

21 July, 1975

The Hon. L. R. Johnson,
Minister for Aboriginal Affairs,
Parliament House,
CANBERRA, A.C.T. 2600.

My Dear Minister,

I am honoured to submit to you the report on my investigation into the Aboriginal land claim for the land known as Railway Dam at Darwin. Four copies are enclosed.

Since there are no acquisitions involved in the proposed grant the matter could be comparatively simple.

Yours sincerely,



(R. C. WARD)
Interim Aboriginal
Land Commissioner

Encs.

REPORT OF INTERIM ABORIGINAL LAND COMMISSIONER ON CLAIM
FOR LOT 5027 TOWN OF DARWIN

1. This claim is in respect of the whole of Lot 5027 Town of Darwin, the land enclosed by the red line in the plan annexure "A". My recommendation is that an appropriate grant be made for Aboriginal purposes of the whole of that lot together with the land enclosed by the blue line on the plan.

2. Attention should be drawn to the following features :-

- (a) the comparatively small frontage of Lot 5027 to Dinah Beach Road: because of the terrain of the lot at that point, this frontage does not allow satisfactory access;
- (b) the land outlined in blue, vacant Crown land with a drain running from west to east on it or on or near its boundary with Lot 5027;
- (c) the roadway which emerges on Dinah Beach Road after passing through Lot 5027 and the vacant Crown land outlined in blue: this runs from north to south along the eastern side of Lot 5027, comes out on vacant Crown land, and then crosses a railway line and proceeds through Lot 4827 Town of Darwin, which is a private lot, to Barneson Street on the south side of the plan;
- (d) the land outlined in green which is said to be reserved for railway purposes, taking in Railway Dam itself and continuing south-easterly from Lot 5027;

- (e) the land outlined in green outside Lot 5027 which is part of a railway reserve and contains the railway lines;
- (f) the power line running northeasterly and southwesterly through the dam itself on the western side of Lot 5027;
- (g) existing and proposed power lines running northeasterly and southwesterly towards the southern end of the block;
- (h) the sewerage lines running northwesterly and southeasterly along the southern extremity of the lot;
- (i) that part of Lot 5027 hatched orange is presently zoned for liquid fuel depot purposes; the balance of the lot is zoned for motor transport;
- (j) those Aboriginal people presently living on the lot are camped approximately where the word "Camp" appears on the plan: earlier they had frequently camped outside and to the south-east of Lot 5027.

3. The enquiry was held at Law Courts, Darwin on 20th, 24th and 27th June and 3rd July, 1975. On the afternoon of 24th June, 1975, together with the parties concerned, I inspected the land and there spoke to a number of the Aboriginal people who were directly involved.

4. At the hearing Mr. J. B. Waters appeared for the claimants, Rakmurara Bootong Association Inc., and Mr. H. B. Bradley appeared for the Northern Land Council. Oral evidence was given by :-

Mr. V. T. O'Brien	First Assistant Secretary, Lands and Community Development Division, Department of Northern Australia
Mr. R. J. McBryde	Town Planning Officer, Department of Northern Australia
Mr. D. W. Hain	Acting Chief Planner, Darwin Reconstruction Commission.

Written submissions were received from :-

Rev. I. Kent	Baptist Homes Trust
Mr. W. B. Day	Secretary of the Association
Mr. M. B. Perron	M.L.A.

5. Subject to what was said at the hearing on behalf of the Darwin Reconstruction Commission (dealt with later in this report), it is not contended or submitted by anybody that at least part of the land should not be granted for Aboriginal purposes. Indeed, the whole issue became whether the land in its entirety or only part of it should be granted. This was dependent largely on whether North Australian Baptist Homes Trust could establish any claim which should be recognised.

6. Remembering that the land is at present zoned partly for liquid fuel depot purposes and partly for motor transport purposes, it would be necessary to effect a change of the purpose to which

the land could be put. The background and history of the matter appears in annexure "B". This shows that the land was originally claimed by the Baptist Homes Trust for camping purposes for visitors. At or about the same time the Aboriginal people also asserted a right to the land and indicated before the Town Planning Board that they would be content at that stage to the southern portion of it. The matter proceeded on the basis that there should be a change of the land use to camping purposes and that the northern portion should be granted to the Trust and the southern part to the Aboriginal claimants. As annexure "B" shows, this intention was frustrated by the Administrator's Council, which considered that the land might more appropriately be used as a public park - a use to which no-one at the hearing suggested it now should be put, and one not argued for by the Department of Northern Australia.

7. In effect the only claim I now have to consider is the one made by Rakmurara Bootong Association Incorporated and I am satisfied that they are reasonably entitled to claim the whole of the land. The southern portion in which, primarily as a matter of compromise, they were originally interested is very low lying. Naturally their interest has now turned to the northern part. As will be seen, so much of the land will be required for easement purposes that the total area of upwards of 5 acres would not be too large. In addition, it seems to me that the land more

appropriately can be used by the Aboriginal people alone, though they do have in mind not entirely using it for camping purposes but for corroboree and other ancillary uses and would doubtless attract some tourists.

8. The views of the North Australian Baptist Homes Trust are set out in annexure "C".

9. In my view this is land which may most appropriately be given to the Aboriginal people in pursuance of the objective set out in Mr. Justice Woodward's Second Report, para. 285, where the target is set for appropriate urban lands to vest for Aboriginal purposes by the end of 1976. I refer also to paras. 297-303 of the report on this specific issue.

10. Because of what is said in paragraph 2 above about the comparatively small frontage of Lot 5027 and the vacant Crown land outlined in blue adjacent to it, and because this vacant Crown land has no other apparent use and the roadway to Dinah Beach Road runs through it, I also recommend that the vacant Crown land be included in the claim.

11. Although there may be some doubt about the validity of that part of the railway reserve referred to in paragraph 2 (which takes in part of Lot 5027), nevertheless steps should be taken with the Commonwealth Railways Commissioner to have at least that part of the reserve revoked, and I believe there is no objection to this

happening. The Commissioner should, to avoid delay, be asked to revoke this small part regardless of a much more general revocation which he is contemplating.

12. It will be necessary to have appropriate easements to cover the power and sewerage lines referred to in paragraph 2, and I recommend that such easements be included in any lease to be granted.

13. The road shown in annexure "A" as passing through Lot 5027 has not been declared a public road and there is insufficient material before me to enable me to say with any certainty whether it should be treated as a road for the purpose of the Control of Roads Ordinance 1953. However, it may well not be a public road and until someone asserts a claim in respect of it I would recommend that it not be regarded as such and therefore as not requiring closing under the Ordinance.

14. Because of the greater accessibility of the southern end of the lot to the Darwin town area, it will be necessary for at least a footpath to be available from that end of the block. As this can be achieved entirely over vacant Crown land, it would seem that nothing need be done about it at this stage.

15. It would be necessary to have the purpose for which the land might be used changed from the present purpose of liquid fuel depot and motor transport to Aboriginal camping and ancillary purposes. Since the grant of any lease can only be made with the

concurrence of the Darwin Reconstruction Commission (Darwin Reconstruction Act, Section 56) the proposed use of the land would also have to be approved by the Commission. I endeavoured to obtain from the Commission an approval in advance on this issue but the attitude of the Commission was that its current land use requirements for the site were "open space" and, since the scheme presented to me by the claimants does not appear to the Commission to be entirely consistent with that use (it would permit at least a residential camping use), the Commission expressed no view as to the merits of the application and left it to the lessees to make an application to the Commission to amend the present scheme if and when a lease was proposed to be granted. The Commission's land-use scheme would seem to have no validity until it has the approval of the Minister (Section 8, Darwin Reconstruction Act). So far, to my knowledge, it does not have this approval, but there should be no difficulty in achieving a change of use at the appropriate time.

16. I should mention that a grant of the land by way of Special Purposes Lease would make the land rateable, and the question arises whether, in justice, it should be (see comments on rates in Kulaluk recommendations).

17. I recommend :-

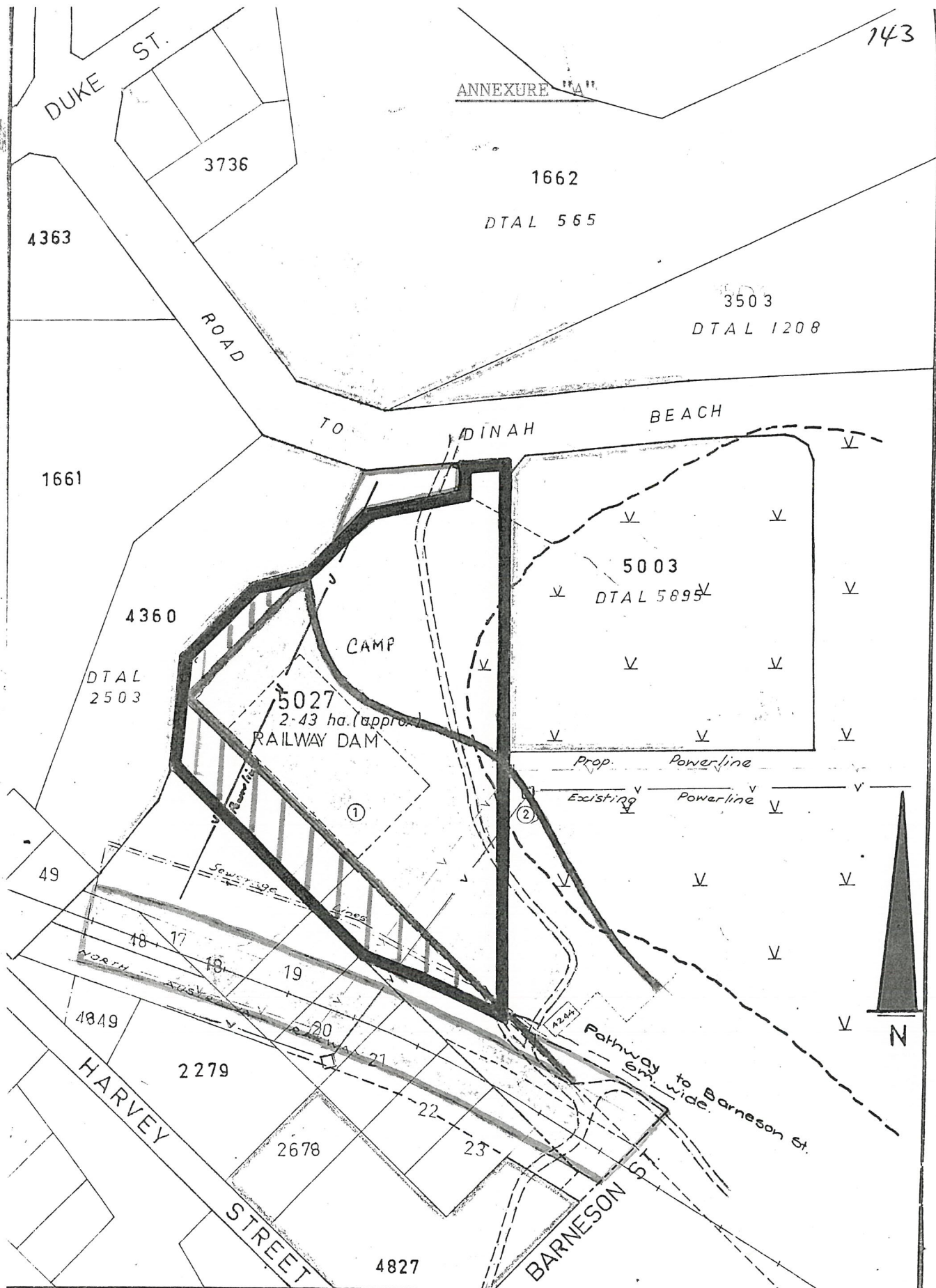
- (a) that a grant of a Special Purposes Lease in perpetuity be granted under Section 5B of the Special Purposes Leases Ordinance 1953 as amended over the whole of Lot 5027 Darwin together with the area of land enclosed by the blue line on the plan;
- (b) that the lease be granted for Aboriginal camping and ancillary purposes to trustees nominated by the Northern Aboriginal Land Committee (Inc.) or the Northern Aboriginal Land Council (whichever is the appropriate body at the relevant time);
- (c) that the rent of such lease be nominal, that there be no onerous improvement conditions, but that all conditions be broad and flexible with, however, conditions to preserve the existing environment;
- (d) that the lease be subject to such sewerage, drainage, water and electricity easements to cover the existing or contemplated services on or over the land;
- (e) that application be made to the Darwin Reconstruction Commission for approval to use the land for Aboriginal camping purposes;

- (f) the early revocation of that part of the railway reserve affecting the leased area; and
- (g) that consideration be given to appropriate legislative changes to render the land non-ratesable.



R. C. Ward
Interim Aboriginal
Land Commissioner

21 July, 1975



ANNEXURE "A"

143

1662
DTAL 565

3503
DTAL 1208

1661

4360
DTAL 2503

5003
DTAL 5895

5027
2-43 ha. (approx.)
RAILWAY DAM

Prop. Powerline
Existing Powerline



NORTHERN TERRITORY TOWN PLANNING BOARD

- ① RAILWAY RES. (SAGG 20.12.1894 S 1271 S 89) INVALID (S942/12)
- ② " BOUNDARY FROM PLAN NTR (S71/211)

RAILWAY DAM CAMPSITE
DARWIN
AMENDMENT NO.75.

SCALE : 200' = 1"
AUGUST 1972
DRAWN : P.M.

UD11/125
TP211/75

ABORIGINAL AREAS PROTECTION AUTHORITY

GPO BOX 1800
DARWIN NT 0801
TELEPHONE: 08 8981 4700
FACSIMILE: 08 8981 4160
EMAIL: enquiries.darpa@nt.gov.au

DINAH BEACH ROAD

LOT 5033

LOT 5027

5073-115

LOT 5036

LOT 5040

HARVEY STREET

Inset 1: Photo of Sacred Site 5073-115



Image credits:



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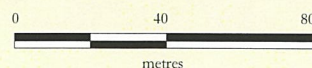
One Mile Dam

SITE CENTROID CO-ORDINATES

Zone 52

700378mE 8622511mN

SCALE 1 : 2000



Projection: MGA Zone 52
Horizontal Datum: GDA94

KEY



Extent of Registered Site