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Research Director
Agriculture and Environment Committee
Parliament House
BRISBANE QLD 4000

By email to: vminquiry@parliament.qld.gov.au

Dear Minister,

Re: Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016

Olkola Aboriginal Corporation owns and manages 869,822 hectares of Olkola Traditional lands in central Cape York Peninsula. We provide the following submissions to outline our concerns that the proposed amendments to Queensland's vegetation management laws ignore the currently inadequate protections provided to protect Aboriginal cultural heritage under the vegetation management legislative regime.

The concerns we raise come from our first-hand experience. Despite a legislated intent under the *Aboriginal Cultural Heritage Act 2003* (ACHA) to protect sites of Aboriginal cultural significance in Queensland, our experience with the assessment and approval provisions for vegetation clearance in Queensland demonstrate a systemic failure to do so.

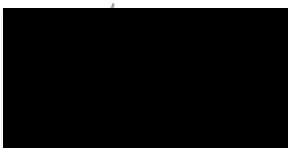
We believe an urgent review is needed in relation to the current *Vegetation Management Act 1999* (VMA) permit assessment and approval provisions, and their intersection with the ACHA. We provide the following submissions in this regard:

1. Our Corporation is the registered Aboriginal Cultural Heritage Body pursuant to the ACHA for 633,630 hectares of Olkola returned lands.
2. However, Olkola cultural heritage on lands not legally held by our corporation, including our peoples' ancestral burials, remain subject to a landholder's duty of care under the ACHA. The landholder's duty of care is the sole protection for any significant Aboriginal area following the issuance of a permit for vegetation clearance under the VMA.
3. Action against a landholder for negligence or disregard can only take place after the fact: i.e.: after Aboriginal cultural heritage is found to have been disturbed, damaged or lost. Related monitoring is neither resourced nor mandated.
4. Our concerns relate to the, in our considered view, presently fully inadequate inter-agency linkages and disjointed mechanisms arising from diverse statutes established to provide:

- a. support for Aboriginal cultural heritage protection; and
 - b. development assessments and approvals, including the consideration, approval and/or permitting of vegetation clearances.
5. Section 310 of the *Sustainable Planning Act 2009* (SPA) provides for certain requirements, including matters pursuant to the Commonwealth *Native Title Act 1993* (NTA), to be met prior to the related statutory approvals process progressing e.g.: a permit for vegetation clearance.
6. The Department of State Development, Infrastructure and Planning (DSDIP), in assessing certain vegetation clearing permit applications, may elect to undertake a native title assessment of the area the subject of a permit application under the SPA. Where a native title assessment under the NTA is required by DSDIP, a future act notice is sent to the relevant native title representative body (NTRB), with a response required within 20 business days.
7. In our experience there is no guarantee the responsible NTRB will pass on such notices within the 20 day timeframe to allow any chance to address potential Aboriginal cultural heritage implications prior to the permit being issued.
8. Whilst there is an established duty of care for land users to take reasonable measures not to harm Aboriginal Cultural Heritage, there is no obligation on State Agencies to take any meaningful action in preventing damage to Aboriginal cultural heritage under permits it issues. Government Agencies also need to be bound by a duty of care to take reasonable measures to ensure Aboriginal cultural heritage is not harmed under a permit it issues.
9. Before issuing a permit for activities such as vegetation clearing, Queensland Government Agencies should be required to assess the likelihood of activity under the permit causing harm to Aboriginal Cultural Heritage, and to take tangible preventative measures such as:
 - a. ensuring the Traditional Owners for an area proposed to be cleared are actually engaged and know about the proposed activity (as opposed to simply sending a future act notification to an NTRB); and
 - b. ensuring cultural heritage agreements with Traditional Owners are entered into, and appropriate cultural heritage clearances are resourced and performed before any permits for vegetation clearing are issued.

We trust that the Committee will consider these submissions in making its report to Parliament on the proposed *Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016*.

Yours Sincerely



Amanda Hogbin
Chief Executive Officer
Olkola Aboriginal Corporation