

Rio Tinto Responses to Questions on Notice

Questions on Notice (hearing dated 27 August 2021)

Dear Committee,

Please see below our responses to the Questions on Notice from the Hearing on 27 August 2021.

We acknowledge the letter from Wintawari Guruma Aboriginal Corporation (WGAC) to the Committee dated 8 September 2021. We wish to reassure the Committee that Rio Tinto's evidence to the 27 August hearing was presented to the best of our knowledge and we did not seek to downplay the significance of the events that occurred. At all times, Rio Tinto has cooperated fully with the Committee and has sought to play a constructive role during the Inquiry. Rio Tinto reiterates its evidence to the Committee on 27 August in acknowledging our actions in relation to Marandoo have caused hurt and pain for Eastern Guruma people. We are committed to working with WGAC and the Eastern Guruma people to do our best to heal these wounds. This includes a commitment to continuing to work through these historical issues with Eastern Guruma with the view to improving our relationship. We understand this will take time.

Question no	Questions	Response
1.	Senator Dodson. Can you give me an idea of what kind of revenue Rio has generated off your lease at Marandoo since operations began, and since determination of native title in 2007?	<p>While native title no longer exists under Australian law at the Marandoo mine, the mine and much of the supporting infrastructure, sits on the traditional lands of the Eastern Guruma people.</p> <p>Rio Tinto recognises the special connection to the land held by the Eastern Guruma even though formal native title (under the Native Title Act) over the Marandoo mine area was extinguished by the Western Australian government's vesting of Karijini National Park.</p> <p>We have worked with the Eastern Guruma on cultural heritage management since the mine was established in the mid-1990s.</p> <p>Since 1999 we have conducted more than 90 cultural heritage surveys and salvage programs to manage heritage sites within the Marandoo operations, notwithstanding the Aboriginal Heritage (Marandoo) Act 1992 (WA), which excludes parts of the project area from the operation of the Aboriginal Heritage Act 1972 (WA).</p> <p>In recent times our Iron Ore team has had direct engagement with the Eastern Guruma people, and we thank the Eastern Guruma elders for sharing their experiences. We are committed to continuing to work closely with the Eastern Guruma on cultural heritage matters.</p> <p>Rio Tinto reports revenue from its Pilbara operations on a Pilbara-wide basis. The production from each mine is included in Rio Tinto's annual reports. Production from Marandoo commenced in 1994 and has averaged 12 Mtpa and iron ore prices have varied over that time.</p>

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2.	Senator Dodson. How were the artefacts stored and contained at NTU?	<p>Most of the salvaged samples were placed in a storage container at the Northern Territory University (NTU) Myilly Point campus, and we understand the remainder were stored at the NTU Casuarina campus in the archaeological department laboratory. Within the storage container, the materials were kept in salvage sample bags, with some smaller sample bags contained within larger bags.</p> <p>Storing materials in storage containers remains a prevailing practice for salvaged materials. However, as with all facilities they require maintenance to ensure the salvaged materials are well-managed and protected.</p>
3.	Senator Dodson. How far back do the artefacts/materials collected at Marandoo go? I've heard some reports of 16,000 years.	<p>From our review of records, at least eight samples from three of the sites salvaged in the 1992 program were sent to laboratories for radiocarbon dating by the NTU. The radiocarbon results from a Kinhill report indicate a range of ages, from modern to 17,900 (+/- 230) years Before Present Era. Further dating on rock shelter MG2 undertaken on the additional salvage program completed in 1994 had a range of 5,370 (+/- 60) years Before Present Era to 13,460 (+/-90) years Before Present Era.</p>
4.	Senator Thorpe. This morning I received some information about a site in WA where recently bulldozers ran over dingo pups. Traditional Owners had requested environmentalists to be on site to move animals before clearing land. This was rejected. Can you talk to me about this?	<p>We were not aware of this disturbing story prior to it being raised by Senator Thorpe. We investigated the matter as a priority and after checking with all our mining operations across the country, we haven't found any evidence to substantiate these claims. If any further information comes to light, or if Senator Thorpe can provide additional detail we will investigate further and appropriate action will be taken if necessary. Protecting animals and the biodiversity in the habitats where we operate is very important to us.</p>
5.	Senator Thorpe. I note that Rio has operated in Australia for more than 100 years and has taken/stolen resources, desecrated and profited off someone else's land. Would Rio then commit to reparations for over 100 years of desecration?	<p>Rio Tinto has operated in Australia for more than 100 years and has been operating in the Pilbara since 1966, with its operations approved in accordance with Australian law.</p> <p>Rio Tinto has grown to become one of the country's largest employers of Indigenous Australians and we work with a number of Indigenous suppliers around the country.</p> <p>Many of our operations started before native title was recognised by law in Australia. As a result, Rio Tinto acknowledges that in the past it has operated mines without agreements or compensation in place with Traditional Owners, as was the case for all mining companies, and indeed all developers and land users, in similar circumstances.</p> <p>The Native Title Act makes provision for native title holders to claim compensation from government for "past acts" and (when they occur) "future acts" that have affected their native title rights, and now we are starting to see some of these cases settled or determined by the Courts.</p> <p>Since native title was recognised in Australia in 1992, Rio Tinto has always sought to have in place agreements with the native title claim groups, common law holders and Traditional Owners of the land</p>

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		<p>on which its operations are located, and to compensate them for those impacts. As a company, Rio Tinto was one of the industry's "first movers" in this regard, once the existence of native title was recognised by Australian law.</p> <p>Most of Rio Tinto's agreements in the Pilbara were entered into with Traditional Owner groups while their native title claims were still being considered by the State and Commonwealth governments. Rio Tinto recognised the connection to country of Traditional Owner groups during the drawn-out native title claim process, which in some cases took more than 15 years to resolve after claims were first filed. While in some limited cases, it was a legal requirement to negotiate the agreements, in most cases Rio Tinto voluntarily put them in place, even where it was not under a legal obligation to have an agreement or pay compensation.</p>
6.	<p>Senator Thorpe. Who is leading the structural changes within Rio Tinto, and the process to learn from what happened at Juukan Gorge? And who is leading First Nations engagement at Rio? Are these First Nations people? How is it being ensured that processes are culturally appropriate and that you follow lore?</p>	<p>The commitment to change is embedded across the business, from local level up to the Board. During 2021 we have been building social performance capacity and capability across the business as we embed our new Communities and Social Performance (CSP) model.</p> <p>As a result of the restructuring of our global CSP function, line managers within the product groups, generally the General Manager of each mine site or operation, now have direct responsibility to build and maintain relationships with host communities, including Indigenous Peoples. In our Iron Ore business, while the Iron Ore Chief Executive has the overall accountability for Traditional Owner relationships and heritage matters for the product group, Traditional Owner leads support the mine General Managers by maintaining the day-to-day engagement with the Traditional Owner groups.</p> <p>A Traditional Owner Partnerships Committee has been created in our Iron Ore business to provide a forum that regularly links up leadership and teams from the business to discuss Traditional Owner partnerships and opportunities to drive improvements and share learnings.</p> <p>At the corporate level, we have a dedicated Australian Indigenous Affairs team that is led and managed by a Chief Adviser, Indigenous Affairs reporting to the Chief Executive Australia. This team is playing an important role in helping to shape and implement the lessons learned from Juukan Gorge and is also accountable for developing Rio Tinto's Australian Indigenous Affairs Strategy.</p> <p>Supporting the product groups, we have a central Communities and Social Performance team reporting to a member of Rio Tinto's Executive Committee. The team has deep experience in social sciences, economic development, human rights and Indigenous Affairs. In addition, the Rio Tinto Board has recently appointed an Indigenous Non-Executive Director.</p>

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7.	<p>Senator Thorpe. What does Rio Tinto think it means to First Nations people having their cultural heritage destroyed? Do you think you can compensate for what has been destroyed?</p>	<p>Rio Tinto is committed to working with its Traditional Owner partners to understand the significance of the cultural heritage on country impacted by our mining operations and to work with our Traditional owner partners to manage cultural heritage appropriately.</p> <p>The destruction of the rock shelters at Juukan Gorge should never have happened and we are deeply sorry for our actions. We fell far short of our values as a company and breached the trust placed in us by the Traditional Owners of the lands on which we operate.</p> <p>We know what was lost is irreplaceable and recognise that we have caused immense grief to the Puutu Kunti Kurrama and Pinikura (PKKP) people, Traditional Owners and Indigenous communities in Australia and around the world, our employees and the wider community.</p> <p>Our Iron Ore team is engaging with the PKKP people to determine an appropriate remedy for the destruction of the rock shelters. The PKKP have told us that they want to work directly with Rio Tinto on the remedy process without commentary from third parties wherever possible. We respect this and are keeping details of our engagements confidential as requested.</p> <p>It is our responsibility to ensure that the destruction of a site of such exceptional cultural significance never happens again at a Rio Tinto operation, to earn back the trust that has been lost and to re-establish best practice in communities and social performance</p>
8.	<p>Senator Thorpe. What is the status of Juukan Gorge and the remediation of the site?</p>	<p>The Juukan Remediation Project has been established and co-designed with the PKKP people, their Corporation representatives and their independent technical advisers. This Juukan Sub-Committee provides direction to Rio Tinto on how all works shall proceed and the pace at which the work is undertaken. All meetings are held on-country at the Juukan Gorge site to best ensure mutual understanding. A Traditional Owner monitor is always on location overseeing the works. The project consists of the following stages:</p> <ol style="list-style-type: none"> 1) Remediation of an area to the west of Juukan Gorge. This was completed in May 2021. 2) "Make Safe" of the Juukan Gorge. This stage of the project is to ensure safe access into the Gorge for geotechnical and structural assessment of the rock shelters. This work is currently underway and the geotechnical and structural assessments are critical to informing remediation options. 3) Remediating the Juukan rock shelters. Based on the data, information and advice, options for remediation of the rock shelters will be developed and will consider not only physical remediation of the area but also the restoration of "sense of place", which helps remediate the cultural values of the area impacted. The Juukan Sub-Committee will determine which option is executed.

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		<p>In partnership with the PKKP people, we are focusing on understanding how, through the remediation of the Juukan rock shelters, we can re-establish a sense of place that recognises the exceptional cultural significance and connection of the Juukan Gorge area to past, current and future PKKP people as well as their aspirations for future use and interaction with the place.</p>
9.	<p>Senator Thorpe. What is the status of Rio Tinto's relationship with the Puutu Kunti Kurrama and Pinikura people?</p>	<p>We are committed to re-building our partnership with the PKKP based on trust and respect. We don't underestimate the time it will take to achieve remedy and healing in this partnership.</p> <p>Assessing the status of a relationship, particularly after actions and events that have caused such deep hurt, is challenging. A relationship cannot be categorised simply, nor should it be considered static or linear. Below we summarise how we have been working together and our view of PKKP's perception of the actions we are undertaking.</p> <p>We are working with the PKKP people to agree on a co-management model under which the PKKP people and Rio Tinto can work together in relation to the development and management of country as part of the agreement modernisation work. This will necessarily involve earlier and more detailed consultation, with increased sharing of information and greater involvement of PKKP representatives in Rio Tinto's operations throughout the life-cycle of the mine.</p> <p>To rebuild our relationship with the PKKP people, we are committed to a moratorium on mining in the Juukan Gorge area and, in consultation with the Traditional Owners, work is underway on a remediation plan for the site. Our primary focus is to support the healing of the PKKP people by completing the works at their direction in a timeframe that meets their wishes.</p> <p>Indications from the PKKP people on the actions taken so far and the new approach are that they are positive and moving in the right direction, though we both acknowledge that there is more work to be done.</p>
10.	<p>Senator Thorpe. Given your reconciliatory approach to the Puutu Kunti Kurrama and Pinikura people and your recent media comments, what is your perspective in the Aboriginal Heritage (Marandoo) Act 1992? Should the Act be repealed?</p>	<p>Rio Tinto actively supports the repeal of the Marandoo Act 1992 (WA) as part of the introduction of the new Aboriginal Cultural Heritage Bill.</p> <p>We are actively working with Traditional Owners and the Western Australian Government to facilitate the transition to new cultural heritage legislation as soon as possible, in a manner that provides certainty for management of heritage and the continuation of operations.</p>
11.	<p>Senator Thorpe. Can you please provide details of when the authorisation to blast the Juukan caves was granted? Who was involved in the decision and who gave the final go-ahead? What was Sam Walsh's role in the decision-making at</p>	<p>Rio Tinto has previously provided evidence regarding:</p> <p>(a) the approval of mine plans for Brockman 4 in 2013 (see Rio Tinto's submissions to the Joint Standing Committee dated 31 July 2020 at paragraphs 13 to 14 and paragraph 116; Rio Tinto's responses to questions on notice on 3 September 2020, pages 64-65, Group D, question 2); and</p>

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	the time? Please provide meeting minutes and other documentation to support your evidence.	<p>(b) the details of the sequence of events immediately leading up to the blasts (see Rio Tinto's submissions to the Joint Standing Committee dated 31 July 2020 at paragraphs 231 to 243; Rio Tinto's responses to questions on notice on 3 September 2020, pages 6-9, questions 6 and 7, and page 50, Group C, question 6).</p> <p>Sam Walsh retired from Rio Tinto in 2016.</p>
12.	Senator Thorpe. What role did Bruce Harvey, as manager of Indigenous relationships until 2016 play in both the Juukan and Marandoo cases? Please provide meeting minutes and other supporting documentation for your evidence.	Bruce Harvey retired from Rio Tinto in 2014. We are not aware what role, if any, Mr Harvey played in relation to the events at Juukan Gorge or the events at Marandoo that were the subject of Rio Tinto's testimony at the hearing on 27 August 2021.
13.	Senator Thorpe. What was Leon Davis role in the management of heritage artefacts from Marandoo? Please provide meeting minutes and other documentation supporting your evidence.	Our review of our files and records has not identified any involvement by Leon Davis in the management of heritage artefacts from Marandoo.
14.	Senator Smith. As part of the IHMP and by reference to the information in the Annexure in the letter from your Chairman to me, at this point in time, how many sites have been moved from cleared for mining to protected?	Through our Integrated Heritage Management Process (IHMP) and consultation with Traditional Owners, we can confirm 97 heritage sites previously cleared for mining have been permanently protected. A further 364 heritage sites have been returned to protected while further consultation is undertaken.
15.	Senator Chisholm. Can you put a dollar figure on how much the Juukan destruction has cost Rio in terms of lost production?	In terms of direct production, eight million tonnes of high-grade iron ore was removed from mine plans due to the creation of a protective buffer around Juukan Gorge in 2020. We note that, following the events in May last year, Rio Tinto has removed 54 million dry tonnes from reserves, and 2021 production was reduced by around 2 million tonnes, as disclosed in Rio Tinto's 2021 half year results, as mine plans have been amended, and buffers and exclusion zones have been incorporated to protect areas of high cultural significance.
16.	Mr Snowdon. Is it possible for us to know who at the NTU Rio was dealing with?	Kinhill was contracted by the WA Museum to carry out certain salvage and analysis work supported by Hammersley Iron. Through Kinhill, a number of professional archaeologists were contracted to deliver parts of these works. The NTU personnel included Phillip Hughes and Peter Hiscock.
17.	Mr Snowdon. How many of your new indigenous managers are from the Pilbara?	Of six new managers in Iron Ore, one identifies as being from the Pilbara.

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18.	<p>Senator Thorpe. Can Rio Tinto provide evidence that no other sites of cultural significance have been destroyed or damaged during the last 100 years of its operations?</p>	<p>Mining, by its very nature, requires the disturbance of land. Where it is has not been practicable to avoid impacting sites of cultural significance, those impacts have occurred in accordance with the law.</p> <p>Rio Tinto has provided its views on specific issues regarding cultural heritage legislative reform as raised by the Inquiry's terms of reference (see Rio Tinto's submissions to the Joint Standing Committee dated 31 July 2020 at paragraphs 259 to 277). Rio Tinto has also confirmed its support for new Aboriginal heritage legislation in Western Australia that balances meaningful Aboriginal stakeholder engagement and the protection and management of Aboriginal heritage values with the delivery of certain, timely and efficient outcomes for stakeholders.</p> <p>Following Juukan, Rio Tinto is re-consulting in relation to existing section 18 approvals. Further, Rio Tinto is only pursuing section 18 approvals under the existing legislation where we have a letter of non-objection from Traditional Owners.</p>