



## Kimberley Land Council

**MEDIA STATEMENT**

**15/04/2021**

**FOR IMMEDIATE RELEASE**

### **Outrage over government decision not to prosecute mining company responsible for damage to Aboriginal sacred site in the Kimberley**

The Kimberley Land Council (KLC) has called the decision from the WA Government not to prosecute Kimberley Granite Holdings for damage to a culturally significant sites in the East Kimberley an outrage.

KLC was notified of the decision made by the Department of Land, Planning and Heritage not to prosecute Kimberley Granite Holdings last week, after an investigation into the damage to and partial destruction of the Garnkiny and Jawaren sites, men's and women's places, and at least two burial sites on the Malarngowem determination area on Kija country that occurred in 2019 and 2020.

The damage and destruction of the culturally significant sites was first brought to the attention of the KLC in late 2019 and in February 2020 the KLC requested the then Minister for Aboriginal Affairs, Ben Wyatt, investigate the clear breaches of the Aboriginal Heritage Act 1972 and take action to prosecute the company.

Malarngowem Traditional Owner and custodian of the Garnkiny site, the late Mr R. Peters, suffered significant distress because of the harm done by KGH. Mr Peters sadly passed away in July last year however he provided evidence about the damage to country before he passed.

"When I first heard about the mining I was shocked. I didn't know about it. I didn't give the company permission. I didn't give anyone authority to make this decision for me," said the late Mr Peters.

"I thought it had stopped. This makes me very worried as I have to give permission for such things to happen on Darrajayn country. I'm not going to stop worrying, white people cutting our culture up."

KLC CEO, Brian Wilkinson said the government's decision not to prosecute is deeply concerning.

"If these blatant breaches of the law that result in destruction of Aboriginal Heritage sites do not result in prosecution - then what does?"

"This further demonstrates the concerns held for the proposed new Aboriginal Cultural Heritage Bill as exactly the same outcome could occur under that Bill if it becomes law. The Bill continues to set a very dangerous precedent for the future of heritage protection in Australia. Traditional Owners must have the final say, and Aboriginal disempowerment must not be a cornerstone of the new legislation. Kimberley Granite Holdings must be held to account."

## **East Kimberley destruction yet another example of why the proposed new Aboriginal Cultural Heritage Bill must be scrapped**

The decision not to prosecute Kimberley Granite Holdings is yet another example of why the proposed new Aboriginal Cultural Heritage Bill (ACH) should be opposed, as it incorporates much of the same flawed thinking that underlies the current Aboriginal Heritage Act.

The proposed ACH Bill will still exclude Traditional Owners from critical decision making and will fail to give Traditional Owners proper standing to protect their cultural heritage.

Responding to the decision not to prosecute, KLC CEO, Brian Wilkinson said:

“The proposed new law would result in exactly the same flawed outcome for Malarngowem Traditional Owners in relation to the KGH damage to Garnkiny and Jawaren with no protection or power to stop damage, and no prosecution once the damage is done.”

“It carries with it some of the greatest flaws of the current Aboriginal Heritage Act, including a permit process with closely mirrors the much-maligned section 18 process.”

“This is an opportunity for the State Government to be a national leader when it comes to protection of Aboriginal cultural heritage. The principles recognised in the Universal Declaration on the Rights of Indigenous People, endorsed by the Australian Government in 2007, should be the foundation for any new laws relating to Aboriginal cultural heritage. First among these principles is free, prior and informed consent.”

WA’s new draft heritage laws are still yet to be finalised and presented in parliament.

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