

Although Woodward did not 'see it as a function of my Commission to make specific recommendations about particular areas of urban land' he referred to Kulaluk in some detail:

The Department of Aboriginal Affairs survey shows a total of 28 Aborigines who identify themselves as Larrakia, of whom 17 live in Darwin. ... I have no doubt that the Larrakia people were the traditional owners of what is now the whole Darwin area. Some of the survivors, together with a few other Aborigines, have formed an organisation calling itself Gwalwa Daraniki. The secretary of this organization [Bill Day], a white man, has achieved remarkable results in obtaining press coverage and other forms of publicity for the claims of this group. In the result, Kulaluk has become something of a symbol of the stand which Aborigines, with help and guidance from many different sources, are now making against the past tendency to put their interests last in any consideration of land usage ... It is true that only a small number of Aborigines have camped regularly at Kulaluk in recent years, but the publicity their case has received has been sufficient to cause the Government to step in and halt the further development of the area as a residential sub-division ... I believe that the Government should now proceed to the acquisition of this general area for Aboriginal living purposes, paying the necessary compensation to those whose interests in the land would be extinguished by such acquisition. This will demonstrate clearly the Government's willingness to give effect to reasonable Aboriginal aspirations to land. It would be entirely consistent with the general principles set out above and I have no doubt that such an area could be put to very good use for Aborigines. When I spoke to the people living there I found some disagreement as to whether the area could best be used for camping or housing. This is a matter to be resolved in the future having regard to (i) the wishes of those living on the land, (ii) the availability of other land for those respective purposes, and (iii) the availability of funds for housing development if that is decided on (Woodward 1974:paragraph 289-93).

Woodward claimed that he was not in a position 'to suggest the precise amount of land which should be resumed' for Kulaluk but recommended that 'the major part of the area now vacant should be resumed' as '[s]ooner or later it will be put to a useful purpose and, in the meantime, the preservation of an area of open space will have its advantages' (Woodward 1974:paragraph 294). On the question of tenure, Woodward did not think that the Gwalwa Daraniki Association was a suitable organisation to have title to the land vested in it as the organisation was too small and 'its dependence on its white advisor too great'. Until the Gwalwa Daraniki Association gained further experience, Woodward recommended that the title be held by trustees nominated by the Northern Land Council. Woodward did not believe that 'traditional ownership in the sense in which that expression is used throughout this report, could be established in Darwin' and he 'could see no point in granting a special form of Aboriginal title to the small majority of urban Aborigines able to establish traditional claims to a particular area, when they are living as part of a largely non-Aboriginal community'. As 'neither of the land councils had asked for anything other than leasehold titles in towns', Woodward did not recommend freehold title (unlike other towns in which freehold was the normal form of title) (Woodward 1974:paragraph 296).

Aware that the Government's agreement with Sabrina Holdings would soon run out the Department of Aboriginal Affairs advised the Department of the Northern Territory to act on Woodward's recommendations. However it was not until September 1974 that steps were taken by the Department of Aboriginal Affairs and Department of the Northern Territory to define the limits of the land and examine the implications of Woodward's report. The Department of the Northern Territory drafted a land usage plan within the Kulaluk claim area to be completed in distinct stages over a number of years. The proposed plan did not 'necessitate the destruction of any trees but involved some replanting and forest management' and included employment schemes. Standard accommodation as well as accommodation for those who preferred more 'traditional



style' accommodation was to be provided. The plan allowed for 'interaction with non-Aborigines' through the construction of a fauna open range area to be stocked with buffalo, kangaroos, emu, crocodiles, geese and parrots and which was to be open to the public. A museum, guided tour groups through the rainforest and mangroves and sporting fixtures at an Aboriginal sports club ground were all to be developed. The proposal, although incomplete, was based on the premise that all the 'existing mangrove area, rainforest area and other bushland be preserved' (Henderson 1984). Like Woodward, doubt was expressed as to the Larrakia's ability to 'manage and develop' the area (Cavanagh 1974).

By the end of 1974 and after further negotiations the Federal Government had:

- (a) noted that urgent action was being taken to acquire land held by Sabrina Holdings and claimed by the Larrakia people so that it could be leased to Aboriginal trustees in accordance with the recommendations of the Aboriginal Land Rights Commission; and
- (b) approved in principle the grant of a lease over the total area of land claimed by the Larrakia group in Darwin, but not including any areas of sea, subject to:-
  - (i) detailed negotiation of the precise limits of the area;
  - (ii) further consideration of the case for acquiring land now held under lease and the cost of doing so; and
  - (iii) the negotiation of conditions relating to continued use for public purposes of some parts of the subject land (Ward 1975a:2).

The Minister for the Northern Territory, absent at the meeting which agreed to the above procedures and aware of prior planning commitments for the area, insisted that his Department undertake further consultation with the Department of Aboriginal Affairs in order to negotiate the precise limits of the land to be granted; that his department hold discussions early in the new year; and that the result of the discussions be indicated to him before any lease grant submission be prepared for his approval (Ward 1975a:3).

### *Cyclone Tracy*

Interdepartmental wrangling and any further developments on the Kulaluk lease were interrupted on Christmas Eve, 1974 when Cyclone Tracy devastated the city of Darwin<sup>8</sup>. Bill Day, out of 'prying curiosity', found a telex machine in the wreckage of the Darwin Department of Aboriginal Affairs Office which read:

Decision merely endorses decision to negotiate with Sabrina Holdings area and I understand that this decision is well known in Darwin. We have arranged for \$150,000 to be drawn from AATA provision for purchase of properties ... Against early settlement of purchase ... talks with the group and departments might begin as soon as possible ... You might discuss with NT suspension of development plans for the area and perhaps withdrawal of offers to Darwin City Council. Gwalwa Daraniki might be informed that we are empowered to discuss details of request, government having approved in principle grant of a lease of an area of land in terms of Woodward Report and group's application. Note your point that major decisions like this should be communicated at Director level (Day 1994:69-70).

The Gwalwa Daraniki Association had not been immediately informed of the recent negotiations and Day, although elated at first over finding the information, recognised that the victory 'was worthless after the catastrophic events' of the cyclone. Even though the Aboriginal Land Fund Act was passed at the end of 1974 and provided for a

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<sup>8</sup> Cyclone Tracy destroyed Fannie Bay Gaol which resulted in most of the inmates being released including Fred Fogarty. The cyclone destroyed some of Bagot Reserve as well as the dwellings erected at Kulaluk.

Commission empowered to acquire and grant land or interests in land to Aboriginal corporations or Land Trusts the rebuilding of the city was the priority of the Darwin Reconstruction Commission<sup>9</sup>.

For some the reconstruction of Darwin and the recognition of urban Aboriginal land rights were not seen as mutually exclusive events. The Australian Council of Churches believed that the cyclone provided a 'unique opportunity' to 'start again in considering the rights of Aborigines and the proper basis of multi-racial settlement' in the planning and reconstruction of Darwin (Australian Council of Churches 1975). A report from an Executive Committee meeting of the Australian Council of Churches raised concerns about the way in which Woodward's recommendations and comments were being acted on in the reconstruction process. This report questioned the representation of Aboriginal people and the Northern Land Council on the Darwin Reconstruction Committee and suggested that the Committee consult with the National Aboriginal Congress for instruction. As many of the people instrumental in the Kulaluk campaign had been evacuated to southern cities or remote Aboriginal communities the Council expressed concern about the lack of lobbying power on behalf of Aborigines in the north (Phillips 1975). The Minister for Aboriginal Affairs reassured the Council 'that everything possible is being done to ensure that the interests of the Aboriginal community are fully protected in the reconstruction of Darwin' (Cavanagh 1975).

The cyclone had an enormous impact on property values in the area under claim. As the area of land claimed was contained in the newly defined cyclone surge zone and the possibility of the development of urban housing in this area was rendered impracticable *Bunji* suggested, 'Now that the land is not worth any money, maybe the Larrakias will be left alone' (*Bunji*, June 1976). *Bunji's* wishes were not fulfilled as the Ludmilla dump was extended onto the area under claim to cope with the excess debris caused by the cyclone.

### *The Kulaluk Land Claim*

From a position made more tenuous by the cyclone, Sabrina Holdings began pressing for a final decision on the Kulaluk land claim by proposing to resume development on their site in early January. This, together with pressure from the Planning and Projects section of the Department of Aboriginal Affairs to resolve urban Aboriginal Land Claims in Darwin and the appointment of Justice Dick Ward as Interim Aboriginal Land Commissioner resulted in the Kulaluk claim being heard before any formal land rights legislation had been ratified. The Kulaluk claim was the first of a few urban claims to be investigated and the proceedings began in May 1975<sup>10</sup>. Ward decided to hold a public inquiry into the Kulaluk claim because discussions had convinced him 'that the problems were so complex and varied that the holding of a public inquiry was the best course to take' (Ward 1975a:1). Justice Ward's decision to hold a public inquiry into the Kulaluk Land Claim could be interpreted as a precedent to the number of Aboriginal land claims which were to take place throughout the Northern Territory with the passage of the 1976 Aboriginal Land Rights (NT) Act.

Ward first needed to determine the size of the area of land claimed and began his investigations on the basis that the claim area consisted of the vacant crown land that had once been part of Bagot and the undeveloped portions of several crown leases in an area

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<sup>9</sup> The Darwin Reconstruction Act, introduced in February 1975, established the Darwin Reconstruction Commission which was to operate for five years or until an earlier date fixed by proclamation. It was to be the policy of the Darwin Reconstruction Commission not to permit residential development within the 25 and 30 NEF limits.

<sup>10</sup> Other Aboriginal Land Claims proposed in Darwin included Bagot, Railway Dam, Knuckey's Lagoon, Goondal (Point Emery) and Dariba Nungalinya.

stretching from Nightcliff to Ludmilla Creek<sup>11</sup>. It was this area that was presented for public comment. However, when the hearing began, an amended claim was forwarded to the Land Commissioner by the Northern Land Council which extended the original claim to take in the whole of the Drive-In Theatre, the already built upon portion of the Sabrina Holdings Subdivision, Tropicus Nursery, the Retta Dixon Homes site and a considerable amount of the residential area known as Ludmilla North (Ward 1975a:6). Other groups to be affected by the claim included Henry Lee<sup>12</sup>, the Catholic Church who operated Bakhita Village - a branch of the St Vincent De Paul Society, the lessee of the Allamanda Gardens Estate which adjoined the Sabrina Holdings land and the residents of Ludmilla. The Darwin Reconstruction Commission, the Department of the Northern Territory and the Darwin City Corporation all registered an interest in the claim primarily because of the effect it would have on town planning. Ward described this extended claim and land use proposals as a 'radical departure' from the original claim while it served to raise more interest and antagonism than previously. According to Ward the most important points for consideration in resolving the claim were that part of the site had previously been allocated for a school; that it would be difficult to acquire various pieces of leasehold land; that it was uncertain what kind of tenure would be granted if the claim was successful; and that the land already served as a municipal garbage dump<sup>13</sup>.

Evidence from the interested and affected parties was submitted and heard at the Kulaluk Land Claim hearing. Tambling, the Executive Member for Community Development, while 'reiterating his Executive Committee's support of a land grant' raised several concerns. Tambling believed that the Kulaluk claim would 'set a precedent for land grants in urban areas' and therefore wanted to ensure that the 'full consideration of all community interests and implications were accounted for, and at the same time Aboriginal needs adequately established'. Tambling questioned the affect of the land grant on 'administrative requirements' and on future 'public expenditure for recreational, housing and land service needs of other metropolitan Aboriginal groups. He considered that the relationship between Bagot and Kulaluk needed reconciling before the land was granted and after consulting with the Member for Ludmilla listed the concerns of the 'immediate neighbours' of Kulaluk. These included such issues as management responsibility for the land; appropriate land use limitations; concerns of Ludmilla residents wanting to retain occupancy of their homes; the desire of commercial undertakings to continue operation on present sites; and concern of residents east of Coconut Grove Drive that town planning proposals 'do not take cognisance of the need for pedestrian traffic through to Bagot and the Dolphin Hotel'. According to Tambling there was strong community reaction against the 'possible grant of exclusive rights to the beach and foreshore as part of the land claim'. Tambling felt that these issues could be dealt with by instituting the 'necessary controls for conservation, management, finance and planning [and] could best be accommodated by protective clauses attached to a Special Purpose Lease' (Tambling 1975).

The residents of Ludmilla also sent a lengthy petition to the inquiry which voiced 'little or no objection at all if the area was set aside as traditional Aboriginal land which persons of Aboriginal descent and particularly the descendants of the Larrakeyah tribe could visit at

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<sup>11</sup> An earlier submission to Woodward sought to reclaim the revoked portion of Bagot Reserve. Although Woodward was sympathetic to the objectives of the Bagot Council he could not offer assistance as their position raised 'questions of town planning and urban development rather than of the recognition of traditional land rights' (Woodward 1973:paragraph 156). Even so in Woodward's final report he dealt extensively with the Bagot experience because it lent 'force to the urgent requirement to retain Aboriginal living areas such as Kulaluk and Railway Dam' (Woodward 1974:paragraph 320).

<sup>12</sup> The Government offered Lee \$93,000 for his agricultural lease but Lee felt that the compensation should be to the value of \$158,000.

<sup>13</sup> Use of the Ludmilla land as a garbage dump was criticised by residents and the Gwalwa Daraniki Association to little avail. It wasn't until tests revealed that the excavation of underlying rock would be extremely costly that this site was rendered useless as a dump. However, it was not until the opening of the Leanyer tip that formal dumping on the site ended (Cooper 1985a:4).

any time without granting to them any housing or camping rights'. The petition further stated that they would raise objections to the granting of a claim which 'involved unrestricted rights of housing and camping without any restriction whatsoever on the type of construction of any accommodation and without the adequate provision of power, water and sewerage'. The residents further objected to the granting of the lease if it 'involved unrestricted housing and camping by any persons irrespective of race who merely choose to associate themselves with the descendants of the Larrakeyah tribe'. Due to the cyclone the residents believed that this was the 'most inappropriate time to deal with the land claim' and found it 'a distinct threat that they will be neighbouring un-supervised, sub-standard and unhygienic accommodation'. Concerns were also raised as to the possibility of 'extreme discrimination' arising if Aborigines were able to occupy land located in the surge zone which due to zoning restrictions and the weighty costs associated with the new building codes made these areas prohibitive to former residents (James 1975). A similar petition was presented to the Speaker and the Members of the Legislative Assembly in October 1975 by the West Ludmilla Residents Action Group (see Appendix Two).

In opposition to the claim, long term resident Henry Lee submitted:

I think this area known as 'Coconut Grove' not Kululuk [sic] should be for recreational use for all black and white. With small blocks and large numbers of flats being built in the area some open space especially for children is essential ... the majority of these people are strangers to the area and until the opening of the 'Dolphin' were never in the area. Those who may be of Larrakia descent have never shown any interest in or working on the land. This is not a genuine claim but the work of professional agitators ... Coconut Grove as I know it is no longer there, the last unspoiled place left seems to be Holmes Jungle at the 12 mile and I would suggest the 'Gwalwa Daraniki' shift there. They certainly have no claim to my land (Lee 1975).

Like Lee, the Managing Director of Tropicus Nursery, Hearn, believed that 'I have as much right to that land as anyone else that comes along and claims it ... Apart from that, to grant any minority group a fairly large tract of land is - seems to be setting a precedent that - well, could go on and on ...'. Hearn did not believe that people claiming Kululuk could be certain that the land at Kululuk had any sacred or special meaning because of the way in which the land had been altered by such events as the second world war (Hearn 1975:89-91). In reply to Hearn, Ward stressed that although some people in the claim could 'claim some traditional right' to the land, the claim was actually a 'needs claim' and was to be resolved on that basis (Ward 1975b:91).

A submission by the Northern Land Council, while first asserting that Aborigines traditionally owned the greater Darwin area, drew attention to the nature of the claim stating that there 'is no evidence before your Honour which indicates that the Aborigines wanted to use it for only traditional purposes'. Kululuk should be granted in recognition of Larrakia traditional ownership as well as because the grant would 'partly make up for the reduction in the size of Bagot'. The Northern Land Council thought it appropriate that the Trust be for the benefit of all Aborigines residing temporarily or permanently in Darwin with 'particular relevance to the descendants of the Larrakia' (Bradley 1975:180-183). Bill Day's submission also expressed unequivocal support for the granting of the land, claiming that Aborigines had maintained a long seasonal association with the area because of the numerous 'native fresh water wells' and the proximity of the sea. Day asserted that the claimants had never 'expressed any interest in having Kululuk for financial reasons such as lease backs, land values etc. If this was the case a more lucrative area would have been chosen'. Aborigines did not intend to stop public use of the area but would control it through local knowledge and from a 'distinct vantage point' (Day 1975b:109-110).

As the proposal for a Palmerston arterial road had been abandoned by the Darwin Reconstruction Commission no town planning objections to the original claim were recorded. Objections were raised however, if the claim was extended to take in 'additional areas which the Commission regarded as more appropriate for other and existing uses'. In addition it was believed that the 'camping, communal and conservation purposes proposed for the land [were] completely compatible with the Commission's planned use of land in Darwin' (Ward 1975:5).

In response to evidence given at the hearing Bobby Secretary and another Larrakia man, Johnny Fejo, met with Ward on 28 May 1975 to limit the claim by excluding the Drive-In, Sabrina Holdings Land, Tropicus nursery, as well as land occupied by the Retta Dixon Homes and residents in Ludmilla North. Consequently, Ward's final report stated that he could 'see no reason why I should not recommend the grant of a Special Purpose Lease over the whole area thus eventually claimed' (Ward 1975:7). Such factors as Kulaluk not being regarded as prime urban land - much of it being low lying and swampy, and for many years having the land devastated by the constant removal of sand, gravel and bushland as well as serving as a repository for the city's rubbish; the land falling within the newly differentiated tidal surge zone and below the increasingly busy airport flight funnel, with noise exposure factors (NEF) already above the acceptable levels for residential development were taken into consideration in terms of planning considerations when Justice Ward made his recommendations for the Kulaluk Special Purpose Lease (Henderson 1984).

Ward's major recommendation was that the Special Purpose Lease be granted in perpetuity 'for the purpose of establishing, developing and maintaining a communal settlement for the use of the Larrakia and other associated Aboriginal people and ancillary purposes' (Ward 1975: Summary of Recommendations). The area of land recommended by Ward stretched from the Drive-In-Theatre as far south as Ludmilla Creek and incorporated Crown Land as well as the leases held by Paspalis Drive-In-Theatre Pty Ltd (lots 4544, 4545 in Nightcliff) and Sabrina Holdings Pty Ltd, the Catholic Church's Bakhita property (section 4557) and all of Henry Lee's agricultural lease (Ward 1975: Summary of Recommendations)<sup>14</sup>.

Like Woodward, Ward recommended that the lease be granted to trustees nominated by the Northern Land Council. Any rent of such a lease was to be nominal and there were to be 'no onerous improvement conditions ... that all conditions be broad and flexible, with conditions designed to preserve the existing environment where it has significance and is capable of preservation'. The lease was also to contain 'provisions preserving the private and public rights now subsisting in respect of land' and that an easement 'for the public to pass and repass over what is regarded as the beach area, the area and terms of any such easement to be determined only after full consultation with the Aboriginal people affected by it'. His final recommendation concerned the need to enact 'legislative changes to ensure that municipal rates were not payable in respect of the land while it is used for the purposes recommended in this report' (Ward 1975: Summary of Recommendations).

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<sup>14</sup> According to Henderson's research the area recommended by Ward to be granted as the Kulaluk Special Purpose Lease was once part of four agricultural leases surveyed in the 1890s. Two of the leases had been merged in the 1930s to form the Bagot Reserve while the other two changed ownership and tenure a number of times before being compulsorily resumed by the Commonwealth in 1946 under the Darwin Lands Acquisition Act. These were later to be re-subdivided as small agricultural leases for returned soldiers. Bakhita Village and Henry Lee's land, as well as a sizeable amount of vacant crown land, were part of the pre-war Section 838. This old freehold land was cut roughly in half by Coconut Grove Road during the postwar subdivision. Only the Western portion (with the exception of Tropicus nursery) was in the claim. The nearby Coconut Grove area was originally surveyed as Agricultural Lease no. 7, held by MD Armstrong and M Laurie from 1893 to 1895. The drive-in theatre, the primary school reserve and the Sabrina Holdings land were on the pre-war freehold Section 840, which was Laurie's share when the original Coconut Grove agricultural lease was split. Section 840 changed owners several time before being resumed by the Government in 1946 (Henderson 1984).

With the completion of the Woodward and Ward inquiries, 'both a justification and a proposed course of action were available to satisfy the Kulaluk land claim without need for recourse to the foreshadowed Aboriginal Land Rights Act' (Henderson 1984). As Henderson notes, all Ward's recommendations could be carried out under existing legislation with the one exception being that the Local Government Ordinance be amended to make provision to exclude the lease from the payment of municipal rates (Henderson 1984). What seemed like a victory was dealt with cautiously by the Gwalwa Daraniki Association, '[s]ome parts of Kulaluk must be bought back before the land is handed over. On that day we will believe and celebrate, not before' (*Bunji*, August 1975).

The Department of the Northern Territory began surveying the claim area although Ward's recommendation that the claim area be exempt from municipal rates was rejected by the Department as they believed it would 'set a bad precedent'. Alternatively the Department suggested that an organisation like the Aboriginal Land Fund Commission make the rate payments on behalf of the lease holders (O'Brien 1975b). The Minister for Aboriginal Affairs, Les Johnson, had endorsed Ward's recommendations and sent letters to the Aboriginal Land Fund Commission and the Minister for Northern Australia asking for their support. He also released a media statement pronouncing that no further work would be undertaken by the Northern Territory authorities in the Kulaluk claim area without 'proper consultation with the Larrakia Aboriginals and the Northern Land Council' (Johnson 1975). The Aboriginal Land Fund Commission replied to Johnson that they had already 'decided in principle ... [and] subject to valuation' to purchase the private leases recommended by Ward. However, because of feelings that 'others were meddling in their area of responsibility', as well as viewing Johnson's media statements as a commitment to granting the lease without full consultation with them, the Department of the Northern Territory delayed the drafting of the lease documents (Henderson 1984). The shifting of the administration of the Northern Territory to the Northern Territory Legislative Assembly in preparation for self-government as well as the belief of 'influential mayor Ella Stack' that 'Aboriginal leases [were] a threat to revenue' were also to delay the decision making process (Day 1994:82).

Although the finalisation of the lease agreement was proceeding slowly and none of the leases earlier earmarked had been acquired, the Department of Lands and Housing drafted a three year plan for the Kulaluk site. During the first year an ablution/laundry block 'to serve the small group permanently camped at Kulaluk plus the variable number of transients using the site' was to be constructed at the site where the Aboriginal Development Foundation had already erected 'a small accommodation unit for the campers' and where 'two other rudimentary dwellings have been erected by transients'. During the second stage the development proposal called for the completion of a re-vegetation and soil stabilisation project on the area of the old Ludmilla dump. This stage also provided for the extension of water reticulation at the north Kulaluk camp, the commencement of the fencing of the area to which the title was to be granted, and the commencement of four permanent homes for Aboriginal residents. The final stage included the completion of the four homes and the fencing project; the extension of electrical reticulation to the north Kulaluk camp; and the landscaping and rehabilitation of the denuded rainforest area around the main camp (Ford 1976).

### *Further Delays*

It seemed as if the fears expressed in *Bunji* were well founded. The dismissal of the Whitlam government in November 1975 and the subsequent election of a Federal Liberal Government, under Malcolm Fraser, meant that this new government became responsible for the passage of the Aboriginal Land Rights legislation. The Aboriginal Land Rights (NT) Act was passed in December 1976 with various amendments which had repercussions for Kulaluk. Specifically, the Act now prohibited the appointed land councils from representing Aboriginal groups within town boundaries and omitted land



claims based on need. The Land Rights Act was to concentrate on 'traditional claims' and 'discarded or watered down' some of the important features of Woodward's recommendations such as the mechanism for land claims in urban areas (Henderson 1984). For Day, the 'Gwalwa Daraniki had slipped through a window of opportunity which the new government had now slammed shut' (Day 1994:82).

During the first part of 1977 talk of proposed court appeals if the land was compulsorily acquired together with murmurs of government financial restraints led the Aboriginal Land Fund Commission to reconsider its commitment to acquire the private leases (Henderson 1984). The Department of Aboriginal Affairs then circulated a Draft Cabinet Submission to other Departments in order to determine the level of support for the Kulaluk claim (Henderson 1984). A Department of the Northern Territory document marked 'confidential' and concerning the Draft Cabinet Submission questioned the need to grant such a large area of land (847 acres) to 'such a small group of Aboriginals' and suggested that due to the 'urgent need' for a new arterial road the lease include a provision for the 'extension of a road reserve as appropriate at no cost to the Government'. Because of 'present financial constraints' the Department did not support the acquisition of the four 'private interests' included in the claim as the costs were 'prohibitive' and the 'areas of land outside these properties appeared adequate to meet the needs of this Aboriginal group' (in addition 'legal advice' had also ruled out the compulsory acquisition of these leases). As previously mentioned the Department opposed any legislative changes whereby the considerable municipal rates would not be payable in respect of the land and used the passage of the Aboriginal Land Rights (NT) Act 1976 to question the validity of the Kulaluk claim, stating that as the Act excluded alienated crown land in a town from Aboriginal land claims it 'is not appropriate to acquire privately owned land in order to make a grant of such land to Aboriginals who originally made a claim under proposed legislation which never became law' (Department of the Northern Territory, nd). The Department of the Northern Territory advised that the recommendations in the draft cabinet submission be revised to provide for:

- (a) Sabrina Holdings to be given a final opportunity to reach a settlement by agreement at a price between \$160,000 and \$200,000 (assuming funds are available). Failing which acquisition action to be terminated and the area excluded from the claim.
- (b) The purchase of the vacant area held by Catholic Missions to be negotiated.
- (c) The remaining two interests to be excluded from the overall claim.
- (d) Provision for a road reserve in any lease granted to avoid any future acquisition compensation costs (Department of the Northern Territory, nd).

There was not any consultation with the Gwalwa Daraniki Association as to the modifications of the Interim Aboriginal Land Commissioner's recommendations regarding the private leases before the amended draft submission was finally presented to Cabinet. It was unfortunately scheduled for consideration on the same day that the December 1977 Federal election was announced and any decision on the submission was deferred until after the election. One bonus of the election was that it refocused parliamentary and public interest on Aboriginal issues. *Bunji* was also to resurface during this time after a lengthy period of inactivity. The Gwalwa Daraniki Association had begun to divide on certain issues such as the digging of sewerage lines on the land claimed and differing perceptions of development and the importance of conservation on Kulaluk. This led to only four issues of *Bunji* being produced in two years. Headlines proclaiming **Bam, Bunji is Back!** called for a full and open inquiry 'into just what has been going on in secret about these leases' (*Bunji*, January 1978).

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*The Larrakias Die Waiting: For five long years BUNJI has been saying over and over again, 'Give the Larrakias back their land'. The Larrakias have three boxes of letters. The Larrakias have two thick books full of newspaper cuttings about their land claims. The Larrakias have a special section in the Woodward Report. People have been to jail*

for the Larrakia land claims. The Larrakia's claims have been heard and approved by Judge Ward in 1975. Many of the Larrakias have died waiting! Please, now we want action. The Land Rights Bill is passed - RETURN GOONDAL. RETURN KULALUK. RETURN RAILWAY DAM. Declare OLD MAN ROCK a sacred site (Bunji, March 1977).

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Once again the Gwalwa Daraniki walked the streets to protest against the public display of a new town development proposal which excluded any mention of the Aboriginal claims to Knuckey's Lagoon, Railway Dam, Kulaluk or Goondal with these areas being shown as future recreation and urban development areas. The protesters walked through town to Moonta House carrying placards reading 'Save Kulaluk', 'Return Goondal' and 'Respect Daribah Noongalinya' (Bunji, April 1978; NT News, 29 March 1978). The cry for LAND RIGHTS NOW was to get louder in the following months with one edition of Bunji stating that the patience of the Gwalwa Daraniki had ended and one way that readers of Bunji could support the claim was to stop tourism and trade to the Northern Territory and harass visiting Northern Territory officials (Bunji, July 1979).

In mid-March 1978, Cabinet made a decision on Kulaluk which effectively split the claim in two - the vacant crown land and the private leases. The Minister for the Northern Territory was to make arrangements for a lease over the crown land and, to satisfy the demands of the Department of the Northern Territory, the lease was to allow for a 'road excision ... at no cost to the Commonwealth' (Henderson 1984). Cabinet supported the acquisition of the four private leases but specified that money for their acquisition come from moneys already allocated to the Aboriginal Land Fund Commission. A mixture of financial restraints, the high selling prices of the leases, previous Ministerial directions which had advised the Commission not to purchase lands in metropolitan areas and fear of a court appeal for additional compensation if the land was compulsorily acquired resulted in the Aboriginal Land Fund Commission determining that purchase by compulsory acquisition was not within its powers and 'reluctantly' deciding that it could not purchase any of the private properties (Henderson 1984).

In a massive oversight the ministerial press release announcing the Cabinet decision had not contained information relating to the clause in the lease concerning the road excision. Nor was it mentioned in a formal letter to the majority leader Paul Everingham advising him of the decision (Henderson 1984). Officials within the new Northern Territory Department created during the transitional phase to self-government had however been informed and issued instructions to the Department of Transport and Industry to provide for a bypass road in lieu of the proposed Palmerston arterial and Ludmilla-Fannie Bay connector alternatives of the past (Henderson 1984). When the surveyors arrived in August 1978 to measure this new road there was strong reaction from the Kulaluk people and they would not allow the survey staff to enter the area. A meeting of the Gwalwa Daraniki Association at Kulaluk at which lawyer, Geoff Eames, was present, resulted in the writing of a letter to Roger Steele which asked that all work on the road be stopped while the Gwalwa Daraniki Association had a chance to fully assess the situation and obtain independent advice from a town planner. The letter also requested information as to what stage the purchase of the Sabrina Holdings lands was at as the Association was aware that there were insufficient funds in the Aboriginal Land Fund Commission to purchase the land. The letter called for 'urgent representations to Mr Viner to provide further funds to the Aboriginal Land Fund Commission for these specific purchases'. Furthermore Eames wrote:

The people at the meeting felt that the proposal that they may obtain a lease only if they agree to this road amounts to 'Black Mail' and are upset that the press statement of Mr Viner in March 1978 in which he announced the proposed Lease of the Kulaluk land did not mention that the lease was subject to such a proviso ... The people at the meeting felt that the Northern Territory Government had been less

than frank with them about the proposals for Kulaluk as indeed had the Federal Government been less than frank (Eames 1978a).

When the new NT Chief Minister sought assistance from the Minister for Aboriginal Affairs to resolve the connector road issue and in settling the private leases he was told that the provision of urban roads was now the responsibility of the Northern Territory Government and that the Aboriginal Land Fund Commission had been empowered to acquire the private leases and had chosen not to. Henderson's analysis of the situation was that as the Commonwealth had managed to extricate itself from the problem of granting the lease the issue was no longer of their concern (Henderson 1984).

After a visit to Kulaluk in December 1978 to discuss the road proposal the Chief Minister sent an unequivocal letter to Bobby Secretary:

During our meeting on Friday morning, 8th December, 1978 at Kulaluk, I noted that you were happy for the road to go through the proposed Kulaluk lease ... I would like to assure you that as soon as the survey of this road is completed and excised from the lease, title to all of the remaining land will be issued within three weeks of that date and I shall take a great delight in personally handing the title over to you ... As I said to you at the meeting, Bobby, the NT Government will give you all the assistance it can to help you make Kulaluk a pleasant place. The area will be fenced and if you require a safe crossing, this will be attended to, as well as the provision of water, power, trees and general beautification. I also said that I would try and arrange an appointment for you or your nominee and myself to see the Prime Minister to talk further about the land acquired by Sabrina Holdings (Everingham 1978).

On being shown this letter Eames replied that he was 'astonished' that Everingham 'could so cynically misrepresent Bobby's statements to you at the meeting held at Kulaluk' [sic]. Eames stressed that Secretary made it:

quite plain that he wanted title to his land before negotiations for the connection road went ahead. You said that this was impossible but Bobby never deviated from that position. To say that Bobby was 'very happy' to have the survey and/or the road commence before he got title is a ludicrous misrepresentation of his repeated statements to the meeting (Eames 1978b).

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*"They only finally granted the lease in '79 I think, mainly to get the road through, Dick Ward Drive. Topsy was really strong on this and Bobby ... A couple of government officials came down and announced that a road was going to go through and they got a bit of a shock. They thought they'd just let the Aboriginal people know what they were doing and they got a bit of a shock. Topsy and Bobby just upped and said there's no road going through our land. They hadn't realised that they were veterans of the land rights struggle and that they'd been struggling for that land for a long time and they told the government officials in no uncertain times that there was not going to be a road ... Creed Lovegrove went back and told Everingham, 'we got a bit of a problem in getting the road through, we're going to have a bit of a fight ...' When Everingham came down and heard it himself from Topsy and Bobby ... he said 'well look if it means I've got to give you title to the land to get this road through so be it. Sign the paper saying the road can go through and I'll give you the title three weeks later'. They didn't believe him at first and he said 'I'm fair dinkum'. They signed it ... He kept his word. It was several months later. It was Topsy and Bobby's stand there at the end that finally achieved the land. It was their stand" (pers. comm. Jack Phillips 1994).*

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Photograph Eleven: The Coconut Grove road before Dick Ward Drive was constructed – note the Gwalwa Daraniki sign to the left  
(Northern Territory Archives, WB Day Collection NTRS 75 Photo 79)



Photograph Twelve: Work on the 'Connector Road', later called Dick Ward Drive, begins, August 1979  
(Northern Territory Archives, WB Day Collection NTRS 75 Photo 78)

Negotiations with the Kulaluk community for the \$1.5 million connector road continued into 1979 with the Minister [for Transport and Works], Roger Steele, claiming that the Larrakia would receive 'direct cash benefits ... from work [on the road] like fencing and tree planting' (*NT News*, 18 July 1979). The Aboriginal Land Fund Commission's inability to purchase the private leases together with the inclusion of a road excision on the Kulaluk lease meant that the integrity of the land proposed by Ward was completely broken. The main camp at Kulaluk would be separated from the bulk of the lease by the private leases and joined by only a small strip of beach. The land which used to be part of Bagot would be cut in sections by the roads to be constructed off the new connector road and access to the main Kulaluk camp was to be through a block owned by Sabrina Holdings.

Sabrina Holdings had continued to send letters to the Chief Minister and the Minister for Aboriginal Affairs demanding that the issue be resolved and claiming no responsibility for any 'ugly situations' which might arise due to their proposed developments on the land under claim. Sabrina Holdings, knowing that their land had decreased considerably in value since the cyclone, wanted the government to either buy part of their land or to give them compensation for delaying their development plans for so long (Henderson 1984). As no reply was forthcoming Sabrina Holdings began clearing their block which effectively cut off access to the Kulaluk camp. In response the Northern Territory Government approved an alternative site for vehicle access to the camp and reopened negotiations with Sabrina Holdings about the land. These negotiations were unsuccessful and Senator Chaney informed Sabrina Holdings that there was nothing further he could do to resolve the issue (Chaney 1979).

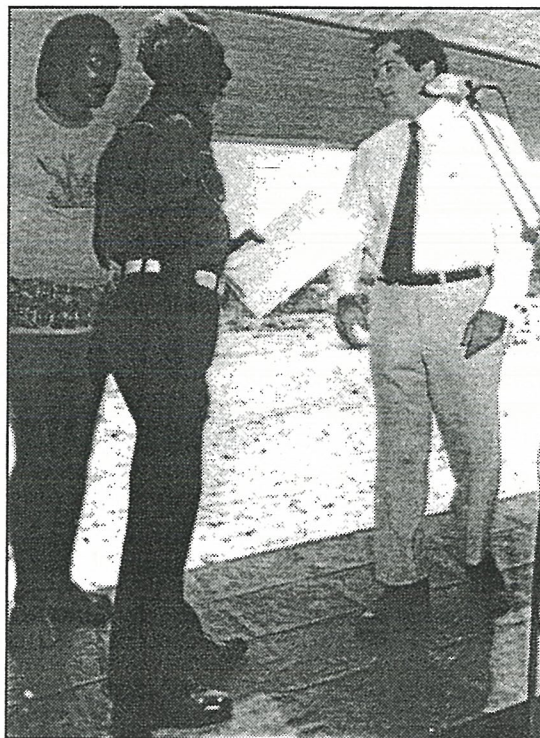
Another issue to impact on the granting of the Kulaluk lease was the movement of increasing numbers of Aboriginal people into Darwin, defined by the Darwin City Corporation as 'transient campers'. Resolutions passed at a Special General Meeting of the Darwin City Corporation included that the Corporation maintain its consistent and even handed policy in relation to the handling of all people who illegally camp within the city; that the Corporation defer any expression of opinion on further 'needs applications' for Aboriginal camping areas within the municipality until, and if, such are made; that the Corporation write to all Church and Mission groups involved in Aboriginal Welfare to determine if they are able to assist with accommodating the campers from their respective mission areas within the Northern Territory on lands under their control within the city (Bridgland 1978). The media release continued:

If we all wish to live in the same community, it is essential that the rules for the maintenance of the community are adhered to by all. If they are not the whole community suffers ... Ald. Bridgland concluded that the Council acknowledged that the Aborigines had a problem that needed attention but that it would not be solved by illegally camping on beaches and or public parks and reserves. This action does not attract support from the general community to their problems. It is counter-productive. If the groups consider they need land they should submit their applications to the relevant Department of the Government. The Council does not have the authority to grant them camping areas (Bridgland 1978).

In an August 1979 memo to the Town Clerk from the Department of Aboriginal Affairs on this subject it was stated that the granting of the Kulaluk lease would make it possible for the Department to fund the provision of permanent facilities for transient campers in this area. The Department of Aboriginal Affairs would be able to 'approach Aboriginal campers in other areas with a view to pointing out to them that there may be advantages in moving to land at Kulaluk'. The people at Kulaluk had claimed 'that other Aborigines would be welcome to camp in the area, provided that they established themselves away from the permanent Kulaluk group'. In addition the lease was large enough 'to allow the establishment of other camping areas which would allow Aboriginal people to retain their separate groups'.



Photograph Thirteen: Signing the Kulaluk Special Purpose Lease, 1979.  
Bobby Secretary, Albert Treves, Fred Fogarty (standing left to right), Kathleen  
Secretary, Topsy Secretary (seated left to right)  
(Northern Territory Library, WB Day Collection PH0095/0307)



Photograph Fourteen: Bobby Secretary accepting the Kulaluk Special Purpose  
Lease from Chief Minister Paul Everingham  
(Photograph supplied by Jack Phillips)

The Department of Aboriginal Affairs was hopeful that:

we will be able to go to these groups who are camping illegally and say to them that if they are prepared to move to an area at Kulaluk that the Department would give them support to establish facilities of their own with this movement. This offer may prove more attractive than the past process of simply saying that they should move because they are inconveniencing other people (in Cooper 1985b).

Although the issue of Aboriginal transient campers was not resolved before the granting of the Kulaluk Special Purpose Lease it is notable that discussions and proposals to use the lease were underway as the lease was being granted.

Lengthy negotiations over the lease conditions took place before the lease could be granted. The proposed tenure caused heated discussion as some believed that the title should be either similar to the Aboriginal title in the Aboriginal Land Rights Act or else outright Freehold (Henderson 1984). The lease was finally to be granted as a needs claim under the Special Purposes Lease Act<sup>15</sup>, with the purpose being a Special Community Development. Zoning was to be for open space and special uses which permitted 'any land, building or other structure which is used or intended to be used for the parking of caravans or motor homes or the erection or use of tents, mobile homes or cabins for the purpose of providing accommodation principally for the Larrakia people but does not include a caravan park or tourist park' (Henderson 1984). Contrary to Woodward's recommendations that the Northern Land Council supervise the lease it was decided that as the Gwalwa Daraniki Association qualified as an organisation able to hold the lease under the Special Purpose Lease Act it should be granted to them (Henderson 1984).

Over three hundred people attended the formal hand over of the lease at Kulaluk on 25 August 1979. As promised, Everingham presented the title stating, 'The land on which Darwin is situated belonged to the Larrakia before the white man first came to the Northern Territory, and now Bobby Secretary is to receive title to part of this land'. Emotionally, Topsy Secretary claimed, 'I'm really proud of it. This is the land our fathers left us' (*NT News*, 27 August 1979). Some of the principal supporters of the Kulaluk claim were not officially invited to the event which Bill Day later described as a 'sickening parade of hypocrisy' (Day 1994:101). *Land Rights News* also declared that what had 'happened with Kulaluk is symbolic of what is happening to Aboriginal Land Rights throughout the Territory' as the title was only 'to a small strip of land, most of which is swamp' and represented only 'a tiny fraction of the whole Larrakia land' (*Land Rights News*, No. 27 September 1979). Nevertheless, the granting of the lease was a great victory for the Gwalwa Daraniki Association who had consistently made the public aware of their claim and had not given up their eight year struggle. For the people directly involved this fight would never be forgotten. Whether Woodward's image of Kulaluk as a 'symbol of the stand which Aborigines ... are now making against the past tendency to put their interests last in any consideration of land usage' was a true prophecy of things to come will be examined in the following chapter.

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<sup>15</sup> According to the Aboriginal Development Commission, Aboriginal people on Special Purpose Leases within the Northern Territory, were offered certain advantages. These included that Aboriginal groups on leases were in a position to make decisions affecting their lifestyle; these settings assisted in stabilising community members' lives; the settings were less institutionalised; race relations problems were eased; leases allowed families to group; some groups were located on land which has traditional significance; there was easy access to employment, health and welfare services; and there were cheaper living costs (Australia 1982b:9).