

Coalition Senators' additional comments

Importance of economic development on the Burrup Peninsula

1.1 The value of Western Australia's mineral and petroleum production cannot be understated. The sector is a major contributor to the state and the Australian economy with the estimated value of royalties the state received from the resources sector comprising almost 15 per cent of estimated total state revenue in 2015–16, or around \$3.8 billion.

1.2 The Burrup Peninsula is the gateway to Australia's biggest oil and gas operations—the \$42bn North West Shelf Joint Venture and the \$15bn Pluto LNG Project. Yara Pilbara has invested over US\$1.5bn to support and develop downstream processing in the area.

1.3 The North West Shelf project remains important to the economic development of Western Australia, as outlined in the recent comments made by WA Labor Premier Mark McGowan on 21 September 2017:

My main objective is to get Browse gas to come onshore at North West Shelf so I am working very hard with Woodside and the agency to ensure that Browse gas comes onshore. I do not want to do anything that jeopardises that particular outcome.

1.4 Throughout this inquiry, Coalition Senators have remained concerned over the committee's refusal to consider the weight of the evidence over the economic value the construction of the Yara Pilbara technical ammonia nitrate plant facility (TANPF) TANPF will bring to the Pilbara and Western Australia, and their continued support for a World Heritage listing of the Burrup Peninsula.

No credible evidence of adverse impact of emissions on rock art

1.5 The committee was informed that the Burrup Rock Art Technical Working Group was established by the Western Australian Government to monitor the heritage rock art sites on the Burrup Peninsula from 2004 to 2016 including to oversee the science of these studies. CSIRO's role has been to conduct the monitoring work that was designed and commissioned by the Burrup Rock Art Technical Working Group.

1.6 The committee was informed by CSIRO at the hearing of 17 November 2017 that the final report, dated June 2016 and released in September 2017, superseded prior reports. CSIRO's final report analysed colour monitoring of the rocks using a model that includes a time trend, looking for evidence for change over time.

1.7 CSIRO's final report concluded that a change in the colour characteristics of the rock surfaces had been identified during 13 years of monitoring the rocks, however, there was no statistically significant difference between the two control sites in Dolphin and Gidley islands and the sites close to industrial activity. CSIRO stated:

It should be noted that the report provides the colour measurements and hence changes in colour. The reasons for the colour changes are not addressed explicitly in this report.

1.8 The committee was informed by CSIRO that the small changes in the colour characteristics of the rock surfaces could be the results of natural weathering or other causes and that:

...while the indication of colour change is important, and warrants closer attention, it cannot be automatically assumed that it represents the impact of pollution from industrial plants. Sites further from the industrial development, included in the study in order to test whether change is more rapid at sites more prone to pollution effects, in fact showed no statistically significant difference from the other sites.¹

1.9 Coalition Senators acknowledge that the committee received differing theoretical evidence in relation to the measurement of the colour characteristics of the rock surfaces prior to the hearing held in November 2017. Commentary from a critic of the CSIRO analysis [Professor Black] requested CSIRO do a more comprehensive statistical analysis of the data², which was in alignment with the recommendation of an independent reviewer to the Burrup Rock Art Technical Working Group. CSIRO advised the committee at the hearing held in November 2017 that CSIRO's final report, published in September 2017, includes a full statistical analysis of the colour measurements and that CSIRO had addressed the recommendations that had arisen in the review process established by the Burrup Rock Art Technical Working Group.

1.10 CSIRO advised the committee at the hearing held in November 2017 that CSIRO's final report published in September 2017 includes measurements made in 2015 and 2016 in addition to those included in prior reports. CSIRO also provided to the committee statistical analysis of the CSIRO colour measurements for separate years back to 2010 in the CSIRO response to Questions on Notice from the November 2017 hearing, received 27 November 2017.

1.11 Coalition Senators consider that the committee has no evidence before it to call into question the final CSIRO report and note that CSIRO scientists have repeatedly reassured the committee of their confidence in the validity of their colour measurement results. Coalition Senators accept the advice from CSIRO that:

The CSIRO report does not provide a basis to confirm or to exclude an attribution to the industrial development, other than to note that the measured changes are not statistically significantly different at sites near to or far from industry.

1 CSIRO, *Burrup Peninsula Aboriginal Petroglyphs: Colour Change & Spectral Mineralogy 2004–2016*, pp. xiii–xiv.

2 Professor John Black, *Committee Hansard*, 17 February 2017, p. 20.

1.12 Coalition Senators also note the evidence from CSIRO that:

The June 2016 CSIRO Report (released during 2017) includes the last two years of measurements (2015 and 2016) and a complete statistical analysis of all the data for both the KM and the ASD photospectrometers instruments. This also includes data for three new sites that were incorporated into the BRATWG monitoring program in 2014 and so the June 2016 CSIRO Report also includes three years of data for these sites....The June 2016 CSIRO Report provides statistical testing for the threeway interaction of trends over time on background and engraving at northern and southern sites...³

1.13 Further, the focus on one company, Yara Pilbara, appears an over-reaction given the committee has heard that whilst nitrogen and sulphur dioxide emissions pose the most significant risks to rock art—Yara Pilbara operations will contribute just over 2 per cent of nitrous oxide (NO_x) and 14 per cent of sulphur oxide emissions on the Burrup Peninsula.

1.14 Coalition Senators further note that the monitoring undertaken by the CSIRO since 2004 indicates that industrial emissions have had no measurable impact on rock art.

- Historical modelling carried out for the TAN Plant environmental approval predicted a maximum dry deposition rate of 68 mill equivalents/m²/year from a combination of plant emissions and background concentrations.
- The CSIRO identified a critical loading value of 200 mill equivalents/m²/year, below which harmful impacts to rock art were unlikely to occur. The CSIRO critical value was derived from consideration of a range of ecosystem sensitivities to acid deposition published by Cinderby, et al, 1998, with the relatively high value assigned on the basis of CSIRO's conclusion that Burrup ecosystem is relatively insensitive to acid deposition.

Professor John Black report

1.15 The committee was presented with a considerable number of claims and/or statements made by Professor John Black and others regarding the scientific credibility of this monitoring; specifically that:

- the 2007 fumigation studies conducted by CSIRO suffered poor experiment design through an inadequate selection of rock samples, and inadequate replication;
- the 2008 air pollution study incorrectly used a study by Cinderby et al to conclude that the critical load for the Burrup rocks would be 200 meq/m²/year;

3 CSIRO, *Answer to question on notice No. 2*, Public hearing, 17 November 2017, p. 14.

- the analysis of rock art monitoring conducted between 2004–2014 did not include adequate statistical analysis, and further the measurements taken were unreliable due to the equipment used.

1.16 Coalition Senators note the majority of claims and statements made by Professor Black and others as to the risk and/or actual degradation of rock art are not supported by scientifically valid evidence. Overall, the majority of claims and/or statements made by Professor Black and others about risks of/or actual damage are not supported by evidence from well-designed technical studies and investigations. As such, it is not possible at this time to conclude with adequate certainty that damage to rock art has or has not occurred from industrial emissions.

1.17 When presenting his theories to the inquiry, Professor Black proposed a critical loading value of 25 milliequivalents/m²/year as appropriate for protection of rock art from atmospheric emissions. The proposed critical loading value provided by Professor Black has not been validated by field studies, and represents the lowest of the sensitivity classes assigned by Cinderby, et al, 1998.

1.18 While it is acknowledged that there is criticism regarding the validity of the methodology used by the CSIRO, we note that improvements to any methodology do not imply that the current or previous methodology is flawed. As it is the nature of the scientific method that as knowledge is gained through experimentation, new knowledge provides the data to allow further refinement and improvement of the methodology, as can be reasonably argued that has occurred with this research. This is noted in the CSIRO's opening statement where Dr Helen Cleugh affirmed that 'our research undertaken in relation to the Burrup Peninsula rock art is no exception and was the first of its kind worldwide'.⁴

1.19 Coalition Senators note that the CSIRO measurements of rock surface pH and mineral dissolution suggest a decrease in pH has occurred since industry commenced operations on the Burrup, with an associated increase in dissolution of Mn and Fe in the patina. However, that work has not established a direct link between emissions from industrial sources and in particular Yara operations, and risks or actual damage to rock art. In addition, the relationship of acid deposition as measured from gases and deposition samples to changes in rock art has not been established and the appropriate critical loading has not been determined.

1.20 We also note that Professor Black's submission also addresses the health and safety effects of additional pollution from the TANPF, including nitrite poisoning, carbon monoxide poisoning, and risks of an ammonium nitrate explosion. None of these claims are supported by scientifically valid evidence.

1.21 Further, attempts have been made during various stages of the inquiry to question the safety of the new \$1 billion Yara Pilbara technical ammonium nitrate

4 Dr Helen Cleugh, Director, CSIRO Climate Science Centre, CSIRO, *Committee Hansard*, 17 February 2017, p. 23.

(TAN) plant; however, it has been pointed out that the product produced at the Yara Pilbara site is equivalent to a fertiliser grade ammonium nitrate held at suburban hardware stores across Australia.

1.22 Coalition Senators are deeply concerned that in ignoring expert, peer reviewed scientific advice and the findings of a decade of scientific research, the majority report will only serve to unjustifiably support the intention of a small minority who wish to stop the development of the TANPF.

Dr Rob Gillett report

1.23 The committee received commentary in relation to a CSIRO paper published in September 2008 entitled 'Burrup Peninsula Air Pollution Study, 2004/2005 and 2007/2008' by Dr Rob Gillett and the reference of that report in government approvals of industry activities.

1.24 The committee heard evidence from an author of a 1998 scientific report that was referred to by Gillett (Cinderby, S. et al)⁵. Dr Kuylenstierna told the committee that his work 'was not designed to look at the impact on rock art and I felt it was worth making clear that I do not think that this is appropriate to use as evidence in this case'.⁶

1.25 Coalition Senators note that the commentators on the Gillett 2008 paper limited their criticism to one aspect of the report and did not call into question the rest of that report. In response to questions as to the Gillett 2008 paper, Dr Kuylenstierna's evidence included:

I understand that the actual reference to our work was one paragraph in a much larger report, so I am not commenting on the work of the larger report which, as far as I understand it, was related to the atmospheric processes and measurements in the region.⁷

I understand that the CSIRO report was talking about some of those aspects. I did not read it in detail; just the bits about the use of our work in terms of the likely impact of acidic deposition on the rock art.⁸

And further:

CHAIR: That is fine. CSIRO is our pre-eminent Australian scientific body and it has a very good reputation internationally. Do you think this reflects badly on CSIRO's reputation?

5 Cinderby, S., Cambridge, H.M., Herrera, R., Hicks, W.K., Kuylenstierna, J.C.I., Murray, F. and Olbrich, K., *Global Assessment of Ecosystem Sensitivity to Acidic Deposition*. 20 p. + map. ISBN: 91 88714 58 6, 1998.

6 Dr Johan Kuylenstierna, *Committee Hansard*, 17 February 2017, p. 1.

7 Dr Johan Kuylenstierna, *Committee Hansard*, 17 February 2017, p. 2.

8 Dr Johan Kuylenstierna, *Committee Hansard*, 17 February 2017, p. 3.

Dr Kuylenstierna: I do not think I can say that because I have not studied all the literature that you have got. I have met with many colleagues at CSIRO and they are good scientists. I cannot comment, because I have not studied all of the literature that you have available.⁹

1.26 In relation to Gillett 2008, Professor Black opined:

...and that is that at the end of his paper...he misinterpreted by saying that he believed that the Burrup rock would withstand 200 milliequivalents of the highest acid load, but he had no justification for that because of the things we have talked about—because he did not measure buffering capacity

But also, in relation to the rest of Gillett 2008, Professor Black stated: 'which was a good paper and scientifically well done...'¹⁰

1.27 Coalition Senators note that CSIRO representatives were challenged as to 'whether the Gillett report should be withdrawn or amended in the light of that evidence?'. Coalition Senators note the evidence from CSIRO that:

We have not come to the view in any way, shape or form that there's any reason for us to withdraw that scientific publication of a decade or so ago. We recognise that that is one of the pieces of evidence that have been used in the subsequent process. We have no reason to believe that the original paper—which was the views of the authors and went through a peer review at the time—was inappropriate at the time. And obviously it's the evolution of the scientific understanding of the area which will determine whether or not it continues to be appropriate for that to be considered, including in the opinions of those people who are responsible for making the appropriate decisions around approvals et cetera.¹¹

And further:

I just repeat my evidence: we do not have a scientific basis to consider that that report has been withdrawn in any way, shape or form. We make the observation that it's in the public domain and people can draw their own conclusions. Indeed, it's clear that there's free commentary in relation to the matter.¹²

1.28 Coalition Senators consider that judgements as to the rigour of technical interpretations and conclusions drawn in the scientific literature are a matter for the consideration and judgements by scientific experts.

9 Dr Johan Kuylenstierna, *Committee Hansard*, 17 February 2017, p. 4.

10 Professor John Black, *Committee Hansard*, 17 February 2017, p. 19.

11 Dr John Steele, *Committee Hansard*, 17 November 2017, pp. 13–14.

12 Dr John Steele, *Committee Hansard*, 17 November 2017, p. 14

Adequacy of existing regulatory approvals and compliance

1.29 While the Burrup Peninsula is the location of rock art (petroglyphs) of major archaeological and cultural significance, it also shares its location with several industrial complexes including a major iron ore port, liquefied natural gas production, salt production, ammonia plant (fertiliser production) and a technical ammonium nitrate plant (TAN Plant).

1.30 The inquiry heard that successive Western Australian governments have pursued a long-term vision of transforming the Burrup Peninsula into the largest industrial precinct in the southern hemisphere, attracting foreign investment and royalties. As such, The Burrup Strategic Industrial Area (Burrup SIA) was developed to provide an area for industry in close proximity to gas, port and other key infrastructure.

1.31 As such, the industrial facilities on the Burrup Peninsula operate under a myriad of different state and federal approvals, including and not limited to:

- *Environmental Protection Act 1986 Part IV (WA)*
- *Environmental Protection Act 1986 (EP Act) Part V (WA)*
- *Aboriginal Heritage Act 1972 (WA)*
- *Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)*
- *National Environment Protection Council Act 1994 (Cth).*

1.32 Environmental approval under the EPBC Act was granted in September 2011, under then ALP Minister Tony Burke. The approval obtained under the EPBC Act sets out the required monitoring program for rock art sites, which includes a system for identifying and responding promptly to any changes in rock art.

1.33 The Western Australian Department of Environmental Regulation (DER) undertakes environment regulation functions under Part V of the EP Act. This agency has principal responsibility for licensing, approvals, compliance and enforcement in relation to emissions and discharges.

1.34 To ensure protection of the values of the Dampier Archipelago (including Burrup Peninsula) National Heritage Place, Yara Pilbara Nitrates has been required to submit both construction and operational environmental management plans which detail management measures for air quality and dust, water quality, erosion control and storm water, waste and traffic. Separate Aboriginal Heritage and Hazardous Materials management plans are also required.

1.35 In August 2002 the Western Australian Government established the independent Burrup Rock Art Monitoring Management Committee (BRAMMC). In 2003 the BRAMMC commissioned a number of studies to monitor the petroglyphs on the Burrup Peninsula. They included air dispersion modelling studies, air quality and

microclimate; colour change, dust deposition and accelerated weathering study and mineral spectroscopy carried out by CSIRO.

1.36 In 2009, BRAMMC reported to the Minister for the Environment that concentrations of air pollutants on the Burrup Peninsula were generally very low with the exception of atmospheric dust. It is important to note natural sources of emissions in the Pilbara region are also substantial, and that in the case of the Burrup Peninsula these natural sources include the land surface dust as a result of the semiarid environment and marine salts from the adjacent coast.

1.37 BRAMMC concluded from these studies there was no scientific evidence to indicate there was any measurable impact of emissions on the rate of deterioration of the petroglyphs. BRAMMC recommended monitoring of the colour contrast and spectral mineralogy be continued on an annual basis for ten years and be reviewed after five years. The Minister for the Environment accepted these recommendations and subsequently this committee was replaced by the Burrup Rock Art Technical Working Group (BRATWG) in 2010.

1.38 BRATWG completed its five-year term of engagement in 2016 and has drafted its findings and recommendations to the WA Minister for Environment. BRATWG concluded there is no scientific evidence indicating any measurable impact of industrial emissions on the rock art on the Burrup over the period 2004 to 2014. It was recommended monitoring of rock art using the CSIRO developed method continue on an annual basis to provide an early warning of any possible impacts to rock art from industrial emissions and BRATWG continue for another five year term.

1.39 Coalition Senators note that the new Labor WA Environment Minister Stephen Dawson released a draft Burrup Rock Art Strategy in September 2017 which was open for public comment to 1 December 2017. The draft strategy recommends establishing a Burrup Rock Art Stakeholder Reference Group to oversee the design and implementation of the strategy.

1.40 Coalition Senators also note that the failure to replace BRATWG in a timely manner leaves Yara with no approved mechanism in place under which monitoring can occur, as the approved heritage monitor, the CSIRO, will not carry out monitoring for Yara to allow the company to meet its compliance requirements.

Best practice monitoring

1.41 The inquiry heard that in addition to Commonwealth and State approvals and conditions, Yara Pilbara has actively sought to include what is known in industry as best available techniques (BAT) in the company's Burrup operations.

1.42 Yara Pilbara has incorporated best practice control technology in the design and construction of the TAN plant which reduces the emission of NO_x and N₂O gases by up to 90 per cent.

1.43 Emission concentrations of ammonia and ammonium nitrate dust from the TAN plant are predicted to be below the levels stated in the Fertilizers Europe and European Commission best practice guidelines. These guidelines represent the benchmark in best practice for industry on a global scale.

1.44 Yara has advised that emission monitoring during commissioning runs at the TAN plant show that the facility will run well below the required emission levels as set by the State and Commonwealth.

1.45 Since taking over as operator of the existing ammonia plant, Yara has carried out equipment enhancements, increased maintenance activities and several process improvements.

1.46 Coalition Senators acknowledge that Yara Pilbara Nitrates has received caution and infringement notices including:

- 7 June 2016 – Caution Issued to Yara Pilbara Nitrates (YPN) due to:
 - (a) missed deadline for annual compliance report and management plans unavailable on YPN website (Plans had previously been published but website was under maintenance at the time/compliance report submitted late to YPN by project EPBC contractor)
 - (b) Rock art monitoring report delayed (Release of CSIRO report to Yara Pilbara delayed by DER).
 - (c) Annual compliance report required under Condition 3 of EPBC approval provided to DoEE on 6 October 2016
- 10 May 2017 – Letter from DoEE containing Infringement Notice for \$10,800 for late submission of the Annual Compliance Report (Condition 3).
- 24 August 2017 – 2nd Infringement issued carrying fine of \$12,600 due to lack of monitoring for total suspended particulates (TSP). Yara Pilbara had informed DoEE at a meeting on 8 February 2017 that a review of the offsite air monitoring data had identified deficiencies. YP had subsequently, with regular updates to DoEE, developed a Baseline Model to satisfy compliance with the TSP monitoring requirement as per Condition 9 of the EPBC approval.

Cultural and heritage value protections

1.47 Coalition senators strongly support and recognise the cultural and spiritual significance of petroglyphs to Aboriginal people, and that Murujuga, also known as the Burrup Peninsula is a sacred place for the five traditional owner groups: the Ngarluma, the Mardudhunera, Wong-Goo-Tt-Oo, the Yaburara, and the Yindjibarndi, who are collectively represented by the Murujuga Aboriginal Corporation (MAC).

1.48 Given the cultural and spiritual significance of the petroglyphs to the traditional owners, Coalition Senators remain concerned over the lack of engagement, consultation, and inclusion of the Murujuga Aboriginal Corporation in the committee's

inquiry. Ms Raelene Cooper, Chairperson of MAC, stated during hearings on 20 April 2017:

On behalf of Murujuga, I want to express our frustration and disappointment to you due to the lack of any advice to, consultation with or involvement by MAC at any stage in the Senate committee's inquiry.¹³

1.49 In addition, MAC also expressed its frustration with the actions of the Friends of Australian Rock Art (FARA), and their lack of collaboration with Traditional Owners. Ms Cooper stated:

In relation to this inquiry, we have received very little advice in relation to the potential damage that may be caused by industrial emissions to our rock art. We did receive a presentation from the Friends of Australian Rock Art, FARA, in 2016 expressing their view that damage was occurring now and would increase in the future. However, we are not scientists or chemical engineers. We have also had a variable relationship with FARA. In our opinion, they have treated us paternalistically—more or less telling us what we need to do rather than respecting or listening to our views. On occasion, they have not adhered to our cultural protocols and displayed sacred images on their website and in other literature. Lately, to their credit, they have shown some remorse and understanding, and I am hopeful that we may work or share a collaborative relationship into the future.¹⁴

Conduct of Friends of Australian Rock Art and Bob Brown Foundation

1.50 Coalition Senators note with concern that while the rock art of the Burrup Peninsula was assessed as meriting World Heritage listing in the 1980s, the push for World Heritage Listing comes not from the Traditional Owners, but from two outside, non-Aboriginal groups; FARA and the Bob Brown Foundation.

1.51 On 17 February 2017 Ms Judith Hugo, Co-convenor, Friends of Australian Rock Art, and Ms Christine Milne, Spokesperson for the Bob Brown Foundation provided evidence to the committee regarding their respective organisation's involvement in the World Heritage Listing of the Burrup Peninsula.

1.52 According to Ms Hugo:

Friends of Australian Rock Art was established in 2006; we are a voluntary, not-for-profit organisation..

Since the Yara Pilbara TAN plant was conceived we have had huge anxiety about the effects of industrial emissions on the rock art, and since 2010 we have focused more on direct meetings with industry and government...The

13 Ms Raelene Cooper, Chairperson, Murujuga Aboriginal Corporation, *Committee Hansard*, 20 April 2017, p. 2.

14 Ms Raelene Cooper, Chairperson, Murujuga Aboriginal Corporation, *Committee Hansard*, 20 April 2017, p. 2.

one in April last year was particularly to emphasise the need for World Heritage listing to prevent further industrial expansion.¹⁵

1.53 According to Ms Milne:

The Bob Brown Foundation has a long history of support for World Heritage and World Heritage sites...and believes that the petroglyphs of the Dampier Archipelago—including the Burrup Peninsula, which is a national heritage-listed site—should now be nominated for World Heritage listing.

The Bob Brown Foundation is very concerned about the industrial emissions that are already covering the area but, furthermore, that the proposed emissions from the TAN plant will tip it over and we will now see a loss of those petroglyphs within a generation or two.

The view of the Bob Brown Foundation would be that no further heavy industry be permitted, that the TAN plant be moved—it is a modular plant; they have said very clearly that those five modules were built offshore and brought here onto a foundation that could be moved to the Maitland estate—and that all of the other areas that have already been zoned for industry but not allocated to a specific industry be revoked. So you would end up with no further heavy industry and you would have the Burrup as a World Heritage area and you would have the Maitland industrial estate being where further development would be.¹⁶

1.54 When asked about the level of engagement with Traditional Owners over the World Heritage Listing, Ms Hugo stated:

As I mentioned earlier, we had specific a meeting with the Murujuga Aboriginal Corporation in April last year spelling out to them why World Heritage listing was so important to stop further industrial expansion on the Burrup. They went away very enthused about it but, unfortunately, some of the people within MAC were not that keen. It is thought that large industrial interests are possibly offering them financial support particularly, in terms of building the Murujuga Living Knowledge Centre and that one of the underlying conditions, perhaps, is that they are not that keen on World Heritage listing.¹⁷

1.55 Ms Milne responded:

I have not been working on this campaign for a long time, but in November I went up to Karratha and the area and met with Mr Wilfred Hicks, who is an Aboriginal elder in the area. He is supportive of World Heritage listing, but it was fairly clear in what he had to say that a lot of the Aboriginal

15 Ms Judith Hugo, Co-convenor, Friends of Australian Rock Art, *Committee Hansard*, 17 February 2017, p. 42.

16 Ms Christine Milne, Spokesperson, Bob Brown Foundation, *Committee Hansard*, 17 February 2017, p. 42.

17 Ms Judith Hugo, Co-convenor, Friends of Australian Rock Art, *Committee Hansard*, 17 February 2017, p. 44.

people do not yet understand what World Heritage listing would mean or what the nature of the management that might be developed as part of a World Heritage management plan would be.¹⁸

1.56 Coalition Senators note the following comments when asked if the local Aboriginal community does not support World Heritage listing:

Ms Hugo: Not exactly the whole Aboriginal community. There are individuals within the community who are very for it. But, officially, the Murujuga Aboriginal Corporation, or the circle of elders, has been reluctant to commit to World Heritage listing. We feel that there are possibly influences within the organisation which are trying to downplay the importance of World Heritage listing, because it was claimed that they have not been exposed or given workshops on it—but we have specifically been up there to promote World Heritage listing...¹⁹

Ms Milne: If I could just add to that..I think it is a case where some of the elders are in favour of it, and others are unsure because they do not know what it means...²⁰

Dr Mulvaney: I have attended a meeting of the Murujuga board, at which they voted for nomination for World Heritage. That occurred four years ago. The CEO at the time was opposed to World Heritage and did not progress that. I have attended three meetings of what is known as the circle of elders, the senior representatives of the native title groups, at MAC meetings, at which, again, they have specifically stated support for World Heritage. Again, there are certain staff of MAC who come from a different area and are not supportive of World Heritage and, despite agreement for it, have stymied it. There are individuals who have come here as Aboriginals to speak to federal ministers in support of World Heritage requesting action...²¹

1.57 Coalition Senators note with concern the comment made from MAC Board Member Mr Peter Hicks when asked if he had been consulted at all by anyone about heritage listing.

We have not had anybody come in and sit at the board table with us and talk with us about what is going on here. There are a lot of people running around the parliament, and everywhere else, that we hear about but there is nobody coming to sit down and talk with us...²²

18 Ms Christine Milne, Spokesperson, Bob Brown Foundation, *Committee Hansard*, 17 February 2017, p. 45.

19 Ms Judith Hugo, Co-convenor, Friends of Australian Rock Art, *Committee Hansard*, 17 February 2017, p. 46.

20 Ms Christine Milne, Spokesperson, Bob Brown Foundation, *Committee Hansard*, 17 February 2017, p. 46.

21 Dr Ken Mulvaney, *Committee Hansard*, 17 February 2017, pp. 46–47.

22 Mr Peter Hicks, Board Member, Murujuga Aboriginal Corporation, *Committee Hansard*, 20 April 2017, p. 7.

1.58 Comments echoed by MAC CEO Mr Craig Bonney who, when asked if the elders council had a formal position on World Heritage Listing, stated:

The short answer is no. We have not discussed it at a board level and formed a view. Again, that is related to that lack of information and awareness. We believe in making informed decisions at the board level, and, because we have not got the information, we have not discussed it.²³

1.59 Coalition Senators also note with concern comments made by Mr Bonney regarding past incidents between elders and FARA:

For us, culture is really, really important. We have to abide by certain cultural protocols and parameters. There are things we can and cannot do. Images of the petroglyphs themselves have significant meaning. Some of those are only to be seen by certain people who have been through certain levels of Aboriginal law. I cannot see many of those things as the CEO because I have not been through law. So when we have not only Friends of Australian Rock Art but others who wish to use images, sometimes they go on the internet and find images which in our view should not be on the internet or should not be seen by anyone. Sometimes they will use those images on their website as part of their promotional material or whatever. On a couple of occasions we have asked the Friends of Australian Rock Art to remove those images because you cannot be our friend on one hand and disrespect our culture on the other. We have had those conversations and, to their credit, we have seen those images removed of late, which is great.

Sometimes we have external stakeholders come and speak to our elders. I have been working with Aboriginal people for more than 25 years right across northern Australia and the Pilbara, and what I find is we get a lot of stakeholders who, without meaning to, talk down to Aboriginal people or talk to Aboriginal people as though they are—it is difficult to describe the word—of lesser understanding or capability. What happens is the dominant people who have the intelligence tend to portray their views down to those people. Those people are often not in a position to question or really understand what the message or the conversation is all about. Their views are then seen as the only views—the dominant views—that must be adopted by the mob. I have seen a couple of instances of that where people come along and talk to us from that perspective...²⁴

1.60 We also note that throughout the committee process, the over-zealousness of FARA and the Bob Brown Foundation in attempting to criticise Yara Pilbara and other industry has resulted in claims made to the committee which were based on hearsay, specifically inferring 'strings attached' financial inducements had been offered to traditional owners.

23 Mr Craig Bonney, Chief Executive Officer, Murujuga Aboriginal Corporation, *Committee Hansard*, 20 April 2017, p. 7.

24 Mr Craig Bonney, Chief Executive Officer, Murujuga Aboriginal Corporation, *Committee Hansard*, 20 April 2017, p. 6.

1.61 Coalition Senators note the comment made by Ms Hugo when asked if any there is any evidence of inducements, financial or otherwise, that have been offered to the Aboriginal community, to not support World Heritage listing:

Not directly, no. But I do know that Yara Pilbara—from reading their submission—have offered to support the community financially with their living knowledge centre, and the current thinking by the Western Australian government is that the centre would be better placed in the northern Burrup, away from industry. That, we know, is precisely what people like Wilfred Hicks and other Aboriginal custodians do not want to happen. They would prefer it to be at Hearsons Cove, where it has always been planned, right next to Deep Gorge. That is just one piece of information we have had to hand recently.

We feel it is very important to go back again and speak to the custodians, but we are meeting with considerable negative feeling from Murujuga Aboriginal Corporation; put it that way...²⁵

1.62 Coalition Senators note with concern the statement from Mr Bonney when questioned over the validity of FARA's claim that there was an underlying condition that financial support for the living knowledge centre was contingent that the corporation not support World Heritage listing:

I have read that statement. I actually watched it live when it was occurring. I have responded in writing directly to the people who made that statement and pointed out our issues with that. That statement undermines our credibility as an organisation and almost suggests that we are open to taking inducements to form various views. We take no inducement from anybody in how we manage and protect our country and our Murujuga.

We have dealt with them directly. They have responded and very apologetically withdrawn from that position, to their credit. However, it was deeply offensive at the time. We do not and have not ever had a discussion with any industrial partner or stakeholder in forming a view around World Heritage listing. We certainly have not had a conversation where any talk of financial inducement or incentive was ever discussed. I can state that for the record.²⁶

1.63 Coalition Senators note with concern the statement from Mr Hicks when questioned over the validity of FARA's claim that there was an underlying condition that financial support for the living knowledge centre was contingent that the corporation not support World Heritage listing:

25 Ms Judith Hugo, Co-convenor, Friends of Australian Rock Art, *Committee Hansard*, 17 February 2017, p. 45.

26 Mr Craig Bonney, Chief Executive Officer, Murujuga Aboriginal Corporation, *Committee Hansard*, 20 April 2017, p. 7.

The only financial benefit to the cultural centre is what has been placed into the BMIEA agreement and that would be a part of the building of that cultural centre. There has been no other conversation around that.²⁷

1.64 Coalition Senators also note with concern comments contained in a letter to the Committee Secretary dated 27 February from Dr Mary Edmunds, refuting Ms Hugo's statement to the committee. In particular that:

Whatever Ms Hugo's intention—and she was not present at the 2016 Roeburne meeting—the implication was that Yara's offer of funding was intended to influence MAC improperly...This would be an inaccurate and misleading interpretation of Yara's offer. It would also have the potential to undermine the achievements to date of the National Heritage Listing of the area, of the establishment of the Murujuga National Park, and of other relevant stakeholders in progressing a supportive and inclusive approach to the future preservation of Murujuga, its invaluable rock art, and the continuing culture of Traditional Owners and Custodians.²⁸

Conclusion

1.65 Coalition Senators note that significant factors, including failure to consult with the Murujuga Aboriginal Corporation, have been excluded from both the committee's Terms of Reference and Final Report, in favour of a number of claims about the negative impacts of emissions from one company, Yara Pilbara, on the Burrup Rock Art that are unsubstantiated by scientifically valid evidence. This is to the detriment of a full and proper consideration of the important and relevant issue of the Commonwealth's responsibility under the *Environment Protection and Biodiversity Conservation Act 1999* to protect the globally significant and National Heritage listed Aboriginal rock art of the Burrup Peninsula.

Senator Jonathon Duniam
Deputy Chair
Senator for Tasmania

Senator Dean Smith
Senator for Western Australia

27 Mr Peter Hicks, Board Member, Murujuga Aboriginal Corporation, *Committee Hansard*, 20 April 2017, p. 7.

28 Dr Mary Edmunds, Correspondence dated 27 February 2017.

