

## **Questions re Juukan Gorge Sites. Attachment to submission from Bill Gray AM**

### **Aboriginal Interests.**

- Who are the Traditional Owners (TOs) of the Juukan Gorge? Where do they live? Is there a spokesperson authorised to speak on their behalf?
- Are they represented by an Aboriginal organisation and if so, what is the organisation and where is it located?
- Do the TO's have access to legal representation, either directly or through an organisation, and if so, who are the legal advisers and how long have they represented the TO's
- Did the legal advisers inform the TO's about the existence and provisions of the ATSIHP Act? If so, when? What instructions were sought from, or given by, the TO's to make an application under the Act to protect the Juukan site? If the TO's were not informed, why?
- Did the TO's, or their representatives, lodge an application under the provisions of the Commonwealth ATSIHP Act (sections 9 & 10) at any time prior to the destruction of the Juukan site? If so, when was it made and what were the details of that application? If no application was made, why not?
- On what date did the representatives of the TO's first make representations to the Minister for Indigenous Australians seeking advice regarding the protection of the Juukan sites? Who did they speak to, what was the advice given and what was the outcome?
- How long had the TOs or their representatives known that Rio Tinto was about to destroy the Juukan site?
- How long after the representations were made to the office of the Minister for Indigenous Australians were the Juukan caves destroyed?
- Who were the representatives who contacted the Minister's office and were any of them lawyers familiar with the ATSIHP provisions?
- What advice did they receive from the Minister or his office? Did the Minister or his office inform them of the provisions of the ATSIHP Act? If so, when did they receive that advice and what action did the TO's or their representatives take following receipt of that advice?

- Did the Minister for Indigenous Australians or his office inform the TO's or their representatives that the ATSIHP legislation was the relevant Commonwealth legislation and that it was administered by the Minister for the Environment and her department? If so, when was that information given to them, who gave it to them and what did they do on receipt of that advice?

### **The Commonwealth.**

- On what date did the Minister for Indigenous Australians become aware of representations from the TOs that the Juukan site was under imminent threat of destruction by Rio Tinto? What did he do? How long after he first knew of the representations from the TOs did he inform the Minister for Environment. What did he tell her and what action did she propose?
- Did the Minister contact the WA Minister for Aboriginal Affairs to seek confirmation regarding the imminent destruction of the Juukan caves and if so, how, and when did he make that contact? What information did the WA Minister provide? If no contact was made, why?
- What action did the Minister for Environment take in response to representations from the Minister for Indigenous Australians or the TOs?
- Did she invite an application from the TOs for an emergency protection declaration under the provisions of the ATSIHP legislation? If not, why?
- Did the Minister for Environment receive any applications under the ATSIHP legislation in relation to the Juukan sites? If so, when, from whom and what decision was made?
- Did the Minister for Environment provide any advice to the TO's or their representatives regarding the relevance and requirements of the ATSIHP Act in relation to the protection of the Juukan sites. If so, when was that advice given, to whom was it given and what was that advice?
- Did the Minister for Environment give any consideration to the application of the ATSIHP legislation to protect the sites at Juukan before they were destroyed?
- Section 17 of the ATSIHP Act provides for the Minister to appoint 'Authorised Officers' who, under section 18 of the Act, can make an emergency declaration to protect a site for a period of up to 48 hours,

where the Authorised Officer is satisfied that a site is under immediate threat. Was any action taken by an Authorised Officer to make an emergency declaration to protect the Juukan sites?

- How many Authorised Officers hold current appointments under the ASTIHP legislation, where are they located, what level of seniority do they hold within the department?
- How many emergency declarations have been made by Authorised Officers in the last 10 years?
- When did the administration of the ASTIHP Act transfer from the Indigenous Affairs portfolio to the Environment portfolio?
- How many applications have been received under section 9 and 10 of the ASTIHP since the legislation transferred to the Environment portfolio?
- How many of those applications resulted in declarations being made under sections 9 and 10?
- The Minister for Indigenous Australians said in a press release dated 3 June 2020, that he and the Minister for Environment spoke to the Traditional Owners following the destruction of the Juukan site and said **“it was clear that the legal framework between state and federal jurisdictions could be simplified and improved, to make heritage protection more accessible to traditional owners.”** Did he and the Minister for Environment speak specifically about the provisions of the ASTIHP Act with the TOs at their meeting and if so, what advice did they give to the TOs about why the legislation failed to protect the sites at Juukan. If they did not raise the ASTIHP legislation with TOs, why?
- At their meeting with TOs, what advice did the Ministers give about the future use of the ASTIHP legislation and the willingness of the Commonwealth Government to use ASTIHP to protect sites of major significance that are under imminent threat of destruction?
- What action has the Commonwealth taken in relation to recommendations made by the Hon Elizabeth Evatt in her 1996 report relating to the operation of the ASTIHP Act? Which of her recommendations, if any, have been enacted by the Commonwealth since that report was published?