



Kimberley Land Council



**South West Aboriginal
Land & Sea Council**

MEDIA STATEMENT

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Aboriginal land councils say new Cultural Heritage laws are “pointless”

After a review of the draft bill, the Kimberley Land Council (KLC) and the South West Aboriginal Land and Sea Council (SWALSC), say that proposed changes to WA’s Aboriginal Heritage law will not stop the destruction of sacred sites as long as decision-making power over their protection remains with a government minister.

The McGowan government’s key selling points for the new act was the removal of Section 18, which allows for the destruction of sacred sites such as those destroyed by Rio Tinto at Juukan Gorge, and an increase in fines for those who break the law from \$50,000 to \$10 million.

The government claims changes to the bill will “transform how Aboriginal cultural heritage is identified, protected and managed”. The KLC and the SWALSC say this is hugely misleading and that unauthorised destruction is not the only problem and Traditional Owners should have the final say.

“Let’s not forget that what happened at Juukan Gorge was legal,” said Kimberley Land Council, CEO, Nolan Hunter.

“Rio Tinto asked for Ministerial consent under section 18 of the Aboriginal Heritage Act, and this consent was granted by the Minister of the day.

Whilst the changes remove Section 18, government endorsed destruction without the agreement of Traditional Owners would still be possible under a re-badged and rebranded Section 139.”

“With a few more checks and balances, a minister will still have the final say on if a sacred site is important or not. How is that better than what we have now?”

Agreeing with the assessment made by the KLC, SWALSC CEO Wayne Nannup said that the new bill would not make any difference if the attitude of Ministers stays the same. Over 99 percent of the 400 plus section 18 applications made by miners and developers to the McGowan government have been granted.

“If Ministers are going to continue to grant their consent to the destruction Aboriginal heritage to almost everyone who asks them, then does it really matter what is in the rest of the bill?”, Wayne Nannup, CEO, SWALSC asked.

Mr Nannup said that the recent experience of Minister Wyatt consenting to the destruction of registered Noongar ceremonial ground Munday Swamp against the advice of the ACMC and the express wishes of the Noongar People has caused great distress in the Noongar community.

“If Ministers cannot be trusted to protect Aboriginal heritage sites by saying ‘no’ when asked to give their consent to destroy them, then it falls to industry and developers to show some self-restraint and stop asking,” said Mr Nannup.

Recent damage to sacred sites in the East Kimberley is yet another example of the disconnect within government that is enabling destruction to continue despite the acknowledgement of heritage sites.

“The Minister for Mines is holding a recommendation for Kimberley Granite Holdings to mine, while his own Cabinet colleagues have told him there is a significant Aboriginal site in the same location,” said KLC CEO Mr Hunter.

“Rather than decline the application, the Minister for Mines is actively supporting the grant of the mining lease in the proceedings before the National Native Title Tribunal. He knows that the National Native Title Tribunal approves similar projects almost without exception with only three applications rejected since 1994.”

The KLC and the SWALSC are calling on government and industry to engage with them directly to come up with a workable solution that provides free, prior and informed consent to Aboriginal people about any works that would damage Aboriginal culture and heritage values.

“It’s not the intention of Traditional Owners to hinder industry. We need to know that when we say “no” that this will be respected, and there isn’t a loophole for miners or other operators to get what they want,” said Mr Hunter.

“We are asking industry to engage with us directly to come up with an approach that balances the needs of industry with those of heritage protection. This draft bill certainly isn’t it, and we will do all we can to block it.”

Media contacts

Shannon Wilson, Media Coordinator, Kimberley Land Council. 0408 436 987
shannon.wilson@klc.org.au

Jai Wilson, Communications Coordinator, South West Aboriginal Land and Sea Council. 0427 690 053 jai.wilson@noongar.org.au