

Submission to the Parliamentary Inquiry into the destruction of Indigenous heritage sites at Juukan Gorge (Western Australia), prepared by the Australian Research Council Centre of Excellence for Australian Biodiversity and Heritage (CABAH)

We comment below on the first of the Inquiry's Terms of Reference, "(a) the operation of the *Aboriginal Heritage Act 1972* (WA) and approvals provided under the Act", focussing on section 5(a) and (c) "Application to places" and section 18(2) "Consent to certain uses". We offer an assessment of the scientific importance of the Juukan sites, noting that it would be inappropriate for CABAH to comment on their cultural value to the Traditional Owners and Custodians.

The relevant passages of the Act are reproduced verbatim below, followed by discussion of the phrases emphasised in italics.

Section 5(a): "[This Act applies to] *any place of importance and significance* where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people, past or present;"

Section 5(c): "[This Act applies to] any place which, in the opinion of the [Aboriginal Cultural Material] Committee, is or was associated with the Aboriginal people and which is of historical, anthropological, archaeological or ethnographical interest and should be *preserved because of its importance and significance* to the cultural heritage of the State;"

Section 18(2): "...the Committee shall as soon as it is reasonably able, form an opinion as to whether there is any Aboriginal site on the land, *evaluate the importance and significance of any such site*, and submit the notice to the Minister together with its recommendation in writing as to whether or not the Minister should consent to the use of the land for that purpose, and, where applicable, the extent to which and the conditions upon which his consent should be given."

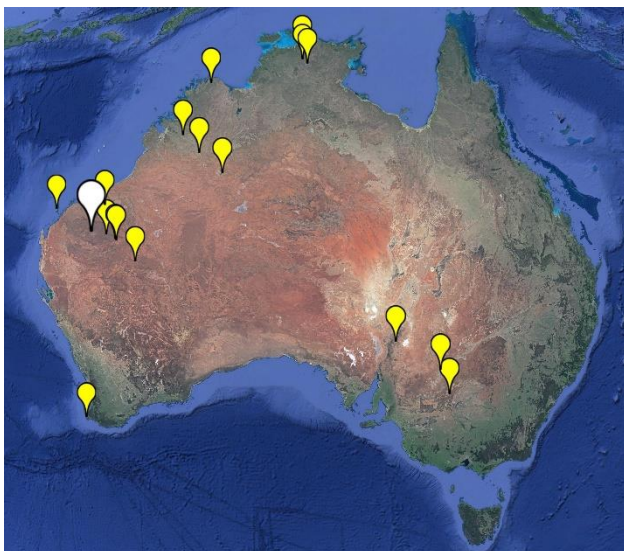
The Act requires that Aboriginal sites of outstanding cultural heritage value should be protected and preserved. But how are sites of exceptional importance and significance identified so that the Aboriginal Cultural Material Committee (ACMC) can form a properly informed, evidence-based opinion? An objective definition of what constitutes "important and significant" is needed, but this requires a detailed and up-to-date knowledge from Indigenous stakeholders and a range of disciplines, including anthropology, archaeology, history, ecology, and Earth and climate science.

Such a vast and varied range of information typically lies outside the expertise of individual government departments and private consultancies, and necessitates access to—and competency to evaluate—the latest results of research in order to knowledgeably contextualise the importance and significance of any particular site. While the ACMC must include one person recognised as "having specialised experience in the field of anthropology as related to the Aboriginal inhabitants of Australia", there is currently no requirement under the Act to include specialists in other relevant fields, such as suitably qualified archaeologists and cultural heritage professionals. We consider this a notable omission of essential expertise from the ACMC.

Should the Juukan sites have been protected under the Act on the basis of their cultural and scientific importance? CABAH can speak to the question of their high scientific value and illustrate how the two neighbouring sites add significantly to our understanding of the rich culture of

Aboriginal peoples and their interactions with the diverse landscapes, fauna and flora of Australia. The Juukan sites are of exceptional scientific merit for the following two reasons:

1. They contain unique evidence that Aboriginal people lived in this arid region of Australia through the peak of the last 'ice age', around 21,000 years ago, which was a period of harsher (colder and drier) climatic conditions than those that prevail at the present day. Occupation of the Juukan sites before, during and after this period of extreme environmental stress has overturned notions that the Pilbara was abandoned at this time, revealing a missing chapter in the story of Aboriginal Australia.
2. They both contain exceptionally rare evidence of the early occupation of Australia's desert regions. Stone artefacts made more than 37,000 years ago have been excavated at Juukan-1, while the oldest artefacts at Juukan-2 date to more than 40,000 years and possibly more than 46,000 years (the latter data have yet to be published in a peer-reviewed journal). To put this into a global context, the first members of our species were only just beginning to venture into Europe at this time.



A date of 46,000 years or older for the initial occupation of Juukan-2 makes it one of fewer than 20 sites across Australia with credible ages of 45,000 years or more. Estimating reliable ages for archaeological and environmental events in the deep past is not a trivial undertaking, and work is ongoing within CABAH to compile such a database for the entire continent. The adjacent map has been generated using data extracted from our database. The yellow markers denote all 17 known archaeological sites with dates of 45,000 years and older for first occupation, and Juukan Gorge is indicated by the white marker.

On the basis of the evidence presented above, it is clear that Juukan-2 represented one of very few archaeological sites in Australia that contained evidence of occupation extending to the very earliest chapters in the history of settlement of Australia. On this criterion alone, it is scientifically justified to claim that Juukan-2 is of sufficient importance to Australia's Aboriginal cultural heritage to have warranted protection under the Act.

Recommendations

We have highlighted the exceptional importance and significance of the Juukan sites to a scientific understanding of the Indigenous history of this continent. There is an urgent need to ensure that other sites of similarly outstanding national heritage value are not also destroyed. The submission to this Inquiry by the Australian Archaeological Association Inc. includes a number of recommendations that will improve the process of assessing and managing Aboriginal heritage sites judged to be of national importance based on an objective consideration of all available evidence. CABAH supports their recommendations, including the proposed changes to the composition and role of the ACMC in advising the Minister as regards to the application of section 18.