



MEDIA STATEMENT

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“Inadequate and Unacceptable”: KLC Responds to Department’s Yakka Munga Decision

The Kimberley Land Council (KLC) has expressed disappointment at the WA Government’s apathy and lack of willingness to prosecute following the outcome of the investigation into illegal land clearing at Yakka Munga Station in the West Kimberley.

The Department of Water and Environmental Regulation (DWER) announced the investigation into Zenith Investment Holdings for the clearing of 120 hectares of land without a permit at Yakka Munga had been finalised on their website last week.

DWER elected to deal with its finding of a breach of the Environmental Protection Act (EPA) by way of a letter of warning and no further penalty.

KLC CEO Tyronne Garstone said the outcome, after a prolonged three-year investigation into the illegal land clearing, was disappointing and concerning for the future.

“The decision by DWER to only issue a ‘letter of warning’ to Zenith Investment Holdings is inadequate and unacceptable,” Mr Garstone said.

“We continue to see Government acting in favour of industry and not in the best interests of Aboriginal people. Australia is continuing to see the destruction and loss of irreplaceable Aboriginal heritage.”

The decision comes after the McGowan Government made a commitment to improving the protection of the culture and heritage of Aboriginal people in Western Australia by enacting the new Aboriginal Cultural Heritage Act (2021) late last year.

Mr Garstone said the decision at Yakka Munga was an example of a broader issue within Government, which was a lack of will to penalise industry under any type of legislation or regulation.

“One of the promises the WA Government made to Australia when the new Aboriginal Cultural Heritage Bill was introduced last year was there would be larger fines issued to companies who damaged Aboriginal heritage sites.”

“New laws and promises of tougher penalties are pointless when there is an ongoing failure by the WA Government to appropriately exercise the powers they have to investigate and penalize industry for cultural heritage offences,” he said.

“The illegal clearing also breached the old Aboriginal Heritage Act but a lack of will to prosecute meant that once again there was no justice for Traditional Owners and inadequate protection of cultural heritage.”

“This will continue to happen time and again if the WA Government is not prepared to use the powers available to it to protect cultural heritage and penalize offenders.”

Yakka Munga sits on non-exclusive Native Title lands administered by the Walalakoo Aboriginal Corporation (RNTBC) Native Title Determination Area on behalf of Nykina Mangala. Traditional Owners have protested against the land clearances and fought hard to protect and rehabilitate the site.

Walalakoo Aboriginal Corporation (WAC) Chairperson and Nykina Mangala Traditional Owner Robert Watson said each time the Government failed to appropriately penalize industry, the State enabled rather than prevented the destruction of Aboriginal land and heritage.

“When industry is in clear breach of heritage and environmental laws they should be charged as such. We want to see the Government enforcing heavy penalties so that legislation is held to the highest standard and the destruction of our heritage stops,” Mr Watson said.

Mr Watson also highlighted how inconsistencies across State Government Departments create significant challenges for Aboriginal perspectives.

“There is an apparent disconnect between State Government departments. The DWER deemed there to be an environmental breach, however the Department of Planning Lands and Heritage (DPLH) failed to call out Zenith Investment Holdings for a cultural breach, despite numerous attempts to qualify this by both WAC and the KLC,” he said.

“The disconnect highlights the failure of policy to recognise the First nations perspectives of environment and culture as inextricable. It is a devastating outcome for Traditional Owners. We have not seen justice for Aboriginal culture and country.”

Mr Garstone said the Yakka Munga decision was one in a long list of examples of lack of penalty for damage to culture and heritage.

“Last year the Department only informed Traditional Owners in the East Kimberley of their decision not to prosecute a mining company, Kimberley Granite, for the illegal damage and partial destruction of the culturally significant Garnkiny and Jawaren sites at the end of the limitation period,” he said.

“This left no time for the decision to be reviewed, and a mining company was able to avoid facing any consequences for devastating damage and destruction done to irreplaceable cultural heritage.”

“There needs to be a better response to companies not meeting their obligations or being non-compliant. I expect that the WA Auditor General’s current audit into both DWER and DMIRS will make significant recommendations on how this problem can be fixed and government departments can at last regulate appropriately,” Mr Garstone said.

“Without change, ongoing apathy for regulating and prosecuting cultural heritage offences will only put many more sites at risk.”

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