

Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia

Thank you for the opportunity to submit comments to the inquiry into issues around of the destruction of the Juukan Caves. My comments are pertinent to a number of the terms of reference (a, b, d, e, g and h) although the key issue I raise, respect for the value of the cultural material finds of the Puutu Kunti Kurrama and Pinikura (PKKP) people and their custodian rights to ownership of these objects, is not specifically referred to. I make my remarks with my knowledge of Indigenous rights with regard to their cultural materials through my long-standing professional experience in museums and with their peak bodies, both nationally and internationally. I have engaged at both policy and practical levels in the repatriation of Indigenous materials housed in Australian museum collections.

Cultural material finds

It seems clear that the Juukan caves have remained significant to the cultural practices of the PKKP people for they recently requested permission from Rio Tinto to conduct cultural practices at the site. Their request was refused as the company had reportedly already laid explosives in the area, which would destroy the caves. Highly significant cultural finds were located in the caves in excavations in 2011 and 2014, the later dig being called 'archaeological salvage'. We know from professional reports that over 7,000 stone and wooden tools and organic materials were found at the site.

Rio Tinto's admission that the finds are locked in their Roebourne office does not appear to acknowledge the importance of their cultural materials for the Aboriginal people of the Pilbara area, and indeed for the long, proud, ancient history of our continent. Rio Tinto does not appear to have changed its procedures when these historical objects were found in 2014. Or when Native Title was recognised for the land of the PKKP people in 2015.

I understand that Rio Tinto has Aboriginal cultural heritage objects from other sites stored in their Melbourne office. Why? Where are they stored? Under what conditions? Have continuing dialogues taken place with the rightful owners of these materials? Does Rio Tinto intend to repatriate the objects it is holding? If Rio Tinto is taking on a role as custodian of cultural materials, it should do so in a manner which is consistent with accepted practice, such as those developed by Australian museums and galleries.

Rio Tinto has destroyed public confidence that it recognises and respects our First Nations people's special connections with their lands and their cultural heritage. To most Australians, Rio Tinto seems to be taking shelter under the legality of its actions under Section 18 approvals granted in 2013, in spite of moral imperatives to recognise the importance of findings from the 2014 archaeological excavations, post-dating the approvals and consents.

The terms of reference for Rio Tinto's board-led heritage review appear to make no mention of cultural finds, focussing on internal processes and governance. Despite public outcries over the destruction, Rio Tinto seems unwilling - or unable - to acknowledge where its past and future responsibilities lie regarding its obligations to First Nations people and their cultural heritage.

What is accepted practice for storage, conservation, research and access to the cultural materials of Indigenous people in Australia?

The key principle is that First Nations people have the right to self-determination, particularly in respect to their cultural heritage. The United Nations Declaration on the Rights of Indigenous People acknowledges the importance of self-determination and the authority of traditional custodians and their descendants in determining the future of their cultural heritage, not mining companies, and not even museums without the express consent of the relevant local community, and then, often as shared custodians for the objects.

Museums and galleries in Australia have worked extensively with First Nations people to create protocols and procedures for the shared custodianship or repatriation of their cultural materials. The first policy, *Previous Possessions New Obligations* was developed in 1993. Many objects were repatriated to local communities when bilateral discussions indicated community desire to repossess their cultural materials, particularly skeletal remains, and objects that are considered sacred or gender specific. Over the past almost thirty years, this policy has been revised in close consultation with Indigenous Australians and is currently found at <https://www.amaga-indigenous.org.au/continuous-cultures-policy-update> (© Australian Museums and Galleries Association 2018). Museums and galleries acknowledge the deep relationships that Indigenous people have with their cultural heritage and the importance of these relationships to their continuing knowledge systems and cultural practices. How does Rio Tinto stack up against this standard of practice if it is taking on the role of custodian of Indigenous cultural materials?

The PKKP people have stated that they are distressed by the destruction of the Juukan caves. Rio Tinto must ensure that the PKKP people are given prompt opportunity to have informed input into decisions regarding the storage, conservation, access for research, and display of their cultural materials. The PKKP people have a right to know what documentation is held about the cultural heritage of the Juukan caves and the cultural materials found therein. They have a right to determine who has access to their cultural materials. They have a right to determine who should hold their cultural materials.

In a media release dated 25 May 2020, the PKKP Aboriginal Corporation quoted from an archaeological report by Slack et al 2020 (in preparation) 'The excavations at Juukan 2 provide new insights to the lifeways of the earliest human populations that inhabited the interior of the western Hammersley Plateau. The archaeological assemblage illustrates the diversity and complexity of late Pleistocene toolkits. ... The bone, charcoal and other organics preserved in the deepest levels of the site have also changed our understanding of the use of early technologies, particularly the timing of bone tool and grindstone technology in northwest Australia. The site has also featured plaited human hair, identified as part of a human hair belt. It yielded DNA associated with the contemporary PKKP, further confirming this distinctive culture. The bone point appears to be one of the oldest examples of bone technology in Australia with ochre residues. Finally, the grinding stone is one of the oldest examples of this technology known in Australia and supports the arguments for early seed grinding established by Field et al (2006) and Clarkson et al (2017)'. [<https://pkkp.org.au/media-release-2/>]

Through its holdings of Indigenous cultural materials, Rio Tinto has an absolute obligation to respect the rights of Australia's First Nations people and to acknowledge its responsibilities to humanity and traditional owners.

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