ROCKY GROUND IN LAND WASTE FIGHT.

“Northern Territory News, Monday June 15 2020, page 2.

By Jason Walls

a Darwin Aboriginal organisation has taken a local property developer to the Supreme Court in a bid to get the company to remove stockpiled waste left on its land along Dick Ward Dr.

The Gwalwa Daraniki Association is seeking the order against Dragon Lady Pty Ltd as trustee for the E.S.W. Chin superannuation fund, along with damages, interest and costs.

A statement of claim filed by the GDA alleges it granted Dragon Lady a license to occupy 2.5ha of the land in 2009 before giving its consent for the company to stockpile “rock, gravel and landfill” on it.

The writ says an agreement was reached in 2017 to terminate on the basis that Dragon Lady pay outstanding fees and remove the stockpiled waste. The GDA alleges its solicitor wrote to the conpany's lawyers confirming that the surrender of the lot was conditional upon it removing the stockpiles but received no response.

The organisation says it then withdrew its consent for the material to remain on the land in October.

“The defendant has failed and continues to fail to remove the stockpile for Lot 2,” the document reads.

The association alleges the stockpiles are now barring its members from their rightful enjoyment of the land and preventing it from seeking any further expressions of interest to sublease the lot.

The 301ha Kulaluk lease was handed back to the GDA as representatives of Darwin's Larrakia people as a perpetual Crown lease under the Land Rights Act in 1979.

The case returns to Court on July 6.

[additional Comment: Jason Walls was not correct to say the land was returned under the Land Rights Act of 1976 because the Act does not apply within town boundaries. Although a decision to grant the lease was made by the Federal Government, the return of the land was left to the Northern Territory government after self-government in 1978.

To understand the present situation, we must go back to the 1970s when land rights activism made the return of Larrakia land at Kulaluk inevitable. As a result, the Whitlam Government sent a young legal adviser named Gareth Evans to Darwin to investigate how the land could be returned without setting a precedent for other language groups claiming land rights in cities. The conclusion became clear in the final report, which was confidential at the time. In his report to Whitlam, the young Gareth Evans suggested that the Kulaluk situation in 1973 would be “DEFUSED” by defining the return of the land (more than 300 hectares in suburban Darwin) as a SPECIAL CASE, granted as an ACT OF GOODWILL to a NARROWLY DEFINED GROUP of people. His report encouraged the GOVERNMENT TO TAKE THE INITIATIVE FROM ABORIGINAL PEOPLE by being PROACTIVE and granting land at Kulaluk, in a bold step that placed Kulaluk in a UNIQUE POSITION while leaving MANY ISSUES UNRESOLVED (the subtexts being “aren't we kind” and “divide and rule”). The end result is a constant them of these pages, but illustrated in the oft-repeated comment, “It's none of your business!”. After self-government for the Northern Territory in 1978, the return of the land became an even greater cynical exercise when the land was handed back to an Incorporated Association with an off-the-shelf constitution in August 1979. The constitution was amended and signed off by Michael Chin in 2006 to further restrict membership.