

Rio Tinto did not notify pastoral leaseholder of plans to destroy nearby Juukan Gorge, inquiry hears

Evan Pensini accessed the information using FOI after five years of asking miner about intentions for the area

By Lorena Allam
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Juukan Gorge site before the 2020 blast. Evan Pensini, who owns the nearby Cheela Plains pastoral lease, has told a hearing Rio Tinto did not notify him of the intended use of the land and he had to lodge an FOI request. Photograph: PKKP Aboriginal Corporation

The owner of a pastoral lease near Juukan Gorge had to fight for several years to find out anything about Rio Tinto's plans for a mining expansion in the area, a federal inquiry into the miner's destruction of the 46,000-year-old Aboriginal sacred site has heard.

The owner of the Cheela Plains pastoral lease, which covers half a million hectares of land bordering Rio Tinto's Brockman 4 mine, said he was surprised the site was destroyed because it had been known since 2014 it was significant.

"Dealings with Rio Tinto since the 1970s have been very poor," Evan Pensini told the inquiry at public hearings in Karratha on Monday.

"In 2006 [when the mine expansion was granted Western Australian government approval] at no point were we notified. Between 2008 and 2010, we tried to find out what Rio Tinto's intentions were for the mine and pastoral lease."

In 2011, Pensini said his lawyer had to use freedom of information legislation to access documents about the mine, “because Rio Tinto would not come forward”.

“Prior to us really taking a tough stance in 2011, Rio Tinto didn’t want to tell us anything about the mine,” he said.

Since 2017, Pensini said the relationship had improved with middle management at Rio Tinto, but the right balance is yet to be struck between resource extraction and the natural landscape.

“The area in question around the mine is a part of the country that has been special to me since I was young,” Pensini said.

“We have our goals as pastoralists to look after the land, to pass it on to future generations in better shape than we found it. That has been our goal since the 1970s, so our bond and respect for the land is great.

“What we’ve seen ... is the mineral resources are the target and the natural aspect of the land is something that’s forgotten,” he said.

“Our preservation of the pastoral lease is under threat.”

Pensini said he had known about the significance of the rock shelters at Juukan Gorge since heritage surveys – paid for by Rio Tinto – were done in 2014. He said he assumed that Rio Tinto knew as well.

“They just gave us a footprint map that said where [the pit] was going to be. I knew the shelters were in the vicinity, I just presumed there was no way they’d mine over the top of them,” he said.

Inquiry chairman Warren Entsch asked: “So you’d really have to be from another planet not to know there was something there?”

“Correct,” Pensini said.

He said the Cheela Plains pastoral lease is “literally covered in exploration leases, mining leases or special purpose leases, from small prospectors to large mining companies, so we will get notification of prospecting, surveys, drilling, whatever sent through the mail, then are given a time period to object or ask for more info”.

“We physically cannot stop anything unless it is destroying part of our infrastructure. Apart from that we don’t have any control.”

Robe River Kuruma Aboriginal Corporation CEO Sarah Slattery told the inquiry that they spend the majority of their time and resources dealing with dozens of mining company requests at once in an unequal relationship and under existing heritage legislation, “we can never say no”.

“I would say we don’t make much money at all out of mining,” Slattery said, adding that it was a misconception that Aboriginal people have grown “rich” from royalties.

The cumulative impact of mining is hard to manage, she said.

“Not only Rio, we have everybody else out on country,” Slattery said. “And we are worried about what will be left for our children and grandchildren; there will be nothing left for them.”

Earlier in the day, the committee spoke in private with the Puutu Kunti Kurrama and Pinikura traditional owners of Juukan Gorge for several hours, before holding public meetings in the afternoon.

It is their first opportunity to travel to the Pilbara since Covid-19 border restrictions were put in place.

The committee will travel to Juukan Gorge on Tuesday to see the site for themselves.

The parliamentary inquiry was set up after Rio Tinto destroyed the 46,000-year-old Aboriginal sacred site in the Pilbara in May. The committee is looking into how the destruction came about, the processes that failed to protect the site, and the legislative changes required to prevent it happening again.

Enstch said an interim report will be released in December.