

OPINION—Juukan Gorge Caves Destruction and its Implications

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On 24th May 2020, Rio Tinto destroyed two caves in the Juukan Gorge in the Pilbara, WA in preparation for expansion of the Brockman 4 Iron Ore mine.

This was the culmination of evaluation by archaeologists who discovered occupation evidence in these caves and rock shelters in 2003. In 2012 Rio Tinto applied for permission to mine the site.

This was approved in 2013 under Section 18 of the WA Aboriginal Heritage Act 1972 subject to a further archaeological study. This subsequent study determined there had been use and occupation dating back 46,000 years with many stone artefacts and a human hair belt found and dated to 4,000 years old, with genetic material related to that of the present title owners, the Puutu, Kunti, Kurrama and Pinkura (PKKP) people.

These groups have contracts with Rio Tinto, which have values based on royalties but leave them constrained when it comes to negotiation, particularly when the WA legal system is loaded against recognising other than the mining values.

This destruction has destroyed the Rio Tinto social licence. It has been compared to the Taliban destruction in 2001, of the Bamiyan Buddhas in Afghanistan.

The Western Australian government has now initiated a review of the Aboriginal Heritage Act. However, this should have been done many years ago.

The Rio Tinto CEO has been forced to resign, as have several other executives. Over 70% of current profits are attributable to the Pilbara iron ore revenues. There is an internal review in progress.

The resignations have been prompted by pressure from Australian Superannuation funds, followed by others in the United Kingdom and the Anglican Church in the UK.

Changes in the Rio Tinto organisational structure and distancing from Australian management some years ago weakened the advice being heard and understood at the Board and upper management level.

There is a Federal Parliamentary inquiry to which ASF made a submission calling for review of the WA Aboriginal Heritage Act and for such reviews to be also conducted in other States. The EPBC Act 1999 as amended, brings in some cover for National Heritage Listed sites and for cultural sites.

The Environment Defenders Office in their inquiry submission stated that Cultural Heritage Legislation needed

to be consistent with International Legislation on the rights of Indigenous Peoples. This is a possible political or legal avenue to protect such sites from damage.

This whole affair is still having ramifications for Rio Tinto but there are other Pilbara iron ore miners needing to address the same issues with their native title owners and the significance of cultural sites and their dreaming places. This issue also extends to other mining activities in Western Australia.

Such conflicts are not restricted to Western Australia nor just to mining. At present in New South Wales there is a proposal to raise the Warragamba Dam wall to protect downstream development of the expanding Sydney.

This would have the effect of inundating parts of the Blue Mountains World Heritage Area and in particular the cultural values associated with the catchment. The sites that would be affected are rock shelters in the sandstone gorges with artwork as well as numerous sites with artefact scatters.

Instead of trying to protect flood-prone property in the Hawkesbury-Nepean floodplain through other mechanisms, the simplistic solution is proposed. The Federal Department of Environment has called for a more comprehensive review of the effects on World Heritage values. In contrast, the major effects of the Snowy 2 Project were not examined in detail. These have direct effects in the Ravine Karst Area of Yarrangobilly and there are certainly inadequate provisions for dumping of the tunnelling spoil. These problems between development and protection are not limited to State jurisdictions but they are also important federally.

At present the interim review from Graeme Samuel's review of the EPBC Act has been received and the final review with recommendations is due in October 2020. However, there is legislation before the Federal Parliament that provides for many of the Federal Act's responsibilities to be devolved to the States.

This has passed the House of Representatives but it is unlikely to pass the Senate. This situation is completely confusing to interested observers. We need more discussion and inquiry before such fundamental legal changes are enacted.

The important issue here is that these problems are not going to go away and all developments need appropriate measures to protect irreplaceable cultural (and natural) values.

Legislation needs to be updated periodically as social values change. We all need to be vigilant about these issues when they occur and to then raise a fuss.

The Juukan Rock Shelter destruction has triggered repercussions which are producing a re-evaluation of laws on cultural heritage protection in all jurisdictions in Australia.