

Board Review of Cultural Heritage Management

23 August 2020

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THE PURPOSES OF THIS REVIEW

1. On 24 May 2020 activities related to Rio Tinto's development of its Brockman 4 mine in the Pilbara region of Western Australia resulted in the destruction of rockshelters (known as Juukan 1 and Juukan 2) on the land of the Puutu Kunti Kurrama and Pinikura people (**PKKP**). Rio Tinto has unreservedly apologised to the PKKP for that destruction. We reiterate that apology at the outset of this review. The destruction of the Juukan rockshelters should not have occurred. We deeply regret the damage that has been done to our partnership with the PKKP and we are committed to working with them to restore it. We understand the depth of anger that our actions have caused more widely in Australia and internationally, and we are determined to learn the lessons from this event so that the destruction of heritage sites of exceptional archaeological and cultural significance, such as the Juukan rockshelters, never occurs again.
2. This Board Review was initiated to examine Rio Tinto's heritage management within our Iron Ore Group and to recommend improvements to the effectiveness of our internal processes and governance. The conclusions reached in this review will be applied as learnings across the Rio Tinto Group.
3. The broad context in which this review is set relates to modern mining operations on the ancient continent of Australia which has been home to Indigenous people – the First Australians – for tens of thousands of years. They are the Traditional Owners of the land on which Rio Tinto operates. They have unique connections to country that must be valued and respected. In a region such as the Pilbara, with its many thousands of sites of cultural, spiritual, ethnological and archaeological significance, Rio Tinto has a special responsibility to work with Traditional Owners and Indigenous communities in protecting those sites or mitigating impacts on them when they occur.
4. In the case of the Juukan 1 and Juukan 2 rockshelters, processes and interactions designed to facilitate the preservation of heritage sites of exceptional archaeological and cultural significance failed to prevent their destruction. We deeply regret that outcome. The Rio Tinto submission to the Inquiry by the Australian Parliament's Joint Standing Committee on Northern Australia into the destruction of the rockshelters set out *what* happened in the lead-up to that event.¹ This review addresses *why* it happened and how Rio Tinto can improve its practices to prevent such destruction in the future.
5. Heritage reflects the story of a society or group, and what makes that story distinctive, now and into the future. People relate to heritage at many levels, including through culture, history, the environment and affinities with the sacred and the spiritual. Heritage can be embodied in artefacts, sites and structures as well as in beliefs, customs, language, religion, art, performance, a sense of belonging and the spirit of a place. The communities among which Rio Tinto operates take great pride in their heritage – its diversity, its richness and its centrality to their lives. This is especially the case in the Pilbara where Rio Tinto's mining operations are conducted on the lands of many Traditional Owners and Indigenous communities. We reaffirm our commitment to working

¹ Accessible at this link: <https://www.aph.gov.au/DocumentStore.ashx?id=a40d53cc-020b-458d-a75f-6f02fa3e9906&subId=690644>

co-operatively with them in managing and protecting the heritage sites within the areas where our mining takes place.

6. Rio Tinto produces materials essential to human progress. By doing so efficiently, effectively and responsibly, we aim to create sustainable value for all our stakeholders, including local communities. We seek to minimise the harmful impact of our activities on both natural and cultural heritage, but where such impacts are unavoidable, we obtain all necessary authorisations, engage intensively with those affected and seek to ensure that practical and effective mitigation measures are in place.
7. Rio Tinto sets out its heritage responsibilities and obligations through internal Standards, Policies, Procedures and other guidelines that apply across the Group. Underlying all of these responsibilities and obligations is a clear recognition that the protection of cultural and archaeological heritage is an inherent part of our role as a resources company, and this forms a critical component of our social licence to operate and the sustainability of our operations. In particular, we are committed to ensuring that our operational and business requirements are managed in ways that are sensitive and responsive to the values and expectations of Traditional Owners and Indigenous communities.
8. In putting these priorities into practice, the most important pre-requisite is long-term relationships of trust, confidence, respect and deep engagement with Traditional Owners and Indigenous communities. This is the foundation on which Rio Tinto builds the planning, operational and organisational infrastructure that is required for the development of its business opportunities, and for the protection of cultural heritage. In relation to cultural heritage, in particular, Rio Tinto's Standards and other internal guidance are designed to ensure that Rio Tinto:
 - understands the significance and meaning of cultural heritage sites through close relationships with Traditional Owners and Indigenous communities as well as through ethnographic and archaeological research and other heritage assessments;
 - undertakes and regularly updates robust and thorough risk assessment, and management of cultural heritage sites;
 - develops and implements a fit-for-purpose cultural heritage management system at sites;
 - establishes clear priorities for avoiding or minimising impacts on cultural heritage sites, or where the avoidance of impacts is not practicable, secures necessary approvals and engages in appropriate consultations and communications;
 - agrees with Traditional Owners on appropriate mitigation and salvage work when required and appropriate;
 - integrates effectively cultural heritage management, mine planning and mine operations, including through effective co-ordination and data management;
 - implements specific strategies for managing previously unrecorded or unidentified heritage sites;

- keeps potentially affected communities as fully informed as practicable about the activities of the business and their effects before they occur;
 - observes relevant international benchmarks in relation to cultural heritage management and the rights of Indigenous Peoples;
 - ensures that cultural heritage priorities apply across all stages of a project and mine lifecycle and reflect changes in knowledge and awareness;
 - establishes clear lines of accountability for cultural heritage management; and
 - conducts appropriate heritage awareness and training among all employees and contractors.
9. These responsibilities and obligations, which are set out in Rio Tinto's own Standards and benchmarks, operate over and above legal requirements and the provisions of formal agreements to which Rio Tinto is a party.
10. The purposes of this review are to: (i) assess the extent to which Rio Tinto's Standards and internal guidance were implemented through the long course of events that led to the destruction in May 2020 of the Juukan rockshelters in the Brockman 4 mine area; (ii) consider whether the processes and priorities which frame Rio Tinto's management of cultural heritage issues are appropriate to contemporary requirements and future needs; and (iii) identify improvements in Rio Tinto's organisational and governance arrangements, work culture, as well as partnerships, for responsibly managing cultural heritage issues.
11. Underpinning each of these purposes is our resolve to ensure that the destruction of heritage sites of such exceptional cultural and archaeological significance as the Juukan rockshelters does not occur again and our commitment to re-build our partnership with the PKKP based on trust and respect.

THE CONTEXT AND TIMELINES LEADING TO THE EVENTS AT JUUKAN GORGE IN MAY 2020

12. Over 13,300 ethnographic and archaeological sites have been identified within Rio Tinto's land position in the Pilbara. The majority of these sites are preserved *in situ* as a result of our mining operations and infrastructure either avoiding them or working around them. However, in the context of the land area impacted by iron ore mining and the number of heritage sites, some impacts are unavoidable. In these cases, Ministerial consent is required (see paragraph 18 below).
13. The Brockman 4 mine, which commenced in 2010, is one of 16 integrated iron ore mines that Rio Tinto operates in the Pilbara region. The mine is located partly on the traditional land of the PKKP and partly on the traditional land of the Eastern Guruma People. The Juukan 1 and Juukan 2 rockshelters are within the Juukan Gorge on PKKP country and on the western side of the Brockman 4 mine (on the edge of Pit 1). The Juukan Gorge also contains other rockshelters and areas of cultural heritage significance.
14. Interactions between Rio Tinto and the PKKP began in 2003 in relation to proposed future operations on PKKP traditional lands. In March 2011, two Agreements were concluded which have critically shaped and informed the relationship between Rio Tinto and the PKKP.
15. One agreement was the Regional Framework Deed (**RFD**) which established seven Regional Standards, including a Regional Standard on cultural heritage, designed to govern the relationship at a regional level in the Pilbara between Rio Tinto and the Traditional Owners who "opt-in" to the RFD. As one of the Traditional Owners who negotiated the RFD, the PKKP became one of the first "Opt-in Groups" when the RFD was executed in 2011.
16. The Cultural Heritage Management Regional Standard (**CHMRS**) in the RFD includes an obligation on Rio Tinto to develop Cultural Heritage Management Plans (**CHMPs**), employ or retain professional heritage staff and maintain a heritage management system. It also includes commitments to undertake heritage surveys at the earliest practicable stage of a project development and identify sites of special significance, give planning consideration to the likely impact of mining activity on Aboriginal cultural heritage generally and specific Aboriginal sites in particular, and take all practicable measures to avoid sites of special significance. Other Regional Standards in the RFD include employment and training, business development and contracting.
17. In addition to the RFD, the Rio Tinto Iron Ore and PKKP Claim Wide Participation Agreement (**PA**) was concluded in March 2011. It replaced the Binding Initial Agreement (**BIA**) that had been executed in 2006. Among other things, the PA provides a framework for Rio Tinto to conduct iron ore mining operations in the "Agreement Area" with the consent of the PKKP; arrangements for "Mining Benefit Payments" and co-operation on employment and contracting opportunities; and processes for approval of specific survey and development projects affecting heritage sites (including under section 16 and section 18 of the Aboriginal Heritage Act 1972 (WA) (**AH Act**)) as well as for heritage and environmental management generally. The PA includes a

“Cultural Heritage Protocol” governing the way the heritage surveys and heritage management are conducted and facilitating co-operation in support of both business development and cultural heritage protection. The PA also provides a framework for Rio Tinto and the PKKP to identify “Rights Reserved Areas” encompassing sites or landscapes of “especially high cultural significance” on which the PKKP and Rio Tinto agreed that mining would not take place. Sixteen “Rights Reserved Areas” were identified. The Juukan rockshelters were not included among them. Under the PA, the PKKP and Rio Tinto established a Local Implementation Committee (**LIC**) to implement the agreement and assist in implementation of the Regional Standards established under the RFD.

18. Rio Tinto has important obligations and responsibilities under the AH Act. Under section 18 of the AH Act, Rio Tinto is required to obtain Ministerial consent to excavate, destroy, damage, conceal or in any other way alter an Aboriginal site (as defined in section 5 of the AH Act), regardless of the site’s categorisation in the PA. In order to obtain Ministerial consent, a notice must be given to the Aboriginal Cultural Material Committee (**ACMC**) advising that the use of land is required for a purpose that would otherwise be likely to breach section 17 of the Act. A section 18 notice is commonly accompanied by ethnographical and archaeological survey reports conducted in consultation with relevant Traditional Owners. The ACMC makes a recommendation to the Minister as to whether consent should be given and what conditions, if any, should attach to that consent. The Minister then makes a decision either to grant the consent (with or without conditions) or decline to grant consent. In particular, the PA between Rio Tinto and the PKKP specifies a framework of interaction that applies in circumstances where a section 18 notice is to be given by Rio Tinto, as was the case in 2013 in relation to the Juukan 1 and Juukan 2 rockshelters.
19. A chronology of key events related to the Brockman 4 mine development, and in particular the impacts on Juukan 1 and Juukan 2 rockshelters, follows. A more detailed chronology is provided in Rio Tinto’s submission to the Inquiry being conducted by the Joint Standing Committee on Northern Australia into the destruction of the Juukan rockshelters.

Date	Event
2003	Initial engagement between Rio Tinto and PKKP on future operations on PKKP traditional lands
Mid-2003	Initial archaeological survey (by Gavin Jackson and Rachel Fry). Subsequent report assesses Juukan 1 and Juukan 2 as each having a “moderate to high degree of archaeological significance”. Initial ethnographic survey report (by Robin Stevens of the Pilbara Native Title Service (PNTS) and commissioned by Rio Tinto) notes the presence of the Juukan 1 and Juukan 2 rock shelters on the Brockman mining lease.
28 Jun 2006	Rio Tinto and PKKP enter the BIA.
1 May 2008	Section 16 permit (Permit 430) granted for collection of Aboriginal cultural material, test-pitting and excavation for purposes of archaeological investigation at Juukan 1 and Juukan 2 (among other sites).
Jul - Oct 2008	Scarp Archaeology, retained by Rio Tinto, conducts excavations in July and August at Juukan 1 and Juukan 2 with PKKP representatives and Rio Tinto representatives pursuant to Permit 430.

Date	Event
	Findings recorded in the Scarp Archaeology "Brockman 4 site re-recording and s16 excavation program" Report, October 2008 include that the Juukan sites range from at least 22,000 to 32,000 years in age and are assessed as being of "high archaeological significance".
Nov - Dec 2008	Rio Tinto commissioned Roina Williams of the PNTS to conduct an ethnographic survey, together with PKKP representatives. The "Pilbara Native Title Service Ethnographic Site Identification Survey of Brockman 4 Mine Area" Report prepared by Ms Williams notes the Juukan complex " <i>is considered to be of high ethnographic significance to the PKKP</i> ". This report referred to the Juukan complex as encompassing Juukan 1 to Juukan 5, with the Purlykuti Creek located at the base of this complex.
2010	Production commences at Brockman 4 Mine
18 Mar 2011	The RFD and PA are executed.
Mar 2012	Rio Tinto commences consideration of detailed pit designs for Brockman 4 Pit 1. Rio Tinto Heritage team contacted by Rio Tinto Technical Services team on design for Pit 1. At the Heritage team's request, the Technical Service team develop different pit design options to provide different buffer areas around Juukan 1 and Juukan 2.
Oct 2012	A memorandum with various pit design options is produced. The memorandum set out four options for the design of Pit 1, with three options avoiding Juukan 1 and Juukan 2 by varying degrees, and one option impacting the sites.
28 Mar 2013	LIC meeting: Rio Tinto shares with the PKKP the potential for a section 18 notice over Juukan 1 and Juukan 2, amongst other sites. The different pit design options that had been discussed internally were not shared with the PKKP.
June - July 2013	Ethnographic survey by Dr Heather Builth with PKKP elders and Rio Tinto heritage personnel. Dr Builth prepares a preliminary report following the survey and recommends excavation of Juukan 1 and Juukan 2. No comment on the ethnographic significance of the rockshelters specifically but notes that the " <i>Purlykuti creek with its adjacent large artefact scatter of Brock 25 and nearby rockshelters, Brock 20-24 [Juukan 1-5], is of high significance to Puutu Kuntj Kurrama, in the old days and still today.</i> " This report identifies previously unrecorded cultural sites in the vicinity and states that the PKKP had requested further surveys take place in order to consider these areas.
16 Jul 2013	LIC meeting: Presentation by Rio Tinto to the PKKP of upcoming section 18 notice over sites including Juukan 1 and Juukan 2. Notes age of Juukan 1 as at least 32,000 years old and Juukan 2 as at least 22,000 years old. Maps of the sites shown together with the pit design.
3 Oct 2013	Rio Tinto provides a draft section 18 notice for Juukan 1 and Juukan 2 (amongst others) to the Yamatji Marlpa Aboriginal Corporation (YMAC) for comment. At that time, YMAC was the body representing the PKKP, including in relation to cultural heritage matters.
17 Oct 2013	Rio Tinto submits the section 18 notice to disturb Juukan 1 and Juukan 2 (Section 18 Notice).
26 Nov 2013	LIC meeting – update provided to the PKKP that the Section 18 Notice had been submitted.
31 Dec 2013	Section 18 consent granted to disturb Juukan 1 and Juukan 2 for purpose of development of Brockman 4 Mine Pit 1 (Section 18 Consent).
26 May - 5 Jun 2014	Dr Michael Slack of Scarp Archaeology conducts first salvage excavation trip at Juukan 2 with participation from PKKP representatives.

Date	Event
Jun 2014	Dr Slack provides Rio Tinto a report entitled "Preliminary Advice of Archaeological Site Salvage Excavations at Brockman 4, Pilbara, Western Australia", which includes results from the first salvage excavation trip, conducted in May/June 2014.
1 - 12 Jul 2014	Dr Slack conducts second salvage excavation trip at Juukan 1 and Juukan 2 with participation from PKKP representatives.
14 Jul 2014	LIC meeting: Rio Tinto reported that following a salvage excavation trip between 26 May 2014 and 5 June 2014, radiocarbon testing had been performed at Juukan 2 and came back at 43,000 years.
Aug 2014	Dr Slack provides Rio Tinto a report entitled "Preliminary Advice of Archaeological Site Salvage Excavations at Brockman 4, Pilbara, Western Australia", which includes results from the second salvage excavation trip, conducted in July 2014. States that Juukan 2 is "one of the most archeologically significant sites in Australia".
5 - 14 Aug 2014	Dr Slack performs third salvage excavation field trip at Juukan 1 and Juukan 2, with participation of PKKP representatives and Rio Tinto heritage personnel. A latex peel of one of the walls of the excavation pit is taken.
Sep 2014	Dr Slack provides Rio Tinto a report entitled "Preliminary Advice of Archaeological Site Salvage Excavations at Brockman 4, Pilbara, Western Australia", which includes results from the third salvage excavation trip, conducted in August 2014.
Sep 2014	Email request from Rio Tinto Heritage team to the Rio Tinto Heritage Compliance team to change the status of Juukan 1 and Juukan 2 sites in "MapInfo" (GIS) database following Section 18 Consent and completion of salvage works, thereby removing the "buffer zone" identifying the sites on the operational mine information management system.
May 2015	Documentary funded by Rio Tinto, organised by YMAC and filmed with PKKP participation records the Purlykuti Creek area. Includes references to Juukan 1 and Juukan 2 rockshelters.
27 May 2016	Archaeological latex peel display of excavated wall from Juukan 2 installed at Brockman 4 administration building.
1 Jul 2016	LIC meeting: discussion between Rio Tinto and PKKP of artefacts salvaged from Juukan 1 and Juukan 2 sites.
16 Nov 2017	First draft of Cultural Heritage Management Plan for Brockman 4 (PKKP country) provided to PKKP. States Juukan 1 and Juukan 2 are covered by section 18 consent.
31 Dec 2018	Scarp Archaeology Final Report (Scarp 2018 Report) completed and submitted to Rio Tinto. Copy provided to PKKP and YMAC in January 2019. Confirms that Juukan 2 is of "the highest archaeological significance in Australia".
21 - 22 May 2019	LIC meeting is held, attended by representatives of PKKP and Rio Tinto. No discussion of Juukan 1, Juukan 2 or blasting plans.
1 Jul 2019	PKKP Aboriginal Corporation (PKKPAC) replaces YMAC as the "Heritage Body" with heritage management functions acting on behalf of PKKP under the PA.
28 - 29 Oct 2019	LIC meeting, attended by representatives of the PKKP, PKKPAC and Rio Tinto. Dr Builth (now PKKPAC Cultural Heritage Adviser) queries impact of mine plan on Juukan Gorge with Brad Webb (Manager of Mine Operations Brockman 4). No indication that either party followed up on this query.
24 - 28 Feb 2020	PKKP representatives, Rio Tinto personnel and PKKPAC anthropologist Daniel Bruckner undertake survey activities in the vicinity of Purlykuti

Date	Event
	Creek and Juukan Gorge for the purpose of a Social Surroundings consultation, part of the works necessary to seek Part IV approval under <i>Environmental Protection Act 1986 (WA) (EP Act)</i> for the expansion of the Brockman 4 Mine.
12 Mar 2020	LIC meeting (scheduled for April 2020) cancelled due to COVID-19.
20 Mar 2020	Draft Social Surroundings Preliminary Advice received from Daniel Bruckner identifying “Purlykuti Creek and the tributary Gorge featuring Juukan 1 and Juukan 2 rock shelters” as of high significance to PKKP.
20 Apr 2020	Final Social Surroundings Preliminary Advice issued from Daniel Bruckner to Rio Tinto and Dr Builth. Purlykuti Creek and the tributary Gorge featuring Juukan 1 and Juukan 2 remained as areas of high significance to the PKKP.
22 Apr 2020	Escalation by the Rio Tinto Heritage officer to managers of potential operational implications of the findings regarding areas including Purlykuti Creek, Juukan 1 and Juukan 2 in the Social Surroundings report.
29 Apr 2020	Rio Tinto emails PKKPAC summarising a discussion earlier that day. Stated that there was information about the Juukan tributary (associated with Purlykuti) that had not been included in reports previously. Requested that PKKPAC confirm this information was accurate.
3 - 12 May 2020	Rio Tinto drills in preparation for blasting in the vicinity of Juukan 1 and Juukan 2.
6 May 2020	PKKPAC emails Rio Tinto with a revised draft implementation plan for various initiatives involving the PKKP, PKKPAC and Rio Tinto over the 2020 calendar year, including a proposed site visit to “ <i>Celebrate Juukan 47,000 year old rock shelter with traditional owners with a site visit (s18 approved area) we would like to visit whilst we can.</i> ”
13 - 19 May 2020	Rio Tinto charges drill holes in the vicinity of Juukan 1 and Juukan 2.
14 May 2020	Rio Tinto Heritage team members meet with Dr Builth for regular discussion. Dr Builth requests permission for PKKP members to visit Juukan rock shelter sites for NAIDOC week in July 2020. Internal Rio Tinto email from Heritage team to Technical Services asks for confirmation of whether the rockshelters were physically intact.
15 May 2020	Response received from Mine Planning that the area had been loaded and was due to be blasted on Sunday 17 May 2020. Technical Services agrees to delay blast to 20 May 2020. PKKPAC informed that the area directly to the north of Juukan 1 and Juukan 2 rock shelters was due to be blasted on 17 May and that the Heritage team had requested the blast be delayed.
18 May 2020	Email received by Rio Tinto from Dr Builth on behalf of the PKKP giving notice “that the Corporation regards the Juukan Gorge and all its features in the highest possible regard due to its extreme cultural and scientific significance to us” and stating the PKKP were only made aware on the previous Friday (15 May 2020) that “ <i>the high level of significance of this place has not been communicated to a sufficient level or formalised by the former PKKP AC representative heritage body with action to ensure its protection.</i> ” Attached to the email was a report referring to certain cultural sites previously referred to in the Builth 2013 Report (see above). PKKP request escalated within the business to various members of the Rio Tinto Iron Ore Senior Leadership Team (SLT), and a meeting of Rio Tinto personnel is held in the evening.
19 May 2020	Further discussions and communications with PKKPAC. At this stage the blast is planned for Wednesday 20 May.

Date	Event
20 May 2020	Comments from PKKPAC blasting expert received. Rio Tinto engaged separate blasting expert to provide advice.
21 May 2020	Meeting of SLT and others agreed to await Rio Tinto's independent technical blast advice. Advice received in the evening from technical expert that it was unsafe to unload the whole blast. J-S Jacques, Chief Executive Officer, first made aware of potential issue with the blasting of Juukan 1 and Juukan 2 rockshelters.
22 May 2020	Morning - Rio Tinto and PKKPAC independent experts agree it is not safe to unload whole blast so will have to proceed with blast. Afternoon - SLT meeting to review the recommendation and confirm the decision to blast, but authorise action to try to preserve additional cultural sites on the periphery of the blast zone.
23 May 2020	Suction truck removes seven loaded holes prior to the blast to minimise impact on the additional cultural sites.
24 May 2020	J-S Jacques first made aware of the exceptional archaeological and cultural significance of the Juukan rockshelters. The blast detonated. Juukan 1 and Juukan 2 severely impacted.

KEY FINDINGS

20. The men and women who make possible the operation of Rio Tinto mining in the Pilbara are highly skilled, dedicated and responsible people. They include mine planners, mine operators, those engaged in communities, heritage and environmental protection, those involved with logistics, administration and maintenance, those working on exploration and potential future developments, those managing particular mine sites, as well as those responsible for the Pilbara operations generally. Together they constitute an impressive team producing generally outstanding results. But on some occasions, events happen that should not occur. One such event was the destruction of the Juukan 1 and Juukan 2 rockshelters in May 2020. And when those events do happen, we need to identify why they happened, what parts of our systems and decision-making did not work as they should have, learn the lessons and make changes so that such deeply regrettable outcomes do not occur again.
21. In December 2013, Rio Tinto obtained legal approval under section 18 of the AH Act to disturb the Juukan rockshelters as part of the development of the Brockman 4 mine area. However, in the processes leading to their destruction in May 2020, Rio Tinto failed to meet some of its own internal Standards and procedures in relation to the responsible management and protection of cultural heritage. Some decisions taken and judgements made at different points in time over a long period lacked contextual awareness. Linked-up decision-making was lacking at critical points. Some dimensions of governance and oversight needed more rigour. Aspects of an inclusive work culture needed to be stronger. Means of escalating unresolved issues to more senior leaders were not always accessible or utilised. There was inflexibility in processes and systems to accommodate material new information in appropriate ways, accentuating silos rather than connectedness in organisational structures. And very importantly, Rio Tinto's relationship with the PKKP lacked the openness and depth of engagement that it needed at critical times. We deeply regret these shortfalls and we are committed to rectifying them.

Critical decision-making phases

22. There were three critical phases for decision-making in the lead-up to the impacts on the Juukan 1 and Juukan 2 rockshelters. The first related to decisions that were made between 2012 and 2013; the second and third related to decisions that could have been made, but were not, between 2013 and 2014, and between 2018 and 2020. Underlying the three phases were perspectives, priorities and organisational rigidities that constituted root causes of the events that occurred at Juukan Gorge in May 2020.

- **2012 - 2013**

23. The first critical phase was the period in 2012-13 when the mine design for the Brockman 4 Pit 1 was decided. Four pit options were considered. Three avoided the Juukan 1 and Juukan 2 rockshelters to varying degrees. The fourth option impacted the rockshelters in order to access higher volumes of high-grade iron ore. This was the mine design option chosen by Rio Tinto and it was the one that was advised to the PKKP in March 2013 as the basis for the section 18 notice that was submitted later that year.

24. The framework documents agreed by Rio Tinto and the PKKP, and in particular the RFD and the PA, provided one important context in which the 2013 mine decision was made. There was also a broader context for that decision which related to Rio Tinto's own Standards and internal guidance.
25. Under the RFD's Cultural Heritage Management Regional Standard, Rio Tinto committed to take all practicable measures to avoid Sites of Special Significance. The definitions set out in the RFD specify that Rio Tinto, "acting reasonably", had the final decision in determining whether it was practicable to avoid Sites of Special Significance. In doing so, Rio Tinto could take into account factors such as the views and concerns of Opt-in Groups, safety, operational and business constraints, timetables and objectives, cost and delay, geographic, engineering and construction constraints as well as legal, regulatory and other approval requirements. The CHMRS notes that it will generally not be practicable to avoid a site that is located on an ore body. However, it also notes that the extent of effort and cost involved in avoiding or mitigating impacts needed to be balanced against the level of significance of the relevant site – with a consequence being that the higher the significance of a cultural heritage site, the greater the relative level of effort and cost that would be justified in avoiding or mitigating impacts.
26. In addition, the RFD also set out Rio Tinto's commitments including the "early identification of Aboriginal sites", consideration of the impact of mining activities on them as well as consultation on preserving heritage values or on minimising or mitigating the loss or diminution of those heritage values.
27. This complex set of considerations set out in the RFD, and referred to in the PA, in relation to Rio Tinto operations affecting Pilbara sites of cultural significance called for carefully balanced judgements by Rio Tinto in relation to mine design impacting the Juukan rockshelters, close co-operation with the PKKP and linked-up decision-making within the Rio Tinto system. This was particularly important in light of the high ethnographic and archaeological significance of the Juukan sites already indicated in the 2008 reports of Ms Roina Williams and Dr Michael Slack. On the other hand, this same information was available to the PKKP when they entered into the PA in 2011 and granted their consent to mine within the Agreement Area, which included the Juukan sites. With more widely informed judgement and more consultation, the 2013 mine design for Pit 1 at Brockman 4 might have preserved the option to protect the Juukan 1 and Juukan 2 rockshelters, pending the further surveys undertaken in 2014 to establish more clearly the heritage significance of these sites.
28. In addition to consistency with the RFD and the PA, the mine design decision made in 2013 also needed to meet Rio Tinto's own Standards (particularly the Communities and Social Performance Standard and the Risk Management Standard) as well as other internal guidance including alignment with the UN Guiding Principles on Business and Human Rights and the International Finance Corporation Performance Standard 7 on Indigenous Peoples (**IFC PS7**). Those Standards and that guidance did not specify criteria for determining "practicability" in the context of avoiding damage to places of cultural heritage significance. However, given the priority they accorded to the principle of avoiding disturbance to areas of high cultural significance, as well as the destructive impact of the mine design option that was chosen at Brockman 4 in 2013 on a heritage site already identified in 2008 as being of high

significance, a review of that mine design decision should have been initiated taking into account a full risk assessment of heritage and social risks, including the risks associated with destruction of the Juukan rockshelters. It appears that such a review did not take place in ways that aligned with our Standards and internal guidance, which suggests that heritage considerations were not accorded the priority they deserved in the mine planning decision process.

29. Furthermore, the advice given to the PKKP at the LIC meeting in March 2013, and thereafter, did not give the full context of the mine design options considered by Rio Tinto in relation to the Brockman 4 Pit 1 development and implications for the Juukan 1 and Juukan 2 rockshelters. That approach to the flow of information with a partner such as the PKKP was not consistent with our Communities and Social Performance Standard, our internal guidance on cultural heritage management and our commitment to alignment with IFC PS7.

- **2013 - 2014**

30. Developments in 2013-14 were also highly relevant to the impacts on the Juukan rockshelters. This was a time in which material new knowledge and understanding of the Juukan Gorge came to light as a result of expert ethnographic advice in July and September 2013 and archaeological excavations and preliminary reports in 2014. With the ethnographic reports of Dr Builth in July and September 2013, and the preliminary archaeological reports of Dr Slack in 2014, important new knowledge and understanding were gained about the Juukan Gorge area that was not available at the time that the decision in relation to the Brockman 4 Pit 1 mine design was made in early 2013. In particular, one of Dr Slack's preliminary reports in 2014 identified the Juukan 2 rockshelter as "one of the most archaeologically significant sites in Australia".
31. This material new information that came to light after the 2013 mine design decision was made should have led to a re-consideration and adjustment of the decision. It is deeply regrettable that this did not occur.

- **2018 - 2020**

32. Dr Slack's final report, which was based on his 2014 field trips to the Juukan rockshelters, was provided to Rio Tinto on 31 December 2018. The report confirmed and amplified the conclusions reached in the preliminary reports of 2014. Dr Slack described the Juukan 2 rockshelter as of "the highest archaeological significance in Australia" containing "a cultural sequence spanning over 40,000 years ...". Dr Slack noted that the Juukan 2 rockshelter "... has the amazing potential to radically change our understanding of the earliest human behaviour in Australia. To date there is no other site of this age with faunal remains in unequivocal association with stone tools. The significance of this cannot be overstated."
33. In addition, in early 2020 Dr Bruckner's Social Surroundings report added further knowledge about additional locations of high cultural significance in the Juukan Gorge. It built on earlier work that pointed to the Juukan Gorge as a connected complex rather than a number of isolated cultural heritage sites.

34. These changing realities in the period from 2018 should have prompted a review within Rio Tinto of the implications of the new ethnographic and archaeological reports for the Brockman 4 mine development plans, and especially their timing and sequencing. Such a review should have been initiated even in the absence of a formal request by the PKKP. It should have involved input that included formal risk assessment and proactive management of the heritage and social consequences associated with the planned destruction of the Juukan rockshelters. It should have been co-ordinated at appropriately senior levels from areas within Rio Tinto responsible for communities, heritage, mine planning and mine operations. And the outcomes of such a review should have been escalated to the Senior Leadership Team in Iron Ore. These steps were not taken and important opportunities for pausing and re-considering options were missed until the PKKP formally raised their concerns in May 2020, by which time, as described in our submission to the Inquiry, it was no longer safe and practicable to protect the sites.

Root causes of missed opportunities 2013 - 2020

35. The new insights provided by ethnographic and archaeological research and reports in the period from 2013 provided a basis for re-assessment by Rio Tinto of its mine planning for Brockman 4, and in particular the impact of the mine design on the Juukan Gorge. The fact that this did not occur reflects shortfalls in linked-up decision-making within the Rio Tinto organisation, and standards of governance and accountability, which call into question aspects of the work culture and priorities at Brockman 4. It also reflects shortfalls in the management of our partnership with the PKKP, including on issues related to Rio Tinto's goal (set out in its Communities and Social Performance Standard) to "strive to achieve Free, Prior and Informed Consent (**FPIC**) of affected Indigenous Communities as defined in IFC PS7 on 'Indigenous peoples'".

• *Linked-up decision-making*

36. The impact of the Brockman 4 mine development on the Juukan Gorge area called for close interaction and responsiveness among those groups within Rio Tinto responsible for heritage and communities management and those engaged in mine planning and mine operations. At critical points following the granting of the section 18 consent in December 2013 and the salvage operations conducted at the Juukan 1 and Juukan 2 rockshelters in 2014, this interaction and responsiveness should have been more effective and cohesive. This included the period immediately leading up to the blasts that destroyed the Juukan 1 and Juukan 2 rockshelters in May 2020.
37. In particular, there was insufficient flexibility in our operating procedures in terms of responding to material new information about the cultural heritage significance of the Juukan Gorge area reflected in the reports of Dr Builth in July and September 2013 and the preliminary archaeological reports of Dr Slack in 2014.
38. There was a significant gap between the granting of section 18 consent in December 2013 for impacts at the Juukan 1 and Juukan 2 rockshelters, the increased understanding of the exceptional significance of the site arising from the salvage operations in 2014, and the timing of the actual impacts in May 2020. During that period, consistent with Rio Tinto's Risk Management

Standard and its Communities and Social Performance Standard (which includes conformance with the International Finance Corporation's Performance Standard 1 (**IFC PS1**) on "Assessment and Management of Environmental and Social Risks and Impacts", risks should have been reviewed and updated regularly. To an extent, risk management was addressed through the section 18 notice process, the subsequent excavation and salvage work and activities aimed at memorialising the sites (including the documentary produced in 2015). Nonetheless, after the section 18 consent had been granted in December 2013, and after confirmation had been received from the archaeologists working on the site in 2014 that, as agreed with the PKKP, all heritage artefacts had been salvaged at the Juukan 1 and Juukan 2 rockshelters, active management or assessment of the site from a cultural heritage perspective was no longer regarded as required. This view neglected the reality that cultural heritage sites for which required approvals had been granted and all agreed mitigation and salvage work completed are not necessarily "low risk" and that there are situations in which cultural heritage issues evolve in ways that require them to be reassessed, as indeed was the case at the Juukan Gorge from 2014.

39. Over recent years, the Communities function (and Heritage in particular) have been challenged by the work demands placed upon them from business units; they have been too siloed in their operations; and they have been insufficiently integrated into Iron Ore's strategic planning and project management decision-making. These trends affected the quality of organisational connectedness on mine development issues related to the Juukan Gorge area. In a wider sense, they appear to reflect priorities in work culture that were not as inclusive and integrated as they should have been. That organisational connectedness would also have been enhanced by more effective information management systems for heritage-related issues, better resourcing of the Heritage team, more streamlined incorporation of new knowledge into heritage information technology systems and more visibility across all groups in Rio Tinto of changes in relation to the status of cultural heritage sites. These outcomes are consistent with the benchmarks specified in Rio Tinto's Communities and Social Performance Standard, its internal guidance on CHMPs and IFC PS1.
40. The issue of visibility of heritage data across all relevant groups in Rio Tinto was a particularly important one. The level of information available about cultural heritage sites at an operational mining level was inadequate. Heritage information systems continued to record all heritage sites. However, once section 18 consent had been obtained and all the planned mitigation and salvage work agreed with the PKKP had been completed, the "buffer zone" that alerted operational personnel to the existence of a heritage site within the mining area was removed from the mine planning information system. Without this information, the risk to social licence was not fully apparent from the perspective of mine operations, creating a "blind spot" for operational management. With changes in personnel over the years, knowledge and awareness of the location and significance of the Juukan rockshelters among operating and senior management were lost. In the context of managing over 13,000 heritage sites, this information management system had proved to be adequate over many years, but for a site of exceptional significance, such as the Juukan rockshelters, it proved to be a fatal flaw.
41. This defect in the information management system was symptomatic of a work culture that was more focused on ensuring that necessary approvals and

consents were in place for ground disturbance of culturally significant sites, rather than also managing changing cultural heritage issues that could arise on sites where authorisation and consents for ground disturbance had previously been obtained.

42. The end result in relation to the impacts on the Juukan 1 and Juukan 2 rockshelters was that, from 2014, different parts of the Rio Tinto organisation had different access to data about the location of heritage sites in mine operations areas where all agreed mitigation and salvage plans had been completed, thereby inhibiting linked-up decision-making.

- ***Governance and oversight***

43. Decision-making in relation to the impact of the Brockman 4 mine on the Juukan Gorge area took place over more than a decade. It included decisions on mine designs and resulting impacts on heritage sites as well as the consideration of material new information about the cultural significance of the Juukan Gorge area that emerged after the section 18 consent was given in December 2013 to disturb part of that area.
44. Systems and processes designed to provide layered governance and oversight did not work effectively in terms of responding to changing understanding of the cultural heritage significance of the Juukan Gorge area after 2014. In general, the Standards and internal guidance that Rio Tinto set for itself on heritage protection issues established appropriately high benchmarks and responsibilities. The shortfalls in relation to the events of May 2020 in the Juukan Gorge were more in relation to the systems, processes and oversight that were designed to give practical effect to the Standards and internal guidance. Identification and assessment of risk is an essential element in the escalation of issues to senior management, the CEO and the Board. Cultural heritage and Traditional Owner risks were identified and assessed in the Rio Tinto Iron Ore risk register. However, the Juukan Gorge rockshelters were not expressly referenced in any of the Greater Brockman Operations, Rio Tinto Iron Ore or Group risk registers. This raises questions of judgement and of the priority attached to heritage in the risk assessment process at Brockman 4.
45. The material new archaeological and ethnographic information that came to light in 2013 and 2014 regarding the significance of the Juukan rockshelters, and the implications for the Brockman 4 mine plan, were not escalated to the Rio Tinto Iron Ore Senior Leadership Team, the Group Executive or the Board for consideration. Aside from a mention of the significance of the sites made in a speech by the CEO of Rio Tinto Iron Ore in 2014, and a request for funding for further salvage of the sites directed to Rio Tinto Iron Ore senior management also in 2014, it does not appear that the material new information was escalated any higher than mine general manager level. The first escalation to members of the Rio Tinto Iron Ore Senior Leadership Team took place on 18 May 2020. Detailed forensic searches have been conducted to determine whether the then Group CEO issued instructions in 2013 or 2014 that the sites should be protected, and no such evidence has been found.

- **The relationship with the PKKP**

46. The importance of building inclusive and productive relationships with local communities, and with Indigenous communities in particular, is set out in Rio Tinto's Communities and Social Performance (**CSP**) Standard, its internal guidance on cultural heritage management and IFC PS1. In particular, the CSP Standard noted the benchmark of keeping communities as fully informed as practicable about potential impacts on them as a result of Rio Tinto activities.
47. Rio Tinto's relationship with the PKKP has been constructive over a long period. There had been important co-ordination in relation to ethnographic and archaeological survey work and reports in the period from 2003 to 2020. When the LIC meetings, provided for under the PA, took place there were useful exchanges of views and information between Rio Tinto officers and PKKP representatives. There had also been a close working relationship during the excavation salvage operations that took place at the Juukan rockshelters in 2014, the subsequent display of artefacts at the Brockman 4 mine and the making of a documentary in 2015 to record the Purlykuti Creek area with references to Juukan 1 and Juukan 2. PKKP representatives also attended conferences where the conclusions of the archaeological research were presented by Dr Slack and his colleagues in 2018.
48. But in the months leading up to the blasts affecting the Juukan rockshelters in May 2020, the effectiveness of the engagement between Rio Tinto and the PKKP appeared to diminish. This situation was exacerbated by the impact of the Covid-19 pandemic. For example, the March 2020 LIC meeting had to be cancelled. But there were broader trends apparent over this period. Lines of communication became blurred. Flows of information were not always clear and timely. Informal interactions suggesting evolving views within the PKKP about the significance not only of the Juukan 1 and Juukan 2 rockshelters but other sites in the Juukan Gorge were not followed up in a formal way nor escalated to appropriately senior levels within the Rio Tinto organisation. Stronger indications of changing perceptions (as reflected in Dr Bruckner's Social Surroundings survey and reports in early 2020) were not assessed as a matter of urgency at the appropriate level of seniority within Rio Tinto in order to clarify the implications for the PKKP's attitude to the imminent impact of mine operations on the Juukan 1 and Juukan 2 rockshelters. Furthermore, although there was clearly an awareness within the PKKP that the impact was imminent, the precise timing of the blasting that would impact the Juukan 1 and Juukan 2 rockshelters was not conveyed to them with the clarity and advance notice that it warranted.
49. An important aspect of the Rio Tinto/PKKP relationship concerns the flow of information, ongoing consultation and the provision of timely updates. These benchmarks are set out in general terms in Rio Tinto's Code of Conduct ("*The way we work*"), its CSP Standard, its guidance notes on cultural heritage management and its alignment with IFC PS7 (Indigenous Peoples). The benchmarks are also linked in the same guidance to Rio Tinto's aspiration to achieve FPIC of Indigenous communities as defined in IFC PS7. They also confirm Rio Tinto's commitment to align with the standards in the UN Declaration of the Rights of Indigenous Peoples.

50. Under the terms of the key agreements between Rio Tinto and the PKKP – the BIA in 2006 and the RFD and the PA in 2011 – Rio Tinto’s belief is that it had obtained FPIC to conduct mining on PKKP land at Brockman 4, which included the land on which the Juukan rockshelters were located.
51. In light of the material new information which was provided as a result of ethnographic and archaeological reports from 2014 (and after the granting of the section 18 consent in December 2013), a more explicit engagement by Rio Tinto with the PKKP on the implications of the new knowledge, especially in terms of its ongoing consent to the impacts on the Juukan 1 and Juukan 2 rockshelters that had been foreshadowed for a long time, would have resulted in better alignment with Rio Tinto’s FPIC aspiration.

PRIORITIES FOR CHANGE

52. The root causes of events that led to the destruction of the Juukan 1 and Juukan 2 rockshelters in May 2020 highlight the need for change in Rio Tinto's cultural heritage management. This encompasses the way we manage our relationships with Traditional Owners, the Standards we apply, the levels of oversight and assurance we specify, the governance and accountability we put in place, the comprehensive heritage risk assessments we embed in our decision-making, the integrated and inclusive work culture we insist on and the processes of improved co-ordination across our organisation that we require.
53. The objectives of this agenda for change and consultation are clear: to ensure that what happened in the Juukan Gorge in May 2020 is not repeated elsewhere in the future; to re-build a partnership with the PKKP based on respect, trust, mutual benefits and shared understanding; and to ensure that learnings are applied across all of Rio Tinto's operations worldwide.

Re-building our partnership with the PKKP

54. Following the blast that took place in the Juukan Gorge area on 24 May 2020, Rio Tinto senior management has been liaising closely with PKKPAC Executives and PKKP Traditional Owners. Site visits involving the PKKPAC, Traditional Owners and Rio Tinto senior leaders took place in June and August. Rio Tinto has conveyed its unreserved apology to all PKKP people. It has committed to working with the PKKP on how to manage additional sites in the Juukan Gorge area. Rio Tinto also suspended all activities in close proximity to Juukan Gorge and with potential to impact a heritage site, irrespective of whether there is approval under the AH Act to disturb the site. Rio Tinto is now working with the PKKP to establish a joint process to address this issue and has agreed the terms of a moratorium on mining activity across a specified area around the Juukan Gorge.
55. These are important and ongoing processes of engagement that we are committed to facilitating so that practical and positive outcomes can be achieved. There are additional initiatives on which we need to consult with the PKKP in terms of enhancing our relationship and restoring a situation in which the PKKP see themselves as genuine partners in the Brockman mine project.
 - (i) We need to liaise actively with the PKKP on, and commit our practical support to, the establishment of a Keeping Place under PKKP control and on PKKP country for the remains, artefacts and other items salvaged from the Juukan 1 and Juukan 2 rockshelters.
 - (ii) Rio Tinto needs to upgrade its engagement with the LIC that was established under the PA as a central point of interaction and co-operation. There is a need for members of Rio Tinto Iron Ore's Senior Leadership Team to attend LIC meetings, to engage directly and regularly with PKKP representatives between such meetings, and to follow through on emerging PKKP concerns and priorities. There needs to be greater accountability to the Rio Tinto Iron Ore Senior Leadership Team on actions pursued following LIC meetings. Rio Tinto also needs to liaise with the PKKP on the desirability of the LIC meeting more regularly than the two times a year specified in the Participation Agreement. We need to enhance the support we provide to the PKKP to facilitate their assessment

of information to inform their judgements in relation to the matters discussed. This includes engaging more extensively in relation to matters on the LIC agenda, enhancing skills development and accessing specific external expertise when it is required. More effective channels of communication are needed with the PKKP. This needs to include clearly established mechanisms for regular exchanges but also more personalised interactions following up at appropriately senior levels to understand changing perspectives or emerging new priorities within the PKKP.

- (iii) Rio Tinto should also continue to explore new employment and business opportunities with the PKKP.
56. As part of re-building its partnership with the PKKP, Rio Tinto would welcome consultations with them on the terms of our 2011 PA in relation to consent. The PA was negotiated in good faith, with access on both sides to appropriate external legal advice, and represents a fundamentally important, mutually agreed contractual arrangement governing the conduct of mining in PKKP country and the sharing of benefits. It provides for regular review of its operation and an opportunity to assess how the terms can and should evolve over time. The next review, which has already begun, provides an important opportunity to update the terms of the PA to reflect evolving practice, while maintaining the necessary levels of legal certainty and financial predictability that need to underpin capital-intensive and long-term mining operations.
57. Rio Tinto would welcome discussions with the PKKP to introduce greater flexibility into the PA to respond better to material new information that may emerge about cultural heritage sites of exceptional archaeological and cultural significance, especially those that are affected by section 18 Ministerial consents (as the Juukan rockshelters were). In Rio Tinto's view, it would be helpful for discussions to address the potential for broadening the rights of the PKKP in circumstances where material new information emerges after the granting of a section 18 consent that alters and enhances the significance of such areas.
58. In any review of these matters in relation to the Rio Tinto/PKKP PA, it would be essential to ensure the legal certainty of mine operations and as much predictability as possible (including in relation to agreed impacts on heritage sites) to underpin the very significant capital investment needed to sustain large-scale mining operations over the decades of a mine life in an area such as the Pilbara. These important foundations can and should also encompass safeguards to ensure that, when material new knowledge emerges, both parties to the Agreement have the right to request a review of the mine plan in the light of that knowledge. In relation to such safeguards, there would need to be a clear threshold for review requests as well as arbitration processes acceptable to both sides in situations in which the parties fail to agree. In Rio Tinto's view, the role of government in such arbitration processes would be critically important. The Western Australian Government is currently reviewing the AH Act which was passed almost fifty years ago. Any new arrangements in respect of the Rio Tinto/PKKP PA would, of course, need to be consistent with the outcomes of that review.

Strengthening work Culture

59. Improvements in processes and work practices can only achieve their optimal effect in any organisation when the work culture promotes inclusiveness, integration and a common focus, shared values and purpose. Structures and systems operate within, and are dependent on, the broader framework of the work culture. That is why it is critically important for Rio Tinto Iron Ore, and for Rio Tinto as an organisation, to learn the lessons from what happened over a long period of time in the lead-up to the destruction of the Juukan rockshelters in terms of strengthening a work culture that is inclusive and integrated, one that focuses as much on cultural heritage and the environment as it does on production, efficiency and safety. This work culture needs to reflect our values, priorities and expectations. It needs to be actively practised and promoted by our leaders at all levels. It needs to be lived out in the work experience of all our employees. And it needs to be closely and regularly monitored by Rio Tinto's Executive Committee and by the Board and its Committees.

Enhancing Standards and oversight

60. Rio Tinto needs to fulfil both the letter and the spirit of the benchmarks and aspirations for cultural heritage management that it sets for itself. Those benchmarks and aspirations derive from important overarching documents and from more specific Standards and other internal guidance.
61. The overarching documents include Rio Tinto's Code of Conduct (*"The way we work"*) and also publications that were produced some time ago but retain important and timely themes. They include *"Why Cultural Heritage Matters" (2014)*, *"Why Agreements Matter" (2016)*, *"Why Human Rights Matter" (2013)* and *"Why Gender Matters" (2009)*.
62. More specific internal guidance and Standards (particularly the CSP Standard and the Risk Management Standard) provide benchmarks, obligations and responsibilities in relation to Rio Tinto's cultural heritage management. These Standards and guidance need to be kept under regular review to ensure that they continue to reflect evolving practice and set appropriately high benchmarks. They also require intensive oversight in terms of their implementation across all parts of the Rio Tinto organisation.
63. Given the importance of cultural heritage management in its own right, and its significance in terms of our partnership with Indigenous peoples, broader community relationships and social licence to operate, we will establish a new Social Performance function. This function will include Areas of Expertise (**AoE**) (including Communities and Heritage) and will be aligned with the existing HSE function which today includes several AoE in Health, Safety and Environment.
64. The Social Performance function AoE will provide technical expertise covering key Group-level risks, technical oversight and monitoring of the external environment as well as strategic outlook. With regard to Heritage there will be three core deliverables:
- (i) Maintain, update and, as appropriate, consolidate Rio Tinto Standards on heritage management;

- (ii) Provide second line of assurance on heritage performance and management of relevant Group-level risks; and
- (iii) Partner with operational leaders to deliver their plans and identify, leverage and promote effective performance across the Group.

The Social Performance function will report to the incoming Group Executive, HSES, Technical and Projects who will be a member of the Rio Tinto Executive Committee and who will also have responsibility for Health, Safety and Environment.

More robust heritage risk assessment and management

- 65. The benchmarks and expectations for effective risk management at Rio Tinto are set out in a range of working documents including the Risk Management Standard, other internal guidance and IFC PS1. They establish important and appropriate benchmarks for the identification, evaluation, communication and updating of risks as well as the embedding of risk awareness in all decision-making. Change is called for, however, in relation to the introduction of clear stage-gated risk review processes and more rigorous risk management auditing and assurance which focus not only on relevant processes but also on responsiveness to an evolving risk environment.
- 66. To achieve more rigorous Communities and Heritage risk assessments that are connected more seamlessly into Rio Tinto's project decision-making, specific capabilities need to be strengthened.
 - (i) The layers of assurance within the Rio Tinto organisation in relation to heritage risk management need to be strengthened:
 - The first line of assurance at operational levels needs to be more attuned to the wider context of emerging risks as well as to compliance with established risk management processes.
 - The second line of assurance on heritage risk management needs to be enhanced by ensuring that the new Social Performance function applies the same rigour in assuring conformance to Heritage Standards and guidelines as currently applies in the Health, Safety and Environment AoE. It will also be strengthened by including relevant highly rated Heritage risks in the CEO-led reviews of Major Hazards and Risks.
 - As part of the third line of assurance, Group Internal Audit will conduct audits of the relevant areas of the business and the newly established Social Performance function.
 - (ii) There needs to be a clear recognition across the Rio Tinto organisation that, in circumstances in which appropriate authority has been given to disturb a cultural heritage site and related mitigation and salvage operations have been completed, ongoing review of that site's heritage status continues to be required, and will need to be elevated in decision-making as required. This is critical in situations in which material new knowledge about the site is acquired.
 - (iii) Rio Tinto's Heritage Information Management Systems need modernisation and upgrading to ensure that relevant new knowledge and

the changing status of cultural heritage sites are incorporated accurately and that accessibility to heritage data is facilitated across the organisation.

- (iv) The Communities function, and Heritage in particular, need more effective workforce management and better resourcing with enhanced in-house expertise and improved talent development, career-planning and recognition of Heritage professionals. Continuity in long-term relationship-based responsibilities among communities needs to be encouraged and enabled, and the loss over recent years of senior Heritage personnel with experience and expertise needs to be addressed. These changes will help ensure that policy commitments and Standards are reflected in cultural heritage risk assessments.

Better linked-up decision-making

- 67. First-line responsibility and accountability for Traditional Owner engagement and management of cultural heritage issues need to be more clearly defined and integrated with line management at operational sites, as well as at the Product Group CEO level. This should be reflected in the organisational design, and in particular in relation to the lines of reporting, of the Communities function (including Heritage) to ensure that the function is embedded within operational management. Structural arrangements are important facilitators of organisational connectedness, but the most critical inputs are working cultures within those structures and the role of strong and inclusive leadership. The Heritage function, in particular, needs to be more empowered in Rio Tinto Iron Ore project decision-making. Its voice needs to be heard more clearly and its perspectives addressed more directly at senior levels of the Rio Tinto Iron Ore operating system and Executive management.
- 68. To achieve these objectives, change is needed in a range of areas.
 - (i) The establishment of a Social Performance function, as described in paragraph 63, which will be aligned with Health, Safety and Environment to standardise auditing and assurance in relation to consistency with Standards and guidance, organisational connectedness, data management, incident reporting, escalation of unresolved issues, emerging risks and other benchmarks.
 - (ii) Within the Product Groups, the Communities function (and Heritage especially) need to be more effectively embedded and integrated into business units generally, and in Pilbara iron ore mine sites in particular, to ensure that their input to mine decision-making is more direct and influential, Heritage issues are properly co-ordinated with other priorities, and organisational silos in relation to mine management are replaced by a more productive connectedness.
 - (iii) Responsibility for the understanding and management of heritage and community priorities sits explicitly with the leadership of our assets and operations with a clear escalation path through to the Product Group CEO's as well as the head of Social Performance function, as appropriate. The Social Performance function will provide the necessary expertise, capabilities and support to implement plans, as is the case with Health, Safety and Environment today.
 - (iv) General Managers, working closely with Communities and Heritage officers at mine sites, need to be deeply engaged with, and explicitly

responsible for, the management of relationships with Traditional Owners on whose country they operate, while ensuring that, at a strategic level, senior leadership within Rio Tinto Iron Ore retain overall responsibility for the relationship.

- (v) Processes for escalating unresolved heritage issues to more senior decision-making levels need to be clearly established and facilitated by senior management.
- (vi) Heritage data needs to be more visible to mine planners and operators, including data relevant to heritage sites in relation to which appropriate authority for ground disturbance has been given and appropriate salvage work has been completed.
- (vii) In consultation with Traditional Owners, training in cultural and heritage awareness and competency for all Rio Tinto Pilbara personnel and contractors needs to be reviewed to ensure that it is effective, contemporary, comprehensive and reinforces our shared core value of respect for local communities and their heritage.
- (viii) Rio Tinto is committed to attracting, developing and retaining more Indigenous professionals, and in particular to encouraging more Indigenous Australians into leadership positions in our organisation. We have recently announced an additional \$50 million allocation for these purposes. This is a critically important aspiration on which we will report progress on a regular basis.

Enhanced governance and accountability

69. Since the destruction of the Juukan 1 and Juukan 2 rockshelters in May 2020, Rio Tinto Iron Ore has instituted an enhanced level of governance over the impact on sites of heritage significance. All activities in relation to which there is potential to disturb indirectly or directly sites of cultural heritage significance are being reviewed. All approvals to disturb sites directly or indirectly are being made on a risk-managed basis at Rio Tinto Iron Ore Chief Executive level or through the recently established Heritage Sub-Committee of the Rio Tinto Executive Committee. These are important governance changes that need to be complemented by others:
- (i) The governance of mine planning processes needs to be reviewed and clarified, setting out the broad contextual awareness that should be applied and the formal comprehensive risk assessments (including heritage assessments) that should be considered.
 - (ii) Threshold decisions on or changes to mine design, planning and operations affecting cultural heritage sites of high significance, irrespective of their status in terms of authorisation for ground disturbance, need to be referred to the Rio Tinto Iron Ore Senior Leadership Team. Formal and comprehensive risk assessments need to be considered as part of that review. Referral of particular decisions, as appropriate, will be from the Rio Tinto Iron Ore Chief Executive to the Heritage Sub-Committee of the Rio Tinto Executive Committee and, if necessary, to the Board.
 - (iii) The Board, supported by its Sustainability Committee as well as its Audit Committee, will regularly review the Heritage Management System operating in the Pilbara and at other sites, its consistency with Rio Tinto's

Standards and internal guidance as well as new priorities and emerging issues on heritage matters. It will also prioritise and benchmark progress towards inclusiveness and integration in the work culture in Iron Ore and across the Rio Tinto Group more generally.

- (iv) The Board's Sustainability Committee will have a particular responsibility for monitoring operational, internal and external assurance of compliance with Standards and the effectiveness of the Group's Heritage Management System. It will review external assurance of annual reporting of cultural heritage performance and will conduct "deep dives" into cultural heritage management issues as well as periodic site visits that include consultations with Traditional Owners.
- (v) The Board will closely monitor the implementation of priorities set out in this review as well as outcomes from the Inquiries currently being conducted by the Commonwealth Parliament and the Western Australian Government.

ADDENDUM

Proposed adjustments to Executive variable remuneration in response to the Board Review of Cultural Heritage Management

The Rio Tinto Remuneration Committee (**Remuneration Committee**) has considered the implications of the Board Review of Cultural Heritage Management (**Board Review**) for the variable pay arrangements of members of the Executive Committee.

In light of the findings of the Board Review, the Remuneration Committee has recommended, and the Rio Tinto Board (excluding the Executive Directors) has approved, that no 2020 annual bonus (short term incentive plan or **STIP**) payment will be made in 2021 to: Jean-Sébastien Jacques (J-S Jacques), the Chief Executive Officer; Simone Niven, Group Executive, Corporate Relations; or Chris Salisbury, Chief Executive, Iron Ore.

In addition, the Chief Executive Officer's 2016 Long-Term Incentive Plan (**LTIP**) award that is due to vest in the first half of 2021 will be reduced by £1,000,000 (subject to vesting).

Based on last year's STIP payments and the current share price, the effect of these decisions is forecast to reduce the pay of each individual (to be disclosed more fully in Rio Tinto's 2020 remuneration report) as follows:

	STIP *	LTIP**
J-S Jacques	£1,701,000	£1,000,000
Simone Niven	£525,000	N/A
Chris Salisbury	A\$1,106,000	N/A

* Indicative figures, using 2019 actual STIP earned as a proxy (at current FX).

** Reduction to be applied to the vesting of the 2016 LTIP award, subject to performance.

As Chief Executive, J-S Jacques is ultimately responsible for the Group's cultural heritage management and the performance of the Iron Ore Product Group, including any licence to operate or reputational issues that may arise within Rio Tinto Iron Ore.

In her capacity as Group Executive, Corporate Relations, Simone Niven has executive responsibility for cultural heritage management.

In his capacity as Chief Executive, Iron Ore, Chris Salisbury has executive responsibility for the performance of Rio Tinto Iron Ore, including for the implementation and operation of cultural heritage management within Iron Ore.

In making these decisions, the Remuneration Committee considered the shortfalls identified in the Board Review, which revealed systemic failures in the cultural heritage management system operating at Brockman 4 over an extended period of time. The Remuneration Committee acknowledged that, so far as these three individuals are concerned, the shortfalls represented acts of omission, rather than commission, in failing to implement a fit-for-purpose management system at the mine. Nevertheless, it concluded that they bear partial responsibility for the failings.

In light of these considerations, the Remuneration Committee concluded that the reductions in pay set out above were appropriate and proportionate.

The Remuneration Committee notes that responsibility for certain of the shortfalls identified in the Board Review extends beyond the Executive Committee and it has therefore sought assurances from executive management that the variable pay arrangements of individuals below the Executive Committee will be reviewed and, where appropriate, reductions in variable remuneration arrangements will be applied.

The non-executive directors have agreed to donate the equivalent of ten (10) per cent. of their 2020 non-executive director fees to the Clontarf Foundation, which supports education, training and employment for Indigenous Australians. Jakob Stausholm, the Chief Financial Officer and executive director, will also make a donation of an equivalent amount.