



Woodside Energy Ltd.

ACN 005 482 986

Mia Yellagonga

11 Mount Street

Perth WA 6000

Australia

T +61 8 9348 4000

F +61 8 9214 2777

www.woodside.com.au

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Attn: Committee Secretariat
Joint Standing Committee on Northern Australia
PO Box 6021
Parliament House
CANBERRA
Canberra ACT 2600

SUBMISSION TO THE INQUIRY INTO THE DESTRUCTION OF 46,000 YEAR OLD CAVES AT THE JUUKAN GORGE IN THE PILBARA REGION OF WESTERN AUSTRALIA

Woodside has operated on the Burrup Peninsula (Murujuga) for more than 35 years. We are proud of the co-existence with heritage that our operations have achieved, and our policy is to avoid future damage or disturbance to cultural heritage and, if avoidance is not possible, to minimise and mitigate the impacts. However, the *Juukan Gorge* example reminds us that knowledge and understanding of heritage values is dynamic and can change over time through further research, community engagement and new evidence, and moreover that the possession of legal approvals alone may not be sufficient to satisfy evolving community expectations. Woodside is pleased to make this submission to the Inquiry, based on its contemporary experience of co-existence between heritage and industry on Murujuga.

The central role of Traditional Custodians

In Woodside's view, Traditional Custodians must be central to heritage management to ensure that cultural values are understood and remain protected. The *Juukan Gorge* incident prompted Woodside to review the risks associated with our current and future activities, to ensure that our management is thorough, transparent and underpinned by close engagement with Indigenous stakeholders and communities.

Woodside acknowledges that our approach to managing and protecting cultural heritage has improved over time. Cultural heritage impacts were managed differently in the 1980s, and those practices did not meet the standards that we now set ourselves and that the community expects today. Importantly, at that time, the Traditional Custodians were excluded from heritage processes during the design and construction of the Karratha Gas Plant (KGP). Instead, the Western Australian (WA) Government, through the WA Museum, managed the heritage assessment and site clearances on behalf of the North West Shelf Project.

Our approach matured with the design and construction of Pluto LNG in the mid-2000s. The Traditional Custodians were central to the heritage management process. They participated in comprehensive cultural heritage surveys and helped Woodside to develop our Cultural Heritage Management Plans (CHMP). Most importantly, their engagement and the cultural heritage survey outcomes prompted an engineering redesign of the initial Pluto LNG plant to both avoid and protect the most significant heritage sites. Today our approach continues to be informed by Traditional Custodians, heritage experts and regulation.

Heritage and Industry Co-existence

Woodside recognises the importance of cultural heritage within Murujuga, including its magnificent rock art. Our support for the World Heritage Listing of Murujuga reflects this successful coexistence of industry and heritage, which is embedded in our processes and procedures and the commitment of our people.

As a minimum Woodside's processes and procedures mandate heritage surveys and consultations, compliance with regulatory approvals, and development and implementation of Cultural Heritage Management Plans (CHMPs). Woodside has detailed CHMPs for our onshore facilities.

All Woodside employees working on site participate in a cultural heritage induction. The Murujuga Aboriginal Corporation (MAC) also complements these inductions by providing additional on-country cultural awareness training. Woodside's Indigenous Affairs team also includes two archaeologists, and we engage independent archaeologists and anthropologists to support us with our cultural heritage management and to ensure that our activities are managed in accordance with Commonwealth and State approvals.

Preventing unauthorised access to heritage sites and places is essential to ensuring that heritage sites are not damaged. Heritage audits are conducted at least annually with Traditional Custodians and an independent archaeologist. The audits have consistently determined that there has been no disturbance to the sites. In addition, Woodside convenes quarterly cultural heritage update meetings with Traditional Custodians to provide and receive feedback about heritage management. Their feedback informs updates to our CHMPs and activities.

In 2007 Woodside committed A\$34 million to cultural heritage projects for Murujuga to protect and promote rock art under the Burrup Conservation Agreement signed by Woodside and the Commonwealth Government. As part of this agreement, in June 2019 Woodside announced a A\$4 million contribution to fund the construction of the Murujuga Living Knowledge Centre at Conzinc Bay. When construction is completed, the Murujuga Living Knowledge Centre will be a world-class eco-cultural facility for the display and curatorship of rock art and heritage values.

Our Indigenous land agreements and Conservation Agreement have been key to bringing the community, industry and government agencies together with the common goal of protecting the heritage and living culture of this extraordinary place. We are proud of the results we have achieved together and look forward to continuing to work with our partners to deliver meaningful outcomes for Indigenous communities.

As such, we remain a committed partner on the WA Government's Murujuga Rock Art Stakeholder Reference Group, which provides advice on the design, implementation and analysis of scientific monitoring programs to determine if there are any impacts to rock art as a result of industrial activity on the Burrup. Through this Reference Group, Woodside contributes to the development and implementation of the State's Murujuga Rock Art Monitoring Strategy. The Strategy supports the ongoing research, monitoring, protection, conservation and management of the heritage values of Murujuga and the wider Dampier Archipelago. This research, which is additional to Woodside's ongoing scientific monitoring and research, will be undertaken in consultation with Traditional Custodians and a team of independent Australian and international scientific experts.

Indigenous communities including Traditional Custodians continue to benefit from our operations. We believe that our host communities value our presence and our contributions through financial benefit agreements, social investments, direct and indirect employment and Indigenous contracting opportunities. Woodside is clear that support for our operations and developments from our host Aboriginal communities is contingent upon caring for Country, improving economic and social outcomes and supporting the transmission of cultural knowledge from old people to young people.

Legislative Review and Recommendations

There are cases in Western Australia and in other jurisdictions that demonstrate the potential for industry and development to coexist with Indigenous heritage places and even enhance heritage values. New heritage legislation must build on the collaborative heritage processes and successful examples of coexistence that have been demonstrated over recent decades. Indigenous peoples and communities are central and need to be involved in any development, implementation and review of cultural heritage policies, practices and legislation. Woodside supports the reviews of the *Aboriginal Heritage Act 1972 (WA)* and the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* and offers the following recommendations:

Recommendation 1: Changes to heritage legislation should seek to build on successful models of coexistence by prioritising collaboration and agreement making rather than onerous 'one-size-fits-all' regulation and approvals processes.

Recommendation 2: Support is given to the Western Australian government's timely review of the *Aboriginal Heritage Act 1972 (WA)* and the introduction of the *Aboriginal Cultural Heritage Bill 2020 (WA)*.

Recommendation 3: Consideration of changes to Commonwealth heritage legislation should be conducted after, or at least having regard to the Western Australian government's review of the *Aboriginal Heritage Act 1972 (WA)*. This may prevent misalignment or overlap of legislation. Contradictory, misaligned or duplicated regulation is likely to increase complexity and uncertainty for Indigenous people and proponents alike.

Recommendation 4: The Inquiry note the finding of the Interim Report of the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999* that “the EPBC Act has failed to fulfil its objectives as they relate to Indigenous Australians. The suite of national-level laws that protect indigenous cultural heritage in Australia needs comprehensive review”. Pending such a review, and subject to our Recommendation 3 above that State legislation should take priority, our preliminary view is that the EPBC Act is not the appropriate legislation for further protection of Indigenous heritage and is unlikely to be capable of amendment to address its own weaknesses or any perceived weaknesses in state legislation.

Recommendation 5: Woodside supports the principle of a timebound, expedient and transparent right of appeal for Traditional Custodians under future State and Commonwealth heritage legislation.

Recommendation 6: The Inquiry and future legislation must take account of the existing agreements and consents that have already been secured between proponents and Traditional Custodians.

The Murujuga Aboriginal Corporation (MAC) has reviewed this submission and acknowledges the statements and principles contained within.

Thank you for the opportunity to provide a submission to this Inquiry.

Yours faithfully,

Daniel Kalms
Senior Vice President Corporate and Legal