Kimberley Land Council

Thursday, August 2 2018

KLC statement in relation to Wrong Skin podcast, The Age, episode 5

The Kimberley Land Council (KLC) is aware of numerous inaccuracies and defamatory statements broadcast in the podcast Wrong Skin and associated media reports by The Age.

The KLC welcomes discussion, debate and criticism so we can improve the work that we do. In-depth, considered, fair and balanced reporting is always encouraged, particularly in relation to native title, its history, and how it can better represent the interests of Traditional Owners.

The native title system has a number of limitations and at times has fallen short in protecting the interests of Kimberley Traditional Owner groups and Aboriginal people across Australia. As a result, some individuals may feel that the system has failed.

We believe a thorough examination of the Native Title Act is needed and substantial changes required for it to better meet the interests of Aboriginal and Torres Strait Islander people. The KLC will also be looking at the way we engage and work with the Kimberley mob so that we can better listen to people’s concerns and continually improve the way we deliver outcomes in the Kimberley.

The reporting in the podcast Wrong Skin and associated articles projects a story which seeks to undermine Kimberley Aboriginal leaders and the highly successful organisations that represent the interests of Kimberley Aboriginal people.

These reports do not accurately represent our organisation, what we have achieved over the years and what we deliver today. We will continue to progress native title claims in the Kimberley, support Indigenous rangers to work on country and work with PBCs to ensure they are strong organisations.

Key inaccuracies or misleading statements contained within episode 5:

The assertion that the KLC outsources profitable parts of native title work that it is funded by the Federal Government to undertake is misleading.

The Native Title Act specifically provides for Native Title Representative Bodies (NTRBs) to outsource their functions in regards to Future Acts (Sections 203 B and 203 BB of the Native Title Act 1993). There is no evidence to support the premise that Future Act functions, undertaken by NTRBs, are profitable.

In the negotiation of Future Act agreements, it is the proponents (the people who want to do something on native title land), that are expected to bear the native title party’s costs of the agreement, not the native title party or the native title representative body.

The KLC refutes claims made by the Wrong Skin podcast that it requires native title parties to engage certain organisations for agreement making.
The evidence produced by The Age, a letter from KLC to a claim group negotiation committee, has been taken out of context and does not support the assertions made. The letter addresses concerns that the KLC held about a group of individuals making decisions that contradicted the decisions of the broader claim group, and advises on the impact of those actions. KRED did not exist at the time the letter was sent.

While some groups decide to instruct KRED, others do not. The KLC’s role is to ensure that native title groups are supported to give free, prior and informed consent to their decisions. These decisions and the processes of the KLC have been recognised and documented by the Federal Court of Australia as being of the highest standard.

**Assertions regarding the KLC’s role in the James Price Point negotiations are inaccurate and unbalanced.**

The KLC at all times acted on the instructions of Traditional Owners. The Traditional Owners, the Jabirr Jabirr people, had made a considered and difficult decision to support the development proposal as a result of the potential benefits it could deliver to Aboriginal people. The Jabirr Jabirr people, were recognised by the Federal Court of Australia in May this year as the native title holders of the James Price Point area and other country north of Broome. The Federal Court found that the Goolarabaloo people, representatives of which are featured in the podcast Wrong Skin, do not have native title rights.

The KLC had no involvement in the final selection of the gas hub site at James Price Point. The KLC advised the WA State Government to consider the development pressure and impact this pressure would have on the Kimberley region. This resulted in a comprehensive process that involved consultation with 12 native title groups to consider a location for a single gas hub. However, the WA State Government and Woodside did not honour the process supported by Traditional Owners to shortlist potential sites for development and instead chose James Price Point.

No one single person has the authority to make decisions affecting native title. The KLC ensures that native title groups are supported to give free, prior and informed consent to their decisions. During the James price Point negotiations these decisions and the processes in reaching these decisions were challenged by JR in the Federal Court. This challenge was unsuccessful.