

## **Former Rio Tinto employees condemn destruction of 46,000-year-old sacred site at Juukan Gorge**

*Senate inquiry told mining company was in ‘serious breach of its own standards’ and destruction ‘was waiting to happen’*



*Protesters outside the Rio Tinto office in Perth. The Senate inquiry was told the blasting of a 46,000-year-old sacred site at Juukan Gorge was ‘a catastrophic act of destruction’. Photograph: Richard Wainwright/AAP*

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The Senate inquiry into Rio Tinto’s destruction of a 46,000-year-old sacred site at Juukan Gorge in the Pilbara has heard from former senior employees, who said the company was in “serious breach of its own standards” and that the destruction “sadly was waiting to happen”.

Other expert submissions to the inquiry, which is due to report in September, have also raised questions about why the federal government did not stop the destruction, when it had the legal power to do so.

In May, Rio Tinto faced international condemnation when it destroyed the sacred site to expand its iron ore mine. The cave in Juukan Gorge was the only inland site in Australia to show signs of continual human occupation through the last ice age and a genetic link to its traditional owners, the Puutu Kuntj Kurrama and Pinikura (PKKP) people.

The company initially said the blast followed a “misunderstanding” with the PKKP but then issued a public apology.

Rio Tinto's actions have since been compared by shareholder groups to widespread poor conduct in the financial services sector before the banking royal commission. The company was also stripped of its partner status with Reconciliation Australia.

Rio Tinto received ministerial consent to destroy or damage the site in 2013 under Western Australia's outdated Aboriginal heritage laws, which were drafted in 1972 to favour mining proponents.

The WA Aboriginal Heritage Act does not allow for a consent to be renegotiated on the basis of new information, nor does it give traditional owners any formal right of consultation or appeal.

The WA minister for Aboriginal affairs, Ben Wyatt, a Yamatji man, said he had not known about Juukan Gorge until after the blast happened. But his department was aware. The Department of Planning, Lands and Heritage held a pre-arranged meeting with advisers for the Puutu Kunti Kurrama and Pinikura people (PKKP) four days before the blast. It told the PKKP advisers there was no way to revoke the section 18 approval, and called Rio Tinto after the meeting.

Federal Indigenous Australians minister Ken Wyatt, also a Yamatji man and cousin to his West Australian counterpart, admitted lawyers from the PKKP contacted his office on 20 May, seeking an injunction under federal laws.

Wyatt referred them to the environment minister, Sussan Ley, who has carriage of the federal Aboriginal heritage protection act.

Wyatt told the ABC the PKKP lawyers did contact Ley, but "by then it was too late". His office did not follow-up with Ley until after the sites were destroyed.

Former senior Commonwealth public servant Dr Bill Gray helped draw up and administer the act when it began in 1984. Gray said the act could have been used to stop the blast, and questions must be asked about why it failed.

"It is legislation of last resort which enables the minister to exercise his or her discretion to intervene," Gray said. "It can be used to override state legislation or other agreements, provide emergency declarations to protect significant Aboriginal sites that are in imminent danger of being destroyed."

Gray said the Senate should clarify the "sequence of events and decision making process" undertaken by federal ministers to protect the Juukan site from being destroyed.

"Unless these questions are answered, it will remain unclear as to how, in 2020 Australia, a site of such traditional and world significance could be the

subject of such a catastrophic act of destruction by one of the largest mining companies in the world which, until now, had promoted itself as having exemplary and respectful relationships with the local traditional owners in the Pilbara,” he said.

“Commonwealth legislation exists which could have protected the Juukan Gorge site. Why did it fail on this occasion?”

World-leading archaeologist Prof Glynn Cochrane, who spent 20 years implementing Rio Tinto’s social performance program, said the company had offered “no convincing explanation” for the destruction of the caves.

“It was not done for gain,” Cochrane said. “[Former Rio boss] Leon Davis said it was not worth the few tons of iron ore the company might achieve.”

Rio Tinto’s management of cultural resources in the Pilbara had been “stripped down” in recent years, Cochrane said. The focus is on securing “quick clearance – the removal of impediments to mining – something that too frequently results in the destruction of sacred sites”.

“While legal changes may discourage bad behaviour they cannot necessarily promote the good behaviour and enlightened stewardship that is now missing,” he said.

Another long-term senior Rio Tinto employee, Bruce Harvey, said a loss of expertise in cultural heritage management at the company was a factor.

“These included world-class archaeologists and anthropologists who had the necessary seniority in Rio Tinto and sufficient forthrightness to have spoken up on the folly of the proposed destruction,” Harvey said.

Harvey worked for Rio Tinto for seven years as a senior adviser on social performance, after 27 years as a geologist and chief adviser to Rio Tinto and its predecessors on Aboriginal community relations.

“While Rio Tinto was not in breach of the law, I contend it was in serious breach of its own standards and world leading guidance on the matter of cultural heritage management,” Harvey said. “Juukan, or an event like it, sadly was waiting to happen and perhaps overdue.”

Australian National University emeritus professor Jon Altman, who has researched land rights and native title matters for more than 40 years, said Indigenous people had a right to expect stronger protection of their cultural heritage.

“There is currently a culture of tokenism and symbolism” that marginalises Indigenous knowledge and views, while mining companies hold influence over legislation, he said.

“I am not suggesting that multinational corporations like Rio Tinto and BHP and others have operated outside the letter of the law,” Altman wrote. “What I am saying is that they have been far too influential in shaping the law to suit their instrumental extractive profit-seeking interests.”

He said “at all jurisdictional levels in Australia there is a degree of state capture by industry” while the native title act is “frozen in the past”.

The limited rights offered to traditional owners leave them with little bargaining power Altman said, and “being forced to sign off on risky agreements that result in debacles like the destruction at Juukan Gorge”,

Rio Tinto has said it will provide a submission to the senate inquiry, and its global chief executive, Jean-Sébastien Jacques, will appear at its hearings. Jacques has also said the company’s board is conducting a separate review, which would be made public.

The inquiry is due to report in September.