

Media Release

31 August 2020

THE ‘BOMBING’ OF JUUKAN GORGE: TRADITIONAL OWNERS LACK RIGHTS & FUNDING

The National Native Title Council (NNTC) appeared before the Juukan Gorge Senate Inquiry on Friday, pointing out the lack of rights and resourcing for Traditional Owners (through their Prescribed Bodies Corporate or PBCs) and the legislative deficiencies that led to the destruction of the 46,000-year-old caves.

Those legislative deficiencies include a lack of real protection at the federal or state level for Indigenous cultural heritage, and the fact that mining companies and PBCs make agreements under the Native Title Act (NTA) but the NTA does not have a requirement for ‘free, prior and informed consent’. Ministers during Friday’s Inquiry pointed out the “gag clauses” contained in mining agreements that prevent Traditional Owners from speaking out may also impede their rights under other Australian legislation.

NNTC CEO Jamie Lowe stated:

“We need an overhaul of Indigenous cultural heritage legislation at all levels of government and this must be led by the Commonwealth.

“When agreements are struck under the NTA, this doesn’t offer sufficient rights for Traditional Owners to protect their heritage. If Traditional Owners don’t consent to mining, the mining company can make an application to the National Native Title Tribunal (NNTT), which almost always rules in industry’s favour. That’s not free, prior and informed consent, and it’s certainly not self-determination.”

“PBCs are not resourced to carry out their most basic statutory functions, let alone negotiate on a level playing field with billion-dollar, multinational mining companies. There’s one PBC we know of which has 546 live or pending mining tenements on their books right now. For a PBC to manage that kind of workload with zero resourcing from any government, that’s a gross inadequacy. The destruction of sites from mining companies or civil construction will continue to happen when we are stripped of our self-determination rights.”

The Senate Inquiry on Friday discussed whether or not Rio Tinto may be in breach of its own agreement by not acting in good faith, given the company’s admission that it chose to only present one option to the Traditional Owners (to blow up the caves) when they had three other options which could have avoided its destruction.

“Juukan Gorge has shown us that mining companies cannot be trusted to self-regulate. Rio Tinto wants us to think that the catastrophe was an unfortunate, once-off occurrence. But their own responses to the Senate Inquiry, and their internal review, show that there was a clear series of

choices that led to the destruction. These were made on a 'for profit' basis. Mining companies are getting fat on Australia's minerals. And their wealth gives them a sense of entitlement that leads them to destroy sites of world heritage significance like Juukan Gorge."

The NNTC's Deputy Chair, Kado Muir was also witness at the Juukan Senate Inquiry:

"At a higher level it is about what enriches us as a nation. The bombing of Juukan Gorge and the reason why we're having this Inquiry goes back to the fact that the people, the country, the international community, we're all left that little bit impoverished as a result of having lost this major, significant site," said Mr Muir.

The NNTC is calling for the Commonwealth to adopt national best practice standards, and for greater resourcing for PBCs. It is also calling for best practice standards within the mining sector, and for cultural heritage law reform in the states and territories if an incident like Juukan Gorge is to be prevented.

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Note to editors: The NNTC is the non-profit national peak body for the native title sector. Jamie Lowe is CEO and a Guditjmarra Djab Wurrung man. Kado Muir is Deputy Chair, a Ngalia Traditional Owner and an anthropologist.