



27 July 2020

Senator The Hon Marise Payne
Minister for Foreign Affairs
PO Box 6100
Senate
Parliament House
Canberra ACT 2600

Re: Destruction of the significant rock shelters located in Juukan Gorge, Hammersley Ranges

Dear Minister Payne,

I am writing to you in your capacity as Foreign Minister, which includes UNESCO, and as the minister overseeing Australia's Compliance to the UN Convention on the Rights of Indigenous Peoples. I have also written to Minister Wyatt since it was the Puutu Kuntjirra and Pinikura people, the traditional owners who made contact once they found out that Rio Tinto proposed to detonate the Juukan Gorge rock caves; a site not only significant to the Traditional owners but also to the global community.

Like many Australians, Quakers were shocked and saddened to hear of the destruction of those 46,000-year-old sacred and archeologically significant rock shelters located in the Hamersley Ranges by Rio Tinto.

Although artifacts had been removed from the site and there was consultation with Traditional owners in 2014, Rio Tinto in expanding a mine, has destroyed a place of significant cultural heritage to Australia and the world. A consequence is unknown loss of cultural and other significant artifacts and scientific evidence of ancient human civilization. Further Traditional Owners stated they were only informed of the scheduled destruction when making a request to enter the area for NAIDOC week celebrations, nine days before the detonation took place. They describe the loss was "soul destroying". We share in their grief.

The company's action was an act of cultural insensitivity and departed from most measures of corporate social responsibility. It also highlights serious deficiencies in state oversight. Subsequent plans by other companies planning site destruction have alerted the world to Western Australia's inferior heritage legislation.

We were also disturbed to hear that the frantic call for assistance to your office, Minister Wyatt, was not given the urgency it deserved and that numerous section 18 exemptions held by a range of mining companies and other organisations throughout Western Australia remain in place. Many that are granted over culturally and possible internationally significant sites. Aside from the grief this causes to local communities, such exemptions bring Australia into international disrepute.

Australia Yearly Meeting

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We observe that, since 2010, all 463 applications to the Aboriginal Cultural Material Committee to excavate, destroy, damage, conceal and alter Aboriginal Cultural sites were granted with no right of appeal or the ability to overturn the decision even by the Minister. Further the Committee overseeing the application was not required to consult or involve Traditional Owners in their deliberation.

We welcome Western Australia's Minister of Aboriginal Affairs Ben Wyatt's commitment to remove section 18 from the new 'The Aboriginal Cultural Heritage Bill' to be brought before the WA parliament later this year. We are deeply concerned no existing section 18 exemption will be reviewed.

Further it has been reported that the new heritage legislation would focus on mutual agreement between traditional owners and proponents. That "It will ... include a process to consider new information that may come to light, and allow the parties to be able to amend the agreements by **mutual consent**," and "The legislation will also provide options for appeal should either party not be compliant with the agreement."

If so, this is deeply troubling. It would suggest that the legislation fails to acknowledge the power difference between multinational mining companies with immense wealth and political influence and traditional owners—among the most disadvantaged people in our society, a consequence of generations of racist laws and attitudes developed and implemented by successive Australian Governments.

The behaviour and limited response from Rio Tinto in relation to the demolition of Juukan Gorge rock shelters highlights the gap between community expectations and corporations that fail to live up to these expectations.

We therefore request that you liaise with the WA Government in the drafting of the new Aboriginal Cultural Heritage Bill to ensure it fully reflects the unique contribution First Nations People have made to the broader human family and their ongoing custodianship of this ancient land; as well as the commitment the Australian Government gave to the protection of significant world heritage cultural and scientific sites and the right of self-determination and protection of the cultural and economic rights of Australia's Indigenous Peoples, outlined in the UN Declaration of Indigenous People rights to which we are a signatory.

If the Western Australian parliament is unable to pass such an Act, we ask you to use your constitutional powers to enact a Federal Aboriginal Cultural Heritage Act that will do so.

Do we have your commitment to honor the obligations we as a nation committed to when we signed the United Nations Declaration of Indigenous People Rights and became a founding member of UNESCO?

Respectfully,



Ann Zubrick
Presiding Clerk
The Religious Society of Friends (Quakers) in Australia

cc: Hon Ken Wyatt
Hon Linda Burney
Hon Penny Wong

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