letter from Ms Secretary, there is no consideration shown in her letter for the environmental consequences of discharging stormwater, and presumably all sorts of run-off, waste and other unknown substances into land zoned conservation containing some of the largest remaining areas of monsoon vine forest, mangrove forest and wetlands surviving in Darwin. Until the erection of “No trespassing” signs, Aboriginal people regularly use the lease for cultural activities and recreation, as was intended. The letter is also remarkable in the fact that many of Ms Secretary’s relatives are buried in the cemetery behind the Chin development where presumably the stormwater will flow.

On March 2, 2015, after 89mm of rain fell at the airport, flash flooding occurred on Dick Ward Drive near the intersection of Totem Road. The gradual development, clearing of vegetation and paving of the Darwin Green Belt between Totem Road and Fitzer Drive and previous developments in the Ludmilla and Coconut Grove surge zones since 1975 is funnelling more and more storm water into narrower and narrower channels. Without proper planning the run-off situation will get worse, negatively affecting the habitat and endangering motorists. An example of this can be seen at the end of the drain between the Ostermann Street subdivision and the Orchard Road subdivision which has formed into a tidal creek.

Other points made in my past submissions are:

- The plans submitted by Planit also indicate that a 1 in 4 supporting slope of fill extends at least 6 metres beyond what is shown as the “Property boundary”. Presumably this “property” is the area rezoned by Minister Peter Chandler on 7 March 2014. If there is to be over a metre of fill dumped on the rezoned land, it must be contained to that land and not affect or intrude on any other part of the Kulaluk lease.
- Magistrate Greg Cavanagh has called for the Heritage Council to re-examine the application to have the Kulaluk Lease Area registered as a heritage site. No approvals should be given until this is resolved.
- The only culturally clearance given to bulldoze and subdivide an Aboriginal site was given by members of the GDA who have a conflict of interest, having received payments or been promised payments from the developers

I urge you to consider objections made by Larrakia people to the alienation of their land and the submissions made by concerned Ludmilla residents, which I wholeheartedly endorse.

Yours sincerely

Dr William B Day (signed)

Consulting Anthropologist

Mobile: 0408 946 942