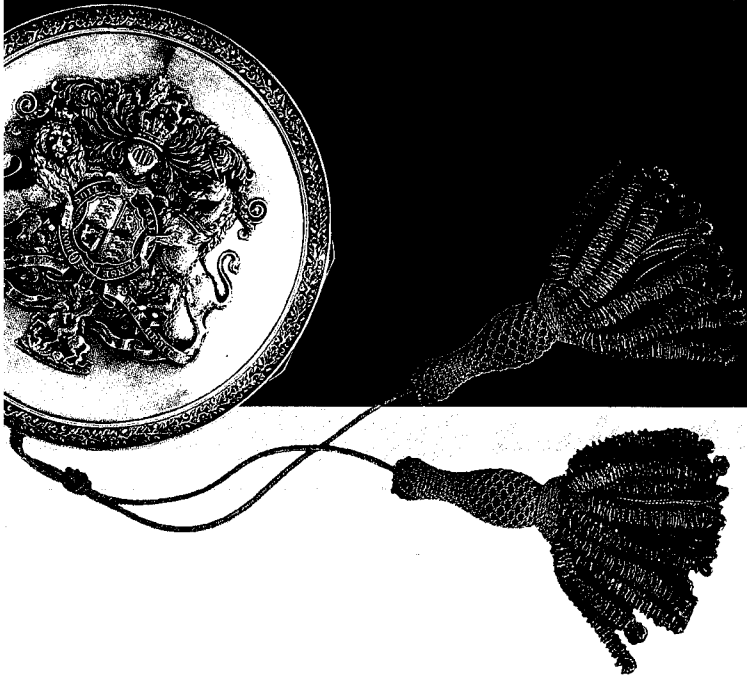


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Series E 1132

Item EMERY POINT 1/2

Title Claim for land by Larrakia and associated
Aborigines at Emery Point (Coondal) [file 2]
[file 1]

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(2)

GUALWA DARANKI
ASSOCIATION

Addition to early submission by Gualwa Daranki
Association for an area known as GOONDAL

~~Since~~ ^{Since} ~~to~~ the earlier submission made by myself and interested Aborigines, more information has come forward.

In the past, as we stated, the Army has been most reluctant to allow anyone associated with the Gualwa Daranki group to freely inspect the Emery Point area.

Their attitude is now more relaxed.

I believe an elder, Mr. Tommy Lyons has described how the ceremonies were held, and where he remembers the various boundaries were. His description of the rites that took place inside the ceremonial area would be more accurate than any evidence we have placed before the court, and we accept that, despite Mr. Lyons fading memory.

However his memory of where the actual area as a whole begins is different to our information. ~~Our informants~~, The inspection of the area made on May 14th 1973 was a genuine attempt to find the boundary of the claim for Judge Woodward.

Dolly Gyurinyee was an undisputed old Larrakia lady who died about eighteen months ago. With her nephew, Victor Williams, she showed us the boundary of the area which is close to the line where the claim begins, ^{shaded red.}

~~Now~~ Dolly Gyurinyee held a high position amongst the women and would be even more conscious of where the boundary was than Mr. Lyons who was able to move freely across the

2

whole of the point. Victor Williams, as a nine year old child, was also very conscious of where the boundary was, as he used to go there with his mother; Again, as a woman, she would have been very aware of the limits.

Now Victor Williams and his aunty Dolly were in a unique position of working in the barracks during the war with Japan and were thus able to follow the various changes of the landscape that must have occurred at Emery Point. Their familiarity with the land claimed cannot be disputed. Unfortunately Dolly has died. Victor Williams, in an inspection tour of the area can verify the claim as is presented by this association.

The tour should begin from Cullen Beach, where the women used to camp. It can be pointed out where they used to climb the cliff and how far from this access the women and children were allowed to proceed - retracing their footsteps so to speak.

Then if the tour drives around and into the barracks, it will be seen that this point as indicated from beneath the cliff at Cullen Beach, corresponds with the claim as shaded in red on our map.

Violet Adams is another Woman who took part in the ceremonies and can assist in this tour, as well as giving a statement to add to the others before the court.

With regret I must record that I personally am not happy with the methods used by the Northern Land Council in preparing the cases for the Darwin area land claims.

The claims so far heard by the Interim Commissioner have ~~we~~ been formed over the past four years after consultations and many dozens of meetings. At most meetings I was the only European present and ready to accept any advice from the Aborigines. It seems to me that the Land Council chooses a small group of Aborigines to speak for a claim which actually involves a great deal of people. This may be alright in Arnhem Land, although I doubt it, but in Darwin the situation is far more complicated.

It is fair enough if the Secretary of the Land Council is genuinely trying to ensure the claims are according to the wishes of the people, and not concocted by some European stirrers.

However the Secretary of the Council is himself a European and there are some doubts as to his impartiality. In a letter to myself, the Secretary of the North Land Council seems to favour the ideas of suggested by ~~is~~ Mr. Kilgariff, that Parliament House be built on the point and the area be landscaped by the Assembly. The letter is submitted for private reading by your honour.

On the map prepared by Mr. Wilders and Tommy Lyons, is clearly written "Parliament

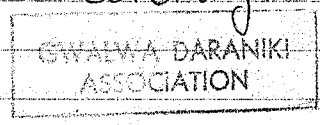
House ~~Mr.~~ here O.K." which happens to be inside the claim. I fail to see why such a comment was necessary.

The Gwalwa Daraniki submit a video-tape made by ourselves, as evidence before the court. It shows that there is some conflict over Mr. Kilgariff's suggestions and that things are not so straight forward as "Parliament House here O.K." would suggest. Perhaps that is all the video does indicate, but we would like the court to view it, if that is appropriate, or your honour may wish to see it in Chambers only, and judge for himself the importance of the video-tape.

In conclusion, I feel more inclined to rely on the boundary indicated by Victor Williams and his Aunt Dolly as well as Videt Adams ^{because} women and children ~~are~~ were instructed more on the limits of their movement, ~~than~~ and nothing about what actually happened inside the grounds.

I repeat my comments on the video-tape, that the Christian Churches control vast rate-free estates in every city for worship and religious indoctrination and the Aborigines, in areas such as Lyondal should have the same right

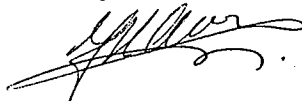
W.D. Day
Secretary



J. Wilders (NLC)

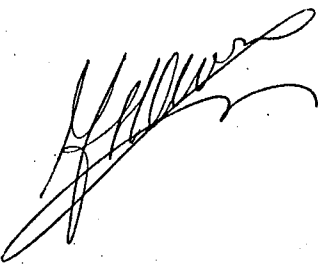
VISIT BY TOMMY IMBABUL, SAM FEJO, H. BRADLEY (LEGAL ADVISOR) AND MYSELF TO
GOONDAL 30.6.75 - 1pm

- Q. Now Tommy will you show me where the business was held before the army came here -
some talk between Tommy and Sam in language
- A. You come with me, I show you, other people stay here.
- Sam I cannot go with you, I am not allowed in that place, but Tommy will show you.
Tom and myself followed the road for some distance until we arrived at some stumps of trees left over after the cyclone and situated about 10 to 20 yards off the road on the Northern side. We went up to the trees and Tommy said -
- A. This is the place now
- Q. Where exactly were the camps,
- A. Men camp here; boys camp on that side (see map) and shade for ceremony here. Also place where boys lay on ground covered by tarpaulin. They cannot see, sun burn only their legs. This shade here, we make him of grass and all boys inside. We make fire and smoke and boys get frightened. Police man (Aboriginal leaders) stand outside both ways (either side of shade) and when boys come out, we belt them with stick. We teach him that way, they must listen.
- Q. So this place very important to you people.
- A. That right, no women allowed, they stay away down there.
- Q. You mean the women camped on the beach and not on the top.
- A. That is true, nobody camp on top, only old man allowed.
- Q. Who gave you people something to eat.
- A. Women come up from beach and put food there (indicating in the distance)
- Q. Can we walk up there and you show me.
- A. Yes -
We walked for about 100 yards just to a line as indicated on the map.
- A. This is the place, no trees now or long grass, but they put food here and cover it up with grass. They sing out.
- Q. Were the women allowed to go past there?
- A. No, nothing, they can walk across there for fishing, but no woman allowed there.
- Q. What would you like to do with the place.
- A. You leave him, this very important for us.
- Q. Did you hear that story about parliament house.
- A. Yes I heard you can build it there but not on that side (indicating opposite sides of food line). You tell that government no building here, but there alright. They can look after the place.



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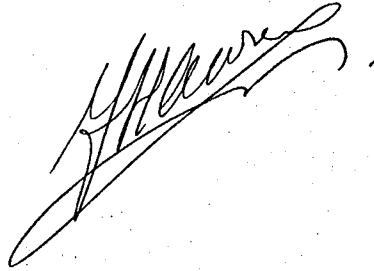
*Signed by Wilders
John NLC*

- Q. Hello Norman do you mind if I ask you some questions about "Goondal"
- A. No you ask
- Q. Did you ever go to the business at Goondal before the army came
- A. Yes many times
- Q. Do you know Tom Lyons
- A. Yes he really boss feller for that business
- Q. Do you know George Mungatow
- A. Yes
- Q. Who is older you or George
- A. Both level
- Q. What about Tommy
- A. He is older
- Q. Now Tommy and George drew me a map of Goondal and showed me where the business is held. Can you have a look at it and tell me if it is true (showed map and explained the story told by George & Tommy)
- A. Yes, that story is right
- Q. What do you want to do with that place
- A. We keep him
- Q. What about this area? You know where the women used to put the food for the men and boys, and here where the women used to cross to go fishing and hunting on the other side.
- A. Yes that place alright.
- Q. Do you think that building Parliament house there is a good or bad thing
- A. That is alright, they can build there.
- Q. Do you want to have that business again on that place
- A. I don't know, to old now.
- Q. Did Bobby Secretary go to that business at Goondal
- A. No, he never see that business
- Q. You mean he never went to that business
- A. ~~There~~ Him only a young boy when that army came.
- Q. But did he go somewhere else
- A. Yes, we had business here at Bagot and maybe Delissaville. Him went there.
- 

Q. You think then that the story that Tommy and George told me is right one.

A. Yes that is true story I believe Tommy.

Thank you Norman we will tell the Judge about that.

A handwritten signature in cursive script, appearing to read "J. Moore", is written in the upper right quadrant of the page.

J. Wilders (ALC)

Q. I showed George the map of Emery Point and asked him where the teaching of young boys was held.

George was unable to point out the position but he said:

A. You know when we went there, them milk-wood trees, that is the place now. All other trees not there any more.

Q. Tom Imbabul showed that same place and he told me the lay-out of the place when the business was on. (drew lay-out of camp).

A. That story Tommy tell you, that true one, him right man.

Q. What do you want to do with that place.

A. That Tommy him tell you

Q. No, I want your idea George

A. We want to keep that place clear.

Q. Why do you want to keep it clear.

A. People ask me, can we make that business now. We old fellers nearly finished, we must hurry. Please can you help us get that country and we make business.

Q. You want to tell me, no building there, you want to keep it as a business place.

A. That's right, nobody live there, that our proper country

Q. Do you think that, that line which Tommy indicated is the true line for food, where the women were not allowed to go any further?

A. That's true, that right story. They put food there and cover it up with grass. They can walk here alright but not there (indicates on map).

Q. What do you think about that parliament house we have been talking about.

A. That parliament house him alright. If that Tommy say so, him boss feller. That alright. You ask that parliament man to make fence, so nobody women can go there. Lady can go around but not that side (indicating dancing and shade area)

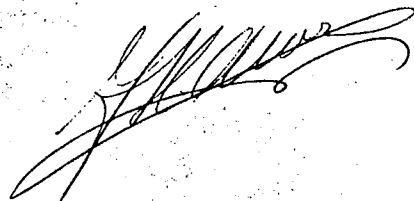
Q. Any Larrakeyah left-over that went to that business,

A. That Bobby (Secretary) him been that business maybe two times, but not Goondall.

Only me and Tommy. Norman and Nipper before that army come, we made business there.

Q. Is that all you want to tell me George.

A. That is all, that true story.
George then started to talk about Old Man Rock



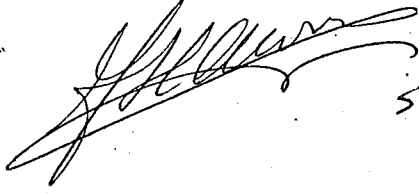
Q. Can Aboriginal people live here?

A. No, nobody live here, only old men for business, other time nobody.

Q. Do you want that land to be for you people again.

A. Yes we want it, that very important to us, you leave it alone, just make it park, no women there, make it nice country again.

Thanks George, I will tell the Judge what you told me.



Signed John Wilders
N.L.C.

GOONDAL (EMERY POINT)

My name is Victor Williams and I live at Wells Street, Rennie Bay in the old days Goendal use to be the ceremony ground for initiations and that was out of bounds to young people. I remember well these days. I was eight or nine and mum was a Larrakia. Women folk and younger people had to stand well away, you could see the men but only a ring of people. The real old people were allowed to go a bit closer.

Aunty Delly, she began to cry when we visited Goendal last year because it was the first time she put her foot on the ground there. In her younger days she wasn't allowed.

I was stationed in the Army during the war at the barracks.

All the old people use to ask how the place was and if the Army was digging it up. They seem to be worried, even Aunty.

She use to be a cook with the Australian Womens Auxiliary Service and in charge of the employment for girls working in the barracks. But she didn't go to the point even then.

The aboriginal settlement was at Kahlin Compound.

When the Army took over the ceremonies stopped. The ceremony ground comes from the point right to the Sergeants Mess. The Sergeants Mess is on the line where the women folk use to stand.

I believe the ceremonies had been held there for thousands of years and belonged to the Larrakia Tribe although other tribes joined in.

I would be prepared to show the land Commissioner around the area I am talking about.

SIGNED

V. Williams

VICTOR WILLIAMS

WITNESSED

Gabriel, Secretary

WITNESSED

W. J. Day

DATE

17/6/75

GWALWA DARANKI
ASSOCIATION

P
P.O. Box 4751,
Darwin.

13-6-75

The Interim Land Rights Commissioner,
Mr. Justice Ward.
Darwin.

Dear Sir,

Here are the submissions of
the Gwalwa Daraniki Association on
behalf of Larrakias and associated ~~Aborigines~~ ^{Aborigines}.

We hope Mr. Bradley will be seeing
you this week to fix a date.

We want the Gwoondal claim heard
as soon as possible in public, just like
the Kulaluk claim.

That way we can hear all about
the attitudes of the town planners.

The Old Man Rock claim does not
have to be public, but isn't it better
for anyone to hear our story? We
don't think there will be much trouble
over Old Man Rock.

The boundary we drew for Gwoondal
is not exact - can you get a surveyor
to make it more clear?

Also included - submission on Larrakeak Reserve.

Yours faithfully,

W.D. Day

X Bobby Secretary

Jessy. Secretary

Gabriel. Secretary

per

GWALWA DARANIKI
ASSOCIATION

GOONDAL (EMERY POINT)

My name is Bobby Secretary and I live at Kulaluk.
Goondal is in Larrakeyah Army Barracks. I went to see the place
last time with Victor Williams, Captain Bishop, Barral, old
lady and Bill Day. That day we showed them told them about
Larrakia people long ago.
Old camp was place called Cullán Beach. People have ceremony
out the end long time ago, I don't know much. White man push all
aboriginal people away. Old people die now, law say they not
allowed to tell us about Goondal when we were kids.
That place belonged to Larrakia, that's why they put the name
Larrakeyah Barracks. I don't know what can do with that place
you have to ask the people.

SIGNED *A*

BOBBY SECRETARY

WITNESSED

W.D. Day Johnny Tojo

DATE

17/6/75

My name is Jack Gordon and I live at Railway Dam.
This is my story about Goondal. Nobody, no white man been there,
only native people, all the ceremonies been there. All the
Brinkins, all the Wagaitts and Larrakias at Larrakeyah Point.
Only man been go on top where barracks is now, the point there.
I went up there to the ceremony myself.
When the war, all the Army came, still the army there, aint it?
The ceremony finished, the lady been come behind but we can take
it, we can live there.

SIGNED

X

JACK GORDON

WITNESSED

W.D. Day

DATE

17/6/75

GWALWA DARANIKI
ASSOCIATION

GOONDAL (EMERY POINT)

My name is Barral, white man call me Norman Harris, and I live at Railway Dam.

We was playing down Cullen Beach all young boy. After that old men make a Sunday Cerrobbree and we all went to Sunday business. Climb up on top of hill. After that we sit down there - people bring food - not fer boys fer old people. Three months lock up native way fer boys at Goondal. No clothes, no women allowed. Army wasn't there, scrub. No white people allowed to see all naked boy. Old men give us hiding from stick and all that, teach us law. All these old people finish now. Only two - Daly Young and Tommy Lyon thats all alive.

Even police can't come, old people stop them before.

When finished we paint up and go down to women.

White people stop us, not to do anymore. Army wasn't there then, after Army take the place put a cannon right on Emery Point.

Bill Day and I we went to that place, look around I show them Goondal.

We not using that place any more, too many ladies everybody walking around, no scrub everyone can see. We can't have business where lot of people around. I can't say a bout this Goondal now only if all people agree. We like to have Goonda l for Aberigine people, any tribe.

Another place where Bill Harney used to stop Two Fella Creek, thats business place we call Darumungamunic. We go with canoe from Goondal.

SIGNED

NORMAN HARRIS

WITNESSED

Nipper Bonkin

WITNESSED

W.D. Day

DATE

17/6/75

GWALWA DABANIKI
ASSOCIATION

QUOTATIONS FROM THE WOODWARD REPORT (APRIL 1974) THAT SEEM TO SUPPORT THE ABORIGINAL CLAIM TO GOONDAL.

Para 275. A number of later submissions have pointed out, quite rightly, that the difficulties in which many of these people find themselves do arise from the loss of their traditional lands or the loss of their sense of Aboriginal identity caused by their mixed ancestry. Whatever their reasons for living in a town, it can certainly be said that most of the fringe-dwellers of the cities and towns have suffered more from the coming of white settlement than have those still living on reserves or cattle stations.

Para 284 The necessity to set aside urban land for Aborigines will have two results. In the first place it will compel the specific inclusion of planning for Aborigines amongst other town planning requirements. Secondly, the bare Aboriginal lands will draw attention to housing needs whereas makeshift camps on Crown lands could be, and have been, ignored.

Para 320. It will be seen from the above correspondence that the Minister of the day was adamant in 1961 that the long-term needs of Aborigines should be provided for. In particular his statement that,

"I could not justify cutting up some hundreds of acres of the Bagot Reserve for housing if in thirty years time the only land left for the next generation of Aborigines was to be a long way out in the paddocks that nobody else wanted..." was prophetic of the actual events. It lends force to the urgent requirement to retain Aboriginal living areas such as Kulaluk and Railway Dam.

Para 323. (referring to Bagot Reserve) They lost a large area of useful land and have nothing to show for it.

Para 324. As stated earlier, I have drawn attention to the case of the Bagot Reserve for two reasons. First, it is an interesting recent example of how developments believed to be in the interests of the community generally can be rationalized so that they are thought to be in the best interests of Aborigines also.

Para 325. Secondly, it highlights the strength of the Aboriginal case for more land in the township of Darwin. In spite of submissions to the contrary on behalf of the Gwalwa Baraniki, I take the view that what was done in 1965 cannot now be undone. But this does not mean that compensation in the form of land and houses cannot be made available, in areas acceptable to Aborigines, elsewhere.

To quote Judge Woodward "In the first place it will compel the specific inclusion of planning for Aborigines amongst other town planning requirements. Secondly, the bare Aboriginal lands will draw attention to housing needs whereas makeshift camps on Crown lands could be, and have been, ignored."

The Larrakias should not, and morally cannot, relinquish this strong claim to be left with the difficult task of finding other areas, probably less desirable, for transient camps, hostels etc. It is in the interest of claims such as Knuckeyes Lagoon, Kulaluk and Railway Dam that there be plenty of facilities for transients, single men etc. otherwise the above mentioned claims will become overcrowded.

If the Geondal claim is not granted in full the purpose of land rights will not be achieved. The claim is fully documented and the underlying resentment of the aborigines will continue into the future.

Although todays aborigines may not say much, more sophisticated later generations will be bound to take up the issue ~~regardless~~ if this land is alienated without compensation. Protest action of the future could make the aboriginal Embassy outside Parliament House, Canberra, look like a picnic.

Of course the area is coveted by town planners, developers and other groups and no doubt ~~that~~ "developments believed to be in the interests of the community generally can be rationalised so that they are thought to be in the best interests of the aborigines also" (Woodward report Paragraph 324).

The aborigines are distrustful after 100 years of deception. This is the claim, and we ask you to reach a ~~firm~~ decision without delay that will ensure adequate consideration for aborigines, not just Larrakias in reconstructed Darwin.

W. B. Day

Rev

GWALWA DARANIKI
ASSOCIATION

SUBMISSION TO THE INTERIM ABORIGINAL LAND RIGHTS COMMISSION
TO SUPPORT THE TRADITIONAL CLAIM TO AN AREA KNOWN AS GOONDAL
PREPARED BY THE GWALWA DARANIKI ASSOCIATION INC.

Included in this submission is 1. Statements by various aborigines associated with the area claimed. 2

2. Map showing claim. 3. Article from N.T. News 15 May, 1973

~~4.4~~ 4. Correspondence with the Army. 5. T.V. News film of inspection of area 1973. 6. Press cutting first of August, 1973.

1. The statements given by Larrakia and related aborigines proved beyond doubt the ancient association of the Larrakia and Wagait tribes with the area known as Goondal. Mr. Victor Williams in particular has given a clear and confident description of the area and is prepared to further help the Court in any way. Other elders such as Tommy Lyons (Imabul) live at Delissaville and have not been contacted. From earlier conversations it is known that they confirm the statements submitted. Two elderly ladies named Kuramunuk and Dolly Gurinyee died last year. Their written statements were sent to Judge Woodward in 1972.

The presence of non-aboriginal men and women over the last forty years does not appear to affect the significance of the area. The way in which the area was abruptly alienated from the elders seems to have created a lasting resentment which is not surprising. Some aborigines seem to feel that the area is no longer suitable for ceremonies.

2. The claim is divided into two parts, much as the traditional area was. The first and most important is the area at the end of Emery Point from the neck where the two sides of the Point narrow. This is the minimum claim acceptable to the Larrakias. The wider or greater area includes most of that part beyond which the women and children were not permitted when the area was in use. These areas are shown on the map and could be surveyed without difficulty.

3. The article from the N.T. News accurately describes a visit made to the Army Barracks by members of the tribe in 1973. The whole article is submitted as evidence.

4. An example of the difficulties encountered with the bureaucracy in arranging the tour of inspection to gather evidence for the Woodward enquiry. It took five months of letter writing, telephone calls and conferences before the Larrakia group could get authority to visit their old ceremonial ground inside the Army Barracks.

5. This is a short pictorial record of that visit as shown on local T.V. - first segment of the reel only. It needs a commentary.

SUBMISSION TO SUPPORT THE TRADITIONAL CLAIM TO AN AREA
KNOWN AS GOONDAL. (Continued)

6. This press cutting describes a demonstration held by the Gwalwa Daraniki Association when members marched through the gates of the barracks out to the claimed area as a protest at the occupation of their traditional land by the Army. This required some determination in the face of threats from Military Police and several civilian police cars. The press report is accurate.

.....

Concerning the actual Emery Point it is submitted that it should be preserved for all time as open space in the trust of aborigines who will be able to ensure that its religious significance will always be protected and respected.

It would not be necessary to restrict ~~public~~ appropriate public use except on any particular day the aborigines may decide from time to time. They must retain this authority.

Therefore the area while under the control of the aboriginal trustees, can be used as a public park, landscaped as naturally as possible. A ~~plan~~ should ensure that the public respect the significance of the area. Upkeep of this open space need not necessarily be the responsibility of the aborigines. It is anticipated that aboriginal ~~women~~ women will continue to voluntarily respect the 'no women rule' which as stated does not apply to non-aborigines. It is not for this generation to say whether ceremonies will never be held there again, a revival of aboriginal culture is distinctly possible.

It is unacceptable that this, the heart of the Larrakia culture and unbroken history dating back perhaps 40,000 years should not be returned to the tribe as part of the Government's stated Land Rights Policy.

Concerning the wider area although, no Larrakias stated any desire to live in this region, we believe considering the traditional ties with this land, greater even than Kulaluk and Railway Dam, that this must emphatically become a land claim as we originally submitted to Judge Woodward.

Although there are no definite plans for the area by the aborigines this high land could be well used for transients camps or hostels.

GOONDAL (EMERY POINT)

My name is Nipper Rankin and I live at Bagot Reserve. I knew they use to have Larrakia business before in the barracks now. I was only a kid then. Behind the barracks, on top called Goondal were the lighthouse is. I didn't go, I only see every afterneen they come and go back to business. Only old people allowed to go there. White people use to be not allowed before. Can't take camera too. No houses, only around Gullen Beach. White fellows sitting down there now. If we get Goondal, ceremony finish up now I think - old people all die.

SIGNED *Nipper Rankin* NIPPER RANKIN

WITNESSED *X (Norman Harris)*

WITNESSED *W.S. Day*

DATE *17/6/75*

My name is Topsy Secretary and I live at Kulaluk. About Goondal, I was too young to know that ceremony but the old people tell me it is a sacred place for the man. So when the army first came they asked my father for a place for the army to live and he let army stop there. He wanted army, better than married people houses because army men won't let women to go near Goondal so much. That place properly belong to Larrakia. If they give us Goondal, single man can stop there, it too dangerous for women to set their feet there, on Emery Point. Man use to go there have council meeting, it still not finished God gave to us to keep that way. The whitelady all right, they have different law, not native.

SIGNED *Topsy Secretary* TOPSY SECRETARY

WITNESSED *W.S. Day*

WITNESSED *Gabriel Secretary*

DATE *17/6/75*

P. I. O. GWALWA DARANKI ASSOCIATION

My name is Peter Unia and live at Bagot Reserve

The Larrakia men and boy have business on that we call Goundal

They been give it we half, for Brunkin and Muluk muluk and they been have business, we wait and then we start like that.

Women have to stop along home or long way back.

When they ready all the young boy they put a business on, they come out.

White man or Chinese didn't use to come out. No more army.

SIGNED *X* Peter UNIA

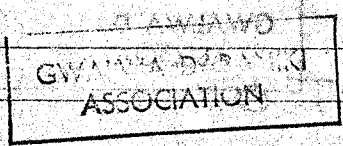
WITNESS Gabriel Secretary

WITNESS W. B. Day

DATE 17/6/75

GABRIEL

W. B. Day



STATEMENT OF EVIDENCE - GOONDAL CLAIM

In providing evidence on behalf of the Department of Northern Australia it should be stated at the outset that, as Your Honour has adopted a procedure in the hearing of previous claims of having details of the progress of the claim lodged with my Department, the Goondal claim has never been lodged with the Department of Northern Australia or its predecessor the Department of the Northern Territory.

The Department's first knowledge of the claim as such, which covers an area of $13\frac{1}{2}$ hectares (or 33 acres) of land at the Point Emery end of Larrakeyah Barracks, was during the previous hearing on Railway Dam. The Department, I hasten to add, Judge, has had knowledge through the press - certainly in 1973 - that the Larrakia people wanted to visit their sacred ground at that time and may have lodged - as far as my Department is aware - a claim before Justice Woodward.

As far as I can judge from reading both the first report and the final report by Justice Woodward, I cannot see particular reference to the Point Emery or Goondal claim. I refer in particular to paragraphs 157 and 158 of his first report and paragraph 327 of his final report in which he refers to "other areas" in the broad sense but does not refer to a particular claim for the Goondal area by the Larrakia people.

Therefore, in giving evidence on behalf of the Government I wish to make it clear that I am giving evidence on behalf of a Department which has had custody of certain records which will be quite relevant to the claim but that I am not giving evidence on behalf of the Department of Defence which has had control of the land known as Larrakeyah Barracks - land which includes the Goondal claim. In terms of planning responsibilities for Darwin, Your Honour will appreciate that the Darwin Reconstruction Act since it became law on 28 February 1975 provides for

development planning schemes and the Darwin Reconstruction Commission will obviously be the authority to consult regarding its concept of future plans for the Larrakeyah Barracks area. My evidence will therefore be restricted to events which took place before Cyclone Tracy and before the claim was lodged with Your Honour.

In this particular claim I believe it is important for Your Honour to have before you certain documents and plans which relate to the history of the status of the land since the first European occupation in 1869. I should state here Your Honour as a matter of historical fact that the first finding of Port Darwin or the Darwin Harbour as we know it today, took place in 1839 with the voyage of Captain Stokes into the harbour and it is known from the following quoted extract that a party under Captain Stokes landed at Point Emery and found water there. The Point itself was named after Lieutenant James Emery, an officer serving under Captain Stokes at the time. The extract from Stokes' journal states as follows at page 13 volume 2 -

September 12, 1839

"We moved the ship into Port Darwin, anchoring just within the eastern cliffy head which, to commemorate Lieutenant Emery's success in finding water by digging, we named after him."

The point I wish to make here is that prior to Surveyor-General Goyder's arrival on the peninsula area of Darwin in February 1869, the white man had entered the harbour and, in fact, had set foot upon what is now part of the Goondal claim area.

Your Honour will be aware that in its control of the Northern Territory,

the South Australian Government made a number of abortive attempts to fix a settlement on the North Coast of the Northern Territory, including Escape Cliffs in 1864 which was abandoned in 1866, and these attempts led to the personal intervention of Surveyor-General Goyder and his personal supervision of the selection of the Town of Darwin as set out in his original 1869 plan as the main urban centre on the North Coast, based on what was described in earlier explorations as being on the shores of an excellent harbour.

When Goyder commenced his survey activity with a number of surveyors, a surveyor, Mr. J.M. Thomas, actually pegged certain residential sections of Goyder's Town of Darwin on the Larrakeyah Peninsula area as shown on his plan of survey dated 16 March 1869, a copy of which has been made available from the Surveyor-General's Office in Darwin. A copy of this plan has been made available to Your Honour and marked as Plan A1.

A plan of the area of the claim and its relation to the Goyder survey or sub division of town sections is provided as Attachment A in papers left with Your Honour and you will note that the area of the Goondal claim is shown in purple edge and within this area there lay a number of freehold title grants (shown in green) which were made by the South Australian Government subsequent to Goyder's survey; a number of sections shown in red which it appears were intended to be held as government blocks and a quarantine reserve which apparently was a reservation that took place at the instigation of the South Australian Government in the year 1900. I shall refer to this reserve at a later stage.

It will be quite evident from the plan known as Attachment A that the town site of Palmerston as surveyed by Goyder and his surveyors intruded into the area of the land now claimed. In particular, I would

like to draw Your Honour's attention to the two areas at Point Emery and Point Elliott which are shown as Military Reserves on the survey plan by Mr. Thomas - i.e. Plan A1. As to the small reserve at Point Elliott, shown on the plan at Attachment A, this area was shown on the copy of the plan bearing the name J.M. Thomas, as a military reserve designated "B" (note that the general area of a later Quarantine Station was designated military reserve "A"). There is no evidence of formal reservation as a military reserve. It does appear even at the early stage of European occupation that those wishing to colonize the North from South Australia realized the significance of Point Emery and Point Elliott, and in planning the new town of Palmerston, now Darwin, set aside these areas or significant Points on the peninsula for the protection of the future community of Darwin.

The Department has not gone into the detail of searching the various freehold titles which were granted in this area, i.e. sections 727 to 773 Town of Darwin, section 746 etc. but it is evident that these grants were made and titles held by private citizens for a number of years until later events extinguished the titles through a form of acquisition.

It is known from the basic records of our Department that certain sections within the Larrakeyah Barracks area fronting Thomas and King Streets, as shown on Attachment (Plan) A, were actually built upon and these had to be compensated for when eventual acquisition took place. Some of these sections were sections 837, 839, 840 Thomas Street, sections 856 to 859 King Street, and sections 904 & 905 King Street. I think therefore, it would be reasonable to state that between the years 1870 and 1936 quite a number of freehold grants were held on the peninsula area of Larrakeyah Barracks and in some cases these sections

were occupied by former residents of Darwin.

The next significant change in the status of the land at Larrakeyah came in 1936 when acquisition of certain lands in the area took place for defence purposes by way of a proclamation in the Commonwealth Gazette No. 73, dated 3 September 1936 (Attachment B1). In Commonwealth Gazette No. 31, dated 19 May 1938 (Attachment B2), certain other town sections were officially withdrawn from leasing by Mr. C.L.A. Abbott, Chairman of the Northern Territory Land Board, in the particular notice referred to. It can be assumed without recourse to the particular records that the Department of Interior would have acted on behalf of the Department of Defence in acquiring and removing from leasing these parcels of land for barracks in connection with the coast defences of Darwin.

The next action occurring would appear to be a letter to the Administrator of the Northern Territory from the Secretary of the Department of Interior, dated 23 November 1938 (Attachment B3), which indicated that the Department of Defence wanted further land in connection with the layout of new barracks at Larrakeyah. The Department of Interior acted on behalf of the Department of Defence to acquire a much larger area than that previously envisaged in 1936 and early 1938, and the requirements of that Department can be stated as follows -

- (i) all sections not already the property of the Defence Department west of Burden Street to be acquired;
- (ii) all remaining public roads west of Burden Street (excluded) to be acquired;
- (iii) the whole peninsula to be proclaimed a Defence Reserve;
- (iv) the area bounded by Lambell Terrace, McKay Street (now Mitchell Street West), the south-east edge of Doctor's Gully Reserve, low water mark, and Burden

Street (excluding all roads and excluding also the low lying part of Doctor's Gully) to be acquired.

Compulsory acquisition of the remaining privately owned land west of Burden Street for defence purposes then took place on 12 October 1939, Commonwealth Gazette No. 104 (Attachment C).

I refer now Your Honour to the Quarantine Station Reserve in the area which had been proclaimed by the South Australian Government in their Gazette No. 28 of 21 June 1900. I have recently asked the South Australian Government to provide papers which relate to this reservation and to the reasons behind their objective of setting up a Quarantine Station in this area which is on Point Emery itself and includes the existing lighthouse. This area is regarded as a sacred place by the Larrakia people and it has been indicated to me in an inspection of the area with the Aboriginal people that this was where the young men of the tribe were located. If papers are not available before this hearing commences relating to the reason for this reserve, then they can be made available to Your Honour at a later date. However, in relation to this reserve the Gazette Notice No. 559/39, published in the Northern Standard in Darwin on 17 November 1939, and in the Commonwealth Gazette No. 128 of 9 November 1939, revoked this reserve (see Attachment D).

There are two other actions I would like to bring to Your Honour's attention which occurred between 1920 and the acquisitions of 1936 to 1939 relating to parcels of land in the area. Firstly, the Public Esplanade/Sprigg Terrace Reserve which had been proclaimed in Commonwealth Gazette No. 66, dated 12 August 1920, was revoked and re-proclaimed in Commonwealth Gazette No. 16, dated 24 February 1921, and was reduced in size by proclamation in Commonwealth Gazette No. 121, dated 2 November 1939.

Larrakeyah Square (as shown on Attachment A) was reserved for the use and benefit of the inhabitants of Darwin in Commonwealth Gazette No. 53, dated 17 June 1920, and the revocation appeared in Commonwealth Gazette No. 121, dated 2 November 1939.

The public roads west of Burden Street were declared closed in Gazette Notice 556/39 in the Northern Standard dated 17 November 1939, and that declaration included the following statement -

" - and I declare that the said lands shall be Crown Lands set apart and reserved for the purposes of the Defence Department."

The declaration was made by the Minister of State for the Interior, pursuant to section 9 of the Lands Acquisition Ordinance 1911-1926 (see Attachment D and Attachment E).

I believe the particular action I have referred to above and as also referred to in a letter from the former Department of Interior (Attachment E) are of particular importance in that during the process of closing roads in the area, the Crown Lands then created were reserved for the purposes of the Defence Department.

Your Honour's attention is drawn to the fact that a lighthouse is situated at Emery Point, within the area of the land claim, but no information is available as to when it was installed. In July 1967, the Department of Shipping and Transport sought information on all Northern Territory lighthouses including that at Emery Point. That Department later indicated that it desired to establish control over the lighthouse sites but required no action to be taken to protect the Emery Point site as it was within a Defence Area.

On 19 December 1939 (Attachment F) it was recommended by the Acting

Administrator that action be taken to formally reserve the whole area for military defence purposes. Because of pre-occupation with further requirements for land in the general area for military purposes and the intervention of war, formal reservation did not take place.

About ten years ago, a mobile satellite tracking station (or similar installation) was set up at Emery Point, following a geodetic survey of the site.

The site has been used on advice from the Surveyor-General, "as a tracking station, known as "Darwin Tranet" for precise satellite observations in the A.N.N.A. and E.G.O. programme. The last known use of the site was in 1972."

In 1967, a review of Defence Services land requirements was carried out and as representative of the then N.T. Administration of the Department of Interior, I was personally a party to this review and although the report is a restricted document for obvious reasons involving Australia's defence, it can be said that the Department of the Army, at that time, maintained the view that the whole barracks area should be retained and reserved down to high water mark.

Over a period of several years up to 1972, the Army authorities discussed with this Department the possibility of formally reserving the Larrakeyah Barracks for defence purposes. On 20 March 1974, an opinion was given by the Crown Law Officer, Darwin, that formal reservation was necessary before the powers under section 82 of the Defence Act could be invoked (Attachment G).

An extract of an opinion from the Crown Solicitor's Sub-office (Defence Group) Canberra is now to hand (Attachment H) which indicates that whilst formal reservation is unnecessary, a notice could be inserted in

the Gazette that the land is reserved for defence purposes in accordance with section 82 of the Defence Act. The reaction of the Defence Department to this opinion is that defence lands should be formally set aside under section 54 of the Lands Acquisition Act. I am afraid I cannot make available the full copy of the letter as it refers to certain Defence installations and is restricted because of this, but only the legal advice appearing is relevant to this case.

I have received certain advice from the Surveyor-General regarding the status of the land at Larrakeyah Barracks and also a plan showing the extent of the barracks area which is identified by the number C. & L. 1025/D. I would like to quote an extract from a recent letter dated 2 July 1975 from the Surveyor-General which provides certain information regarding the status which will be of benefit to Your Honour.

"The current status is shown on Public Plans as "set aside for Defence Purposes". The origin of this "setting aside" is not quoted. The total extent of the area set aside for Defence Purposes is shown tinted pink on the photogrammetric plan C. & L. 1025/D. This plan also shows the extent of military buildings and installations in the area of the claim. All the smaller buildings survived the cyclone to some extent but the large building towards the southern corner was destroyed.

Also in the area is a lighthouse which is owned and maintained by the Department of Transport.

The Australian Survey Office uses the "Lighthouse" and a nearby mark as geodetic beacons for survey control work in the mapping of the Darwin area."

Whilst the current status of the land is said to be set aside for Defence Purposes it may be necessary to obtain legal advice on the effect of Gazette Notice 556/39 of 17 November 1939, in connection with road closures (see Attachment D). As I have also provided certain legal comment in Attachments G and H, Your Honour may well need to have legal advice from the Australian Government as to the actual position of the land at Larrakeyah, whether in fact it is a reserve or not and how the land should be treated should Your Honour wish to recognise the claim by the grant of a lease or by another form of reservation.

I have only recently obtained from the South Australian Government, copies of the Gazette Notice relating to the Quarantine Reserve at Point Emery and details of why it was created by that Government in 1900. These will now be made available to Your Honour for information.

Considering the in globe market value of the 33 acres of land covered by this claim it is important for Your Honour to be aware that the current market value of this land, if it were disposed of for its best use, would be in the vicinity of ~~\$770,000~~. I have obtained this estimate from the Valuer-General of the Northern Territory and I include it in the evidence as I believe it would be relevant in the situation where any lease was granted and there is also the problem you raised earlier on previous claims which involves the local government rating of the land based on this sort of value.

This now concludes the evidence of the Department of Northern Australia in respect to the background information necessary for Your Honour to consider other aspects relating to the claim.

Dear Bill LETTER FROM SECRETARY OF
NORTHERN LAND COUNCIL TO BILL DAY

I received a phonecall from Mr. Killgariff about Emery Point. It seems to be the intention to build the new Parliament House within that area and keep the point clear. I do not know at this stage how much, but he stated that the council will landscape it, make it a reserve, give Aborigines full access to the area, make clear marking signs and monuments, telling the importance of the area etc.

I suggested to him that it would be advisable to have a meeting with the people next week and to put his proposals himself.

Could you please organize a time and date for such a meeting. I suggest either Wednesday, Thursday or Friday morning.

I feel that this proposal has merit and warrants a closer look.

Regards

John