



MEDIA STATEMENT

FOR IMMEDIATE RELEASE

9th August 2023

‘Cook Must Do Better’: KLC Cautiously Welcomes Decision to Repeal Heritage Act

The Kimberley Land Council (KLC) has cautiously welcomed the WA Government’s decision to repeal the Western Australian *Aboriginal Cultural Heritage Act 2021* (2021 Act).

KLC CEO Tyrone Garstone said although the KLC never supported the 2021 Act, restoring the *Aboriginal Heritage Act 1972* (1972 Act) – should only be an interim measure.

“The Government must not walk away from developing a new law. The 1972 Act has its shortcomings and is far from ideal,” Mr Garstone said.

“While the proposed amendments to the 1972 Act may appear to be positive for Traditional Owners’ rights and cultural heritage protection, they do not go far enough.

“Aboriginal people, not the minister, should be the final decision-makers on matters concerning our cultural heritage.”

“Throughout the debacle of the past week the KLC was not once asked for our genuine feedback on the proposed amendments and whether they are suitable.

“It saddens me that Aboriginal people have again been removed from the decision-making room, about a subject matter and law that so inherently affects us.”

Mr Garstone said the KLC will continue to advocate for a better process that involves authentic co-design and consultation.

“Already we understand that the Premier has made time to meet with farming and industry representatives but not Aboriginal groups.”

“We need a commitment that there will be a new and improved law developed in collaboration with all major stakeholders. The Cook Government must learn from the past and do better.”

“It is critical for all stakeholders to shift the focus back to the core issue, which is the protection of Aboriginal cultural heritage.”

“Our calls today echo what we consistently called for over the five years the legislation had been drafted and reviewed - the opportunity to sit in the same room and talk directly with industry, miners, farmers and pastoralists whilst developing the law.”

Mr Garstone highlighted a key issue with the 1972 Act was that there was a persistent failure on the part of the bureaucracy to prosecute breaches of the law which caused damage or destruction of cultural heritage.

“If the Government is not willing to prosecute and appropriately penalise those who damage cultural heritage, the law is meaningless.”

“The Premier must provide clarity about his comments that those who ‘unknowingly disrupt’ cultural heritage will not be prosecuted. We have grave concerns that this misleading and confusing statement may be used as a defence by developers when their actions damage or destroy cultural heritage, and as an excuse for the Government to continue to fail to protect the interests of Aboriginal people by not prosecuting breaches of the law.”

Mr Garstone said Australia’s approach to cultural heritage protection must also be pursued at the national level by the Australian Government.

“It’s been one and a half years since the release of the Australian Parliament’s final report into the destruction of Juukan Gorge, which highlighted the need for a national framework, and still little has changed.”

“The findings of the Juukan Gorge inquiry are not limited to the issue of reporting new information about cultural heritage, and the Premier’s announcement that the 1972 Act will include an obligation on proponents to report new information will not prevent a repeat of the tragedy of Juukan Gorge.”

Mr Garstone also stressed it was vital to remember that it is still unlawful to damage Aboriginal cultural heritage.

“Today’s announcement is not a green light from the Government for anyone to go out and damage cultural heritage. Until a bill passes Parliament to repeal the 2021 Act, it remains the current law, and it remains an offence to illegally damage or destroy Aboriginal cultural heritage” Mr Garstone said.

Media contact:

Gabrielle Timmins, Media Coordinator
M: 0408 436 987 E: gabrielle.timmins@klc.org.au

P.O. BOX 2145
BROOME WA 6725
Ph: (08) 9194 0100
www.klc.org.au