

To the Joint Standing Committee that's conducting the inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia, I would like to thank you for the opportunity to make a submission with particular reference to:

- (a) the operation of the Aboriginal Heritage Act 1972 (WA) and approvals provided under the Act;
- (b) the consultation that Rio Tinto engaged in prior to the destruction of the caves with Indigenous peoples;
- (c) the sequence of events and decision-making process undertaken by Rio Tinto that led to the destruction;
- (d) the loss or damage to the Traditional Owners, Puutu, Kunti Kurrama and Pinikura people, from the destruction of the site;
- (e) the heritage and preservation work that has been conducted at the site;
- (f) the interaction, of state indigenous heritage regulations with Commonwealth laws;
- (g) the effectiveness and adequacy of state and federal laws in relation to Aboriginal and Torres Strait Islander cultural heritage in each of the Australian jurisdictions;
- (h) how Aboriginal and Torres Strait Islander cultural heritage laws might be improved to guarantee the protection of culturally and historically significant sites;
- (i) opportunities to improve indigenous heritage protection through the Environment Protection and Biodiversity Conservation Act 1999; and
- (j) any other related matters.

Keeping the same order for this submission, on the government website it states "The Aboriginal Heritage Act 1972 (AHA) protects all Aboriginal heritage sites in Western Australia, whether or not they are registered with the department." Then continues with "Consent is required from the Minister for Aboriginal Affairs for any activity which will negatively impact Aboriginal heritage sites. Under the AHA, Aboriginal sites of outstanding importance may be declared Protected Areas. The AHA also provides protection for Aboriginal objects." This leads me to believe the 46,000 year old cave should have been protected by this.

On to (b), if there was any consultation that Rio Tinto engaged in prior to the destruction of the caves with Indigenous peoples, Rio Tinto must have ignored everything because I do not believe they were granted permission to destroy the cave. This leads me to (c), I am quite curious to know the sequence of events and decision-making process undertaken by Rio Tinto that led to the destruction. Rio Tinto must disclose their decision-making process.

The next term or reference, (d) is best answered by the Traditional Owners, Puutu, Kunti Kurrama and Pinikura people. But I can say this, as a non-Aboriginal Australian from SA the destruction of the site has brought shame to all of Australia. I do not have

much to add to (e) mainly because believe I don't know enough to comment, similarly with (f), however I will say I find it very vague and do ask if the interaction, of any state regulations and Commonwealth laws are often or ever questioned and analysed?

The following term of reference (g) is very interesting, to point out the last part first, 'in each of the Australian jurisdictions'. Firstly I fail to see the relevance of other Australian jurisdictions when the inquiry is into the destruction of a site in Western Australia, even (a) of the terms of reference for this inquiry points us towards the Aboriginal Heritage Act 1972 (WA). Secondly on this point, and isn't the point of federal law supposed to be law that applies in every jurisdiction? On to the first half of (g) 'the effectiveness and adequacy of state and federal laws in relation to Aboriginal and Torres Strait Islander cultural heritage' this also must be broken down into two parts. Effectiveness is 0, that's why this inquiry is happening in the first place. These laws have not been 'adequate' in the sense of being effective but I will say the laws are adequate in the sense that they are easy to comprehend.

From what I can see, by large the relevant laws are not effective but the language used is adequate. This leads me to (h), it doesn't seem like many laws need to be improved, it just seems like the current ones actually need to be enforced.

The next term for reference (i) is a good one. I had a quick investigation and I believe I spotted some opportunities to improve indigenous heritage protection through the Environment Protection and Biodiversity Conservation Act 1999. Section 324A and onwards of the Environment Protection and Biodiversity Conservation Act 1999 goes into detail about places with National Heritage protections, if something that was important to people for 46,000 years isn't national heritage then nothing should be Australian national heritage.

Finally (j), the Great Wall is more than 2,300 years old. There is archaeological evidence indicating South American architecture is approximately 3,000 years old. The pyramids of Egypt's Old Kingdom were constructed some 4,500 years ago. Reports say earliest known cave art by modern humans were found in Indonesia and believed to be 44,000 years old. Meanwhile Australia is allowing mining companies to blow up 46,000 year old sites.

What has happened can not be undone but we can learn from this and make sure it never happens again. I also think Rio Tinto should pay the traditional owners.

Sincerely,

Angela Fulco