

## Irresponsible Happenings: Australia's Juukan Gorge, Rio Tinto and the Never Again Report

By [Dr. Binoy Kampmark](#)

Asia-Pacific Research, December 11, 2020

Region: [Oceania](#)

Theme: [History](#), [Justice](#), [Society](#)

*"Never Again." These words are used with boring, stage managed frequency by political and company figures who should know better. They title the [interim report](#) from the Joint Standing Committee on Northern Australia investigating the destruction of rock shelters at Juukan Gorge in Western Australia by Rio Tinto. This act of spectacular cultural vandalism destroyed sites 46,000 years old. The company initially thought it was worth the bill: AU\$135 million worth of iron ore.*

The efforts of Rio Tinto were given that more punch as they took place on the eve of Reconciliation Week on May 24. They were approved through existing mining laws long shaped by wily developers and land users. The company had previously boasted of its rapport with the local indigenous peoples, including the Puutu Kunti Kurrama and Pinikura (PKKP). But a bleak picture emerged. PKKP concerns, according to the company's [statement](#), "did not arise through the engagements that have taken place over many years under the agreement that governs our operations in the country." (Rio was trimming the truth on that one.) Flaws in the company's decision making structure were detected. There was insufficient oversight. The London-based head of corporate relations, Simone Niven, had little idea what the Juukan Gorge caves were before the blasting took place.

In October, committee members were told that Rio Tinto had been all too keen to muzzle traditional owners in their efforts to save the rock shelters. Amply lawyered, the company shot off letters warning that agitators could not speak publicly about their cause. The PKKP were also told that an application for an emergency halt to the works to the federal government could only take place with Rio Tinto's permission, and giving 30 days' notice. As Carol Meredith, chief executive of the PKKP Aboriginal Corporation [recalls](#), "What we were reminded of by Rio's lawyers was that we were not able to engage seeking out an emergency declaration that perhaps would have stopped proceedings, because of our claim-wide participation agreement."

Rio Tinto does not come out shining. It was found to be strategic and calculating in approaching its mining, taking a "legalistic approach to heritage protection," and adopting a self-interested approach in relying on "outdated laws and unfair agreements". "The evidence before the committee demonstrates severe deficiencies in the company's heritage management practices, internal communication protocols and relationship practices with the PKKP." The company's own board review had done little to address them. The commercial incentive remained all-conquering.

The report takes issue with the cobwebbed *Aboriginal Heritage Act*, a West Australian law

from 1972. The statute is meant to protect and preserve Aboriginal sites, a purpose it serves shabbily. While section 17 of the current Act makes the destruction, damage or altering to an Aboriginal site a criminal offence, [Section 18](#) provides a route of dispensation for the aspiring cultural vandal. Breaches of the Act (in other words, damage to the site) will be excused provided the applicant seeks consent from the Aboriginal Cultural Material Committee (ACMC). The ACMC, in turn, assesses the importance and cultural significance of the site, conveying the notice to the Minister with a written recommendation on how to proceed. In making a decision, the Minister has full discretion.

A [draft bill](#), acknowledged by the committee, would remove Section 18 of the Act. The report also recommends that new legislation involve traditional owners in the decision. A commitment to stay all actions under Section 18 permissions obtained by Rio Tinto is sought till “they are properly reviewed to ensure that free, prior and informed consent has been obtained from Traditional Owners and is current”. The new legislation should also prohibit agreements “which seek to restrict Traditional Owners from exercising their rights to seek protections under State and Commonwealth laws.”

Gag clauses or restrictions in agreements as deployed by Rio Tinto to stifle protest are also recommended for removal. Committee members also list a few other recommendations for the mining giant. These include negotiating a restitution package for the destruction of the rock shelters with the PKKP and full reconstruction and remediation of the site “at its own expense, with guidance and oversight from the PKKP, acknowledging Rio Tinto’s undertaken in this regard and the steps taken to date.”

All mining companies currently operating in Western Australia, whether or not on Native Title land are also told to undertake independent reviews of existing agreements between them and the Traditional Owners, while also committing “to ongoing regular review to ensure consistency with best practice standards.”

The predations of Rio Tinto opened up cataracts of condemnation. Finding individual villainy would be tempting but inaccurate. The company operates in an industry deaf, and increasingly deafened, to social policy. A co-authored [piece](#) in *The Conversation* by academics specialising in social responsibility and mining (oxymoronic flair is rife in this field) claims that “community relations departments [in the industry] have seen sizeable reductions.”

As with other entities driven by free market avarice, mining companies are also cool to the idea of greater protections for Aboriginal heritage sites, policed by federal regulations. BHP, Rio Tinto, Roy Hill, Woodside and Fortescue Metals [have told the inquiry](#) that agreements with traditional owners have generally worked. Juukan Gorge was merely an aberration. Such giants remain taken with the fantasy that their arrangements arise from positions of equal bargaining power and adequate resources. These agreements, [according to](#) Jamie Lowe of the National Native Title Council, “enable the pretence that when destruction is authorised, it is what traditional owners would have agreed had legislation given them the right to say no.”

The Australian parliamentarians are inadvertently right. This will never happen again, because the rock shelters have ceased to exist. History and cultural traces, eradicated. A spot in time, never to be repeated. Harm caused by the mining industry to cultural heritage will simply continue in new forms, with consent manufactured. Till the laws are changed and demand for natural resources slides, companies such as Rio Tinto will continue milking

and reaping, whatever pull social responsibility has.

\*

Note to readers: please click the share buttons above or below. Forward this article to your email lists. Crosspost on your blog site, internet forums. etc.

**Dr. Binoy Kampmark** was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. He is a frequent contributor to Global Research and Asia-Pacific Research. Email: [bkampmark@gmail.com](mailto:bkampmark@gmail.com)

Featured image is from Change.org

The original source of this article is Asia-Pacific Research  
Copyright © [Dr. Binoy Kampmark](#), Asia-Pacific Research, 2020

---

[Comment on Global Research Articles on our Facebook page](#)

[Become a Member of Global Research](#)

Articles by: **[Dr. Binoy Kampmark](#)**

**Disclaimer:** The contents of this article are of sole responsibility of the author(s). Asia-Pacific Research will not be responsible for any inaccurate or incorrect statement in this article. Asia-Pacific Research grants permission to cross-post Asia-Pacific Research articles on community internet sites as long the source and copyright are acknowledged together with a hyperlink to the original Asia-Pacific Research article. For publication of Asia-Pacific Research articles in print or other forms including commercial internet sites, contact: [editors@asia-pacificresearch.com](mailto:editors@asia-pacificresearch.com)

[www.asia-pacificresearch.com](http://www.asia-pacificresearch.com) contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available to our readers under the provisions of "fair use" in an effort to advance a better understanding of political, economic and social issues. The material on this site is distributed without profit to those who have expressed a prior interest in receiving it for research and educational purposes. If you wish to use copyrighted material for purposes other than "fair use" you must request permission from the copyright owner.

For media inquiries: [editors@asia-pacificresearch.com](mailto:editors@asia-pacificresearch.com)