

## **APPENDIX 1**

**LETTER FROM SENATOR SCOTT LUDLAM  
TO SENATOR TRISH CROSSIN DATED 10 MAY 2011  
AND MUCKATY STATION DOCUMENTS SOURCED  
FROM THE NATIONAL ARCHIVES OF AUSTRALIA**





**SENATOR SCOTT LUDLAM**  
AUSTRALIAN GREENS  
SENATOR FOR WESTERN AUSTRALIA

Senator Trish Crossin  
Chair, Senate Legal and Constitutional Committee  
SG.37 Parliament House  
Canberra, ACT 2600

10 May 2011

Dear Senator Crossin,

I refer to you material that I believe is relevant to submissions and evidence provided to the Legal and Constitutional Committee Inquiry into the National Radioactive Waste Management Bill 2010.

I attach the documents sourced from the National Archive revealing substantial inconsistencies in submissions and evidence provided to the Committee by the Northern Land Council (NLC). I am concerned that the inconsistencies are so great as to potentially constitute the misleading of the Committee.

As you will recall, our Committee relied heavily on the testimony of NLC witnesses as their representatives had exclusive access to a 2007 anthropology report. The Committee relied on the assertions made by the NLC in their submission of 30 March 2010 and evidence provided 30 March 2010. Material at transcript L&C pages 15 – 17 are of particular relevance.

The Committee were not provided with the NLC's anthropology report, or the NLC's written submissions or transcripts of Evidence from the Muckaty Land Claim, including the documents recently found in the National Archive.

As you are aware, proceedings and documents from the 2010 Legal and Constitutional Committee Inquiry made reference to submissions and evidence provided to the 2008 Environment Communications and the Arts Committee Inquiry into the Commonwealth Radioactive Waste Management (Repeal and Consequential Amendment) Bill 2008. The NLC's supplementary submission is relevant to this matter, as is their evidence in the transcript of 17 November 2008 ECA pages 14-19.

I request that the Committee investigate the matter, to determine:

- a) whether the committee was misled, to the extent that the NLC's submissions are contradicted by the evidence attached;
- b) whether the NLC *knowingly* misled the Committee;
- c) if so, whether a possible contempt has been committed in that regard; and
- d) whether the matter should therefore be raised with the President as a Matter of Privilege under standing order 81.

Sincerely

Senator Scott Ludlam



**TRANSCRIPT  
OF PROCEEDINGS**



**AUSCRIPT**

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**ABORIGINAL LAND COMMISSIONER**

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**JUSTICE P.R.A. GRAY**

**RE: MUCKATY PASTORAL LEASE  
LAND CLAIM NUMBER 135**

**AT VARIOUS SITES**

**9.38 AM, TUESDAY, 27 JULY 1993**

**Continued from 26.7.93**

JEFFREY LAUDER: Over there.

MR HOWIE: On the west side. Righto. And what about Karakara, which is 51?

JEFFREY LAUDER: Over here.

5 MR HOWIE: You are pointing now pretty much to the south and to the east of south and whose place is that?

JEFFREY LAUDER: Japurla Japurla.

MR HOWIE: Japurla Japurla, so that's Jackson's mob too. Yes. Righto.

JEFFREY LAUDER: Warumungu.

10 MR HOWIE: Which was that one?

JEFFREY LAUDER: Warumungu.

DR NASH: Yes, it is not on the map.

JEFFREY LAUDER: Number 2.

MR HOWIE: It's number 2 bore.

15 JEFFREY LAUDER: One side.

MR HOWIE: One side, which side?

JEFFREY LAUDER: West side.

DR NASH: Did you say Muyurumantangi?

JEFFREY LAUDER: Yes.

20 MR HOWIE: And that place there, that is, who is that?

JEFFREY LAUDER: Japurla Japurla.

MR HOWIE: That's Jackson's mob too. Right. Japurla Japurla. And going down round this east side now.

25 JEFFREY LAUDER: Well, that tower over there, Muckaty tower at the turnoff.

TRANSCRIPT  
OF PROCEEDINGS



AUSCRIPT

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ABORIGINAL LAND COMMISSIONER

JUSTICE P.R.A. GRAY

RE: MUCKATY PASTORAL LEASE  
LAND CLAIM NUMBER 135

AT VARIOUS SITES

11.00 AM, WEDNESDAY, 28 JULY 1993

Continued from 27.7.93

AT KARAKARA AT 11.00 AM:

MR HOWIE: Your Honour, we're at site 51, which is a waterhole in a creek bed in an area that's lush with wattle, and fragrant with it too, and it's prolific with wildflowers, I'd say. I might just talk to Toprail first.  
5 We've got a group of people here which includes [REDACTED] Toprail, [REDACTED] Jackson, [REDACTED] Stokes, [REDACTED] Driver, [REDACTED] Riley and [REDACTED].

[REDACTED] TOPRAIL:

MR HOWIE: Now, Toprail, this place where we are here - what's the name for here?

10 [REDACTED] TOPRAIL: Karakara.

MR HOWIE: Karakara, which is 51. And who gave the name to this place?

[REDACTED] TOPRAIL: The Dreaming gave it.

MR HOWIE: The Dreaming did.

15 [REDACTED] TOPRAIL: Yes, Japurla Japurla.

MR HOWIE: That's the Japurla Japurla Dreaming.

[REDACTED] TOPRAIL: Yes.

MR HOWIE: All right. And is there any story for that Japurla Japurla here?

20 [REDACTED] TOPRAIL: I don't know much about the story, like. They were travelling this way.

MR HOWIE: Yes, all right. And a lot of that story for Japurla Japurla, that's men's business, is it?

[REDACTED] TOPRAIL: Yes, secret.



MR HOWIE: And secret, yes. And do those - the Dreaming, Japurla Japurla - did they leave anything here?

TOPRAIL: They leave underground.

MR HOWIE: They leave something under the ground.

5 TOPRAIL: There's a big hole here somewhere.

MR HOWIE: And what about this waterhole here?

TOPRAIL: Waterhole is same again - leave a spring, water. There's a spring inside, I think.

MR HOWIE: It's got a spring inside, and that's - that Dreaming left it.

10 TOPRAIL: Yes.

MR HOWIE: Well, which people are Kirta for this place?

TOPRAIL: Jackson, Stokes - maybe there's more young fellas.

15 MR HOWIE: All right. So you're saying Jackson and pointing to him with your nose, and Stokes - Stokes - you're pointing to him, all right. Now, I want you to tell the judge a little bit about here. Have you been travelling around this way?

TOPRAIL: I've been travelling once, going up that way - going up to Newcastle.

20 MR HOWIE: So you were going to Newcastle. And how old were you then?

TOPRAIL: Only be a piccaninny.

MR HOWIE: When you were a piccaninny. And how were you travelling?

TOPRAIL: Oh, foot walk.

25 MR HOWIE: Foot walk. Where were you coming from?

TOPRAIL: From Banka Banka.

MR HOWIE: From Banka Banka. And who were you with?

MR HUGHSTON: How come you're Kurtungurlu for so many people - so many groups? Why are you Kurtungurlu for so many groups?

██████████ TOPRAIL: Oh, well, I've got to be boss Kurtungurlu for another mob. It's like a job for them.

5 MR HUGHSTON: Has it got something to do with you having the knowledge?

██████████ TOPRAIL: Yes.

MR HUGHSTON: Okay. Thanks, Toprail.

10 MR HOWIE: Stay there, Toprail, and I'll get you to pass it back to ██████████ Driver.

██████████ DRIVER:

MR HOWIE: ██████████, is this an important place?

██████████ DRIVER: Yes.

15 MR HOWIE: And can you explain to the judge - tell him why this is an important place?

██████████ DRIVER: Ceremony time, you know, they use him business - big business.

MR HOWIE: All right. In ceremony time they use big business.

██████████ DRIVER: Yes.

20 MR HOWIE: Yes, keep going.

██████████ DRIVER: Because they've got important one from grandfather and from their daddy.

MR HOWIE: That's an important one from their grandfather and their daddy. And have people still got that business?

25 ██████████ DRIVER: They've got him, but they've got no family now, because they've been losing a lot of family, because the man - the big

bosses, you know, like Old Engineer. So been losing some family - that the family been dead for all the way along.

MR HOWIE: Now, what about for some man here? Is this important place for some man here?

5 [REDACTED] DRIVER: Yes.

MR HOWIE: Like this fella over here?

[REDACTED] DRIVER: Yes.

MR HOWIE: [REDACTED]

[REDACTED] DRIVER: Yes.

10 MR HOWIE: Why is it important for him?

[REDACTED] DRIVER: Well, he's with Jackson, [REDACTED], Toprail - all them, see.

MR HOWIE: Yes. You're saying Jackson, [REDACTED] and Toprail - it's important for them. What happened to [REDACTED] here?

15 [REDACTED] DRIVER: [REDACTED] got a young man.

MR HOWIE: He got a young man here, yes. Were you here when that happened?

[REDACTED] DRIVER: No, I was down back from Phillip Creek. I was going to follow him down here.

20 MR HOWIE: You were going to follow him.

[REDACTED] DRIVER: Yes.

MR HOWIE: And did you come to that for him?

[REDACTED] DRIVER: No. I been called back to Eldorado Mine.

MR HOWIE: Go back to Eldorado.

25 [REDACTED] DRIVER: Yes. See, I was a young fella, you know. I was frightened from the sun.

MR HOWIE: From the sun?

[REDACTED] DRIVER: Yes, too hot.

MR HOWIE: It was too hot.

[REDACTED] DRIVER: That's why I couldn't follow him.

MR HOWIE: So you went back.

5 [REDACTED] DRIVER: Yes.

MR HOWIE: All right. Well, I'd better ask him about it, then.

[REDACTED]

MR HOWIE: [REDACTED] why is this place important for you?

10 [REDACTED] Because I get a young man here - just don't want to see it.

MR HOWIE: And you want to see it.

[REDACTED]: I don't want to see the place get hurt.

MR HOWIE: Oh, you don't want to see it. You don't want to see it get hurt, okay.

15 [REDACTED] Because these are my - I used to be living here a little bit.

MR HOWIE: And you used to be living here.

[REDACTED] That's right.

20 MR HOWIE: Righto. And this - was there water here when you were living here?

[REDACTED] Oh, there was a spring all when we were living.

MR HOWIE: There was a spring. And whereabouts were you camped from here? Which side were you camping?

[REDACTED]: Well, I was young - a baby - grown kid.

MR HOWIE: And you were camping - you were pointing down to the southside, whatever you said.

[REDACTED]: Yes, southside. We used to camp there.

MR HOWIE: All right. And what other people were round then?

5 [REDACTED]: My father, every family, every group.

MR HOWIE: Was this a big place for them then?

[REDACTED]: Oh, it used to be a big place all the time before we got that job in there.

MR HOWIE: So that was before people got jobs.

10 [REDACTED]: Yes. We used to live like old kangaroo - same as kangaroo. Walking our own way.

MR HOWIE: So you were walking around. And what sort of tucker did you have?

[REDACTED]: Oh, yam all the way along here.

15 MR HOWIE: There's yam all the way along.

[REDACTED]: Yes, and that's where we eat the Miyaka - we call them Miyaka.

MR HOWIE: Miyaka. And what other tucker was here?

20 [REDACTED]: Oh, kangaroo, goanna. That's all, or somewhere else - not with a gun.

MR HOWIE: What did you catch them with, then?

[REDACTED]: Spear.

MR HOWIE: Spear, righto. So this is where you were made a young man. Have you got a word for that place, or can't you say that?

25 [REDACTED]: We can't say.

MR HOWIE: You can't say it. Why can't you say it?

[REDACTED]: Well, in Aboriginal culture I can't even say.  
Someone else can say.

MR HOWIE: Right. So that's, as you say, your Aboriginal culture.  
That's the law, is it?

5 [REDACTED]: That's the law. Or you can go to India or  
somewhere else if you're Indian or New Guinea - same thing to every one  
of us.

MR HOWIE: Is that right? Well, that's a bit of a Pandora's Box, I think,  
Willy. Okay, that's all I'll ask you, thank you.

10 [REDACTED]: Thank you.

[REDACTED] RILEY:

MR HOWIE: Angus, have you been around this country?

[REDACTED] RILEY: No, not on foot.

15 MR HOWIE: Not on foot. What about on somebody else's foot - like on  
a horse?

[REDACTED] RILEY: No. Yes, on a horse I ride here.

MR HOWIE: And what were you doing around here?

[REDACTED] RILEY: Mustering.

MR HOWIE: Mustering. Who were you working for then?

20 [REDACTED] RILEY: Alan Hagan.

MR HOWIE: For Alan Hagan. And who did you learn about this place  
from?

[REDACTED] RILEY: Same bloke.

MR HOWIE: That same bloke - that's that Jupurrula?

25 [REDACTED] RILEY: Yes.

MR HOWIE: ██████████ Graham's father.

██████████ RILEY: That's right.

MR HOWIE: Okay. And did you come mustering round here once, or plenty of times?

5 ██████████ RILEY: Oh, plenty of times.

MR HOWIE: Right. So you know this country through here.

██████████ RILEY: Yes.

MR HOWIE: Yes, that's all.

HIS HONOUR: Any questions, Mr Hughston?

10 MR HUGHSTON: No, thank you, your Honour.

██████████:

MR HOWIE: This is ██████████ Jackson, your Honour. Now, ██████████ do you know this place?

██████████ JACKSON: Only what my father told me.

15 MR HOWIE: And when was it that your father told you?

██████████ JACKSON: When I was a young man.

MR HOWIE: All right. And what did he tell you about this place?

██████████ JACKSON: He told me to this Dreaming.

MR HOWIE: And what Dreaming is that?

20 ██████████ JACKSON: Japurla Japurla.

MR HOWIE: And have you got that Dreaming?

██████████ JACKSON: Yes.

MR HOWIE: And who do you get it from?

[REDACTED] JACKSON: I get it from my dad.

MR HOWIE: From your dad. And what about this place here, is this part of that Dreaming?

5 [REDACTED] JACKSON: Yes.

MR HOWIE: All right. Have you got the name for this place?

[REDACTED] JACKSON: No, I just want to know the name.

MR HOWIE: Yes, and what's that?

[REDACTED] JACKSON: This place - but I don't have name.

10 MR HOWIE: You haven't got the name.

[REDACTED] JACKSON: No. Karakara.

MR HOWIE: And you've got Toprail telling you that it's Karakara.

[REDACTED] JACKSON: Yes.

MR HOWIE: All right. And is this place important for you?

15 [REDACTED] JACKSON: Important thing by law.

MR HOWIE: It's important by law. And why is that?

[REDACTED] JACKSON: Because my grandfather learned my father and he learned me, too - training. And I've got two young boys to train them.

MR HOWIE: Yes. And which two young fellas are those of yours?

20 [REDACTED] JACKSON: Terry and Peter and Gregory.

MR HOWIE: Terry and Peter and Gregory - sounds like three.

[REDACTED] JACKSON: They've got to learn something.

MR HOWIE: Yes. And why do they have to learn that, [REDACTED]

25 [REDACTED] JACKSON: Because we've got to tell them - painting - tell them through Kurtungurlu.



MR HOWIE: All right.

[REDACTED] JACKSON: Kurtungurlu go away again.

MR HOWIE: And which Kurtungurlu is that?

[REDACTED] JACKSON: This one.

5 MR HOWIE: That's Toprail.

[REDACTED] JACKSON: And Jimmy Newcastle; [REDACTED].

MR HOWIE: [REDACTED] Newcastle and [REDACTED] - that's his brother.

[REDACTED] JACKSON: Yes. Paul Henderson.

10 MR HOWIE: And Paul Henderson, all right. Now, those sons of yours, have they been through the business?

[REDACTED] JACKSON: Only two.

MR HOWIE: The two older ones.

[REDACTED] JACKSON: Yes.

MR HOWIE: And where did that happen for them?

15 [REDACTED] JACKSON: I had one to Newcastle Waters and second time in Elliott - two times.

MR HOWIE: All right. And are they learning about that Japurla Japurla?

[REDACTED] JACKSON: They're learning sometimes. They've got to see their fathers first before they learn.

20 MR HOWIE: Right. And that means they've got to see you.

[REDACTED] JACKSON: Yes.

MR HOWIE: Righto, thank you.

25 MR HUGHSTON: [REDACTED], did you give evidence in that other land claim south of here before that Judge Toohey - that Warlmanpa, Warlpiri, and Mudburra Warumunga land claim?

[REDACTED] JACKSON: No.

[141]

ABORIGINAL LAND COMMISSIONER

MUCKATY PASTORAL LEASE LAND CLAIM

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SUBMISSIONS ON BEHALF OF THE CLAIMANTS  
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Part 1 - Traditional Ownership and Traditional Attachment

NORTHERN LAND COUNCIL MARCH 1994

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associated with the Ngapa group. The sites were considered to be shared by the two groups. (t.202-205) [redacted] Jackson gave evidence at Namarani. He explained that at the site one of the small boys of the dreaming was swallowed by a lizard. The site is a mixed Ngapa and Yapayapa place. [redacted] was cross-examined about the decision making roles of kirta and kurtungurlu. The effect of his answers was that both needed to be involved in the decision making. The dreaming lizard was camped at Walypita who travelled to Mungkamungka, which is also the shared country of the Ngapa and the Yapayapa groups. (t.226-235)

- (b) On a hill north of Wirrkirati Well Jeffrey Lauder pointed to Julypungali, Yapakurlangu, Latapa, as being Japurlajapurla belonging to [redacted] Jackson's group, which also shares the site Murlurrrparta, with the Ngarrka and Ngapa groups. Karakara and Muyurumantangi are also Japurlajapurla sites (t.281-285).
- (c) Karakara was visited. It is a water hole in a creek bed, that was fragrant with lush wattle and prolific with wildflowers. The dreaming is Japurlajapurla. The dreaming is associated with secret mens' ceremonies. [redacted] Jackson and [redacted] Stokes are the senior kirta for the place. [redacted] Riley and [redacted] mustered in the area. [redacted] Toprail regards himself as having the role of Kurtungurla. The responsibility to protect the site, or to make decisions about development, lies with [redacted] Jackson and [redacted] Stokes. [redacted] Toprail would also be involved. [redacted] Riley learnt

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about the place from Jupurrula. [REDACTED] Jackson was told of the place and of the dreaming by his father. The law concerning it, the Japurlajapurla dreaming, is important. He was trained in it by his father and grandfather, and he has the obligation to train his own sons Terry, Peter and Gregory. The two older ones have been initiated, and are learning. (t.326-341)

- (c) The site **Murlurrparta** is shared by the Ngarrka group and the Japurlajapurla group of [REDACTED] Jackson and [REDACTED] Stokes. (t.366-376)
- (d) **Latapa** is a Japurlajapurla site. It is the country of [REDACTED] Jackson and [REDACTED] Stokes and their group. [REDACTED] Jackson placed emphasis on the role of the kurtungurlu, saying that kirta are the bosses for the country, but kurtungurlu "is the leader". He gets the country from his father and grandfather, and passes it on to his sons and daughters. The kurtungurlu have the responsibility of looking after the site, of leading the kirta, of correcting them if they go wrong, and of training the sons in the ceremony. The Japurlajapurla dreaming travelled through the country. The children being painted and dancing. The ceremonies are still performed. Hughie was trained it by his father. Women cannot see it. (t.376-386)
- (e) The trig point towards the western boundary of the claim area is located among a series of Japurlajapurla sites, and in the vicinity of **Minyjala** and **Yapakurlangi**. [REDACTED] Jackson traced the travels of



ABORIGINAL LAND RIGHTS

LAND CLAIM: 135

M.F.I. No. \_\_\_\_\_

EXHIBIT No. 135-2

TENDERED BY: Mr. Howie

EXHIBIT PARTICULARS

Anthropologists Report

WITNESS: \_\_\_\_\_

Dr. P. Sutton

DATE: 24/1/93

Dr. Nash

Ms. Morel

Associate:

MUCKAT  
LAN

ANTHROPOLOGISTS' REPORT

BY

Dr. P. Sutton, Dr. D. Nash

&

P. Morel

NORTHERN LAND COUNCIL



DARWIN

MAY 1993

## LAND TENURE

family reproductive success, and individual talent, among those identified with (and as) those Dreamings. (See Sutton 1987 for a detailed discussion of this point.)

## SHARED INTERESTS AND GROUP STRUCTURE

There are four main forms of 'company' relationship between Aboriginal groups in the claim area.

The first is typified by the coincidence of the interests of Walanypirri and Kurrakurraja on a number of the same sites. There is no suggestion here of intimate structural integration of the two groups. Rather, there is a well-established recognition by the claimants generally that these two groups, whose kirta are associated with different subsection couples of the same patrimoiety, both have responsibility for Storm Bird business in the area. It is for this reason that senior spokespersons for the area identify the linguistic identities of such shared sites as 'Warlmanpa and Mudbura', for example.

While the members of groups associated with such Dreamings may well collaborate in ceremonial performances, secular decision-making and other ways of looking after the country, and may be defined (in context) as being of one country, they are not structurally of one group for present purposes.

The second form of company relationship is typified by the coincidence of Ngapa and Milwayi Dreamings here and there in the eastern part of the claim area. The Dreamings and their respective groups in this case belong to opposite patrimoieties and there is no suggestion of their structural integration simply because they hold overlapping country. They are company for the soil and water and vegetation rather than the Dreamings. (Notably, however, in such cases where the groups are of opposite patrimoieties there is usually a close kirta-kurtungurlu interdependency between the two, kirta of one being important kurtungurlu for kirta of the other, as is the case here.)

The third form of 'company' relationship is that exemplified by members of the two Yapayapa subgroups represented in this case. Here there is subsection patricouple agreement, a commonly held Dreaming, commonality of country at the most detailed level, and structural integration is high in spite of the absence of a common apical ancestor.

The fourth form of 'company' relationship is exemplified by the three subgroups of Rain Dreaming kirta-side claimants, who share the same sites in this area but some of whom have different subsection patricouples (they are of the same patrimoiety nevertheless). This is the Rain that comes from far distant Kurlunlu north-east to Purnarrapan (Renner Springs), passing through Muckaty. The commonality of land interests held by these three subgroups in this case has no clear genealogical basis in common descent from a recognised ancestor. While each subgroup's

## LAND TENURE

members overlap in interests on Muckaty, they have different emphases on country elsewhere. The Lauder branch, for example, identifies particularly with Pirrpirnparta (just south-west of Muckaty, location not recorded), the Anderson branch identifies heavily with the Renner Springs area, and the Foster branch identifies particularly with Jaramala (in the region of Kulpurlunu). All share primary spiritual responsibility for Ngapa sites on Muckaty.

A case that parallels that of Ngapa to a significant extent is that of Ngarrka, where there are three subgroups whose principal members have somewhat different interests in land other than that on the Ngarrka Dreaming track but whose interests coincide on that track in the Muckaty area. The personal histories of some senior members of these subgroups are undoubtedly vital to understanding how they come to bear and share primary responsibility for sites within the boundaries of Muckaty.

