

**Rio Tinto Responses to Questions on Notice (SET 1)**  
**Questions on Notice (hearing dated 16 October 2020)**

Question no	Questions from transcript	Response
1.	<p><b>Senator Siewert:</b> I want to go to an understanding of contact with the Government subsequently. When the PKKP then found out that the blasts were imminent and they reached out to various authorities, were you contacted at all by either anybody from state government or federal government?</p> <p><b>Mr Haynes:</b> I'm not aware at this point of whether there was a proactive contact from the state or federal government. Senator we had discussions with the Department of Planning, Lands and Heritage after this issue was raised on 21 May. We also had a discussion with the office of the Minister in Western Australia. And then we had another discussion on 22 May with the office of the Federal Environment Minister. Those were the discussions that we have records of in regard to this issue, and we initiated those.</p> <p><b>Senator Siewert:</b> Sorry, which ones did you initiate?</p> <p><b>Mr Haynes:</b> The calls on all three of those interactions were initiated by us. That is the best advice we have at this point in terms of the contacts from the Western Australian Government or the Federal Government.</p> <p>....</p> <p><b>Senator Siewert:</b> Did they make any phone calls around this specific issue? Did anybody from the State Department make any calls to you, to Rio, not you personally obviously?</p> <p><b>Mr Haynes:</b> I will double-check that Senator, but I'm not aware of any active calls to us.</p> <p><b>Senator Siewert:</b> The reaching out to the Federal Minister, what was that specifically about and what response did you get?</p> <p><b>Mr Haynes:</b> All three of these contacts were based around providing a general update of our understanding of this situation</p>	<p>Prior to the blast on 24 May 2020, Rio Tinto proactively contacted the offices of WA Aboriginal Affairs Minister Ben Wyatt (21 May) and Federal Environment Minister Sussan Ley (22 May) to explain the situation. We have included details of our engagement with Ministerial offices in our previous answers to Questions on Notice submitted 3 September 2020.</p> <p>With respect to the WA Department of Planning, Lands &amp; Heritage (<b>DPLH</b>), a phone conversation took place on 21 May 2020 as explained by Brad Haynes during the hearing on 16 October 2020. To the specific question of who initiated that call, a review of phone records indicates there was a missed call from the DPLH to Rio Tinto on 20 May 2020 (late afternoon). Rio Tinto returned the call from DPLH and left a message the following morning. A call took place on 21 May.</p> <p>There was no contact between Rio Tinto and the Federal Department of Environment in relation to this matter prior to the blast.</p>

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	<p>and the gravity of it, and our concerns about it. And in addition to that informing them of the fact that there was this blast sequence in place. The third thing was around the efforts we were putting in to work with the PKKP to support that relationship, given we understood what a difficult time this was.</p> <p><b>Senator Siewert:</b> From the comments you just made just then, do I take it that none of those neither the Federal Minister, the State Minister or the State Department – and for that matter not the Federal Department of Environment - reached out to you about the blast and the fact that they had been contacted by representatives from the PKKP?</p> <p><b>Mr Haynes:</b> Not that I am aware of. We will, on the basis of these questions Senator, double-check just to make sure there are absolutely no informal calls. And each of these discussions that we had, they noted the information that was provided on our behalf and that was the level of detail that was discussed.</p> <p><b>Senator Siewert:</b> If you could check that that would be extremely useful.</p>	
2.	<p><b>Mr Snowden:</b> Yes. Partially. I'm wondering - again, I'm not an engineer, I've got no knowledge at all about this, so you'll have to forgive me my ignorance, but is there an issue around the angle of the holes are drilled and the potential impact that may have had? Could that have changed things, if they were drilled at a different angle?</p> <p><b>Mr Salisbury:</b> Mr Snowden I'd have to take advice on that matter, if I can come back. The drill pattern was drilled into firstly the ground that had been partly fractured. In fact, this area, before all of this issue occurred, in fact, there had been a number of blasts around the area of Juukan 1 and 2. In fact, within 250 metres of Juukan 1 and 2 there had been 19 blasts in total. Some of the holes would have went into partially fractured ground, so that would have affected the design. In terms of the angle and so on, that would have been designed to, in this case, the mining specification per se, because as I unfortunately pointed out earlier,</p>	<p>As Mr Salisbury stated during the appearance on 16 October, the shot was not designed to protect the Juukan 1 and Juukan 2 rockshelters. Rather, it was designed to break the ground within the relevant blast zone.</p> <p>The majority of the holes were drilled vertically, not angled. However, 12 holes, namely the front row near the edge of the contour, was double stitched. This means that a 75 degree angle hole was drilled between two vertical holes.</p> <p>This was done to reduce the burden at the toe of the front row. This is common practice in blasting and is carried out in respect of most shots at the Brockman 4 mine.</p> <p>Drilling those 12 holes vertically rather than at an angle would not have protected the Juukan 1 and Juukan 2 rock shelters.</p>

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	<p>the mine planning team weren't aiming to protect the caves; they were aiming to mine through this area. They would have designed it on that basis.</p>	
3.	<p><b>Mr Snowdon:</b> Can I ask how many permits you've applied for?  <b>Mr Welsh:</b> Mr Snowdon, I'd have to take that on notice. In terms of our moving forward position, we understand that the Western Australian Government is moving towards cultural heritage management plans. We're supportive of that approach and a cultural heritage management plan allows you to understand better the cultural landscape. Obviously the sites are very important but it also allows you to better understand the cultural heritage values of an area and what your activity might impact on that cultural heritage landscape.  <b>Mr Snowdon:</b> I accept that, thank you. But I want to really ask you about the way in which section 18s have been administered currently and I'm wanting to know how many of your section 18 applications have been rejected, if any and what role the Cultural Materials Committee of the Western Australian government has played in interrogating the section 18 permit applications to the point of actually seeking further submissions from either yourselves or traditional owners, in this case the PKKP?  <b>Mr Haynes:</b> Mr Snowdon, I'm happy to provide additional details of that. I don't have any information on the rejection of any of our applications. We don't see obviously the decision making of the ACMC. But in terms of the details of its decision making, the only part of the process is then a formal notification of whether a section 18 has been accepted or rejected as part of that. But I'm very happy to follow up on the substance of your questions because I think you're trying to get an understanding Mr Snowdon of what details we do have on various decision making processes that we've experienced over the period of the section 18 system being in place.</p>	<p>Rio Tinto has prepared 105 Section 18 applications since 2011.</p> <p>Of those, 94 were approved, 10 were prepared and not lodged, and 1 was submitted and withdrawn.</p> <p>Of the 94 granted, DPLH requested additional information on 39 of them from Rio Tinto before consent was granted.</p>
4.	<p><b>Senator</b> I just wanted to clear up the gag orders matters. In relation to your promise to release Indigenous groups from the</p>	<p>Rio Tinto encloses a proforma copy of the letter that was sent to Western Australian Traditional Owner groups on whose land Rio Tinto Iron Ore operates. Whilst there</p>

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	<p>so-called gag orders and restrictions on accessing legal rights under cultural heritage laws, will you provide the committee with a copy of the letters being reported in the media?</p> <p><b>Mr Welsh:</b> Yes Senator we will.</p>	<p>was some personalisation of the letters, the messages regarding Rio Tinto's commitments were consistent.</p> <p>Recipients of the letters in Western Australia were the PKKP, Eastern Guruma, Gumala, Banjima, Yinhawangka, Yindjibarndi, Robe River Kuruma, Nyiyaparli, Ngarlawangga, Murujuga Aboriginal Corporation and Ngala People.</p> <p>A sample of copies of the letters sent to each Western Australian Traditional Owner Group are provided on a confidential basis.</p> <p>For Traditional Owner groups in Western Australia not associated with our iron ore business, we either had a conversation on our approach or sent a modified letter based on the maturity of the operation and the nature of the partnership.</p> <p>Given the differences in State legislation and Agreement approaches, a modified version of the letter sent to Western Australian Traditional Owners was issued to some Traditional Owner partners in Queensland and the Northern Territory. Other Traditional Owner Group's received a phone call. The essence of this communication remained the same, a commitment to work together in partnership.</p> <p>A copy of the pro forma letter issued to some Queensland and Northern Territory Traditional Owners is attached.</p>
5.	<p><b>Senator Dodson:</b> ...Can I go back to a question I asked earlier which was in relation to the choice of option 4 of the mine. You've said in answer to a previous question, 'we've not identified any documents that record the decision to pursue the selected pit design and the reasons for it. Our view of the material suggests that there was no person more senior than general manager involved in and around this issue, and general manager is a level of leadership below that of the iron ore executive level.' I think you told me previously what your future intentions are, but what you haven't told me is what the existing procedures were that led to this significant decision being taken.</p>	<p>Over the past five years to May 2020, Rio Tinto Iron Ore removed over 380Mt of resources from its studies to account for sites of significance from a cultural heritage and environmental perspective.</p> <p>After the blast at Juukan Gorge, Rio Tinto Iron Ore introduced a more structured approach to the management of all activities with potential to impact cultural heritage sites. The Integrated Heritage Management Process (<b>IHMP</b>) was introduced in June 2020.</p> <p>The process assesses all cultural heritage sites, the planned operational impact to that site following application of a mitigation hierarchy and overarching engagement</p>

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	<p><b>Mr Salisbury:</b> Senator, all we can say is that the decision not to present those options was wrong and it should not have occurred that low in the organisation. The reason and the rationale for that - obviously none of us were present. I want to also make sure that you are aware that there isn't a future process. That process that Mr Welsh outlined in terms of requiring sign-off by the chief executive for any potential disturbance of heritage site, is in existence and has been up to several months. It's one of the learnings to come out of this.</p> <p><b>Senator Dodson:</b> Obviously there's going to be a need for a whole lot of other reform to ensure it gets to that senior executive.</p> <p><b>Mr Salisbury:</b> Agreed Senator.</p> <p><b>Senator Dodson:</b> That's the question: can we be confident, going away from this, that there is now a process that you can't blame someone underneath the executive for this decision?</p> <p><b>Mr Salisbury:</b> That's correct Senator. The process that was outlined by Mr Welsh requires the minimum authority of the chief executive of iron ore and in certain circumstances, in fact escalation to a Rio Tinto executive level. We can provide that to the committee if they'd like to understand that in more detail.</p>	<p>with the relevant Traditional Owner group. These factors are combined to create a rating for a site – Very Low, Low, Moderate, High or Very High. This rating determines decision making accountabilities. Approval to disturb sites with a rating of Moderate or below, sits with the Chief Executive Iron Ore. Disturbance of sites with a rating of High or Very High must be approved by the Heritage ExCo Sub Committee currently comprising the Chief Executive Rio Tinto, Chief Financial Officer Rio Tinto, Group Executive Corporate Relations, and Group Executive Group General Counsel.</p> <p>Where information regarding a site is not current or is incomplete, Rio Tinto Iron Ore is engaging with Traditional Owners. This is occurring either through our regular engagement processes, or further as needed. Where such consultation is required, the site is switched to “protected” in Rio Tinto’s spatial database to ensure that disturbance cannot occur pending outcome of those discussions.</p> <p>Through the application of the IHMP there has been an increase in the level of governance across all cultural heritage sites, with every site being reviewed by the Chief Executive Iron Ore.</p>
6.	<p><b>Chair:</b> The other one – and this has puzzled me right from the beginning. We talked today about a series of mistakes over almost a decade – over many years, in relation to no red flags going up and the information being kept at a lower level. There was a couple of events – I assume you will have to put this on notice – that would have had to have gone a certain way up the ladder if you like for approvals because I suspect they would have been quite significant outlays by Rio. I don't what your financial approval process is but I'd be interested to know to what level it would be approved because surely it's not petty cash.</p> <p>I'm referring here to the cost – first of all, the archaeological survey that was done in 2014 followed by immediately by that excavation and from what I can see, this exaction was very significant and then of course the packing up of those 7,000 artefacts into a</p>	<p>The costs of the requested activities and approval levels for incurring those costs are set out below. Please note these amounts are only the external costs invoiced to Rio Tinto and include GST.</p> <p><b>2013 Bulth survey and report:</b> \$27,006. This expense was incurred pursuant to a Service Order Request approved at a level below Manager.</p> <p><b>2014 Scarp Archeology salvage operations (three trips):</b> \$405,465. The expenses were incurred pursuant to a Service Order Request approved at General Manager level (with notification also to Iron Ore Vice President Organisational Resources). This notification is referred to in Rio Tinto's response to question 7 (see page 7 of Responses to Questions on Notice).</p>

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	<p>container and sending them to headquarters in Perth. I'd be interested in what the costing of that was for that exercise. The second one, which is separate to that, but nevertheless I suspect it is a little bit more than petty cash – was the documentary that was done, I think in later 2014. And then of course there was the commissioning of Dr Slack's report in 2018. Each of these I suspect was a significant investment and I'm wondering what sort of costs were involved in that and at what level would the approvals had to be made for the cheques to be written. Now I'm sure you won't be able to answer that for me now but I would be very curious. It just doesn't add up.</p> <p><b>Mr Haynes:</b> Chair, we definitely can answer that. In terms of those threshold questions you raised about costs, our understanding is they did require some level of escalation, given the sums of money involved for both the salvage and heritage preservation activities and also the decision to proceed with the section 18s, etc. We can provide a timeline of the relevant approvals on that process and how it was escalated as part of that.</p> <p><b>Chair:</b> I would really appreciate it. And what the overall costs were because I think it is quite relevant to trying to understand where there was obviously a failure in the processes.</p> <p><b>Mr Haynes:</b> We're very happy to provide that detail.</p>	<p><b>2015 Documentary:</b> \$55,095. This expense was incurred pursuant to a Service Order Request approved below Manager level.</p> <p><b>2018 Scarp Report (containing analysis of findings from 2014 salvage trips):</b> \$113,060 (on top of the amounts already paid for the salvage trips in 2014). This expense was authorised for payment in 2019 at Manager level.</p>
7.	<p><b>Senator Dean Smith:</b> I just want to go back over some previous territory. In answer to question 7 from the original hearing, Rio Tinto noted that a review of documentation had found that the former CEO of iron ore, Mr Andrew Harding, had first mentioned the significance of the gorge in a 2014 event at Central Park in Perth's CBD. I'll just quote from your response. It says, 'we, Rio Tinto, understand that Andrew Harding, then Chief Executive Iron Ore, delivered a speech in which the Juukan rock shelters were mentioned at the opening of the Colours of our Country Pilbara Aboriginal Art Exhibition on Monday 8 of September 2014 at Central Park, Perth. The speech noted that, at this most significant site, the evidence estimates Aboriginal occupation dating back</p>	<p>There was no current member of the Rio Tinto executive team who attended the Colours of our Country event in 2014.</p> <p>There is one new member of the Iron Ore Senior Leadership Team (<b>SLT</b>) who attended the event in 2014 - Richard Cohen. Richard joined the Iron Ore SLT in October 2020 and was not part of the Iron Ore SLT in May 2020 ahead of the blast. In 2014 when he attended the Colours of our Country event he was the MD Project Services in Growth &amp; Innovation at Rio Tinto. He was not in the Iron Ore business at that time.</p>

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	<p>some 43 000 years'. Who else from the leadership team was present at this event in 2014?</p> <p><b>Mr Haynes:</b> We will come back to you on who else was present from the leadership team at that event. But in terms of our understanding, no-one from the existing team was present.</p> <p><b>Senator Dean Smith:</b> No-one from the existing leadership team was present at that event?</p> <p><b>Mr Haynes:</b> That's my understanding but I will double check that.</p> <p><b>Mr Salisbury:</b> We're talking about the senior leadership team or the current executive committee of iron ore but as to who else was there, we'd have to check.</p> <p><b>Senator Dean Smith:</b> Can you provide to us what other notables were there not necessarily from Rio. I'm sure you'll have an attendance list or a program or a running order.</p> <p><b>Mr Haynes:</b> Thank you, Senator we will.</p>	<p>Rio Tinto has enclosed a copy of the running order from the Colours of our Country event in 2014. A copy of the opening address from Andrew Harding is included as part of this running order.</p> <p>A copy of the final acceptance list is provided on a confidential basis. We note this is a list of acceptances rather than attendees and should not be taken to be complete given some individuals may not have attended on the day. The list does not include Premier Barnett, who did attend the event.</p>
8.	<p><b>Senator Dean Smith:</b> In another response to our questions - and this is page 24 of the papers - Rio indicates that in the last 5 years it's removed over 380 million tonnes of iron ore reserves to account for significant cultural heritage and environmental values. Can someone provide to me an answer to these three questions. What is this as a percentage of Rio's iron ore reserves across the Pilbara? Would someone like to answer that or take that on notice?</p> <p><b>Mr Salisbury:</b> I can't give you precision, but we have more than 20 billion tonnes of resource in the Pilbara.</p> <p><b>Senator Dean Smith:</b> Was any of this at the request of traditional owners?</p> <p><b>Mr Salisbury:</b> Perhaps to take a step back, in terms of the process, we have a very detailed process that we move studies through all the way from exploration, order of magnitude, pre-feasibility and feasibility, of which there is explicit consideration of heritage within those study phases including detailed consultation with traditional owners. And, of course arising from those consultations, where we have found sites of</p>	<p>As previously advised, in the last five years Rio Tinto has removed over 380 million tonnes of iron ore resources as part of its study process to account for cultural heritage and environmental values. All of these areas were viable to mine from an operational perspective.</p> <p>In Rio Tinto's 2019 Annual Report, the figure reported for total Pilbara iron ore resources was 16.5 billion tonnes (100% basis). Accordingly, 380 million tonnes would represent approximately 2% of these resources.</p> <p>Rio Tinto's operational and study processes involves consultation with the Traditional Owners on whose land the proposed development is located. This consultation determines which areas Rio Tinto understands it has the support of the Traditional Owners to mine. The 380 million tonnes in question were excluded from Rio Tinto's studies as a result of feedback obtained during these consultation processes.</p>

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	<p>significance that is what has given arise to that 380 million tonnes. Of course if there is heritage involved, the other consideration that's occurred during the studies is a detailed environmental consideration. Of course, quite often the two are linked together because quite often the environment is closely linked to the perception around heritage for traditional owners from an ethnographic point of view. So that's the process that we follow.</p> <p><b>Senator Dean Smith:</b> Can you provide any additional information regarding my questions about to what extent this 380 million tonnes of iron ore was at the request of traditional owners and finally, how much of this 380 million tonnes was unviable due to location and other operational factors anyway? That would be most appreciated.</p>	
9.	<p><b>Mr Snowdon:</b> I want to go back to one issue and that is the FMG tenements. I'm assuming the Western Australian government runs tenement mapping in real time? Is that correct?</p> <p><b>Mr Welsh:</b> Yes, I understand that is correct.</p> <p><b>Mr Snowdon:</b> So you would be aware of FMG tenements?</p> <p><b>Mr Welsh:</b> I would have to take that on notice. We weren't aware of the FMG activity in the moratorium area.</p> <p><b>Mr Snowdon:</b> So they run real time mapping and you're not aware of the mapping? Is that what you are telling us?</p> <p><b>Mr Welsh:</b> The first we heard of the FMG activities is at Monday's inquiry.</p> <p><b>Mr Snowdon:</b> So that didn't simulate a look at the maps?</p> <p><b>Mr Welsh:</b> I'd have to take that on notice...</p> <p><b>Mr Snowdon:</b> Anyway, I think I've made the point.</p> <p><b>Mr Salisbury:</b> Just to be clear about what Brad is saying. Brad has said already that there is ongoing discussion with the PKKP. I'm sure somebody in our organisation did observe that FMG have lodged that, but no one here has that knowledge and, as I said, there is ongoing discussion with the PKKP.</p>	<p>Rio Tinto Iron Ore's tenement management team became aware of the applications on Monday 5 October 2020, following weekly monitoring of tenement activity in the Pilbara. As part of regular activity, tenement data is downloaded every Monday from the database of the Western Australian Department of Mines Industry Regulation and Safety and presented as a geographical format to provide a snapshot of tenement activity during the past fortnight on a rolling basis. As there was no encroachment on Rio Tinto tenure, no further action was taken from a tenement management perspective. Where there is overlap with Rio Tinto tenure, usual practice is to lodge an objection to the application.</p>
10.	<p><b>Senator Chisolm:</b> How many mines or other Rio sites in Western Australia have you visited?</p>	<p>Simone Niven has visited 7 Rio Tinto mines in Western Australia. Her role is based in London.</p>

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	<p><b>Ms Niven:</b> I have probably been to around three or four of our Pilbara sites over the years Senator. If you want an exact number, I will need to check and come back to you.</p>	
11.	<p><b>Senator Chisolm:</b> Post the incident at Juukan Gorge, Rio Tinto promoted the apology on Google as an advertisement or a search advertising. What was the purpose or the intention of that and whose decision was it to make that a paid promotion?</p> <p><b>Ms Niven:</b> Senator, I'm actually not familiar with that decision so I'll need to come back to you on that.</p>	<p>Rio Tinto undertook paid promotion of content on its website relevant to events at Juukan Gorge, including its apology, at a time when the organisation was receiving many requests for information about the issue.</p> <p>The purpose of doing so was to ensure that people searching for information would quickly and easily find it. The search advertising directed people to a page set up for the purpose of sharing content such as Rio Tinto's public statements on the matter, its apology, its submission to the Parliamentary Inquiry, and other relevant content including information about its heritage management approach.</p> <p>The overall paid promotion strategy and concept was developed by the global brand and reputation team, supported by the media, brand and digital teams in Australia. It should be noted that paid promotion is common practice globally, across a wide range of corporates and industries.</p> <p>While the Corporate Relations function oversees and supports the approach of using paid promotion to direct people who were looking for further information to website content, the specific content of this activity, including the paid promotion of the apology, were determined and delivered by Rio Tinto's digital team, in line with standard practice.</p>
12.	<p><b>Mr Salisbury:</b> I think you're referring to the heritage sites at Silvergrass. There are a number of sites at the Silvergrass mine which, after consultation with the Eastern Guruma People, we have preserved. I think, for the ones you're referring to, in 2020 we have committed to preservation of a further two sites. There was a process to work through - the mine plan had to be redesigned in order to preserve those sites and also ensure that there was ongoing area for access. We're finalising the design of that, as I said. We have verbally committed to the Eastern Guruma People that we are preserving it, and it is absolutely our intention to</p>	<p>Two heritage sites at Silvergrass East (known as SG-07-19 and SG -07-22) were granted s18 consent to impact respectively on 10 January 2017 and 28 August 2019.</p> <p>Rio Tinto did not have any discussions with the Minister about those sites.</p> <p>On 28 August and 10 September 2020 Rio Tinto Iron Ore had conversations with Wintawari Guruma Aboriginal Corporation (WGAC) to advise that these two sites would be preserved following the Integrated Heritage Management Process (<i>IHMP</i>) assessment process introduced by Rio Tinto in June 2020.</p>

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	<p>confirm that in writing so those sites will be preserved in perpetuity.</p> <p><b>Senator Siewert:</b> Thank you. My understanding is you got permission to in fact destroy those sites on 15 August 2019. Is that correct?</p> <p><b>Mr Salisbury:</b> I'll have to take that question on notice as to when we had authorisation, but we had Section 18 authorisation. I'd have to check the date, I don't have that date to hand. That is correct. They were authorised under Section 18, but we have since preserved them.</p> <p>....</p> <p><b>Senator Siewert:</b> Did you have any discussions with the Minister at the time about the sites and about the fact that they were 43,000 years old?</p> <p>...</p> <p><b>Mr Haynes:</b> Senator, what we may do is just come back with an analysis for the committee on this including a timeline.</p> <p><b>Senator Siewert:</b> That would be appreciated. - a timeline and also whether you had discussions with the Minister about the importance of the caves.</p> <p><b>Mr Haynes:</b> Yes. We'd be very happy to provide those details.</p> <p><b>Senator Siewert:</b> And any discussion about why the Minister gave permission. Do you understand why the Minister gave permission to destroy the caves? Did you have any discussion about, with him about that?</p> <p><b>Mr Haynes:</b> I'm not aware of any discussion with the Minister specifically about that, and about this approval. Generally that would be inconsistent with the standard Section 18 approval process that we seek for these matters.</p> <p><b>Senator Siewert:</b> Okay, any additional information would be much appreciated...</p>	<p>Rio Tinto formally notified WGAC on 19 October that it has redesigned the Silvergrass East Pit 1 to protect these two sites and issued copies of the mine pit design to WGAC.</p>