

Rio Tinto Responses to Questions on Notice
Questions on Notice (hearing dated 7 August 2020)

Question no	Transcript	Response
1	<p>Senator CANAVAN: I just have a little bit of time. I will ask you about that financial aspect. You mentioned in your submission that under the agreements the PKKP do receive financial benefits. Could you outline in detail what those benefits are?</p> <p>Mr Jacques: If it's okay with you, I will take this question on notice because I would need to have a conversation with the PKKP.</p>	<p>Financial benefits (as well as significant non-financial benefits) payable under the Binding Initial Agreement executed on 28 June 2006 and the Participation Agreement executed on 18 March 2011 were made in exchange for consent by the PKKP to Rio Tinto's operations on PKKP land.</p> <p>The total financial benefits paid as of today to the PKKP under the Binding Initial Agreement and Participation Agreement is [figure provided confidentially]</p> <p>The relevant clause of the Binding Initial Agreement is clause 8. It provided for payment of [detail provided confidentially]</p> <p>The Binding Initial Agreement included provisions in relation to interest, how/where the payment were to be made, and auditing of the payment.</p> <p>The relevant part of the Participation Agreement is Part 3. Under the Participation Agreement, the PKKP are entitled to [detail provided confidentially]</p> <p>The Participation Agreement also includes provisions in respect of interest, how/where the payments were to be made, reporting and auditing.</p> <p>In addition to financial benefits, the Participation Agreement includes significant non-financial benefits that cover a range of areas including employment, training and business development opportunities.</p> <p>[Additional detail provided confidentially]</p>
2	<p>Senator CANAVAN: I appreciate that. I realise there might be confidential elements. I can't recall if the chair mentioned that we can, with the</p>	<p>The table below outlines the 4 mine plan options referenced at paragraphs 13 and 116 of Rio Tinto's submission dated 31 July 2020. Each option sets out the tonnage that would not be mined depending on the size of buffer zone applied around the rockshelters.</p>

Question no	Transcript	Response																	
	<p>committee's approval, take evidence in Camera, so please let us know if that's required. I would also be interested in you taking on notice what share of that \$135 billion [sic] net present value—was there some kind of extra benefit the PKKP got from having high-grade ore under the agreement?</p>		<table border="1"> <thead> <tr> <th data-bbox="1059 331 1234 368">Option</th> <th data-bbox="1234 331 1744 368">Potential buffer zone</th> <th data-bbox="1744 331 2076 368">Tonnage Not Mined</th> </tr> </thead> <tbody> <tr> <td data-bbox="1059 368 1234 405">Option 1</td> <td data-bbox="1234 368 1744 405">Including Juukan 1 and Juukan 2</td> <td data-bbox="1744 368 2076 405">0 Mt</td> </tr> <tr> <td data-bbox="1059 405 1234 483">Option 2</td> <td data-bbox="1234 405 1744 483">65 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1744 405 2076 483">8.1Mt</td> </tr> <tr> <td data-bbox="1059 483 1234 561">Option 3</td> <td data-bbox="1234 483 1744 561">200 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1744 483 2076 561">10.2 Mt</td> </tr> <tr> <td data-bbox="1059 561 1234 635">Option 4</td> <td data-bbox="1234 561 1744 635">125 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1744 561 2076 635">8.5Mt</td> </tr> </tbody> </table>	Option	Potential buffer zone	Tonnage Not Mined	Option 1	Including Juukan 1 and Juukan 2	0 Mt	Option 2	65 metre offset from Juukan 1 and Juukan 2	8.1Mt	Option 3	200 metre offset from Juukan 1 and Juukan 2	10.2 Mt	Option 4	125 metre offset from Juukan 1 and Juukan 2	8.5Mt	
Option	Potential buffer zone	Tonnage Not Mined																	
Option 1	Including Juukan 1 and Juukan 2	0 Mt																	
Option 2	65 metre offset from Juukan 1 and Juukan 2	8.1Mt																	
Option 3	200 metre offset from Juukan 1 and Juukan 2	10.2 Mt																	
Option 4	125 metre offset from Juukan 1 and Juukan 2	8.5Mt																	
3	<p>Mr Haynes: We have a formal cultural heritage management planning system that is in place right across our company. Within Australia it operates under specific standards, and within that standard procedure, yes, these are reviewed on a regular basis. It also requires individual</p>	<p>Rio Tinto has a formal cultural heritage management planning system in place across the company.</p> <p>A copy of the current Communities and Social Performance ('CSP') Standard is enclosed. It became effective 1 April 2015. Each asset in Rio Tinto is audited by a team of experts from outside the product group to ensure compliance with and adherence to this standard.</p> <p>A copy of the previous Communities Standard (in place from 2011 to 2014) is also enclosed.</p>																	

Question no	Transcript	Response
	<p>cultural heritage management plans, as part of that process, and those are reviewed as well.</p> <p>Senator SIEWERT: Are these formal reports, and are they able to be released to the committee?</p> <p>Mr Haynes: I would like to take that one on notice and come back to you.</p>	<p>In line with CSP Standard 1.6 and a specific commitment made in the Regional Framework Deed, Rio Tinto prepared a Cultural Heritage Management Plan (CHMP) in consultation with the PKK. A copy of that is enclosed.</p> <p>As noted at paragraphs 168-172 of our submissions:</p> <ul style="list-style-type: none"> • On 16 November 2017, version 1 of the CHMP was emailed to PKKAC and was discussed at the Local Implementation Committee meeting on 23 November 2017. In January 2018, YMAC advised that they were happy with the CHMP and did not have any suggested revisions. • A further version of the CHMP was prepared and circulated in March 2019 to the CEO PKKAC and Dr Builth (as Culture and Heritage Manager, PKKAC) seeking comments on changes that had been made to the document. No comments were received from the PKK. • Each version of the CHMP contained the following text under the heading 'Key Heritage Sites' (which included Juukan 1 and Juukan 2): <ul style="list-style-type: none"> <i>Excavations conducted as part of Section 16 and 18 processes have demonstrated occupation of the Brockman 4 area through time (e.g. Slack 2008). A radiocarbon date at Juukan rockshelter (located in the Brockman Syncline 4 CHMP: Part B area but now impacted by the development of Pit 1) has revealed that Aboriginal people have lived in the area for at least 43,000 years.</i> • The Section 18 Consent for Juukan 1 and Juukan 2 was also noted in the CHMP.
4	<p>Senator SIEWERT: [...] Can I go to the participation agreement processes. I want to get an understanding of the participation agreement processes. My understanding is that some of those participation agreements actually release</p>	<p>Rio Tinto did not require the PKK or any other TO group to enter into a Participation Agreement. These Agreements go above Rio Tinto's legal obligations and enable both parties to form an agreement through which the PKK gives consent for Rio Tinto's prior, current and future operations on their land. In return for that consent, the PKK is provided with extensive benefits. These benefits are detailed in response to question 1 above.</p>

Question no	Transcript	Response
	<p>Rio Tinto from action, claims, demands or proceedings of any kind under any law, including the Racial Discrimination Act, the Native Title Act, the Aboriginal Heritage Act, the Fair Trading Act—a whole range of acts. Is this the case?</p> <p>Mr Haynes: The agreements themselves do have a series of provisions that bind both parties to the agreement, and that includes the release on some of these provisions.</p> <p>Senator SIEWERT: Can you please take on notice what act they release you from, and why you require people to sign these? And are these signed before Indigenous land use agreements are agreed?</p> <p>Ms Wilson: Perhaps I can add something. We can certainly take it on notice, but in the meantime: the philosophy behind these agreements is that these are Indigenous land use agreements or lead to Indigenous land use agreements, which mirror a large part of the terms of participation agreements. They do provide for compensation and for a compensation amount that is, as you said, for release of our past activities and of our future impact, recognising that our activities do impact on land and on native title rights and interests. So, in that context, that's where the releases are provided for in relation to that.</p>	<p>As set out in our submissions, the Participation Agreement built on the agreement reached between the PKKP and Rio Tinto in 2006, the Binding Initial Agreement.</p> <p>As set out in our submissions at paragraph 94, the Participation Agreement was negotiated with the PKKP over a lengthy period and the PKKP were legally represented and accessed expert advisors throughout those negotiations. For these reasons it is Rio Tinto's view that the free, prior and informed consent of the PKKP to enter into the Participation Agreement was obtained.</p> <p>The Participation Agreement does not release Rio Tinto from complying with any laws. However, the form of consent provided by the PKKP includes that the PKKP agreed to restrict, or exercise in a certain way or subject to certain conditions, rights that they otherwise would have under various laws. For example, PKKP agreed not to object to or challenge Rio Tinto's operations. This includes not commencing any claim, proceeding or action under any law to object to or challenge 'Agreed Acts' or Rio Tinto's Iron Ore business.</p> <p>PKKP also agreed that the compensation payments made under the Participation Agreement constitute full and final satisfaction of PKKP's rights to compensation or damages under any law (except in relation to personal injury, damage to personal property or where there is a breach of the Participation Agreement). These are not releases from the legislation. Instead, it constitutes an agreement between Rio Tinto and PKKP regarding the extent to which PKKP will exercise rights that they might have under that legislation. The PKKP also agreed that the procedural rights in the Participation Agreement would to the maximum extent possible by law discharge Rio Tinto's obligations to afford procedural rights in relation to Agreed Acts under the Native Title Act or any other law.</p> <p>As stated by Mr Jacques during his opening comments on page 2 of the Transcript, we acknowledge the importance of partnership and need to find a way to give a greater voice to Traditional Owners in the decision making process in relation to mining on their land. This is why we have committed to reviewing our approach to partnership with Traditional Owners based on mutual benefit.</p>

Question no	Transcript	Response
		<p>The agreements delivered a range of important rights to Traditional Owners, including compensation and other payments as well as employment and business development opportunities. At the time, they were widely considered landmark agreements, providing opportunities for the Traditional Owners, whilst securing consent and land access for Rio Tinto's present and future operations. The approach reflected a new era of agreement making between Traditional Owners and Rio Tinto, usually well ahead of recognition of native title rights under Australian law.</p> <p>The restrictions contained in the agreement reflect what was agreed between the parties, ensuring that the PKKP would have certainty on compensation for Rio Tinto mining on their land and Rio Tinto would have certainty for its operations. This certainty is very important to underpin long term mining investment.</p> <p>Rio Tinto understands that even with the best intent and extensive advice from experts, it is impossible to contemplate all possible developments over the life cycle of a mining project. In line with this, our Participation Agreements contain periodic review clauses that seek to retest and ensure the intent of the agreement is still being reflected.</p> <p>However, as we have seen with the events around Juukan Gorge, a strong Traditional Owner voice in communicating to us what is important to them is vital. There is a question about whether the nature of agreements may have confined that voice in some respects. We acknowledged in our opening statement on 7 August that our Participation Agreements require modernisation. This will be a key consideration moving forward and we are committed to making changes to reflect the modern reality.</p>
5	<p>Senator DEAN SMITH: How many of those meetings were held?</p> <p>Mr Salisbury: We held meetings on both the Thursday and the Friday, and, by the close of business on the Friday, we'd recognised that actually there were very few options. [...]</p>	<p>The minutes of these two meetings are enclosed.</p>

Question no	Transcript	Response
	<p>Senator DEAN SMITH: Did the business resilience discussions involve discussions about alternative scenarios around how to protect the Juukan caves?</p> <p>Mr Salisbury: Yes, they did. As I said, we spent some time talking about whether it was possible to remove all of the explosives, and, as I outlined, for reasons of safety and the time—because the explosives had been in the ground for some time by that point—that really wasn't an option. But what we could do was protect the other sites by removing the seven holes.</p> <p>Senator DEAN SMITH: Can you make available to the committee the minutes of those business resilience meetings?</p>	
6	<p>Senator DEAN SMITH: In a matter as significant as this, that requires a business resilience meeting to have been held on a number of occasions, would information be conveyed to you in writing, in a formal manner?</p> <p>Mr Jacques: It depends on at what level of the organisation it happens, because we have business resilience meetings sometimes at the site level, at the [inaudible] level or at the company level. At the company level is where we chair the committee for this reason. My chief of staff will put everything in writing.</p>	<p>Mr Salisbury, the Chief Executive of Iron Ore, did not provide written information to Mr Jacques in respect of the relevant Business Resilience Team meetings or in respect of the cultural heritage of the rockshelters prior to the blast of the rockshelters.</p> <p>However, on 23 May a copy of a briefing paper that had been provided to Business Resilience Team on 21 May 2020 was attached to an email sent to the Rio Tinto Disclosure Committee, including Mr Jacques. The briefing paper provided background on the Juukan issues although it did not identify the exceptional significance of the sites or their age. A copy of that paper will be provided to the Committee on a confidential basis as it contains confidential and privileged legal advice.</p>

Question no	Transcript	Response
	<p>Senator DEAN SMITH: Are you able to make available to us those documents that your chief executive made available to you in regard to discussions around the business resilience meeting and, more particularly, around you being advised about the cultural heritage of the Juukan cave?</p> <p>Mr Jacques: I'll take it on notice.</p>	
7	<p>Mr CHRISTENSEN: Anyone from Rio can answer this question. Who were the highest-ranking officials in Rio Tinto who knew or had an inkling about the significance of Juukan Gorge caves? Was it people in the executive? Was it people in middle management? Who were the highest-ranking officials who had the knowledge before this blast happened?</p> <p>Mr Haynes: Can I take that question on notice to make sure that we provide you with the full details on that?</p>	<p>As set out in our submissions, Rio Tinto's Heritage Team had the most detailed and direct knowledge of the significance of the Juukan rockshelters as a result of their close working relationship with the PKKP and their responsibility for the ethnographic and archaeological surveys conducted for the purposes of development.</p> <p>Based on our review of the facts, we identify below the most senior persons within Rio Tinto that were informed of the significance of the rock shelters both prior to and subsequent to the receipt of the PKKP's correspondence of 18 May 2020.</p> <p>Prior to 18 May 18 2020:</p> <ul style="list-style-type: none"> • the then General Manager Greater Brockman in 2012 and 2013 who was present at Local Implementation Committee meetings at which the significance of the sites was discussed; and • the then General Manager Communities, and the then Vice President Organisational Resources. Specifically, the General Manager Communities signed the covering email for the application to disturb these sites under s18 of the <i>Aboriginal Heritage Act 1972</i> (WA) (AH Act), and issued a General Manager briefing paper in 2014 which referred to the significance of the Juukan rockshelters. Also, on 6 May 2014, a Heritage team member provided an internal memo to the General Manager Communities and Vice President Organisational Resources in support of the funding request, noting the Juukan rockshelters warranted further scientific work to salvage the cultural material

Question no	Transcript	Response
		<p>within them. The Heritage team member noted: 'In order to offset the loss of these sites we committed (to both the Government and the PKKP people) to conduct a series of scientific salvage excavations to glean as much information as realistically possible within two 12 day field trips before the sites are destroyed.' It was proposed to engage Scarp Archaeology to conduct the excavations.</p> <p>Based on our review of the facts to date, we have not identified that members of the Senior Leadership Team (SLT) of Rio Tinto Iron Ore or any member of the Rio Tinto Group Executive were aware of the high significance of the Juukan rockshelters prior to 18 May 2020. This is subject to one exception which is that we understand that Andrew Harding, then Chief Executive of Iron Ore, delivered a speech in which the Juukan rockshelters were mentioned at the opening of the Colours of Our Country Pilbara Aboriginal Art Exhibition on Monday 8 September 2014 at Central Park, Perth. The speech noted that 'At this most significant site, the evidence estimates Aboriginal occupation dating back some 43,000 years.'</p> <p>For completeness we note there are references to rockshelters or sites of around 40,000 years in age that do not refer specifically to 'Juukan' or provide a clear location for these sites. They also do not identify that these sites fall within the mine plan or are scheduled for disturbance. For example, an internal background paper had been created in preparation for a proposed visit to Brockman 4 in February 2019 by the WA Environment Minister and Chair of the Environment Protection Authority to observe rehabilitation works. That paper was seen by various people within Rio Tinto. However, given the limited non-specific nature of the reference, it is not clear that those people would have obtained an understanding that Juukan 1 and Juukan 2 were being referred to.</p> <p>On or after 18 May 2020:</p> <p>A number of individuals within Rio Tinto Iron Ore were informed of the high significance of the Juukan sites on 18 May 2020. This included the following members of the SLT: MD Planning, Integration and Assets, MD Pilbara Mines, CFO Iron Ore, VP Corporate Relations Australia and General Counsel Iron Ore.</p>

Question no	Transcript	Response
		<p>Mr Salisbury became aware of the high significance of the sites on 21 May 2020. On that day a Business Resilience Team (BRT) meeting was held which included the above members of the SLT and Mr Salisbury. Participants at that meeting recall that the high significance of the sites was discussed. We have provided to the Committee separately a copy of the briefing paper for and minutes of this BRT meeting.</p> <p>Simone Niven (Group Executive, Corporate Relations) was sent a copy of the BRT briefing paper by Mr Salisbury after the meeting was held on 21 May 2020. She was not aware of the Juukan rockshelters before this time. On 21 May 2020 Ms Niven called Mr Jacques to share there was an issue at Brockman, suggesting he should speak with Chris Salisbury for further details.</p> <p>On 23 May 2020, Ms Niven forwarded that BRT briefing paper to the Rio Tinto Disclosure Committee, including Mr Jacques. The briefing paper provided background on the Juukan issues although it did not identify the exceptional significance of the sites or their age.</p>
8	<p>Mr CHRISTENSEN: So, in asking that, what I want to also ask—and this might have to be taken notice; it is a similar question—is: whose decision was it then not to make the executive aware of the significance of the case?</p> <p>Mr Salisbury: Sorry, Mr Christensen, could just repeat the question?</p> <p>Mr CHRISTENSEN: Whose decision was it within Rio not to make the executive aware of the significance of the case?</p> <p>Mr Haynes: Mr Christensen, I'm not aware of a decision being made not to make anyone else aware. We are happy to look into this in more detail and provide information on any decision-</p>	<p>We have not located any evidence to suggest that there was any deliberate or active decision not to inform the Iron Ore Senior Leadership Team or the Group Executive team of the cultural heritage significance of the Juukan rock shelters.</p> <p>The relevant decision making processes regarding development of the Brockman 4 mine and the expansion of Pit 1 to eventually include the Juukan rockshelters in its footprint are set out, to the best of Rio Tinto's knowledge, in our submissions.</p> <p>We have acknowledged in our submissions that there were a number of opportunities missed where the significance of the Juukan rockshelters, as a part of what we now understand to be a complex of sites, could have been escalated within the business. Specifically, we refer you to paragraphs 16 and 17 of our submissions which summarise these missed opportunities.</p> <p>The Board-led review has been completed and indicates a number of lessons and recommendations for improvement from what happened. The review points to systems and data sharing activities, and concluded that no one individual or single factor lead to the destruction of the Juukan rockshelters. A copy of the report released by the Rio Tinto Board on</p>

Question no	Transcript	Response														
	<p>making process around this document. Obviously, there was a range of information provided as part of the decision-making ahead of the blast.</p>	<p>24 August 2020 entitled 'Board Review of Cultural Heritage Management' (Board Review Report) is available at: https://www.riotinto.com/news/inquiry-into-juukan-gorge</p> <p>Additionally, we have already taken steps to ensure that decisions regarding activities which may impact cultural heritage are taken at appropriate levels of the organisation. Through these processes, decisions to proceed with activities are made by either the Chief Executive Iron Ore, or a sub-committee comprising members of the Rio Tinto ExCo.</p> <p>Through these steps we are working to ensure that the destruction of heritage sites of exceptional archaeological and cultural significance, such as the Juukan rockshelters, never occurs again.</p>														
9	<p>Ms WELLS: Thank you. I have a quick follow-up to Senator Canavan's question, first of all, at paragraph 13 of your submission. You said today the fourth option netted eight million tonnes of iron ore for a value of \$135 million net, at the time, which I'm taking to be 2012-13.</p> <p>Mr Jacques: That is correct.</p> <p>Ms WELLS: Great. What were the comparative values of options 1, 2 and 3?</p> <p>Mr Jacques: That is a comparative value, the difference between option 1, 2, 3 and 4, because 1, 2 and 3 work more as a [inaudible] eight million additional tonnes of iron ore, and the increments or NPV, net present value, was [inaudible] earlier today.</p> <p>Ms WELLS: Yes, that's the option you went with. But your submission says that that had a higher value, so it implies you knew what the other</p>	<p>The table below outlines the options considered as at 2012/2013 and the 2012 NPVs for the following:</p> <ul style="list-style-type: none"> • Rio Tinto; • royalties payable to the Western Australian Government, pursuant to Rio Tinto's State Agreement obligations; • the mining benefits payable to PKKP pursuant to the Participation Agreement; • tax payable to the Australian Tax Office. <p>Rio Tinto chose to pursue Option 1, which maximised the available resource. Any of the other options would have resulted in a reduction in tonnes mined from Brockman 4. As such, the numbers below for Options 2 – 4 show the reduction in NPV from the Option 1 base case.</p> <table border="1" data-bbox="958 1126 2069 1431"> <thead> <tr> <th data-bbox="958 1126 1070 1305">Option</th> <th data-bbox="1070 1126 1303 1305">Description</th> <th data-bbox="1303 1126 1456 1305">Tonnage Impact</th> <th data-bbox="1456 1126 1570 1305">2012 NPV USD</th> <th data-bbox="1570 1126 1724 1305">WA Govt Royalty NPV USD</th> <th data-bbox="1724 1126 1951 1305">PKKP mining benefit NPV USD</th> <th data-bbox="1951 1126 2069 1305">Tax NPV USD</th> </tr> </thead> <tbody> <tr> <td data-bbox="958 1305 1070 1431">Option 1</td> <td data-bbox="1070 1305 1303 1431">Including Juukan 1 and Juukan 2</td> <td data-bbox="1303 1305 1456 1431">0 Mt</td> <td data-bbox="1456 1305 1570 1431">0</td> <td data-bbox="1570 1305 1724 1431">0</td> <td data-bbox="1724 1305 1951 1431">[figures are provided confidentially]</td> <td data-bbox="1951 1305 2069 1431">0</td> </tr> </tbody> </table>	Option	Description	Tonnage Impact	2012 NPV USD	WA Govt Royalty NPV USD	PKKP mining benefit NPV USD	Tax NPV USD	Option 1	Including Juukan 1 and Juukan 2	0 Mt	0	0	[figures are provided confidentially]	0
Option	Description	Tonnage Impact	2012 NPV USD	WA Govt Royalty NPV USD	PKKP mining benefit NPV USD	Tax NPV USD										
Option 1	Including Juukan 1 and Juukan 2	0 Mt	0	0	[figures are provided confidentially]	0										

Question no	Transcript	Response								
	<p>values were to select option 4 as the higher value. I'm interested to know what the values were of options 1, 2 and 3.</p> <p>Mr Jacques: I think we can provide you with the metrics of the different options on notice, if that's okay with you.</p> <p>Ms WELLS: That's fine. But given that you knew eight million tonnes was ready this morning why don't you have the number of million tonnes for options 1 2 and 3?</p> <p>Mr Jacques: I will take it on notice and give it to you.</p>	Option 2	65 metre offset from Juukan 1 and Juukan 2	8.1Mt	-	\$138M	-\$25.8M	[figures are provided confidentially]	-	\$73.2M
		Option 3	200 metre offset from Juukan 1 and Juukan 2	10.2 Mt	-	\$174M	-\$32.5M	[figures are provided confidentially]	-	\$92.3M
		Option 4	125 metre offset from Juukan 1 and Juukan 2	8.5Mt	-	\$145M	-\$27.1M	[figures are provided confidentially]	-	\$76.9M
		<p>Note – key inputs used in the calculation of numbers in above table include:</p> <ul style="list-style-type: none"> Publicly released information from RT's 2020 Interim Results (assumptions consistent with those used for the purpose of question 2); Federal and WA legislation; Other public information; Depreciation has not been applied to tax calculation. 								
10	<p>Mr Salisbury: I'll try to answer perhaps one part of the question and then hand to Brad for the second part. The sections that you referred to—sections 60 and 100—refer to the avoidance of heritage sites in terms of the selection of the mining path and so on. I'll hand to Brad in a minute to clarify that. Because this area had been flagged for mining in our system—and, again, we regret that occurring—once the explosives had been laid in the ground it then became a matter of safety in terms of being able to remove them. There are two reports available. One was the independent consultant that Rio</p>	<p>Enclosed are the reports by Rio Tinto's independent blasting consultant and email correspondence received from PKKP's independent blasting consultant.</p> <p>These documents confirmed Rio Tinto's internal view of the risks associated with unloading holes.</p> <p>Within its Pilbara Iron Ore operations, Rio Tinto currently conducts between 20 and 30 blasts per week, with approximately one million holes fired per year (around 90,000 holes per month).</p> <p>Other than the seven blast holes that were unloaded to mitigate the risk of damage to the other sites identified by PKKP, Rio Tinto has only removed primer from seven holes in 2020.</p> <p>As Mr Salisbury stated at page 13 of the Transcript, the ability to unload explosives 'depends on the type of explosives and the nature of the ground'. There are various different types of</p>								

Question no	Transcript	Response
	<p>Tinto engaged. The second was by the PKKP. As I said, I'll take on notice to provide any Rio Tinto consultant reports to you.</p>	<p>explosives used in the mining industry. Differing safety risks arise from the extraction of these various types of explosives once loaded.</p> <p>In this case, the explosive product used was a mixture of 70% ANFO and 30% emulsion. The technical data sheet for that product indicates that the sleep time within blast holes must not exceed 14 days.</p> <p>Further, emulsion is water resistant. This means that flushing a blast hole with water has a lower prospect of successfully removing emulsion than is the case for ANFO.</p> <p>It is possible to remove stemming from a blast hole by way of vacuum. The Standard Work Procedure for the vacuum trucks used by Rio Tinto expressly states that the process is not to be used to remove explosives from a blast hole. The Standard Work Procedure from Rio Tinto's explosives supplier also states this.</p> <p>Using the vacuum truck gives rise to the risk of unplanned initiation of explosives and this needs to be carefully managed through risk assessment and controls.</p>
11	<p>Mr SNOWDON: Could you make available to us the 2006 agreement and the participation agreement?</p> <p>Mr Haynes: Subject to confidentiality, yes, we will look at providing that document.</p>	<p>Copies of the Binding Initial Agreement and Participation Agreement are enclosed.</p>
12	<p>Senator CHISHOLM: In today's Financial Review, Mr Walsh says that he issued instructions that it, the Juukan Gorge, not be mined. He says: 'It would have been shortly after the section 18 approval was issued in 2013.' Is this correct?</p> <p>Mr Jacques: Let me tell you my understanding of the situation. We learned about Mr Walsh's</p>	<p>We note the statements made to the media by former Group Chief Executive Officer Sam Walsh on 6 August 2020. Mr Walsh is purported to have said that he gave a direction to Greg Lilleyman (described in the media report as 'Rio's general manager of mine operations') that the Juukan rockshelters should not be disturbed. Mr Walsh is reported as having said that this direction was given some time after the approval to disturb these sites was obtained under s18 of the AH Act in December 2013.</p> <p>A review of Mr Walsh's Rio Tinto emails from 2013 and 2014 has not found any mention of the relevant sites. Further, a review of all email correspondence to and from Mr Lilleyman and a</p>

Question no	Transcript	Response
	<p>comments from the press. We have asked an external law firm to establish the chronology of facts from 2003 to 2020, based on the company records and interviews with current employees. Based on the information gathered to date, from what we have to date we couldn't find any communication prepared by Mr Walsh as indicated in the press this morning. However, there are still some reviews underway, and if such information were to appear, for sure we would include it and distribute it. But, at this point in time, based on all the work done by our external lawyers, no communication as referred to by Mr Walsh in the press has appeared in any fashion.</p>	<p>range of other potentially relevant personnel in this time period did not locate any evidence to support Mr Walsh's alleged statements.</p> <p>Additionally, on 10 August 2020, Mr Lilleyman wrote to Mr Salisbury to put on the record that his recollection does not accord with the asserted recollection of Mr Walsh in two respects. First, he has no recollection of Mr Walsh issuing any such direction. Second, he disagrees that he indicated to Mr Walsh a few weeks ago that he did have such a recollection. A copy of Mr Lilleyman's letter is enclosed.</p>

Additional Questions on Notice (letter dated 19 August 2020)

Group A

Para	Question	Response
5.	<p>With reference to 'trade-offs', is it you as a mining corporation (in terms of your economic return) or, via a government requirement on your corporation, that determines whether you must establish trade-offs?</p>	<p>We assume that this question responds to paragraph 5 of our submissions which stated:</p> <p><i>It is the case that the mining industry brings important benefits to Australia. However, there are inevitable trade-offs that need to be made between the benefits that mining brings to Traditional Owners and to the country as a whole, and the impacts that mining activity can have on both natural and cultural heritage. Managing such trade-offs is particularly important in a remote and relatively undisturbed region like the Pilbara, which has an exceptionally rich cultural heritage as a result of continuous human habitation extending over millennia.</i></p> <p>Similarly, the submissions state at paragraph 280:</p> <p><i>In considering possible changes that should be made to legislative frameworks, contractual agreements and new standards and ways of working, there is a critical and ongoing balance to be struck. On the one hand, it is essential to find more effective and flexible means to escalate and manage concerns regarding the preservation of the unique cultural heritage of Indigenous Australians. On the other, there needs to be a clear and predictable framework to enable long-term investment in, and the efficient operation of, mining projects that contribute so significantly to Australia. In meeting that challenge, governments, as well as the mining industry, Traditional Owners and the wider community all have a vital contribution to make.</i></p> <p>Our submissions, and the commentary and findings set out in the Board Review Report, identify some of the myriad of factors at play when seeking to strike and administer the right balance or 'trade-offs' between exercising rights to mine and exercising native title rights to cultural heritage management, particularly where native title rights do not extend to minerals. Practically speaking, this then involves, on the one hand, a balance between rights to disturb ground to extract minerals and long term mine planning certainty required to facilitate investment in mining and, on the other hand, the identification and preservation of cultural heritage sites which may mean that rights to mine cannot be exercised in full, or at all. The following sections of our submissions are of general relevance to the Committee's question:</p>

Para	Question	Response
		<ul style="list-style-type: none"> • At paragraphs 34 to 43 we identify some of the material features of the AH Act and at section 4 of the submissions we set out a number of observations about the operation of the current legislative regime. • At section 3.5 we set out some of the material features of the regime of agreements that were in place from 2011. • At paragraphs 168 to 172 we refer to the Cultural Heritage Management Plan established between Rio Tinto and the PKKP. A copy of that Plan has been made available to the Committee. • At various points we refer to our internal standards and an overview of the aims of those standards is set out at paragraph 8 of the Board Review Report. Rio Tinto has provided a copy of the current Communities and Social Performance Standard and a copy of the previous Communities Standard (in place from 2011 to 2014). <p>Mining, by its very nature, requires the disturbance of land and impacts communities. It is imperative that mining companies do it in a way that is safe, stable and sustainable. We know that when done well, and by developing and maintaining strong partnerships, mining delivers significant benefits to governments, Traditional Owners and other communities, and ordinary Australians while minimising impact. Around 1 in every 10 jobs in Australia is supported by mining.</p> <p>Rio Tinto embraces the need to meet the expectations of a broad number of stakeholders. It appreciates that meeting those expectations requires a lot more than technical compliance with legal obligations. Rio Tinto sees its 'social licence' to operate as important to the delivery of its business strategy and long term economic success, and also to its contribution to the communities and other partners wherever we operate. As noted above, it understands that in meeting the various challenges, the mining industry, governments, Traditional Owners and the wider community all have a vital contribution to make. In such circumstances, it is natural that different needs and perspectives will generate occasions where trade-offs are required.</p> <p>For that reason, in addition to meeting our formal responsibilities under relevant legislation and agreements, our internal standards and procedures govern how we should interact with Traditional Owners and Indigenous communities and how we should responsibly address cultural heritage issues.</p>

Para	Question	Response
		<p>Underlying these standards and procedures 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. The Board Review Report sets out some of the ways in which we will look to improve relevant aspects of our standards, procedures and culture.</p> <p>Rio Tinto has participated in the ongoing review of the AH Act in WA. Rio Tinto confirms its already publicly stated position that it supports new Aboriginal heritage legislation that balances meaningful Aboriginal stakeholder engagement and protection and management of Aboriginal heritage values with the delivery of certain, timely and efficient outcomes for all stakeholders. This includes Rio Tinto's support for transparency in decision making and appeal rights for Traditional Owners and land use proponents in respect of future statutory approvals that authorise disturbance of heritage sites.</p> <p>As we have also stated in our submissions, our view is that heritage protection should first seek to be achieved through agreement making with the Traditional Owners of the land on which we operate, rather than merely through the current statutory framework which does not contemplate consultation with Traditional Owners in decisions that may impact their cultural heritage. Rio Tinto supports further consultation to develop minimum requirements or model guidelines in the interests of ensuring agreements wherever possible embody best practice and appropriately ensure shared benefits. Naturally, negotiated agreements are likely to include 'trade-offs' for all parties in exchange for the benefits that the agreements provide for.</p> <p>There have been a number of occasions where we have decided not to seek a section 18 consent to authorise disturbance of a heritage site or where we have decided not to disturb such a site even though a section 18 consent had been obtained. We have noted our regret that this is not what occurred in respect of Juukan 1 and Juukan 2. Additionally, in the last five years Rio Tinto, as part of its study process has removed over 380Mt of iron ore reserves and resources to account for significant cultural heritage and environmental values. This equates to more than one full year of production or more than US\$30 billion in revenue at current prices.</p>
7.	In your submission, you repeatedly suggest that some impacts are 'unavoidable', or 'should be avoided' if	The change of status of the Juukan caves from protected to cleared in the GIS mapping database in 2014 was a critical decision making point which enabled the operations team to progress the mine plan towards the Juukan sites without further clearance or checks required.

Para	Question	Response
	<p>practicable, and that you had 'consent' from PKKP. Are there sites on your tenements, in Rio Tinto's view, that are so valuable, to traditional owners, or to humanity, that they should never be mined for the extraction of iron ore, even at \$120 a Tonne?</p>	<p>The status relating to the Juukan caves was changed as section 18 approval to disturb the sites had been obtained and an extensive salvage had taken place to preserve the artefacts. The extensive artefact salvage at the sites in conjunction with the PKKP, the receipt of confirmation from the expert archaeologist that the sites were fully salvaged, and funding a documentary of the area in May 2015 was thought sufficient to mitigate the impact on the physical place. However, it is now clear that these actions were not sufficient to mitigate the cultural loss of place. It became clear in 2020 that the Juukan shelters were even more culturally significant than first thought and this is when we stopped the blast sequence.</p> <p>In early 2019, after receipt of the Scarp Archaeology final report dated 31 December 2018 into the 2014 salvage trips, there was another opportunity to pause and reconsider. This final report did not contain significant new information and largely confirmed and amplified the information provided in 2014. Although the provision of this report did provide an opportunity to reconsider the course of action, it should be noted that existing approvals are not commonly retested. To provide a feel of the magnitude and levels of checks and balances in Rio Tinto's internal systems and the reason why existing approvals are not commonly retested, it is worth noting the following:</p> <ul style="list-style-type: none"> • Any work that involves ground disturbance (from clearing vegetation through to blasting) will require an Approvals Permit. • To provide a sense of scale, Rio Tinto Iron Ore operates 16 mines with 140 active pits. • In light of this, Rio Tinto Iron Ore operates a comprehensive approvals management system. Before an Approvals Permit can be issued, 11 separate approvals elements must be reviewed and authorised by subject matter experts. This includes the heritage team. • An Approvals Permit will not be issued until all necessary regulatory approvals, including heritage approvals under the AH Act, are obtained.
10.	<p>With respect to the Participation Agreement signed in 2011 with the PKKP, you state that these Traditional Custodians/Owners were represented by lawyers on behalf of YMAC, who were these lawyers?</p>	<p>YMAC had two in-house lawyers who were involved in the negotiations. PKKP also obtained advice from HWL Ebsworth. In relation to the benefits management structure, PKKP obtained advice from Jackson McDonald.</p> <p>To ensure the agreement negotiation process was comprehensive, robust and well represented for the Traditional Owners, Rio Tinto funded a portion of the Traditional Owners' advisory costs. This amounted</p>

Para	Question	Response
		to more than \$14 million in funding provided between 2007 and 2011 to Pilbara Traditional Owner groups (i.e. not only the PKKP) for the negotiation of agreements.
	Have you, in the past, or currently have any mutual arrangements with BHP Billiton, Robe or Fortescue Metals Group in drafting and negotiating these Participation Agreements?	<p>Rio Tinto has Participation Agreements in place with a number of Traditional Owner groups. Rio Tinto has not in the past had, nor does it currently have, mutual arrangements in place with BHP or with Fortescue Metals Group in relation to the negotiating and content of Rio Tinto's Participation Agreements.</p> <p>Rio Tinto has a 53% interest in the Robe River Iron Associates Joint Venture. The Joint Venture owns a number of mines within Rio Tinto's Pilbara Iron Ore operations. As a result, Robe is party to most of the Participation Agreements (the relevant contracting entity being Robe River Mining Co Pty Ltd for and on behalf of the Robe River Iron Associates).</p>
	Can you advise the committee the size of these Participation Agreements by the approximate number of pages?	<p>Each of the Participation Agreements is a different length, depending on the particular circumstances relevant to Rio Tinto's agreement with the relevant Traditional Owner group.</p> <p>The average length of the Participation Agreements is approximately 570 pages (including schedules) (this does not include additional and ancillary documents including the Regional Framework Deed and various trust and other agreements). This reflects the scale, complexity and significance of the Agreements that were negotiated over many years with the Traditional Owner groups.</p> <p>By way of example, Rio Tinto's Participation Agreement with the PKKP comprises 714 pages (including schedules). The majority of the length of that document comprises schedules, which in many cases comprise template/'pro forma' documents used in the implementation of the agreement. Much of this consists of the template documents relating to the separate 'benefits management structure', ie the trust structure (approximately 300 pages). The 'main body' of Rio Tinto's Participation Agreement with the PKKP is 196 pages.</p>
	Rio Tinto also has various Participation Agreements with Kuruma Marthudunera, Ngarlawangga, Niyaparli, Ngarluma, Yindjibarndi, Banjima, Gumula, Yinhawangka and Eastern Guruma. Are these pro forma Participation Agreements	<p>These documents are not pro forma.</p> <p>The Yandi Land Use Agreement was entered into in 1997 and was negotiated with the Gumala Peoples.</p> <p>The Commercial Agreement was entered into in 2001 and was negotiated with the Eastern Guruma People.</p>

Para	Question	Response										
	<p>or are they individually tailored per Traditional Custodian/Owner group?</p>	<p>The remaining Participation Agreements (Banjima, Kuruma Marthudunera, Ngarlawangga, Nyiyaparli, PKKP, Yinhawangka) are most similar and were negotiated and developed between Rio Tinto and those groups who were all represented by Yamatji Marlpa Aboriginal Corporation (YMAC). Each Participation Agreement with those groups was tailored for the specific agreement reached with each group (and to take group-specific circumstances and arrangements into account) but there was a 'framework' draft with common terms that was negotiated with YMAC representing all those groups and served as the foundation.</p> <p>The Ngarluma People and Yindjibarndi People were not represented by YMAC (but did have other legal representation) and those agreements were negotiated with and tailored for those two other groups.</p> <p>For completeness, although most (but not all) of those Participation Agreements contain many provisions that are the same or substantively similar between them, each of them was separately negotiated in the particular circumstances applicable to the relevant Traditional Owner group – including to address specific heritage matters specific to a particular Traditional Owner group.</p>										
	<p>In relation to the nine other Participation Agreements, were the claimants represented by the same lawyers? Who were the lawyers representing the native title claimants in each case, and who provided the instructions to the native title claimants, please identify in each case.</p>	<p>We have set out below, for each of the relevant Traditional Owner groups, the law firm/organisation which was the primary representative in its original negotiations with Rio Tinto for the relevant Participation Agreement:</p> <table border="1" data-bbox="846 991 2074 1425"> <thead> <tr> <th data-bbox="846 991 1178 1038">Traditional owner group</th> <th data-bbox="1178 991 2074 1038">Primary law firm/organisation</th> </tr> </thead> <tbody> <tr> <td data-bbox="846 1038 1178 1182">Banjima People</td> <td data-bbox="1178 1038 2074 1182"> <ul style="list-style-type: none"> - YMAC - HWL Ebsworth - Roe Legal </td> </tr> <tr> <td data-bbox="846 1182 1178 1278">Eastern Guruma People</td> <td data-bbox="1178 1182 2074 1278">- Corsers</td> </tr> <tr> <td data-bbox="846 1278 1178 1326">Gumala Peoples</td> <td data-bbox="1178 1278 2074 1326">- Edwards Robinson Lark</td> </tr> <tr> <td data-bbox="846 1326 1178 1425">Kuruma Marthudunera / Robe River Kurrama People</td> <td data-bbox="1178 1326 2074 1425"> <ul style="list-style-type: none"> - YMAC - HWL Ebsworth </td> </tr> </tbody> </table>	Traditional owner group	Primary law firm/organisation	Banjima People	<ul style="list-style-type: none"> - YMAC - HWL Ebsworth - Roe Legal 	Eastern Guruma People	- Corsers	Gumala Peoples	- Edwards Robinson Lark	Kuruma Marthudunera / Robe River Kurrama People	<ul style="list-style-type: none"> - YMAC - HWL Ebsworth
Traditional owner group	Primary law firm/organisation											
Banjima People	<ul style="list-style-type: none"> - YMAC - HWL Ebsworth - Roe Legal 											
Eastern Guruma People	- Corsers											
Gumala Peoples	- Edwards Robinson Lark											
Kuruma Marthudunera / Robe River Kurrama People	<ul style="list-style-type: none"> - YMAC - HWL Ebsworth 											

Para	Question	Response	
			- (in respect of benefits management structuring) in addition to the above lawyers, Jackson McDonald
		Ngarlawangga People	- YMAC - HWL Ebsworth - (in respect of benefits management structuring) in addition to the above lawyers, Jackson McDonald
		Ngarluma People	- Taylor Linfoot and Holmes - Peter Dowding SC
		Niyaparli People	- YMAC - HWL Ebsworth - (in respect of benefits management structuring) in addition to the above lawyers, Jackson McDonald
		Yindjibarndi People	- Yindjibarndi Aboriginal Corporation - Cleary Hoare
		Yinhawangka People	- YMAC - HWL Ebsworth - (in respect of benefits management structuring) in addition to the above lawyers, Jackson McDonald
		<p>This is not an exhaustive list of all legal and other advisers who have acted for each of the relevant Traditional Owner groups over time. The Traditional Owner groups also received specialist economic/financial and cultural heritage advice.</p> <p>In relation to who provided the instructions to the native title claimants – the native title claimants took instructions from their own communities. In most cases, the relevant Traditional Owner group would have a team of Traditional Owner representatives who were involved in the negotiations with Rio Tinto (ie the negotiation team, often called a 'working group'). Although the negotiation team was involved in</p>	

Para	Question	Response
	<p>In the recent hearing I asked about clauses in Participation Agreements that release Rio Tinto from any actions, claims, demands or proceedings of any kind under any law. Can I confirm that this includes the Racial Discrimination Act 1975, the Native Title Act 1993, the Aboriginal Heritage Act 1972, the Fair Trading Act 1987, the Trade Practices Act 1974, the Environment Protection and Biodiversity Conservation Act 1999, the Environmental Protection Act 1986, the Mining Act 1987, the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, the Rights in Water and Irrigation Act 1914, the Land Act 1933 and the Land Administration Act 1997? If not all of the above which ones are correct?</p>	<p>the day-to-day negotiations, the broader Traditional Owner community was still responsible for ultimately 'authorising' or approving entry into the relevant agreement.</p> <p>We refer to our answer to question 4 in the questions on notice from the hearing on 7 August 2020 (7 August Questions).</p> <p>The Participation Agreement does not release Rio Tinto from complying with any laws. However, as a function of the consent to operations on their land, the PKKP agreed to restrict, or exercise in a certain way or subject to certain conditions, rights that they otherwise would have under various laws. For example, the PKKP agreed not to object to or challenge Rio Tinto's operations. This includes not commencing any claim, proceeding or action under any law to object to or challenge 'Agreed Acts' or Rio Tinto's Iron Ore business. The PKKP's agreement not to object to mine development in this way is the expression of the PKKP's legal consent for Rio Tinto to mine on their lands in return for the financial and non-financial benefits negotiated.</p> <p>The PKKP also agreed that the compensation payments made under the Participation Agreement constitute full and final satisfaction of the PKKP's rights to compensation or damages under any law (except in relation to personal injury, damage to personal property or where there is a breach of the Participation Agreement). These do not release Rio Tinto from complying with the legislation. Instead, it constitutes an agreement between Rio Tinto and PKKP as to the compensation that the PKKP is to receive in exchange for the PKKP agreeing not to exercise rights that they might have under that legislation. The PKKP also agreed that the procedural rights in the Participation Agreement would to the extent possible by law discharge Rio Tinto's obligations to afford procedural rights in relation to Agreed Acts under the Native Title Act or any other law.</p> <p>The agreements delivered a range of important rights to Traditional Owners, including compensation and other payments as well as employment and business development opportunities. At the time, they were widely considered landmark agreements, providing opportunities for the Traditional Owners, whilst securing consent and land access for Rio Tinto's present and future operations. The approach reflected a new era of agreement making between Traditional Owners and Rio Tinto, usually well ahead of recognition of native title rights under Australian law.</p>

Para	Question	Response												
		<p>The restrictions contained in the agreement reflect what was agreed between the parties, ensuring that the PKKP would have certainty on compensation for Rio Tinto mining on their land and Rio Tinto would have certainty for its operations. This certainty is very important to underpin long term mining investment.</p> <p>Rio Tinto understands that even with the best intent and extensive advice from experts, it is impossible to contemplate all possible developments over the life cycle of a mining project. In line with this, our Participation Agreements contain periodic review clauses that seek to retest and ensure the intent of the agreement is still being reflected.</p> <p>However, as we have seen with the events around Juukan Gorge, a strong Traditional Owner voice in communicating to us what is important to them is vital. There is a question about whether the nature of agreements may have confined that voice in some respects. We acknowledged in our opening statement on 7 August that our Participation Agreements require modernisation. This will be a key consideration moving forward and we are committed to making changes to reflect the modern reality.</p>												
	<p>With regards to the Participation Agreements established with the 10 native title parties identified in your Agreement Team Relationship Map of November 2016, were there any variations between when these Agreements were signed and when the ILUA's were signed? If there is any variation between when the Participation Agreements and the various Indigenous Land Use Agreements were signed, what were they and to which claimant group do they apply?</p>	<p>We have set out below, for each of the Traditional Owner groups on whose land Rio Tinto operates in the Pilbara, the date of the Participation Agreement (or other agreement) and the date of the associated Indigenous Land Use Agreement/s (ILUA):</p> <table border="1" data-bbox="846 954 2056 1356"> <thead> <tr> <th data-bbox="846 954 1077 1038">Traditional owner group</th> <th data-bbox="1084 954 1525 1038">Date of Participation Agreement</th> <th data-bbox="1532 954 2056 1038">Date of associated ILUA/s</th> </tr> </thead> <tbody> <tr> <td data-bbox="846 1043 1077 1134">Banjima People</td> <td data-bbox="1084 1043 1525 1134">- 17 June 2016 (<i>note the Participation Agreement is itself an ILUA</i>)</td> <td data-bbox="1532 1043 2056 1134">- 17 June 2016 (<i>note the Participation Agreement is itself an ILUA</i>)</td> </tr> <tr> <td data-bbox="846 1139 1077 1262">Eastern Guruma People</td> <td data-bbox="1084 1139 1525 1262">- 23 March 2001 (<i>Commercial Agreement</i>)</td> <td data-bbox="1532 1139 2056 1262">- 27 November 2002 (<i>for Area ILUA</i>) - 13 February 2008 (<i>for Part A Body Corporate ILUA</i>)</td> </tr> <tr> <td data-bbox="846 1267 1077 1356">Gumala Peoples</td> <td data-bbox="1084 1267 1525 1356">- 1 March 1997 (<i>this is the Yandi Land Use Agreement</i>)</td> <td data-bbox="1532 1267 2056 1356">- N/A (<i>no registered ILUA associated with Yandi Land Use Agreement</i>)</td> </tr> </tbody> </table>	Traditional owner group	Date of Participation Agreement	Date of associated ILUA/s	Banjima People	- 17 June 2016 (<i>note the Participation Agreement is itself an ILUA</i>)	- 17 June 2016 (<i>note the Participation Agreement is itself an ILUA</i>)	Eastern Guruma People	- 23 March 2001 (<i>Commercial Agreement</i>)	- 27 November 2002 (<i>for Area ILUA</i>) - 13 February 2008 (<i>for Part A Body Corporate ILUA</i>)	Gumala Peoples	- 1 March 1997 (<i>this is the Yandi Land Use Agreement</i>)	- N/A (<i>no registered ILUA associated with Yandi Land Use Agreement</i>)
Traditional owner group	Date of Participation Agreement	Date of associated ILUA/s												
Banjima People	- 17 June 2016 (<i>note the Participation Agreement is itself an ILUA</i>)	- 17 June 2016 (<i>note the Participation Agreement is itself an ILUA</i>)												
Eastern Guruma People	- 23 March 2001 (<i>Commercial Agreement</i>)	- 27 November 2002 (<i>for Area ILUA</i>) - 13 February 2008 (<i>for Part A Body Corporate ILUA</i>)												
Gumala Peoples	- 1 March 1997 (<i>this is the Yandi Land Use Agreement</i>)	- N/A (<i>no registered ILUA associated with Yandi Land Use Agreement</i>)												

Para	Question	Response		
		Kuruma Marthudunera / Robe River Kurrama People	18 March 2011	- 18 March 2011 (<i>for Churdy Pool Siding Area ILUA</i>) - 21 August 2012 (<i>for Area ILUA</i>)
		Ngarlawangga People	22 March 2011	- 17 August 2012 (<i>for Area ILUA</i>)
		Ngarluma People	- 18 March 2011 (<i>note the Participation Agreement is itself an ILUA</i>)	- 18 March 2011 (<i>note the Participation Agreement is itself an ILUA</i>)
		Niyiyaparli People	- 22 March 2011	- 12 July 2012 (<i>for Niyiyaparli #1 Area ILUA</i>) - 9 October 2015 (<i>for Niyiyaparli #3 Area ILUA</i>) - 27 February 2020 (<i>for Body Corporate ILUA</i>)
		Puutu Kunti Kurrama and Pinikura (PKKP) People	- 18 March 2011	- 15 November 2012 (<i>for Area ILUA</i>)
		Yindjibarndi People	- 12 August 2013	- 12 August 2013 (<i>for Area ILUA</i>)
		Yinhawangka People	- 31 January 2013	- 31 January 2013 (<i>for Area ILUA</i>)
		<p>The above dates are not necessarily the same as the date when the relevant agreement was physically executed by the Traditional Owner group. Typically, these agreements were executed firstly by the Traditional Owner group, and subsequently (ie usually at a later date) by Rio Tinto, with the latter date typically being the commencement date of the agreement.</p> <p>For those groups that have separate ILUAs and Participation Agreements, the ILUAs repeat the key elements from the Participation Agreements necessary to give effect to the terms of the Participation Agreement for the purposes of the provisions of the Native Title Act. Those ILUAs are much shorter</p>		

Para	Question	Response
		<p>documents and do not include most of the commercial terms of the underlying main Participation Agreement.</p> <p>We note that the ILUA with the PKKP is not confidential and can be disclosed by either Rio Tinto or PKKP without the other party's consent. It was published as part of the National Native Title Tribunal's submission to the Inquiry. As stated in the Tribunal's submission to the Inquiry, the ILUA was provided to the Tribunal on an open basis.</p>
	<p>It is noted that the Banjima Participation Agreement was registered with the National Native Title Tribunal (NNTT) on 1 November 2016, are all Participation Agreements registered with the NNTT?</p>	<p>No, not all of Rio Tinto's Participation Agreements are registered with the NNTT.</p> <p>Rio Tinto's agreement with the Banjima People is, effectively, a Participation Agreement that also functions as an ILUA, and is registered with the NNTT as an ILUA. The same applies for Rio Tinto's agreement with the Ngarluma People, where the primary agreement also functions as an ILUA, and is registered with the NNTT as an ILUA.</p> <p>Rio Tinto's agreements with each of the Eastern Guruma People, Kuruma Marthudunera / Robe River Kurrama People, Ngarlawangga People, Niyaparli People, PKKP People, Yindjibarndi People, and Yinhawangka People all comprise a primary agreement which is coupled with one or more separate ILUAs. Those separate ILUAs (rather than the primary agreements themselves) are registered with the NNTT as ILUAs.</p> <p>There is no registered ILUA associated with the Yandi Land Use Agreement with the Gumala Peoples.</p>
	<p>I refer to submission 33 from the Griffith Centre of Social and Cultural Research, which, on page 3, discusses claim wide participation agreements, their lack of transparency and notes that 'such agreements are often in place before heritage surveys/assessments have taken place'. Were heritage surveys/assessments carried out before the Participation Agreement between PKKP and Rio Tinto was reached?</p>	<p>The archaeological and ethnographic surveys undertaken prior to execution of the Participation Agreement and Regional Framework Deed in 2011 are detailed in our submissions. To summarise what is stated there, they included:</p> <ul style="list-style-type: none"> • In mid-2003: an initial archaeological survey undertaken by Gavin Jackson and Rachel Fry. Their report assessed Juukan 1 and Juukan 2 as each having a 'moderate to high degree of archaeological significance'. • Also in mid-2003, an initial ethnographic survey report undertaken by Robin Stevens of the PNTS on behalf of the PKKP and commissioned by Rio Tinto identified the presence of the Juukan 1 and Juukan 2 rock shelters on the Brockman mining lease and recommended that discussions with the PKKP be maintained in relation to any further proposed work programs.

Para	Question	Response
		<ul style="list-style-type: none"> • From July to October 2008: Scarp Archaeology were retained by Rio Tinto to conduct excavations at Juukan 1 and Juukan 2. The excavations were attended by representatives of both the PKKP and Rio Tinto. The findings set out in the subsequent Scarp Archaeology report of October 2008 included 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'. • In 2008: Rio Tinto commissioned Roina Williams of the Pilbara Native Title Service (PNTS) to conduct ethnographic surveys in conjunction 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 being located at the base of this complex. Juukan 1 to Juukan 5, along with a further rock shelter (BS4-08-44) were all submitted under the Section 18 application on 17 October 2013, however the Aboriginal Cultural Material Committee (ACMC) determined that only Juukan 1 and Juukan 2 were 'Aboriginal sites' for the purposes of the AH Act. <p>These surveys took place with the cooperation and/or participation of the PKKP before the Regional Framework Deed and Participation Agreement were executed on 18 March 2011. Copies of the relevant reports were provided to the PKKP. Accordingly, both parties had an understanding of the high significance of the Juukan sites at the times when the contractual arrangements (including compensation and releases) were negotiated and entered into.</p> <p>However, as noted in our submissions, a further ethnographic survey was undertaken for the purposes of the Section 18 application by Dr Builth in 2013. In addition, extensive archaeological salvage was conducted post the grant of the section 18 (although not required under the section 18) in order to offset impacts to the shelters themselves, before mining authorised by the section 18 consent impacted the site. The archaeological salvage work and artefact analysis which resulted in a number of preliminary reports in 2014 and a final report in December 2018. The PKKP were involved in relation to all of this work and attended archaeological conferences where Dr Slack's findings were presented.</p>
	<p>What do these Participation Agreements entail: do they cover the total of the native title claim area of the traditional owners, or</p>	<p>Generally, the Participation Agreements cover all areas the subject of Rio Tinto's interests within the external boundaries of the relevant native title claim/determination from time to time, although that is not always the case. In some cases, there are specific geographic exclusions of certain areas from the</p>

Para	Question	Response
	<p>only those areas that Rio Tinto held under the State Agreement lease when the Participation Agreement was signed?</p>	<p>relevant agreement area. In some cases, the area covered by the agreement can expand or reduce over time, for example if there are changes to the relevant native title claim/determination.</p> <p>Not all of the Participation Agreements operate in the same way.</p> <p>Whilst not 'Participation Agreements' per se, our agreements with the Eastern Guruma People (the Commercial Agreement) and the Gumala Peoples (the Yandi Land Use Agreement) also relate to areas that are not directly tied to the boundaries of a native title claim/determination. The latter relates only to the Yandicoogina Iron Ore project only.</p> <p>Rio Tinto's agreement with the Ngarlawangga People covers only part of the Ngarlawangga native title claim/determination (the northern part).</p> <p>The Ngarluma agreement relates to the development of infrastructure (rather than iron ore mines) and operates primarily in relation to an identified 'footprint' area for defined agreed purposes relating to the development of infrastructure to support iron ore mining.</p> <p>The Yindjibarndi agreement relates to the development of infrastructure (and iron ore mines).</p> <p>In almost all instances the consent provisions of the Participation Agreements (which operate for Rio Tinto's benefit) are excluded from specific places identified in those agreements as being of particularly high cultural heritage significance to the Traditional Owners. The specific details of those places are confidential.</p>
	<p>If the Participation Agreements do cover the total of the native title claim area, does this mean that, as the State Government grants expansion of your State Agreement tenure area, these expanded areas become subject to the pre-existing Participation Agreement?</p>	<p>For those Participation Agreements that cover all areas within the external boundaries of the relevant native title claim/determination, at a high level, this means the relevant Traditional Owner group has agreed (as part of the Participation Agreement and/or ILUAs) to support the grant of future tenure from time to time required by Rio Tinto for its Iron Ore operations (such as expansion of State Agreement tenure) within the relevant native title claim/determination area. That is, in the scenario outlined in your question, the agreement would already cover the relevant area. These agreements apply only to the extent of Rio Tinto's tenure within a claim or determination area, which is often a fraction of the claim area. Rio Tinto's disturbance footprint is then a subset of that tenure footprint.</p> <p>However for each agreement, the consents are not unqualified. Each agreement contains mandatory qualifications, consultation processes, limitations and exclusions, including the process Rio Tinto must follow with the involvement of the Traditional Owner group in relation to the development of each iron ore</p>

Para	Question	Response
		mine, supporting infrastructure and the government approvals required. All those provisions are detailed and were the subject of negotiation.
13.	With reference to paragraph 13 of Rio Tinto's submission and to the map Figure 2, BS4 Project Proposed Tenure and Infrastructure, of A1543_R1214_PER_Document 'Brockman Syncline 4 Iron Ore Project', submitted to the WA EPA; were the two rockshelters, Brock 20 and Brock 21, inside or outside the area of the 'Pit Outline'?	The map in Figure 2 of the 2005 Brockman 4 Iron Ore Project Public Environmental Review contains a very early conceptual pit outline on the basis of pre-feasibility drilling. The Juukan 1 and Juukan 2 rockshelters were not within the indicative or conceptual pit outline at that point in time but were very close to the edge of the pit outline, such that they could not be expected to have avoided impacts to the rock shelters from mining activities, including blasting. The EPA application materials, including the Public Environmental Review document, expressly referred to the Juukan sites.
	If Brock 20 and 21 were either outside the original mine plan (or on the very edge of it), how can you justify your statement in paragraph 38 of your submission 'Where it is not practicable to avoid impact on a heritage site due to location of an ore body'?	<p>As noted above, the fact that the Juukan sites may have been just outside of the conceptual or indicative pit outline does not mean that they would not have been impacted had that original pit design been followed. The initial plan map was created in 2005, based on a resource declared in 2004. As orebody knowledge increases, pit outlines can evolve and change a number of times as more information is received in relation to the nature and location of the relevant orebody.</p> <p>The likelihood that the original pit design would be amended over time and would more formally incorporate the areas on which the Juukan sites sat was apparent from at least 2008 when archaeological and ethnographic surveys were conducted having regard to the likelihood that section 18 consents would be required. The reports prepared in respect of those surveys included the following statements:</p> <ul style="list-style-type: none"> <li data-bbox="840 1129 2089 1426">• The Scarp Archaeology report of October 2008 stated: <i>'...the proposed mine development program consists of mine pits, waste dumps and associated infrastructure. Whilst areas of the proposed mine infrastructure with flexibility in design and location will be established to avoid Aboriginal sites (e.g. offices and workshops), the [relevant] sites are situated within the actual pit and waste dumps and avoidance is not possible ...The results of this testing and recording program are detailed in this final report and are of sufficient detail for application to be made to the Aboriginal Cultural Material Committee under Section 18 of the Aboriginal Heritage Act 1972.'</i>

Para	Question	Response
		<ul style="list-style-type: none"> <li data-bbox="840 309 2089 647"> <p>The Williams ethnographic report of December 2008 stated:</p> <p><i>'Pilbara Iron (a division of Rio Tinto Iron Ore Pty Ltd) has an existing heritage agreement with the Puutu Kunti Kurrama and Pinikura (PKKP) people which provides for heritage surveys in order to endeavour to avoid sites of significance. The sites discussed in this report however, lie within the area designated as a mine pit and waste dump (the Purpose) and their disturbance cannot be avoided....RTIOEP will now apply to the minister for a conditional section 18 consent to fully excavate those with further research potential, to salvage artefacts from these and other sites (as recommended by Scarp 2008), and ultimately secure ministerial consent for the removal of [the relevant] sites to make way for the Brockman 4 mine and associated infrastructure</i></p> <p data-bbox="840 667 2089 730">Representatives of the PKKP were involved in these surveys and received copies of the reports which contained these statements.</p> <p data-bbox="840 754 2089 895">'Block modelling' undertaken in 2011 confirmed the proximity of the orebody to the Juukan sites. Mine planning undertaken in 2012 gave consideration to the location of the sites and models were prepared to examine the consequences of allowing for certain buffers from the sites. However, the modelling of those options confirmed that each involved a loss of access to a part of the orebody.</p> <p data-bbox="840 919 2089 1313">In this regard, it is relevant to note that the RFD entered into by Rio Tinto and the PKKP contained a commitment that Rio Tinto would take all practicable measures to avoid sites of special significance. 'Practicable' was defined under the Deed to be what Rio Tinto acting reasonably considers practicable taking into account a range of factors. The Cultural Heritage Management Regional Standard under the Deed noted that there is more flexibility in the development of infrastructure and associated operations such that those things can sometimes be moved or re-designed to avoid Aboriginal Sites/Sites of Special Significance but it will generally not be Practicable to avoid an Aboriginal Site/Site of Special Significance that is located on an ore body. 'Aboriginal Site' is defined as an Aboriginal site under the AH Act or a significant Aboriginal area or object under the <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> (Cth). 'Site of Special Significance' is defined as an Aboriginal Site that is: (a) of particular importance to a Traditional Owner group; and (b) of high traditional, cultural or scientific value.</p>

Para	Question	Response
		<p>The Participation Agreement included a list of sixteen areas of high cultural heritage significance identified by the PKKP, and referred to as 'Rights Reserved Areas', which it was agreed would have additional protections. The Juukan sites were not included on that list of Rights Reserved Areas.</p> <p>As noted elsewhere, Rio Tinto accepts that notwithstanding its legal entitlements (including the entitlements agreed to under the RFD and other arrangements with the PKKP) the rockshelters should have been avoided given their exceptional significance.</p>
14.	<p>When you use the term 'impact' in your submission, do you mean destroy? If not, can you please delineate what these two terms mean to you?</p>	<p>'Impact' covers the range of outcomes up to complete destruction and allows for describing degrees of predicted outcomes, rather than being a totality descriptor such as 'destroyed'. Impacts may be direct or indirect, and in relation to the whole or part of a site. For example, a 'complete direct impact' or a 'partial indirect impact'. Such descriptors more accurately describes what is predicted to happen at a given site.</p> <p>As such, an 'impact' to a site does not necessarily (but can) equate to 'destruction'.</p> <p>Under section 17 of the AH Act, it is an offence for a person to excavate, destroy, damage, conceal or in any way alter any Aboriginal site. The section 18 granted in relation to Juukan 1 and 2 was applied for on the basis that the sites would be 'fully impacted' and so in that case, destruction was contemplated.</p>
	<p>What did PKKP say when you 'informed' them of the State Government's consent to the destruction of the Juukan sites?</p>	<p>As noted in answer to question in relation to paragraph A13 above, the PKKP had knowledge of the likelihood that a section 18 consent would be sought in respect of the sites for a considerable period before the RFD and Participation Agreement were entered into in 2011. In particular, representatives of the PKKP were involved in the relevant archaeological and ethnographic survey processes undertaken in 2008 that were expressed to be a precursor to the ultimate section 18 application.</p> <p>We also note that:</p> <ul style="list-style-type: none"> • The minutes of the LIC meeting on 28 March 2013 record that the following information was conveyed to the PKKP: <p style="margin-left: 40px;"><i>Rio Tinto may submit a Section 18 to the August 2013 ACMC meeting, for a ruling by the end of 2013. This application may contain up to 7 heritage sites (Brock 20, 21, 22, 23, 24, 25, and BS4-08-44) [Brock 20 and 21 corresponding to Juukan 1 and Juukan 2]. Section 16 test excavations and recording are complete. Ethnographic consultation</i></p>

Para	Question	Response
		<p>would be required prior to this s 18 submission. If s18 consent is granted, fieldwork would commence approximately March 2014.</p> <p><i>Rio Tinto is likely to conduct additional excavation on significant heritage sites if s18 is required and granted. For example, initial dates from Brock 20 and 21 are 32,000 and 22,000 years old respectively.</i></p> <ul style="list-style-type: none"> • No evidence has been identified to date to indicate that there was any dissent or objection to the course proposed. • On 3 May 2013, the PKKP's representative, YMAC, was contacted in relation to the need for a further ethnographic survey and for consultation in respect of the relevant proposed section 18 application. In response, YMAC proposed that the study be conducted by Dr Heather Builtth, an anthropologist who, at that time, was an independent consultant at Builtth Heritage Solutions Pty Ltd. • On 13 June 2013, Dr Builtth conducted a one day Site Identification Survey (including in respect of Juukan 1 and Juukan 2) accompanied by PKKP elders • On 24 June 2013, Dr Builtth provided a Preliminary Advice Report which noted the following: <i>Dr Heather Builtth has been engaged by Yamatji Marlpa Aboriginal Corporation (YMAC) to conduct a Site Identification ethnographic survey to record ethnographic comment from the Puutu Kunti Kurrama and Pinikura Native Title Group (PKKP) on seven archaeological sites within the proposed footprint of Pit 1, which is an integral part of the mine development at RTIO Brockman 4 Operations, 60km north-west of Mt Tom Price. The RTIO tenement falls within native title claim boundary of the Puutu Kunti Kurrama and Pinikura Traditional Owners (Tribunal File No WC2001/005). The stated aim of the survey is for PKKP to (re)visit the seven sites proposed for destruction and provide comments and opinions in relation to measures of possible mitigation at these locations prior to development. This preliminary advice reports on the results of the ethnographic consultation conducted on 13 June 2013 (RTIO Project Name: Brockman 4 Pit 1 Section 18 Consultation; Job No: 51_B4 Pit1 s18_2013); YMAC Reference No PKK122-45). BHS advises that this document contains preliminary results and recommendations from the ethnographic survey undertaken with the people who are the appropriate representatives of the</i>

Para	Question	Response
		<p><i>recognised Native Title claimants for this area; and that the final results and recommendations will be provided in the forthcoming S18 ethnographic survey report. This report will comprise the basis for an application to the Aboriginal Cultural Materials Committee under Section 18 of the Aboriginal Heritage Act (WA) 1972.</i></p> <ul style="list-style-type: none"> • The Preliminary Advice Report recorded that the PKKP requested in respect of Juukan 1 and Juukan 2 that further investigation take place in the form of excavation of the rockshelter sites to extend the existing knowledge of occupation. No opposition to the proposed section 18 process was recorded. • The minutes of the LIC meeting held on 16 July 2013 noted that a decision in respect of section 18 consent was expected by the end of 2013 and fieldwork was to commence in March 2014. The minutes do not record any comments by the PKKP regarding the proposed section 18 notice. However, email exchanges within Rio Tinto on the following day record the view that the s18 process and excavation and salvage of the sites prior to their destruction was supported at the meeting. • Dr Built's final report was made available on 10 September 2013. That report noted the following by way of background: <ul style="list-style-type: none"> <i>[Rio Tinto] ethnographic scope of works states that its aim is to show representatives of the PKKP group the sites proposed for disturbance due to the mine development program. RTIO seek their ethnographic comment and opinions on what mitigative measures should take place prior to disturbance.</i> <i>The survey was carried out with appropriately experienced PKKP representatives including elders and/or direct relatives of those Puutu Kuntj Kurrama who regularly used to visit this country and knew the stories, the people and the history of their country. ...</i> <i>The stated aim of the survey is for PKKP to (re)visit the seven sites proposed for destruction and provide comments and opinions in relation to measures of possible mitigation at these locations prior to development....This report will comprise the basis for an application to the Aboriginal Cultural Materials Committee under Section 18 of the Aboriginal Heritage Act (WA) 1972.</i>

Para	Question	Response
		<p>The report identified the high significance of the sites and area but did not record any dissent or opposition to the section 18 process. The report again noted the requests for additional investigation in the form of excavation.</p> <ul style="list-style-type: none"> • A draft copy of the section 18 notice was provided to YMAC on 3 October 2013. Confirmation that it was lodged was sent to PKKP LIC members care of YMAC by letter dated 17 October 2013. We have not located a response from the PKKP LIC Members or YMAC. • Further confirmation that the section 18 application had been lodged was provided at a LIC meeting held on 26 November 2013. • Following the grant of the section 18 consent, Rio Tinto engaged with the PKKP in relation to the excavation and salvage of the sites. The results of the various field trips were presented at LIC meetings. A summary of these activities is set out at paragraphs 141 to 152 of our submissions. <p>The documents do not disclose, and available recollections do not permit, an account of what the PKKP said when informed that the section 18 application was granted. However, the narrative set out above demonstrates the significant engagement in, around and after the relevant section 18 application. The approval did not come out of the blue and the records of engagement do not reveal any significant dissent or opposition to the section 18 process. By its nature, when a section 18 application is made, impact to a site is necessarily contemplated, given it is an offence to alter, damage or destroy an Aboriginal heritage site without a section 18 consent. Where sites can be avoided, in most cases, historically no further surveys or heritage research is performed on those sites and they are managed and preserved in situ.</p> <p>The age of these sites, and the fact that they would be disturbed, was never hidden. It was discussed openly with the PKKP on a number of occasions. It was the subject of external papers and presentations to the wider archaeological community. The information was also shared with government agencies on multiple occasions. In 2014 we moved forward on the basis we had the necessary legal approvals and the salvage was complete.</p>
15/16.	Why were these opportunities outlined in paras 15 & 16 missed?	<p>In our submissions at paragraphs 15 and 16 we state that:</p> <p><i>15 In preparation for the section 18 consent, a further ethnographic survey was conducted in 2013 and three excavations of the Juukan rockshelters were subsequently conducted in 2014 to</i></p>

Para	Question	Response
		<p><i>ensure the salvage, analysis and ex situ preservation of the cultural heritage material contained within the rockshelters.</i></p> <p><i>16 As a result of these surveys, material new information on the significance of the Juukan rockshelters became available to the PKKP and Rio Tinto. It is clear that various opportunities were missed to re-evaluate the mine plan in light of this material new information. A further opportunity was missed in 2018, with the publication of the final report on the archaeological excavations at Juukan 2 conducted during 2014.</i></p> <p>Our submissions set out a summary of the facts leading up to the disturbance of the Juukan rockshelters, as we best understand them.</p> <p>The Board Review Report addresses in detail why the relevant events occurred in the way they did and how Rio Tinto can improve its systems and practices to prevent such circumstances arising again. The review's findings in respect of the root causes of the missed opportunities are set out in detail from paragraphs 35 to 51 of the Report.</p>
	<p>Is it correct that staffing levels have been reduced by 50% in Rio's Communities Division since 2015, and did this have any implications on these 'opportunities' – referred to being missed?</p>	<p>No. The Communities team supporting Rio Tinto's Iron Ore division has not been reduced by 50% since 2015.</p>
	<p>What were the staffing levels of Rio's Communities Division prior to 2015, what are the staffing levels of Rio's Communities Division now, and what was the lowest number of staff in the Communities Division between 2015 and now?</p>	<p>The Communities team supporting Rio Tinto's Iron Ore division includes 93 FTE Communities roles as at August 2020. The lowest number of FTE in Communities roles between 2015 and 2020 inclusive was around 80 in 2018. Between 2010 and 2014 inclusive, the FTE in Communities roles varied between 73 and 105.</p>
<p>18.</p>	<p>Were there any discussions - held formally or informally - between PKKP representatives and Rio's mine manager in October 2019 where PKKP were led to</p>	<p>We set out in our submissions, at paragraphs 190 to 195, a description of the discussions that took place between Rio Tinto and the PKKP around October 2019:</p>

Para	Question	Response
	believe that there were no plans for mining around the Juukan area?	<p>190 On 28 and 29 October 2019, a LIC meeting was held at Brockman 4. The meeting was attended by representatives of the PKKP, PKKPAC, Rio Tinto and UWA. Among the attendees were Dr Builth and the Manager of Mine Operations Brockman 4.</p> <p>191 As part of the engagement, a site visit took place on 28 October 2019. Specifically, Dr Builth requested to visit the Purlykuti Valley in the vicinity of the Juukan rockshelter where the Latex Peel was extracted, the Heritage sea container containing salvaged artefacts and the Boolgeeda Creek discharge point.</p> <p>192 One of the purposes of the visit was to examine an artefact scatter at Purlykuti to the west of Juukan 1 and Juukan 2. This scatter was the subject of a UWA study and covered by a section 18 consent in contemplation of future mining impacts.</p> <p>193 Whilst in the field, Dr Builth spoke with the Manager of Mine Operations. There are differences in recollection of this conversation between the participants. The Manager of Mine Operations' recollection is that Dr Builth said something along the lines of: 'Is that gorge/cave going to be taken out by the pits? It would be in the top 5 of location in the Pilbara with respect to cultural importance'. He was not sure to where Dr Builth was pointing. He thought she might have been pointing at the 'Juukan shelter gorge', but he was not sure. As he was not sure to which site Dr Builth was referring, he did not give a definitive answer.</p> <p>194 Subsequent internal discussions identified the confusion as to exactly what area was being referred to by Dr Builth. For example as stated in an email the Mine Manager stated 'I'm still not 100% sure if each of us (Heather, myself, yourself) are talking about the same bit of land'. The team proceeded on the assumption that Dr Builth was discussing rockshelters and it was agreed that the Heritage team would respond on whether the rockshelters would be 'taken out by the pits'. However, regrettably no response was provided to Dr Builth.</p> <p>195 We also acknowledge that in October 2019 there were discussions at Brockman 4 between Rio Tinto personnel and the PKKP Cultural Heritage Manager, about the status of the mine plan in relation to the Juukan area. Recollections differ as to those discussions. However, we acknowledge this presented an opportunity for Rio Tinto to confirm the timing of impacts to Juukan 1 and Juukan 2, which had long been within the mine footprint. It appears the precise timing of the direct impacts to the shelters was not clearly communicated to the PKKP until 15 May 2020. By this time, the blast that ultimately impacted Juukan 1 and Juukan 2 was already scheduled and was largely loaded</p>

Para	Question	Response
		<p>Having regard to its understanding of the facts and the contemporaneous documents, Rio Tinto does not consider that it led the PKKP to believe that there were no plans for mining around the Juukan area. The intention to mine the Juukan rockshelters had been well established for a number of years before this exchange in October 2019.</p> <p>It was also understood by the PKKP at that time. This is reflected in a range of communications between Rio Tinto and the PKKP. These included:</p> <ul style="list-style-type: none"> • the 2015 documentary funded by Rio Tinto, which featured a number of PKKP People acknowledging the future destruction of the sites; • Rio Tinto's application for a s18 consent for the Atlantis site which showed the Juukan Gorge in the mine plan, which was shared with the PKKP in November 2018; • Rio Tinto sharing a version of the Cultural Heritage Management Plan with the PKKP that clearly noted the s18 consent for Juukan 1 and Juukan 2 in March 2019; and • the PKKP's request to visit the Juukan rockshelters noting they wanted to visit while they could as it was subject to a s18 consent, made in March and May 2020. <p>Furthermore, as set out in our submission, the encroachment of the Brockman 4 mine had been progressing steadily towards the location of Juukan 1 and Juukan 2. In Pit 1, from July 2018 to April 2020, there were 19 blasts within a 250m radius of Juukan 1 and Juukan 2, with the most recent on 30 April 2020. Some damage in the area of Juukan 1 and Juukan 2 as a result of these, or earlier, blasts was apparent. By November 2019, around the time of the October 2019 LIC meeting, the Brockman 4 development area was within 120 metres of the sites.</p> <p>However, Rio Tinto accepts that clearer communication on when the sites would be impacted should have occurred and that this may have resolved any misunderstanding in communications.</p>
21.	Will your internal review be made public, in its entirety? And when is this likely to be concluded?	The Board Review Report was made public on 24 August 2020.

Para	Question	Response																								
29.	What expert archaeological advice did you receive regarding the significance of Juukan Gorge and the rockshelters?	<p>Our submissions detail the archaeological advice on the Juukan rockshelters obtained from Jackson and Fry in mid 2004 and Scarp Archaeology in 2008, 2014 and 2018 (see parts 3.2 (ii), 3.3. 3.4, 3.7, 3.10 and 3.11).</p> <p>The following table outlines the expert reports and communications between RT and PKKP which referenced the archaeological and ethnographic significance of the Juukan rockshelters over a 17 year period. We note that Rio Tinto demonstrated a consistent course of action over this period, at all times progressing in a transparent manner towards mining until it was formally notified of the change in cultural significance of the Juukan rockshelters on 18 May 2020.</p> <table border="1"> <thead> <tr> <th>Date</th> <th>Details</th> <th>Significance of Juukan 1 & 2</th> </tr> </thead> <tbody> <tr> <td>May-04</td> <td>Jackson and Fry report, following archaeological surveys conducted with the PKKP</td> <td>Moderate to high degree of archaeological significance</td> </tr> <tr> <td>23-Apr-08</td> <td>Williams preliminary advice, following ethnographic survey conducted with PKKP.</td> <td>Moderate to high archaeological significance</td> </tr> <tr> <td>Oct-08</td> <td>Scarp Archaeology report, following archaeological surveys and investigations conducted with the PKKP.</td> <td>High archaeological significance (Juukan 1 at 32,000 and Juukan 2 at 22,000)</td> </tr> <tr> <td>Dec-08</td> <td>Williams report, following ethnographic survey conducted with the PKKP.</td> <td>High ethnographic significance to the PKKP</td> </tr> <tr> <td>28-Mar-13</td> <td>LIC meeting between RT and PKKP discusses potential section 18 applications over Juukan 1 and Juukan 2, along with other sites.</td> <td>Initial dates from Juukan 1 and Juukan 2 are 32,000 and 22,000 years old respectively</td> </tr> <tr> <td>1-Sep-13</td> <td>Builth report, following ethnographic survey with PKKP.</td> <td>High level of ethnographic significance</td> </tr> <tr> <td>26-Nov-13</td> <td>RT provides update at LIC meeting that section 18 notice had been submitted.</td> <td>Juukan 1 at least 32,000 years old and Juukan 2 at least 22,000 years old.</td> </tr> </tbody> </table>	Date	Details	Significance of Juukan 1 & 2	May-04	Jackson and Fry report, following archaeological surveys conducted with the PKKP	Moderate to high degree of archaeological significance	23-Apr-08	Williams preliminary advice, following ethnographic survey conducted with PKKP.	Moderate to high archaeological significance	Oct-08	Scarp Archaeology report, following archaeological surveys and investigations conducted with the PKKP.	High archaeological significance (Juukan 1 at 32,000 and Juukan 2 at 22,000)	Dec-08	Williams report, following ethnographic survey conducted with the PKKP.	High ethnographic significance to the PKKP	28-Mar-13	LIC meeting between RT and PKKP discusses potential section 18 applications over Juukan 1 and Juukan 2, along with other sites.	Initial dates from Juukan 1 and Juukan 2 are 32,000 and 22,000 years old respectively	1-Sep-13	Builth report, following ethnographic survey with PKKP.	High level of ethnographic significance	26-Nov-13	RT provides update at LIC meeting that section 18 notice had been submitted.	Juukan 1 at least 32,000 years old and Juukan 2 at least 22,000 years old.
Date	Details	Significance of Juukan 1 & 2																								
May-04	Jackson and Fry report, following archaeological surveys conducted with the PKKP	Moderate to high degree of archaeological significance																								
23-Apr-08	Williams preliminary advice, following ethnographic survey conducted with PKKP.	Moderate to high archaeological significance																								
Oct-08	Scarp Archaeology report, following archaeological surveys and investigations conducted with the PKKP.	High archaeological significance (Juukan 1 at 32,000 and Juukan 2 at 22,000)																								
Dec-08	Williams report, following ethnographic survey conducted with the PKKP.	High ethnographic significance to the PKKP																								
28-Mar-13	LIC meeting between RT and PKKP discusses potential section 18 applications over Juukan 1 and Juukan 2, along with other sites.	Initial dates from Juukan 1 and Juukan 2 are 32,000 and 22,000 years old respectively																								
1-Sep-13	Builth report, following ethnographic survey with PKKP.	High level of ethnographic significance																								
26-Nov-13	RT provides update at LIC meeting that section 18 notice had been submitted.	Juukan 1 at least 32,000 years old and Juukan 2 at least 22,000 years old.																								

Para	Question	Response		
		May-Jun-14	Scarp Archaeology preliminary advice, following first salvage trip at Juukan 2, with the PKKP.	Deposit at Juukan 2 was highly significant
		Jul-14	Scarp Archaeology preliminary advice following second salvage trip at Juukan 1 and Juukan 2, with the PKKP.	Results at Juukan 1 disappointing, Juukan 2 one of the most significant sites in Australia
		14-Jul-14	Findings of the second salvage trip were shared with the PKKP at LIC meeting.	Juukan 2 dated at 43,000 years
		Aug-14	Scarp Archaeology preliminary advice, following third and final salvage trip, with the PKKP at Juukan 2.	The deposit at Juukan 2 proved to be highly significant.
		Nov-14	Draft Cultural Heritage Management Plan (CHMP) for Brockman 4 provided to YMAC.	Juukan 2 contained highly significant deposit and faunal remains that were outstanding and unprecedented
		Dec-14	Poster summarising the findings at Juukan 1 and Juukan 2 presented at the Australian Archaeology Association and Australasian Society for Historical Archaeology conference by RT and Dr Slack of Scarp Archaeology.	Juukan 2 dated at 43,000 years
		Nov-17	Rio Tinto provide PKKPAC with 'version 1' of the CHMP. The CHMP is discussed at a LIC meeting on 23 November 2018. Version 2 using similar language provided to PKKPAC in March 2019.	Juukan 2 dated at 43,000 years and is a 'key heritage site'
		10-Aug-18	Dr Slack and others present the results of the findings following the excavation trips at Juukan 1 and Juukan 2 at the Southern Deserts conference, attended by Dr Bulth and PKKPAC CEO Carol Meredith.	Juukan 2 situated in culturally significant complex
		Nov-18	AAAC Dr Slack presented findings again at National Conference.	Juukan 2 situated in culturally significant complex

Para	Question	Response		
		31-Dec-18	Scarp Archaeology final report following salvage trips conducted in 2014.	Juukan 2 is of the highest archaeological significance in Australia, dated at 46,000
		Mar-Apr-20	Bruckner draft and final preliminary advice, following survey for the purposes of environmental approvals conducted in late February 2019, with PKKP representatives.	Purlykuti Creek and tributary gorge featuring Juukan 1 & 2 rockshelters of high importance
		6-May-20	PKKP 2020 Implementation Plan	47,000 year old rock shelter
		18-May-20	Builth report, emailed to Rio Tinto. The email noted that the PKKP 'have only been made aware on Friday that 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.'	Extreme cultural and scientific significance
33.	Has Rio Tinto been briefed by the WA Government or any of its departments on the content of the proposed new Aboriginal Heritage Bill (ACT)?	<p>On 24 August 2020, Rio Tinto received an information pack about the proposed Bill from the Chamber of Minerals & Energy (CME), which had received it from the Department of Planning, Lands & Heritage for the purpose of sharing with CME members. Rio Tinto was also provided with a copy of the draft bill on 1 September 2020 through the CME of Western Australia.</p> <p>As stated at paragraph 264 of our submissions, Rio Tinto has participated in the ongoing review of the AH Act. The WA Government has publicly released information regarding the proposed new Aboriginal Heritage Act as part of that review process. Rio Tinto has been provided with the Aboriginal Cultural Heritage Bill 2020 Information Paper dated August 2020 (and associated Overview material) released by the WA Department of Planning, Lands and Heritage.</p> <p>Rio Tinto representatives have also attended briefings and received information on the reform proposals provided to industry representative bodies such as the CME of Western Australia.</p>		
	If yes, does Rio Tinto believe that it will protect heritage from being impacted in the	As stated at paragraph 264 of our submission, we support new Aboriginal heritage legislation that balances meaningful Aboriginal stakeholder engagement and protection and management of Aboriginal heritage values with the delivery of certain, timely and efficient outcomes for stakeholders.		

Para	Question	Response
	<p>way that occurred at Juukan Gorge, and if so how?</p>	<p>Our submissions in response to Terms of Reference (g) and (h) set out the principles for a new Aboriginal Heritage Act which we support and consider will better protect Aboriginal heritage in Western Australia. We have been provided with the Aboriginal Cultural Heritage Bill 2020 Information Paper dated August 2020 (and associated Overview material) released by the WA Department of Planning, Lands and Heritage and note that the Bill contemplates cultural heritage management plans where there are medium or high impacts to Aboriginal cultural heritage. These plans will need to include contingency arrangements to cover instances where new Aboriginal cultural heritage or new information about the significance of Aboriginal cultural heritage is provided, carefully structured in a way to minimise the introduction of uncertainty into the investment framework with consequent impact on future capital investment decisions.</p> <p>Following the incident we have also instituted a comprehensive internal containment process designed to add a further layer of protection to heritage sites.</p> <ul style="list-style-type: none"> • We commenced a review of all heritage sites where we have existing section 18s that under current plans could be impacted over the next 18-24 months. • We have reviewed more than 400 heritage sites since the incident, and are continuing to work through the remainder. • Rio Tinto Iron Ore's Chief Executive is currently meeting regularly with General Managers and subject matter experts in the business to discuss the sites. • For context we have 1,780 approved section 18 permits. • Through this process, we combine heritage information obtained through consultation with Traditional Owners as well as archaeological and ethnographic reports with likely impact and determine a ranking from very low through to very high. • We have established an escalation process. Before proceeding with disturbance of a site, approval is required from either Rio Tinto Iron Ore's CEO or (for high or very high risk sites) from the Rio Tinto Executive Committee heritage subcommittee comprising the Chief Executive, Chief Financial Officer, Group Executive Corporate Relations and Group Executive General Counsel.

Para	Question	Response
		<p>The most recent evidence of this containment process was highlighted by the decision to protect a 43,000-year old rock shelter on the edge of the Silvergrass mine, despite having section 18 consent to impact the site.</p>
36.	<p>Can you explain how traditional owner rights under your Participation Agreements provide greater powers to Indigenous people than those conferred under Australian law?</p>	<p>In our submissions at paragraph 36 we stated that:</p> <p><i>In order to exercise rights to mine that may impact an Aboriginal heritage site and interact with native title rights, Rio Tinto's approach, as occurred in relation to Juukan 1 and Juukan 2, is to first seek the consent of the PKKP to its operations on their country. Rio Tinto's BIA of 2006 and its Participation Agreement executed with the PKKP in 2011, were aimed at accounting for and formalising Traditional Owners rights to an extent greater than their recognition under Australian law, including the right to manage cultural heritage.</i></p> <p>As stated in our submissions, Rio Tinto recognised the PKKP as the Traditional Owners of their land, and entered into agreements with the PKKP on this basis, a number of years before the PKKP's native title rights were formally recognised under Australian law.</p> <p>As we have also stated in our submissions, current cultural heritage laws do not contemplate the negotiation of agreements where Traditional Owners are able to engage in direct decision making regarding if and how mining occurs and their ongoing role in the development of mining on their lands. Rio Tinto has comprehensive agreements with all the Traditional Owner groups with whom it partners for the development and operation of mining projects. These agreements cover a broad range of areas and allow Traditional Owners to agree, through negotiation, the financial and non-financial benefits they obtain in return for consent to mine on their lands.</p> <p>These agreements also contract both parties to processes and standards for ongoing consultation and engagement as well as management of a range of issues including cultural heritage. For example, the Participation Agreement and the RFD set out agreed processes for the conduct of heritage surveys and consultation with the PKKP about managing the impacts of mining operations on the PKKP's lands. In contrast, the current AH Act does not require consultation with Traditional Owners in decisions that may impact their cultural heritage.</p> <p>By providing Traditional Owners with early and direct opportunities to be involved in decision making on a broad range of issues as to how mining will occur on their lands, the agreements that Rio Tinto has</p>

Para	Question	Response
		with Traditional Owners provide significantly greater say to them on these issues than does existing legislation.
37.	Is this statement incorrect: 'Under heritage protocol, in an agreement, archaeological identification is led by Rio; and anthropological assessments are led by the native title claimants?'	<p>Paragraph 106(c) of our submissions identifies that the Participation Agreement between the PKKP and Rio Tinto contains a 'Cultural Heritage Protocol', which sets out 'the procedure for the initiation and conduct of archaeological and ethnographic heritage surveys'. Specifically, the Cultural Heritage Protocol at Schedule 9 of the Participation Agreement provides:</p> <ul style="list-style-type: none"> • Rio Tinto would be responsible 'for all arrangements in relation to archaeological surveys' (the PKKP's Heritage Body will cooperate to coordinate PKKP participants); • the PKKP's Heritage Body would be responsible for 'managing the conduct of ethnographic surveys'; • Rio Tinto would meet costs associated with surveys performed. <p>For example, as noted in earlier answers, Dr Builth indicated in her ethnographic reports that she had been engaged by YMAC on behalf of the PKKP.</p> <p>Regardless of which party engages the external expert and pays the costs associated with that, all surveys are Traditional Owner led in the sense that they provide the areas of focus.</p>
38.	When you say that you 'obtain consent', in accordance with the agreed process, in your formal agreements; do you agree that the 'agreed process' is that the Traditional Owners have no right to object?	<p>At paragraph 38 of our submissions, we stated that:</p> <p><i>Where it is not practicable to avoid impact on a heritage site due to location of an ore body, Rio Tinto seeks State consent under the AH Act for State approval for mining operations to proceed in that area, subject to mitigation measures, as occurred with Juukan 1 and Juukan 2. Rio Tinto obtains these consents in accordance with the agreed process set out in its formal agreements with Traditional Owners.</i></p> <p>The 'agreed process' refers to the process agreed between the relevant Traditional Owners and Rio Tinto by which Rio Tinto will submit a section 18 notice under the AH Act.</p> <p>In relation to the PKKP, that process is set out in clause 28 of the Participation Agreement (a copy of which has been provided on a confidential basis to the Committee).</p> <p>Clause 28 contains a detailed consultation regime which governs consultation between Rio Tinto, the PKKP and the relevant government entity about 'State Heritage Applications' (which includes a notice under section 18 of the AH Act) and 'Key Approval Applications'.</p>

Para	Question	Response
		<p>Clause 28 requires Rio Tinto to give the PKKP an opportunity to review and comment on 'State Heritage Applications' before lodging such an application. It also provides that Rio Tinto will meet with the PKKP to discuss the substance of an application where requested by the PKKP.</p> <p>This consultation is not required under the AH Act.</p> <p>We acknowledge that elsewhere in the Participation Agreement, in respect of the sites such as the Juukan sites that did not form part of the 'Rights Reserved Areas' under the Participation Agreement, the PKKP agreed not to object to any application, including under the AH Act, made for the purposes of Rio Tinto's Iron Ore operations.</p> <p>As described in our submissions, the Binding Initial Agreement of 2006 and the Participation Agreement and Regional Framework Deed of 2011 were struck after many years of negotiation. The PKKP's agreement not to object to applications was provided in the context of the PKKP's consent to, and agreement to support, Rio Tinto's Iron Ore operations and in return for various financial and non-financial benefits from Rio Tinto. The 2011 agreements were struck at a time when the results of the Scarp Archaeology and Roina Williams surveys, and therefore the existence and location of Juukan 1 and Juukan 2, were known to the parties.</p> <p>These circumstances have underlined to Rio Tinto the importance of ensuring that, going forward, agreements with Traditional Owners allow for flexibility where material new information regarding a site comes to the knowledge of the Traditional Owners or Rio Tinto, while balancing Rio Tinto's need for certainty when investing billions of dollars in multi-decade mine developments. This is set out in the Board Review Report, and as outlined in our submission, Rio Tinto supports the introduction of an appeal right for Traditional Owners in relation to section 18 approvals.</p>
60.	As per Rio Tinto's Communities and Social Performance Standard(s), under what circumstances is it not 'practicable' to preserve a 46,000 year old archaeological site?	<p>Our Communities and Social Performance Standard provides that cultural heritage must be managed in consultation with relevant communities, and that businesses must design and locate activities to avoid damage to non-replicable cultural heritage wherever practicable.</p> <p>As stated in our submission, a range of factors can determine whether it is practicable to avoid a particular heritage site, including proximity to the ore body. However, as also stated in our submission, we acknowledge that the destruction of the Juukan rockshelters should not have occurred, and we are determined to learn the lessons from these events to ensure that the destruction of heritage sites of</p>

Para	Question	Response
		<p>exceptional archaeological and cultural significance, such as the Juukan rockshelters, does not occur again.</p>
145.	<p>Was Rio advised, in 2014, that Juukan 2 was 'one of the most archaeologically significant sites in Australia'. In all, how many archaeological surveys were conducted at this site that Rio was aware of?</p>	<p>Yes. Our submissions set this out at paragraph 145:</p> <p><i>145 From 1 to 12 July 2014, Dr Slack conducted the second salvage and excavation trip at Juukan 1 and Juukan 2 (Brock-20 and Brock-21) with PKKP participation. Dr Slack conducted further excavation at Juukan 1, but described those results as 'disappointing' in his preliminary advice on the trip (dated July 2014). For Juukan 2, however, he recorded:</i></p> <p><i>the results of the C14 dating and further excavations completed for this trip have concluded that this site is one of the most archaeologically significant sites in Australia. Further excavations at the site are recommended if the site cannot be protected.</i></p> <p>Dr Slack prepared a preliminary advice following his second salvage excavation trip in July 2014 that was provided to Rio Tinto in August 2014. As noted above, that preliminary advice recorded Juukan 2 as being 'one of the most archaeologically significant sites in Australia'. This information was shared with the PKKP, voluntarily with the Department of Indigenous Affairs and at various archaeological conferences.</p> <p>There were four separate series of archaeological surveys and/or excavations that took place at, or encompassed, Juukan 1 and Juukan 2. These are set out in our submissions:</p> <ul style="list-style-type: none"> • surveys conducted by Gavin Jackson Pty Ltd in 2003 (paragraphs 69, 73); • surveys conducted by Scarp Archaeology in 2007 (paragraphs 79-80, 83); • two field trips conducted by Scarp Archaeology in 2008 (paragraphs 85-88) and • excavations conducted by Scarp Archaeology in 2014 (paragraphs 143-145, 148-149), which resulted in Dr Slack concluding that the sites were now considered to have been fully salvaged.
175.	<p>Your submission states that ancient artefacts salvaged from this site are stored in a storage facility at Brockman 4.</p> <p>Is the storage facility a sea container? Is the storage facility climate controlled?</p>	<p>The storage facility referred to at paragraph 175 of our submissions is a sea container. It is not climate controlled. However, not all artefacts are stored there.</p> <p>Organic material, such as animal bone and charcoal, is being stored in a secure airconditioned storage room at Rio Tinto's Aboriginal Training and Liaison building in Dampier. The storage room maintains a controlled temperature at all times.</p>

Para	Question	Response
		A new storage facility has been installed onsite which could be used to house artefacts, if this accords with the wishes of the PKKP.
	Does the storage facility meet accepted archaeological standards for artefacts of this nature and antiquity?	Yes. In respect of lithic storage which comprises the bulk of the stored material, we meet the accepted archaeological standards. The organic materials are stored separately at Rio Tinto's Aboriginal Training and Liaison building in Dampier until the new suitable container is installed.
	Do the traditional owners have ready access to this material?	The Traditional Owners can access their material at any time by request. The reason that a request must be made is because the facility is located on an active mine site. We can repatriate anything and everything salvaged from PKKP Country at any time should a request be made by the PKKP.
	What is the future intention of permanent storage for this material?	A new storage facility has been installed on site which could be used to house artefacts, if this accords with the wishes of the PKKP. Rio Tinto is working with PKKP on how they would like the artefacts stored.
265 (a)	In your view, Traditional Owners must have a primary role in the management of heritage values. Do you believe that Traditional Owners have had a primary role in any amendments to the Western Australian Aboriginal Heritage Act, and/or the proposed Aboriginal Cultural Heritage Bill? Has Rio Tinto seen the draft or participated in the drafting of this Bill?	<p>It is Rio Tinto's strong view that Traditional Owners have a key role to play in the process being undertaken by the WA Parliament to create appropriate heritage management legislation. Recent feedback Rio Tinto received from Traditional Owner groups was to the effect that they felt engagement had not been adequate. Rio Tinto provided this feedback to the Minister for Indigenous Affairs and reiterated the need for adequate consultation with Traditional Owners as part of the reform process.</p> <p>However, Rio Tinto is not in a position to answer this question definitively as it is not responsible for consultation on the amendments to the Act. This question is better directed to the WA Government and/or Traditional Owners. Traditional Owners are also better placed than Rio Tinto to comment on whether the consultation process has been adequate from their perspective.</p> <p>As stated in our submissions, Rio Tinto has and will continue to support the WA Government's reforms to repeal the AH Act and replace it with new Aboriginal heritage legislation.</p> <p>Rio Tinto has participated in the ongoing review of the AH Act in WA. Rio Tinto confirms its already publicly stated position, which draws on its long term and extensive engagement with Traditional Owners on heritage matters in Western Australia, that it supports new Aboriginal heritage legislation that balances meaningful Aboriginal stakeholder engagement and protection and management of Aboriginal heritage values with the delivery of certain, timely and efficient outcomes for stakeholders.</p>

Para	Question	Response
		<p>Our understanding is the WA Government is seeking to finalise a draft bill for consultation. On 1 September 2020, Rio Tinto received a consultation draft of the bill through the CME of Western Australia. Rio Tinto has actively participated in the consultation process and supports the development of a new modernised bill.</p>
265 (b)	<p>You state in your submission that the Western Australian Minister for Aboriginal Affairs ‘must retain overall accountability ... for the Aboriginal heritage system in Western Australia’. In light of this, are you of the view that the destruction of any cultural material is, and should be, solely the responsibility of the relevant Western Australian Minister for Aboriginal Affairs?</p>	<p>No, as stated in paragraph 265(a) and (b) of our submission, Traditional Owners must have a primary role in decisions about Aboriginal heritage management and agreement making with Traditional Owners of the affected land should be the first method explored to achieve heritage protection. As such, heritage management is not solely the responsibility of government.</p> <p>However, elected officials also have a critical role to play in determining whether the destruction of cultural material should be permitted as part of land disturbance required for development, taking into account the broader public interest as well as specific values and concerns of key stakeholders.</p> <p>Proponents have responsibility for seeking to reach agreement with Traditional Owners and for their impacts to cultural material. 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.</p>

Group B

Questions about the value and ore amounts of ML4SA, and Section 125 thereof, as identified in the Public Environmental Review submitted to the EPA by Rio Tinto, in August 2005.

No.	Question	Response
1	<p>Given that Mr. Jacques (of Rio Tinto) has stated 'The difference between option 4 [inclusive of the Juukan caves] and the other three options was [inaudible] of eight million tonnes of high-grade iron ore. The economic value at the time of the decision was around \$135 million of net present value at the time of the decision', could Rio please clarify that these figures refer specifically to Section 125 of ML4SA, and no other section?</p> <p>(a) If no to (1), do the given figures of eight million tonnes of high-grade iron ore, with an economic value at the time of the decision of around \$135 million, refer to Proposed Section 246, adjacent to ML4SA?</p> <p>(b) If yes to (1), do these figures apply to the entirety of ML4SA; Sec 125, or do these figures relate only to the pit outline?</p>	<p>All four mine plans and the associated figures applied to a section of Pit 1 located entirely within Section 125 of ML4SA.</p>
2	<p>With reference to (1) and its subsequent parts (a) and (b), how is that Juukan, having been avoided by operations, would have cost Rio money; as was argued previously?</p>	<p>The four mine plan options involved varying sized buffers around the Juukan rockshelters, ranging from no buffer (the option selected), a 65 metre buffer, a 125 metre buffer and a 200 metre buffer.</p> <p>The net present value of around US\$135 million reflects a comparative value between two options, specifically the option chosen and a second option which applied a 65 metre buffer that sterilised 8.1 million tonnes of iron ore.</p>

No.	Question	Response															
3	If Juukan had remained intact and avoided by operations, what are the estimates of ore tonnage and value for the area in immediately proximity but excluding Juukan?	<p>We interpret this question as referring to the four options. The table below outlines the relative value impact of the four options.</p> <table border="1" data-bbox="920 379 1962 679"> <thead> <tr> <th data-bbox="920 379 1102 469">Option</th> <th data-bbox="1102 379 1693 469">Potential buffer zone</th> <th data-bbox="1693 379 1962 469">Tonnage Not Mined</th> </tr> </thead> <tbody> <tr> <td data-bbox="920 469 1102 523">Option 1</td> <td data-bbox="1102 469 1693 523">Including Juukan 1 and Juukan 2</td> <td data-bbox="1693 469 1962 523">0 Mt</td> </tr> <tr> <td data-bbox="920 523 1102 577">Option 2</td> <td data-bbox="1102 523 1693 577">65 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1693 523 1962 577">8.1Mt</td> </tr> <tr> <td data-bbox="920 577 1102 632">Option 3</td> <td data-bbox="1102 577 1693 632">200 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1693 577 1962 632">10.2 Mt</td> </tr> <tr> <td data-bbox="920 632 1102 679">Option 4</td> <td data-bbox="1102 632 1693 679">125 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1693 632 1962 679">8.5Mt</td> </tr> </tbody> </table>	Option	Potential buffer zone	Tonnage Not Mined	Option 1	Including Juukan 1 and Juukan 2	0 Mt	Option 2	65 metre offset from Juukan 1 and Juukan 2	8.1Mt	Option 3	200 metre offset from Juukan 1 and Juukan 2	10.2 Mt	Option 4	125 metre offset from Juukan 1 and Juukan 2	8.5Mt
Option	Potential buffer zone	Tonnage Not Mined															
Option 1	Including Juukan 1 and Juukan 2	0 Mt															
Option 2	65 metre offset from Juukan 1 and Juukan 2	8.1Mt															
Option 3	200 metre offset from Juukan 1 and Juukan 2	10.2 Mt															
Option 4	125 metre offset from Juukan 1 and Juukan 2	8.5Mt															
4	Now, with Juukan having been destroyed, what was the tonnage, grade and value of the ore obtained at the site?	<p>After the events on 24 May 2020, Rio Tinto paused all operations in the Juukan Gorge area. None of the blasted material has been moved to date and, as such, the tonnage and grade of the ore related to the blast has not been determined. The ore has not been processed or sold and, as such, Rio Tinto has not currently received any financial benefit associated with the ore.</p>															

Group C

No.	Question	Response
1	<p>On May 27, Rio Tinto apologised, in a manner, for the destruction of the caves, while effectively blaming the Traditional Owners. To quote Rio's head of the iron ore division, Chris Salisbury: 'We are sorry the recently expressed concerns of the PKKP did not arise through the engagements that have taken place over many years.'</p> <p>(a) Do you Mr Jacques now acknowledge that those concerns were, in fact, expressed by the PKKP and that it was common knowledge that the caves were of enormous importance?</p>	<p>Over our 17 year history with the PKKP, the age and the significance of the sites, and the fact that they would be disturbed, was never hidden.</p> <p>Leaving to one side any additional information which came to light shortly before the destruction of the rockshelters, we accept that it was apparent that the sites were of high significance from at least 2008 and that this was known by the PKKP and Rio Tinto at the time the Regional Framework Deed and the Participation Agreement were entered into. Moreover, the Built report of 2013 and the Scarp Archaeological report of 2008 which identified the sites' high significance were provided with the materials lodged with the section 18 application.</p> <p>However, it is apparent that this information, and the further information that came to light in 2014 and 2018, was not escalated to the senior leadership team for consideration until May 2020 when it was too late for any different approach to be taken. Rio Tinto has openly stated that it missed opportunities to re-assess its approach to the Juukan rockshelters. This included missed opportunities to escalate the increased knowledge of the significance of these sites for re-consideration to senior decision makers within the Iron Ore business and the company more broadly. We deeply regret that the decision to proceed with impacts was not revisited following the salvage findings. Clearly the salvage was not sufficient to offset the loss of place.</p> <p>One of our immediate responses to the Juukan issues is that we have put in place systems to ensure that decision making on mine development involving significant sites is now escalated to the senior leadership team as a matter of course. Rio Tinto is also committed to fully implementing steps to address the findings and recommendations of the Board Review Report into the causes of this incident and we will also take into account the information, views and findings that emerges through the Joint Committee's inquiry.</p> <p>As to the nature of any concerns expressed by the PKKP, Mr Jacques was not involved in the relevant discussions of the sites which occurred over many years and so does not have first hand knowledge of what was or was not said by or on behalf of the PKKP and Rio Tinto in those discussions. Mr Jacques readily accepts that the PKKP would not have wished for the destruction of</p>

No.	Question	Response
		these sites. However, equally, our investigations indicate that Rio Tinto was operating in the belief that there was a shared understanding that the sites would ultimately be disturbed and that there was an acceptance of that course without significant dissent or opposition.
2	Rio Tinto has repeatedly stated it is sorry 'for the distress' caused by the destruction of the Juukan Caves. Will you Mr Jacques say unequivocally that you are sorry for the destruction of those 46,000 caves?	Mr Jacques has personally and on behalf of the company unequivocally apologised for the destruction of the Juukan rockshelters. Our relationship with the PKKP is of the utmost importance to Rio Tinto having successfully worked together for many years and we look forward to this continuing. Regrettably we cannot change what has happened however we want to ensure that learnings are shared and applied to the mining industry as a whole. We are absolutely committed to sharing information about what happened, learning from it, and improving – and we will change. Partnership will be essential to our approach.
3	Does Rio Tinto understand that it engaged in an elaborate act of victim blaming when it is clear the error was its own?	Rio Tinto has not blamed the PKKP for this incident. Our submissions and the Board Review Report have communicated the results of Rio Tinto's review and demonstrated its preparedness to take responsibility for the failings identified. As we stated in our submissions and the Board Review Report, Rio Tinto missed a number of opportunities to re-evaluate its approach in relation to the Juukan rockshelters, particularly when material new information came to light. Rio Tinto has apologised to the PKKP unreservedly. As we have stated in our submissions, we have put in place a number of immediate steps to make sure an incident like this does not happen again. Rio Tinto is also committed to taking all steps necessary to fully address the findings and recommendations set out in the Board Review Report, which are aimed at further strengthening our capacity to protect cultural heritage. Rio Tinto is committed to a respectful partnership with the Traditional Owner groups on whose land we operate. We look forward to working together with those Traditional Owners to more effectively and responsively manage cultural heritage on their lands.
4	Will Rio Tinto compensate the PKKP for the destruction of their sacred caves?	<p>Rio Tinto is in ongoing discussions with the PKKP about how to move forward and rebuild a relationship of trust.</p> <p>The content of these discussions is confidential, particularly as we continue to discuss a path forward. Rio Tinto is committed to working closely with the PKKP to rebuild our relationship.</p>
5	Has Rio Tinto had any discussions about compensating the PKKP people?	Rio Tinto is in ongoing discussions with the PKKP about how to move forward and rebuild a relationship of trust.

No.	Question	Response
		<p>The content of these discussions is confidential, particularly as we continue to discuss a path forward. Rio Tinto is committed to working closely with the PKKP to rebuild our relationship.</p>
6	<p>Can Rio Tinto confirm that a report by an explosives expert found that the explosives that destroyed the Juukan Caves could not be removed once they were in the ground?</p> <p>(a) Who was that explosives expert?</p> <p>(b) Are they an employee of Rio Tinto?</p> <p>(c) Did Rio Tinto commission an independent view on the explosives? If not, why not?</p>	<p>We refer to our response to question 10 of the 7 August Questions (above).</p> <p>In addition to calling upon the significant internal explosives management expertise, we confirm that on the morning of 21 May 2020, we engaged an independent blasting consulting firm, Blast it Global, to provide an independent assessment. The consultant from that firm is not an employee of Rio Tinto.</p> <p>The findings of this consultant, that it was not feasible or safe to remove the blast pattern once loaded, are set out at paragraphs 235 to 239 of our submissions.</p> <p>In addition, the PKKPAC engaged an independent blasting consulting firm Blastotechnology. As set out in paragraph 239, the PKKPAC's blast consultant also reached the conclusion that it was 'probably impractical to try and uncharge hundreds of blastholes and probably would be deemed an unsafe'.</p>
7	<p>Can the explosives report that found the explosives could not be removed, be provided? If not, why not?</p>	<p>We refer to our response to question 10 of the 7 August Questions. Copies of the reports prepared by Rio Tinto's independent blasting consultant, and email correspondence received from PKKP's independent blasting consultant, are provided.</p>
8	<p>What does Rio Tinto do in the event of an explosives misfire – does Rio Tinto remove the misfired explosives?</p> <p>(a) If yes – how are the explosives removed?</p> <p>(b) If yes - if they can be removed - why couldn't Rio Tinto remove the explosives at the Juukan Caves site?</p>	<p>As set out in paragraph 210 of our submissions, the steps involved in loading holes are as follows:</p> <ul style="list-style-type: none"> • inserting an electronic detonator and booster in each hole, suspended on a piece of copper wire; • pumping in a liquid explosive and, in this case, emulsion; • tipping 'stemming' (coarse rocks) in to act as a plug at the top of the hole. <p>Within its Pilbara Iron Ore operations, Rio Tinto currently conducts between 20 and 30 blasts per week, with approximately one million holes fired per year (around 90,000 holes per month).</p> <p>Where a misfire requires removal of stemming to recover the booster, we apply the same risk assessed procedure as was applied to unload the holes in proximity to Juukan.</p>

No.	Question	Response
		<p>Between January and July 2020, Rio Tinto Iron Ore deployed vacuum truck in 40 holes (other than at Juukan). Of these 40, we managed to remove stemming and reprime (i.e. lower a fresh detonator and booster without removing any bulk explosives and detonator/booster) and fire 20 holes. We removed stemming, flushed out the explosives and recovered the detonators and boosters in 7 holes. In respect of the remaining 13 holes, we did not succeed in removing the stemming. Those holes were marked as a misfire after the shot was fired and an area of 10m radius surrounding each hole is carefully dug under supervision of a shotfirer.</p> <p>In some instances it is necessary for Rio Tinto to report a misfire to the Department of Mines Industry Regulation and Safety.</p> <p>Management of explosives is an inherently dangerous activity which requires careful risk management.</p> <p>There are various types of explosives used in the mining industry. Differing safety risks arise from the extraction of these various types of explosives once loaded.</p> <p>In this case, the explosive product used was a mixture of 70% ANFO and 30% emulsion. The technical data sheet provided by the manufacturer for that product indicates that the sleep time within blast holes must not exceed 14 days.</p> <p>Further, emulsion is water resistant. This means that flushing a blast hole with water has a lower prospect of successfully removing emulsion than is the case for ANFO.</p> <p>As mentioned at our answer to question 10 of the 7 August Questions, it is possible to remove stemming from a blast hole by way of vacuum. Rio Tinto's Standard Work Procedure for the vacuum trucks used by Rio Tinto expressly states that the process is not to be used to remove explosives from a blast hole. The Standard Work Procedure from Rio Tinto's explosives supplier also states this.</p> <p>Using the vacuum truck gives rise to the risk of unplanned initiation of explosives (for example, through vibration) and this needs to be carefully managed through risk assessment and controls.</p> <p>In this case, the blast consisted of 382 holes. 262 of these holes were loaded prior to Rio Tinto receiving the request from PKKP for a site visit. The holes included those which were the primary source of impact to the rockshelters.</p>

No.	Question	Response
		<p>The consistent advice of our internal blasting experts, along with external experts engaged by Rio Tinto and the PKKP was that the entire shot could not be unloaded.</p> <p>The fact that it took 10 hours to unload 7 holes, and that we lost a booster and detonator from one of those holes, confirmed that it was infeasible for the whole shot to be unloaded.</p>
9	<p>Rio Tinto was itself storing artefacts from the caves and had funded a documentary on the caves. Given this how could Rio Tinto argue it didn't know about their significance?</p>	<p>Rio Tinto has not sought to deny that it obtained and reviewed archaeological and ethnographic expert reports which identified the high significance of the Juukan sites. These reports are described in our submissions and in answers to other questions on notice. In fact, the very reason that excavation of the sites and the salvage, analysis and storage of artefacts were undertaken was because both the PKKP and Rio Tinto were aware of the high significance of the sites and wished to mitigate their impending disturbance. The documentary which was funded and partly scripted by Rio Tinto was made for a similar reason. The PKKP was involved in these steps after the section 18 consent had been granted and Rio Tinto understood that the PKKP supported this approach.</p> <p>The significance of the rockshelters was also shared at various archaeological conferences. A 2018 published paper which describes the significance of Juukan 2, referencing 2014 excavations as well as recent communications with Dr Slack, which has been available online since at least November 2018 states the following:</p> <p style="text-align: center;"><i>In 2013, Rio Tinto advised that the shelter would be destroyed by the development of the proposed Pit 1 expansion at the Brockman 4 mine. A large-scale salvage excavation of Juukan 2 was subsequently undertaken in 2014 by Scarp Archaeology and PKKP Traditional Owners after ministerial consent to destroy the site under section 18 of the WA Aboriginal Heritage Act was granted in December 2013.</i></p> <p>However, and without resiling from the acknowledgement that Rio Tinto as an organisation was aware of the evolving information, it was a failing of process that the Senior Leadership Team of Rio Tinto Iron Ore were not aware of the exceptional significance of the sites and of their proposed disturbance. This issue is dealt with at length in the Board Review Report. Also, as noted in our submissions, steps have been taken to ensure that decision making on mine development involving significant sites is now escalated to the senior leadership team as a matter of course.</p>

No.	Question	Response
10	Having looked at this issue by now, do you Mr Jacques think Rio Tinto was aware of the significance of the caves or at least should have been aware of their significance?	<p>Please refer to our answer to question C9 above and to the detail contained in the Board Review Report. The organisation was aware of the significance of the sites even if the senior leadership team was not.</p> <p>We deeply regret that the systems in place to identify and preserve the sites did not operate effectively in this case. To be clear, from 2014 onwards, our systems no longer recognised this as an area that required preservation as upon completion of the artefact salvage, which was intended to offset the loss of the place, the area was no longer protected.</p> <p>Since the events at Juukan, we have put in place a number of steps to ensure that in future information regarding the cultural significance of sites like the Juukan rockshelters will be escalated to senior leadership level as a standard practice and at an appropriate time to ensure efficiency in both preservation and mine design and operations. When concerns are raised in a clear and timely way, we have a track record of listening to our stakeholders. Importantly, the earlier these issues are raised, the more options we have available to address these concerns. There are multiple occasions where we have been able to accommodate Traditional Owners' concerns about heritage impacts by making changes to our mining operations, even in situations where we had secured approval under Section 18 to disturb a site or where changes caused a significant financial impact. We have a genuine desire to improve. Core to this approach is a strong partnership where issues important to both parties are raised and discussed openly and transparently.</p> <p>Our track record supports our statements of commitment in this regard. In the last five years Rio Tinto, as part of its study process has removed over 380Mt of iron ore reserves and resources to account for significant cultural heritage and environmental values. This equates to more than one full year of production or more than US\$30 billion in revenue at current prices. Recently, Rio Tinto has moved to protect a 43,000-year old rock shelter on the edge of the Silvergrass mine, despite having section 18 consent to impact the site.</p>
11	Where have Rio Tinto stored the archaeologically significant materials recovered from the Juukan caves?	See our response in respect of the question relating to para 175 in Group A above.

No.	Question	Response
12	<p>Has there been a shift in culture at Rio Tinto where indigenous relations no longer has priority?</p>	<p>No, there has not been a shift in culture at Rio Tinto where indigenous relations no longer has priority. On the contrary, Partnership to Operate / licence to operate is critical to our success. In 2016 Rio Tinto launched its five priorities, with Partnership being one of these. Given this, responsibility for this was elevated to an Executive Committee role.</p> <p>Rio Tinto has been a leader in the industry in promoting Indigenous rights over many decades. We have a long-standing commitment to protecting cultural heritage and have worked with Traditional Owners over many years to preserve and manage that heritage. We have long accepted the need to operate over and above strict compliance with the law and the formal agreements with Traditional Owners to achieve this outcome. Accordingly, what happened in relation to Juukan Gorge has been very confronting to us.</p> <p>Rio Tinto is committed to a respectful partnership with the Traditional Owner groups with whom we work. We look forward to working with those Traditional Owners to more effectively and responsively manage cultural heritage on their lands.</p> <p>Furthermore Rio Tinto recently announced that it is committed to attracting, developing and retaining more Indigenous professionals, and in particular to encouraging more Indigenous Australians into leadership positions in the organisation. We recently announced a \$50 million allocation for this purpose.</p>
13	<p>As reported in the Australian Financial Review on the 9th of March 2018 (https://www.afr.com/work-and-careers/management/rio-tintos-js-jacques-looks-to-growth-as-miner-emerges-from-illstarred-decade-20180207-h0v6n3) Mr Jacques you have confirmed that you told Rio Tinto employees at a Brisbane staff meeting to 'Fit in or f--- off'.</p> <p>(a) Under this culture, Mr Jacques do you think your people would speak out when</p>	<p>(a) and (c) It is important to understand the context of this remark which was in response to a question from one of our employees in an internal meeting in relation to safety. Mr Jacques was expressing the sentiment that we will not tolerate any breaches of safety in any of our operations around the world, by any of our employees. This is non-negotiable, as the safety of our employees comes first. Over the last two years we have not had one of our colleagues lose their life in any of our operations for the first time in the company's 146 year history, although we are not complacent and setting a strong commitment on safety from the top and across our business is really critical.</p> <p>We have stated in our submissions that, in impacting the Juukan rockshelters, we did not meet our own internal standards. This is set out in more detail in the Board Review Report on our cultural heritage practices released on 24 August 2020. What is also clear from our submissions and from the findings of that Board-led review is that there is no one person responsible for this incident. What is</p>

No.	Question	Response
	<p>they saw things like the Juukan Cave destruction continuing despite the concerns of traditional owners?</p> <p>(b) Mr Jacques, Do you acknowledge that your 'fit in or f--- off' philosophy runs counter to your staff code of conduct – The Way We Work?</p> <p>(c) Mr Jacques, Do you accept that the destruction of the Juukan Caves and the breakdown in the relationship with traditional owners over this incident is a breach of The Way We Work?</p> <p>(d) Given breaches of The Way We Work are a sackable offence (Alan Davies and Debra Valentine: https://www.riotinto.com/en/news/releases/Senior-management-changes-Davies-Valentine), who will be sacked for the destruction of the Juukan Caves?</p>	<p>clear is that there is a need to improve Rio Tinto's governance, policies and procedures relating to cultural heritage protection. We are committed to making those changes, which is the most effective and responsible way to ensure that an incident like this does not happen again.</p> <p>(b) This is not Mr Jacques' philosophy but a comment that was made in relation to a question from a Rio Tinto employee in an internal meeting in relation to safety. Mr Jacques was expressing that we will not tolerate any breaches of safety in any of our operations around the world, by any of our employees. This is non-negotiable, as the safety of our employees comes first.</p> <p>(d) The Board Review Report has determined the root causes of the circumstances around the destruction of the Juukan caves and as detailed in their report, there have been a series of mistakes and issues, with no one person at fault. The Board has determined the most appropriate consequence is the removal of the short term incentives of Mr Jacques, CEO, Mr Salisbury, CE Iron Ore and Ms Niven, GE, Corporate Relations. In addition, Mr Jacques' 2016 Long-Term Incentive Plan award that is due to vest in the first half of 2021 will be reduced by £1,000,000 (subject to vesting). This determination was based on the fact that as far as these individuals are concerned, the shortfalls represented acts of omission rather than commission.</p>
14	<p>What is the Annual salary of Mr Jacques, including all annual bonuses.</p> <p>(a) Will you, Mr Jacques be requesting a pay cut over the Juukan Caves destruction? Mr Jacques, do you expect the board to cut your pay?</p>	<p>Details of Mr Jacques' annual salary, including eligibility for bonuses, are contained in Rio Tinto's 2019 Annual Report. Please see the following link: https://www.riotinto.com/en/invest/reports/annual-report</p> <p>Details of the adjustments to Mr Jacques' remuneration are contained in the Addendum to the Board Review Report. Please see the following link: https://www.riotinto.com/news/inquiry-into-juukan-gorge</p>
15	<p>There are criticisms that Rio Tinto no longer understands Australia and the importance of</p>	<p>No. Since becoming chief executive in 2016 numbers in the London office have declined by 64% while over the same period numbers the Perth and Brisbane offices have increased by 40% and 24%</p>

No.	Question	Response
	indigenous relations because it has become too London-centric. Mr Jacques, do you accept that? If not, why not?	<p>respectively (an increase of over 1,200 people). We have progressively relocated our people from our corporate headquarters and closer to our operations and customer markets.</p> <p>Australia is critical to Rio Tinto.</p> <ul style="list-style-type: none"> • We employ 19,000 people in Australia including 1,450 Indigenous Australians. • We currently have 200 Aboriginal and Torres Strait Islander trainees, apprentices and graduates across our Australian business. Additionally, the Rio Tinto WA Indigenous Scholarship and Rio Tinto Indigenous Cadetship programmes support Indigenous people who are studying at a tertiary level. • In 2019, Rio Tinto paid A\$8.9b in taxes and royalties to Australian governments. This included A\$6.1b in corporate income tax (31.1% effective rate on underlying earnings) and A\$2.5b in royalties to state governments. • Five of 12 board members are Australian citizens, with three based in Australia. • Four out of 11 members of our executive committee are Australian citizens. • 40% of our top 80 senior leaders are Australian citizens. • In 2019, the role of Managing Director Australia was added to the chief executive's responsibilities, again reflecting the importance of Australia to Rio Tinto.
16	Mr Cochrane was a driving force behind Rio Tinto's previous efforts to improve its relations with indigenous groups worldwide. It's been reported that he feels that Rio Tinto has been cutting costs in the area even as Rio Tinto achieves record profits. Mr Cochrane has said that the indigenous relations function used to be an integral part of Rio Tinto's operations but is now lumped in with Public Relations and based in Washington DC he says: 'It's been a source of some puzzlement to me – and I still don't	<p>Mr Cochrane and Mr Harvey were both involved in establishing systems they say would have prevented this outcome, yet in their evidence given to the Parliamentary Inquiry on 28 August 2020, neither of them was aware of the Juukan Gorge or Juukan rockshelters . The decisions to seek a section 18 authorising impacts to the shelters and to utilise salvage as a mitigation from mining impacts were key decisions made whilst they were involved in or responsible for the cultural heritage function. From completion of the salvage in 2014, when the new information about the age of the sites was known, the areas were cleared for mining impacts. We deeply regret this outcome.</p> <p>The Corporate Relations function at Rio Tinto includes the core areas of relationship management, including the company's engagement with government, engagement with civil society groups, engagement with the general public, engagement with multi-lateral institutions, engagement with the media and engagement with employees. The function also leads the country teams and offices in all</p>

No.	Question	Response
	<p>understand it – why social specialists should really be reporting to public relations.' (https://www.afr.com/companies/mining/rio-tinto-s-aboriginal-desecration-shows-folly-of-rote-esg-20200714-p55bvs)</p> <p>(a) Is Mr Cochrane right that the indigenous specialists now report into Public Relations?</p>	<p>of Rio Tinto's core markets, including Australia, Mongolia, the US, Canada, UK, EU, Japan, China and Africa. Therefore, it makes sense for Communities practitioners to report into a function that has expertise in relationship management with various stakeholders. This is indeed the same model that is adopted by Anglo American and other mining companies. So, it is incorrect to say that social specialists report to Public Relations in Rio Tinto.</p> <p>Over the years at Rio Tinto the Communities function has reported into Human Resources, into Health Safety and Environment and into Finance in some parts of the business. If you look at the history of the Communities teams reporting line in the context of the relationship with the PKKP, it has moved many times.</p> <p>In the context of Iron Ore, Rio Tinto's Heritage and Agreements team encompasses many of the functions relevant to relations with the PKKP and other Traditional Owner groups – Cultural Heritage; Agreements Implementation; Strategy and Compliance; and the Regional Framework Deed team. Heritage and Agreements sits within the Communities team. The staff from these teams are located across Rio Tinto's operations and offices and are overseen by the Vice-President of Corporate Relations Australia. He in turn reports to the Rio Tinto Group Executive for Corporate Relations and is supported by the global Communities lead and her team in Brisbane.</p> <p>Engagement with Traditional Owners on cultural heritage is a key component of Rio Tinto's work and is embedded at each stage of Rio Tinto's mining operations; from the study phase, through to approvals such as AH Act and environmental approvals, mine planning and mine design. Cultural Heritage plays a key role in Rio Tinto's relationship with Traditional Owners, being one of our key stakeholders. The Board Review Report identified areas to ensure that ownership of Traditional Owner relationships sits with the Operations and Communities teams, we will look for ways to strengthen this across systems, processes, and structures. As well as stronger assurance. We are committed to leading practice and we have a strong team of dedicated professionals in their fields.</p>
17	<p>Who is in charge of Rio Tinto's Public Relations department?</p> <p>(a) Have they been sanctioned for the communications failure that led to the Juukan Gorge destruction?</p>	<p>Simone Niven is the Group Executive accountable for Corporate Relations which includes the core areas of relationship management, including the company's engagement with government, engagement with civil society groups, engagement with the general public, engagement with multi-lateral institutions, engagement with the media and engagement with employees. The function also</p>

No.	Question	Response
		<p>leads the country teams and offices in all of Rio Tinto's core markets, including Australia. Mongolia, the US, Canada, UK, EU, Japan, China and Africa.</p> <p>As per the Addendum to the Board Review Report, no 2020 annual bonus (STIP) will be received by Ms Niven.</p>
18	<p>Why was the indigenous relations department moved in with Public Relations?</p> <p>(a) Will you now move the indigenous relations function into a more suitable area of the company?</p>	<p>Indigenous Relations (Communities) does not report to Public Relations. This is incorrect. Communities reports to Corporate Relations.</p> <p>The Corporate Relations function at Rio Tinto includes the core areas of relationship management, including the company's engagement with government, engagement with civil society groups, engagement with the general public, engagement with multi-lateral institutions, engagement with the media and engagement with employees. The function also leads the country teams and offices in all of Rio Tinto's core markets, including Australia. Mongolia, the US, Canada, UK, EU, Japan, China and Africa.</p> <p>Mr Jacques when he became Chief Executive decided to appoint a lead of Corporate Relations to the Executive Committee table to ensure that 'social licence' areas were reflected as an area of specialisation around the executive committee as opposed to reporting to human resources of legal where it reported for decades before. Each Product Group senior leadership team followed the same structure.</p> <p>In relation to the Iron Ore Group, the Communities function reported at various times into Operations, Organisation Resources, Finance/ Development and Planning and Integration, until late 2016. Reporting lines transferred to Corporate Relations at that time, while the team remained embedded within the Iron Ore business. Regardless of reporting lines, better decisions could have been made.</p> <p>The Board Review Report has determined there are a number of changes that will be made to ensure that what happened at Juukan never happens again – this includes changes to systems, data management, processes and assurance. Key to making the necessary change to ensure we are leading in Communities, is a commitment by all business leaders to better manage relationships with Traditional Owners and a model that enables operations leaders to be accountable together with experts. This really is the key to sustainable change in this area and modern communities' management. It is no longer about anthropologists running around a field – there needs to be experts</p>

No.	Question	Response
		but also a company-wide agreement to respectful relationships and this is what Rio Tinto is committed to.
19	<p>How many experts in indigenous affairs does Rio Tinto employ?</p> <p>(a) Has Rio Tinto cut the budget or staff number in indigenous relations under Mr Jacques leadership? If so, by how much?</p>	<p>Rio Tinto employees around 250 employees in Communities across the world, over half of these teams are in Australia on both the east and west coasts. We do work with a number of consultants as we need to as well, with expertise in resettlement, heritage and regional economic development. A response in relation to staff numbers and budgets in communities work has been provided above in the answer to the question relating to para 17 in Group A.</p> <p>Over Mr Jacques' time as Chief Executive there has been an investment in many Communities teams in many parts of Rio Tinto (most recently in Serbia, in South Africa and in Mongolia). He has also strengthened communities giving. It is not true to suggest this is not a priority.</p>
20	<p>Did Rio Tinto ask indigenous leader and academic Marcia Langton to join Rio Tinto's internal inquiry into the Juukan Gorge destruction?</p> <p>(a) What did Professor Langton say in response?</p> <p>(b) Is it true that Professor Langton believed the inquiry needed to be more transparent and for the report of the inquiry to be made public?</p> <p>(c) Why wouldn't you want that process to be transparent and for the results to be public?</p>	<p>Rio Tinto will not comment on specific conversations with individuals. We note that Professor Dr Marcia Langton gave evidence to the Joint Committee on 28 August 2020 and provided reasons on her decision making at that time.</p> <p>The Board inquiry was an independent review led by Rio Tinto's Board. The purpose of this review was to improve Rio Tinto's internal processes in relation to cultural heritage management. As the nature of the review required familiarity with the business and its systems, the Board led the review.</p> <p>From the outset, the Board stated that the findings of the review would be made public and that has occurred, with its report published on 24 August 2020.</p>
21	<p>Who is the executive in charge of indigenous relations for Rio Tinto in Australia?</p> <p>(a) What is this executive's expertise in indigenous relations?</p>	<p>Simone Niven is the group executive accountable for Corporate Relations globally, across Rio Tinto's portfolio of operations and customer markets. She has had a career in stakeholder and partnership engagement spanning decades, including 12 years with Rio Tinto. Reporting to her is a leading social scientist, who heads up the global Communities practice for Rio Tinto globally and has deep experience in development, including with the United Nations and in key jurisdictions in the world</p>

No.	Question	Response
	(b) Who does this executive report to?	<p>managing First Nations relationships, partnership agreements, and technical disciplines such as heritage and resettlement. Ms Niven reports to the Chief Executive of Rio Tinto.</p> <p>Brad Haynes is the most senior leader of Corporate Relations in Australia and sits on the Iron Ore Senior Leadership Team with accountability for indigenous relations, amongst other things including government relations and partnerships with multiple stakeholders. Mr Haynes reports to Simone Niven in his capacity as Corporate Relations Australia lead and with a dotted line reporting into Chris Salisbury in his capacity as Corporate Relations lead for Iron Ore.</p> <p>Mr Haynes has decades of experience in stakeholder management and is based in Perth. In Mr Haynes' team in Iron Ore, he has a Communities team leader with a strong background in managing relationships with communities in Australia, This person is supported by around 100 specialists and experts in Communities from heritage to Pilbara town and communities development to agreements. In addition, there is another 50 or so individuals embedded directly in Iron Ore managing State Agreements and approvals. We also have a team in Australia reporting to Mr Haynes who manage our indigenous strategy and are specialists in this area.</p>
22	<p>On October 28, 2019 during a site visit to Purlykuti, PKKPAC culture and heritage manager Dr Heather Builth told Rio Tinto Brockman 4 mine operations manager Brad Webb of the significance of the rock shelters. In that conversation Mr Webb advised Dr Builth that there were no plans to extend the mine and Rio Tinto had been monitoring Juukan Gorge for vibration effects of local blasting.'</p> <p>https://www.watoday.com.au/national/western-australia/rio-tinto-knew-of-46-000-year-old-pilbara-site-s-significance-as-recently-as-march-traditional-owners-say-20200530-p54xyt.html</p> <p>(a) Given that in October 2019, Brockman 4's mine manager (working to the mine</p>	<p>Rio Tinto did not provide any assurance to the PKKPAC that the Juukan rockshelters would not be mined during this October 2019 site visit. As we have set out in answers to other questions (in particular, see our answers to Group A, question 13 and Group E, question 5), the likelihood that mining would take place on the lands where the shelters sat was known for many years. After the section 18 consent was granted the areas formally fell into the mine plan and their identification in the GIS as sites that must be avoided was removed. The statement that '<i>Brockman 4's mine manager (working to the mine plan) clearly had no intention of mining through the Juukan Gorge caves</i>' is not correct. We refer to the knowledge of the PKKP as set out in our response to question A18 above.</p> <p>We set out in our submissions, at paragraphs 190 to 195, Rio Tinto's understanding of the discussions that took place between Rio Tinto and the PKKP in October 2019:</p> <p><i>190 On 28 and 29 October 2019, a LIC meeting was held at Brockman 4. The meeting was attended by representatives of the PKKP, PKKPAC, Rio Tinto and UWA. Among the attendees were Dr Builth and the Manager of Mine Operations Brockman 4.</i></p> <p><i>191 As part of the engagement, a site visit took place on 28 October 2019. Specifically, Dr Builth requested to visit the Purlykuti Valley in the vicinity of the Juukan rockshelter where the</i></p>

No.	Question	Response
	<p>plan) clearly had no intention of mining through the Juukan Gorge caves, is it the case that the necessity to mine through the caves became apparent subsequent to October 2019 after the mine plans were reviewed because of shortfalls/challenges referred to in the June 20 announcement?</p> <p>(i) June 20, 2019 Announcement: 'Rio Tinto Iron Ore is currently experiencing mine operational challenges, particularly in the Greater Brockman hub in the Pilbara... In light of these challenges, there has also been a review of mine plans, resulting in guidance of Pilbara shipments (100% basis) for 2019 being revised to between 320 million tonnes and 330 million tonnes (previously between 333 million tonnes and 343 million tonnes).'</p> <p>https://www.asx.com.au/asxpdf/20190620/pdf/445z9zswty639w.pdf</p>	<p><i>Latex Peel was extracted, the Heritage sea container containing salvaged artefacts and the Boolgeeda Creek discharge point.</i></p> <p><i>192 One of the purposes of the visit was to examine an artefact scatter at Purlykuti to the west of Juukan 1 and Juukan 2. This scatter was the subject of a UWA study and covered by a section 18 consent in contemplation of future mining impacts.</i></p> <p><i>193 Whilst in the field, Dr Builth spoke with the Manager of Mine Operations. There are differences in recollection of this conversation between the participants. The Manager of Mine Operations' recollection is that Dr Builth said something along the lines of: 'Is that gorge/cave going to be taken out by the pits? It would be in the top 5 of location in the Pilbara with respect to cultural importance'. He was not sure to where Dr Builth was pointing. He thought she might have been pointing at the 'Juukan shelter gorge', but he was not sure. As he was not sure to which site Dr Builth was referring, he did not give a definitive answer.</i></p> <p><i>194 Subsequent internal discussions identified the confusion as to exactly what area was being referred to by Dr Builth. For example as stated in an email the Mine Manager stated 'I'm still not 100% sure if each of us (Heather, myself, yourself) are talking about the same bit of land'. The team proceeded on the assumption that Dr Builth was discussing rockshelters and it was agreed that the Heritage team would respond on whether the rockshelters would be 'taken out by the pits'. However, regrettably no response was provided to Dr Builth.</i></p> <p><i>195 We also acknowledge that in October 2019 there were discussions at Brockman 4 between Rio Tinto personnel and the PKKP Cultural Heritage Manager, about the status of the mine plan in relation to the Juukan area. Recollections differ as to those discussions. However, we acknowledge this presented an opportunity for Rio Tinto to confirm the timing of impacts to Juukan 1 and Juukan 2, which had long been within the mine footprint. It appears the precise timing of the direct impacts to the shelters was not clearly communicated to the PKKP until 15 May 2020. By this time, the blast that ultimately impacted Juukan 1 and Juukan 2 was already scheduled and was largely loaded</i></p> <p>The challenges pertaining to the Greater Brockman hub as identified by Rio Tinto in its announcement of 20 June 2019 were not related to mine design. The challenges arose from the fact that increasing development rates required to continually expose ore within the existing pit designs were not being achieved and conversion to an autonomous haul truck fleet at the mine. There was no change to the pit design as a result of these challenges.</p>

No.	Question	Response
23	Following the initial conversation between Rio Tinto and Minister Ley's office on 22 May, did Rio Tinto have any further communication with the Ministers office between 22 May and 26 May. If yes, please provide a summary of the discussions.	Yes. An email was sent to the office of Minister Ley on 25 May acknowledging the phone call of 22 May 2020 and providing wording we would be using in responding to expected media queries.
24	Has Rio Tinto assured itself that the planning and timing of the explosions at Brockman 4, which included the Juukan rock shelters, were not influenced and hastened by the company's knowledge that the PKKP was concerned about the destruction of cultural heritage and seeking to have it stopped?	<p>Our investigations have not uncovered any evidence to support the view that the planning and timing of the blast that impacted the Juukan rockshelters was hastened by Rio Tinto's knowledge that the PKKP was concerned about destruction of these sites.</p> <p>In fact, all of the evidence points to Rio Tinto taking steps to examine the options available regarding the loaded blast site immediately upon notification by PKKP that they wanted these sites protected on 18 May 2020. This evidence is set out at paragraphs 213 to 246 of our submissions. It included a number of deferrals of the blast from its original proposed date of 17 May, to allow for engagement with the PKKP and consideration of options; and detailed consideration of the feasibility and safety of unloading the blast pattern to protect the sites. Independent blast experts were engaged by both Rio Tinto and the PKKP, to ensure that all options were canvassed. Unfortunately, it was determined by Rio Tinto's internal experts, its independent blast consultant and agreed by the PKKP's independent blast consultant that it was not feasible to safely unload the blast pattern.</p>

Group D

No.	Question	Response
1	<p>I refer to paragraph 11 of your submission:</p> <p>'Through these negotiations and under the terms of these agreements, Rio Tinto believes that, in exchange for financial and non-financial benefits, it obtained the 'Free Prior and Informed Consent' of the PKKP to conduct mining operations on PKKP land at Brockman 4, which included land on which the Juukan rockshelters were located.'</p> <p>In light of the evidence given by Rio Tinto that the company deliberately withheld three of the four options from the PKKP, i.e. the three options that would have resulted in protecting the Juukan rockshelters from destruction, how can Rio Tinto assert that the PKKP gave their 'Free Prior and Informed Consent' to mining operations on Brockman 4?</p>	<p>Rio Tinto disagrees with the assertion that Rio Tinto deliberately withheld three of the four pit design options from the PKKP, or that it gave evidence to that effect. We refer to our responses to questions D2 and D5 below.</p> <p>The Regional Framework Deed and the Participation Agreement signed in 2011 were the result of arms-length negotiations over an extended period. The relevant Traditional Owners, including the PKKP, had access to appropriate representation and expertise in respect of those negotiations. Moreover, the formal terms of the Participation Agreement were accompanied by plain English explanatory materials in order to make the arrangements more accessible and better ensure that a common understanding was held of the benefits and responsibilities provided for under the arrangements.</p> <p>Also, as noted elsewhere, at the time that the agreements were entered into, a number of ethnographic and archaeological surveys had been undertaken on the PKKP lands within the relevant mining lease. These included the Williams and Scarp Archaeology surveys which considered the Juukan sites. Accordingly, the parties entered into the arrangements with an understanding of the high significance of the Juukan sites, albeit that (as described elsewhere) additional information became available to Rio Tinto and the PKKP after the decision to proceed following the grant of the section 18 consent under the AH Act. The Juukan sites were not listed amongst the 'Rights Reserved Areas' provided for under the agreements.</p> <p>The arrangements provided for significant financial benefits to flow to the PKKP and, in answer to other questions, we have identified the monies that the PKKP have received to date. The Participation Agreement provided that these monies would be paid in full and final satisfaction for any exercise by Rio Tinto of its permissions (other than in respect of personal injury, damage to personal property or a breach of the Participation Agreement itself).</p> <p>Having regard to the matters referred to above, Rio Tinto considers that it achieved FPIC in respect of mining on PKKP lands within the mining lease at the time that the Participation Agreement and Regional Framework Deed were entered into.</p>

No.	Question	Response
		<p>The provisions of the RFD included a commitment to take all practicable measures to avoid sites of special significance. The RFD defined 'Practicable' as what Rio Tinto, acting reasonably, considers practicable, having regard to a number of criteria. The Cultural Heritage Management Regional Standard, which was a specific commitment under the RFD, notes that it will generally not be Practicable to avoid an Aboriginal Site / Site of Special Significance that is located on an ore body.</p> <p>Rio Tinto gave consideration to the Juukan sites when exploring options for the mine plan. It sought to model whether there would be any impact on access to the orebody if buffers of 65m, 125m and 200m were put in place and, if so, what the impact may be. If these options had been taken, Rio Tinto would not have sought the section 18 application and would have managed the site in situ. No further heritage research such that occurred as part of the extensive salvage would have been undertaken.</p> <p>As it turned out, each of the options that provided a buffer impacted access to the orebody. In answer to other questions we have provided some detail as to the affected tonnages in each case and a calculation of the revenue impact.</p> <p>However, as stated elsewhere, Rio Tinto acknowledges that opportunities were missed to reconsider the approach to the sites and escalate decision making to more senior levels given the information that emerged as to the exceptional significance of the sites. As indicated in the Board Review Report, this reflects shortfalls in the management of our partnership with the PKKP.</p>
2	<p>Why did Rio Tinto deliberately withhold information from the PKKP regarding the three options that would have protected the Juukan rockshelters from destruction?</p> <p>(a) When was the decision taken within Rio Tinto to adopt only one of the 4 pit options and to withhold information regarding the other three options from the PKKP?</p>	<p>Rio Tinto only seeks disturbance to heritage sites where avoidance is not regarded as practicable. We refer to the answer above in this regard. The section 18 submission noted 'given the nature of the orebody location, existing infrastructure and topography there has been little scope to modify the proposal to avoid the sites which are part of this application'.</p> <p>We are not aware of any evidence of a deliberate intention to withhold any information from the PKKP regarding development of mining at the Juukan rockshelter sites. This includes in respect of the various mine design options that were considered in relation to the Juukan sites. In this regard, we refer to our answers to question 1 above.</p> <p>The relevant decision-making processes regarding development of the Brockman 4 mine and the expansion of Pit 1 to eventually include the Juukan rockshelters in its footprint are set out at paragraphs 115 to 117 of our submissions.</p>

No.	Question	Response
	<p>(b) Who was the senior executive within Rio Tinto who endorsed the decision at the time?</p> <p>(c) Is there any documentation of that meeting and of the decisions taken at that meeting and can they be made available to the Committee?</p>	<p>The decision to adopt the Pit 1 design which impacted the rockshelters was taken at some point prior to the LIC meeting on 28 March 2013 (at which Rio Tinto foreshadowed the proposed section 18 application to the PKKP). We have not identified any document that records the decision to pursue the selected pit design and the reasons for it. Our review of the materials suggests that there was no person more senior than General Manager involved in or around this issue. General Manager is a level of leadership below that of the Iron Ore executive level.</p>
3	<p>Is it not the case that since 2013, on every occasion that the company has met with TOs or their representatives, Rio Tinto has knowingly withheld from the PKKP the fact that 3 options were available to the company that would have protected the Juukan rockshelters?</p>	<p>We refer to our answer to question D1 above.</p>
4	<p>I refer to paragraph 14 of submission: 'In order to implement the selected mine design option, Rio Tinto in 2013 applied for and obtained a section 18 consent under the AH Act to impact the Juukan rockshelters for the purpose of planned mining activity. The PKKP were informed of the application and of the granting of the section 18 consent.' Did Rio Tinto disclose in its application for a consent to impact the Juukan rockshelters, either to the WA Minister for Aboriginal Affairs or the PKKP, the three options the company had identified that would have avoided the destruction of the Juukan Caves? If not, why?</p>	<p>An application for consent to disturb an Aboriginal heritage site under s18 of the AH Act does not seek detail on mine design options. Rather, it seeks information on the sites that fall within the design option chosen. Had Rio Tinto determined to pursue one of the other options, then no section 18 would have been sought in relation to Juukan 1 and 2 as the rock shelters would not have been disturbed. It was only in contemplation of impacts to the rock shelters that Rio Tinto sought the section 18 application, and as such, there would be no basis to provide detail of the various mine design options it had considered to the WA Minister for Aboriginal Affairs, the Department or the PKKP as a part of its application to disturb the Juukan rockshelters made under s18 of the AH Act in 2013. The implementation of the chosen option to access the ore in the proximity of the Juukan 1 and 2 rock shelters could only occur with the grant of the section 18. But for the grant of the section 18, Rio Tinto would have had to pursue one of the other options identified regarding the Juukan rock shelters.</p>
5	<p>Is it not the case that Rio Tinto has adopted a deliberate strategy to persuade the PKKP into</p>	<p>Our answer to question D1 above addresses the premises concerning the mining options that underpin this question. For completeness, we also note that there was no strategy of withholding information</p>

No.	Question	Response
	<p>believing that it was inevitable that mining at Brockman 4 would result in irrevocable damage to the Juukan site. This strategy of withholding information from the PKKP was designed to secure the mining of the Juukan Gorge area despite Rio Tinto knowing that the site was of major cultural significance to the PKKP and could have been protected through the implementation of any one of the three other options known only to the company?</p>	<p>from the PKKP designed to secure the mining of the Juukan Gorge. It had long been understood that mining was contemplated in this area as part of the Brockman 4 development. In relation to heritage sites, where they could not be avoided, Rio Tinto was required to and did consult with the PKKP about the section 18 application. Had Rio Tinto determined not to pursue that course, Rio Tinto would not have presented the section 18 application.</p> <p>Further, in relation to the section 18 application and consent:</p> <ul style="list-style-type: none"> • representatives of the PKKP were involved with each of the relevant archaeological and ethnographic surveys and received copies of the resulting reports; • from 2008 the reports identified that it was proposed that a section 18 application would be made to disturb the Juukan sites; • at LIC meetings the PKKP were informed that a section 18 application would be made, that it had been made and ultimately that the application had been granted; • a copy of the section 18 application materials were provided to YMAC, the PKKP's representatives at the relevant time; and • the section 18 application materials included copies of the Scarp Archaeological and Built ethnographic reports of the surveys in which the PKKP had been involved. <p>In our submissions and the Board Review Report, Rio Tinto has offered its views of the failings of relevant systems and processes in respect of communications and decision making. We do not accept that there was any deliberate strategies of the types suggested in the question. Rather, it is only where sites are to be impacted that discussions about heritage sites, further surveys, section 18 applications and further mitigation strategies such as salvage works occur.</p>
6	<p>I refer to paragraph 16: 'it is clear that various opportunities were missed to re-evaluate the mine plan in light of this material new information.' Is it not the fact that the company did not just miss a number of opportunities to re-evaluate the mine plan, but rather Rio Tinto engaged in a deliberate withholding of the three</p>	<p>We refer to the answer to question D5 directly above.</p>

No.	Question	Response
	other options from the PKKP to avoid having to change its mine plan?	
7	Is it not the case that the deliberate withholding from the PKKP of the information regarding the options available to the company to protect the Juukan rockshelters, amounts to deceptive behaviour, a breaking of trust and a breach of good faith negotiations on the part of Rio Tinto?	We refer to our earlier answers to questions in relation to the mining options. It is not accepted that there has been any deceptive behaviour, a breaking of trust or a breach of good faith negotiations on the part of Rio Tinto.
8	Is it not the case that the evidence given by Rio Tinto to this Committee leads to the conclusion that Rio Tinto has knowingly exploited the withholding of material information from the PKKP for at least 7 years, if not longer, to avoid changing its mine plan for Brockman 4. And that it did so in order to derive some additional monetary benefit from mining the Juukan Gorge site despite the expressed wishes of the PKKP to preserve the sites, and knowing the importance of the site, not just to the TOs, but to the nation and the world at large?	<p>Rio Tinto does not agree with these assertions. Rio Tinto's position is set out in our submissions, in the Board Review Report and in our answers to the questions on notice set out above. Rio Tinto has not uncovered any evidence to support an assertion of 'knowing exploitation', let alone over a 7 year period.</p> <p>Rio Tinto followed a consistent, transparent, and well-established course over 17 years towards mining the Juukan 1 and Juukan 2 sites, where we never sought to hide any information about our plans or the significance of the sites. In fact, we supported the publication of papers about the Juukan sites, as well as presentations at conferences. We funded a documentary in 2015 to capture the surrounding landscape before it was affected by mining at Brockman 4.</p>
9	<p>In response to a question by Senator Dodson Mr Haynes said: 'Senator, we contacted the office of Susan Ley, the federal Environment Minister, on 22 May and briefed them on the situation.'</p> <p>(a) Was there any contact with the Minister or her office prior to that phone call? If so, please provide details.</p> <p>(b) What or who prompted you to contact the Minister's office on 22 May?</p>	<p>(a) There was no contact by Rio Tinto with the Minister or her office prior to 22 May in relation to this matter.</p> <p>(b)-(d) We were informed by PKKP's legal representative that they had contacted the Minister's office on 20 May. Accordingly, on 22 May, we briefed a heritage adviser from the Minister's office. We explained the blast had been laid, and that we were looking at options, but from a safety perspective, we could not see any alternative and expected the blast to occur. We explained that we had approval under Section 18 of the state legislation to disturb the sites. We offered contact details in case of any further requests for information. The briefing occurred by telephone.</p>

No.	Question	Response
	<p>(c) Please set out what you provided by way of a briefing to the Minister's office.</p> <p>(d) Was the briefing oral or in writing?</p> <p>(e) Following your discussion with the Minister's office on 22 May, did the Minister for Environment or her office seek any further advice from Rio Tinto prior to the destruction of the rockshelters on 24 May? If so, please detail the advice given and when it was given.</p>	<p>(e) There was no further request for advice from the Minister following the briefing but prior to the destruction of the rock shelters on 24 May.</p>
10	<p>In response to a question from Senator Dodson seeking clarification as to when the call to the Minister's office had taken place, namely on 22 May, Mr Haynes said: 'Yes. And it was noted that the PKKP had been advised by Ken Wyatt's office that the Environment Minister was aware of that. That was just what was noted on the call.'</p> <p>(a) Please clarify what it was that you understood Ken Wyatt's office had advised the PKKP.</p> <p>(b) Did Rio Tinto have any contact with Minister Ken Wyatt or his office prior to the destruction of the rockshelters. If so, please provide details of that contact.</p> <p>(c) Was there any contact between Rio Tinto and Minister Wyatt or his office</p>	<p>(a) Our understanding was that the PKKP's legal representative had contacted the office of the Minister for Indigenous Australians (Minister Ken Wyatt). Minister Wyatt's office informed the PKKP's legal representative that Minister Sussan Ley was the responsible Minister in respect of the Aboriginal and Torres Strait Islander Heritage Protection Act. We understand PKKP's legal representative then contacted Minister Ley's office</p> <p>(b) There was no contact by Rio Tinto with Minister Wyatt or his office prior to the blast in relation to this matter.</p> <p>(c) On 27 May, our Manager Indigenous Relations had a telephone call with Minister Wyatt. A focus of the discussion was our concern about what had occurred, and also to inform the Minister that other sites, for which we did not have approval under section 18, had not been affected by the blast.</p> <p>On 30 May, Mr Jacques telephoned Minister Wyatt to affirm Rio Tinto's respect for the PKKP and the importance of our partnerships with Traditional Owners. Mr Jacques also informed Minister Wyatt that these values would be conveyed in a public statement, which was issued on 31 May. A copy of that statement was shared with the Minister's office on 31 May.</p> <p>On 11 June, our Indigenous Relations Manager spoke with the Minister, as a courtesy, regarding plans for a partnership with an Indigenous organisation, which had been affected by events at Juukan.</p>

No.	Question	Response
	<p>following the destruction of the Juukan sites and if so, please provide the details of that contact.</p>	<p>On 16 June, Mr Jacques met Minister Wyatt in Canberra and provided a briefing on what had occurred in the lead up to the blast on 24 May including our understanding of the history of the issue dating back some years.</p> <p>On 19 June, we shared another media statement with the Minister's office (our statement dated 19 June regarding the announcement of the Board-led review).</p>
11	<p>In response to a question from Senator Dodson regarding whether the company had briefed the office of the Minister for Environment about the removal of the charges from the Juukan site, Mr Welsh said: 'No, Senator, it was not. It was more just that we were trying to look at the situation and see what our options were at that stage.'</p> <p>(a) Did the company at any stage prior to the destruction of the Juukan site, communicate to the Minister or her office that an attempt was being made to 'remove some of the holes' on 21, 22,23 or 24 May? If so, please provide the details. If not, why not?</p>	<p>As stated in our response to question D9 above, our only contact with the Minister for Environment's office prior to the impact to the rockshelters was on 22 May. We briefed the Minister's office that there were live explosives in the ground. We explained that we were looking at options, but from a safety perspective could not see any alternative and expected the blast to occur.</p>
12	<p>Regarding the phone call to the office of the Minister for Environment, on 22 May Mr Welsh said in evidence that: '...our primary concern was with the feelings and relationship with the PKK. That was the discussion. That was the primary discussion point: that there was this issue that had been raised and we were trying to work on it.'</p>	<p>Rio Tinto did not speak with Minister Ley directly prior to the impact to the Juukan sites on 24 May and there was no request from the Minister or her office to Rio Tinto to not proceed with the blast.</p>

No.	Question	Response
	<p>(a) In that discussion, or at any subsequent time following that discussion, did the Minister's office or the Minister ask Rio Tinto not to proceed with the destruction of the Juukan site?</p> <p>(b) Did anyone from Rio Tinto speak directly to the Minister about the Juukan site before it was destroyed on 24 May? If so, can documentation and other details of any such contact be given to the Committee?</p>	
13	<p>In discussions with the Minister's office, did anyone raise with you the possibility of the Minister making an emergency declaration over the Juukan sites under the provisions of the Aboriginal and Torres Strait Islander Heritage Protection Act?</p>	<p>No.</p>
14	<p>In evidence Mr Jacques said: 'As far as I am concerned, I had a contact with the Federal Minister after the incident, the week after.'</p> <p>(a) Can you provide details of that contact as to the date, time, duration and content of that conversation?</p> <p>(b) Did you discuss with the Minister how the company proposed to address the public outcry following the destruction of the Juukan site?</p>	<p>(a)-(b) The 'Federal Minister' referred to by Mr Jacques was Minister Wyatt, whom he had telephoned on 30 May. Mr Jacques has had no contact with the Minister for the Environment. On the phone call between Mr Jacques and Minister Wyatt, Mr Jacques affirmed Rio Tinto's respect for the PKKP and the importance of our partnerships with Traditional Owners. Mr Jacques also informed Minister Wyatt that these values would be conveyed in a public statement, which was issued on 31 May. A copy of that statement was shared with the Minister's office on 31 May.</p> <p>(c) On 10 June, Minister Ley and Minister Wyatt sent a letter to Rio Tinto. This letter requested that Rio Tinto reply with further information about steps being taken 'to repair its relationship with PKKP and avoid failures of engagement with Traditional Owners in the future.' A copy of Rio Tinto's response dated 11 June 2020 is enclosed.</p>

No.	Question	Response
	(c) Following your conversation with the Minister, did the Minister seek any additional information from you or any other executive from Rio Tinto regarding the destruction of the Juukan site and if so, what was that information and can you provide any documentation that you provided to the Minister or her office.	
15	Did Rio Tinto seek any external support in its attempts to diffuse/remove the charges?	Rio Tinto was concerned to ensure all available options to feasibly and safely remove shot from the blast holes were considered. In addition to relying on its internal technical experts, Rio Tinto retained an independent expert blast consultant, Blast It Global, to advise on options. That independent expert concluded that it was not feasible to safely remove the blast pattern. This view was also reached by the PKKP's own expert blast consultant. This is addressed at Parts 3.18 to 3.21 inclusive of our submissions.

Group E

No.	Question	Response
1	<p>Will Rio Tinto provide the committee with the findings of the review being undertaken by an external law firm to establish the chronology of facts from 2003 to 2020, based on the company records and interviews with current employees? If not, why not?</p>	<p>Following the events at Juukan Gorge, Rio Tinto considered it was important that the facts leading to the destruction of the Juukan rockshelters were independently examined. An external law firm was engaged to undertake this exercise. The key events that were identified through that process have been put before the Committee and were taken into account during the Board-led review. A chronology of those key events related to the Brockman 4 mine development, and in particular the impacts on Juukan 1 and Juukan 2 rockshelters, is included in the Board Review Report. A more detailed chronology is provided in Rio Tinto's submission to the Inquiry.</p>
2	<p>With reference to paragraph 16 of the written submission:</p> <p>(a) What was the material new information?</p> <p>(b) On what date did the material new information become available to Rio Tinto?</p> <p>(c) What did Rio Tinto extract from the material new information that made it 'clear that various opportunities were missed to re-evaluate the mine plan in light of this material new information?'</p> <p>(d) When did it become clear that 'various opportunities were missed to re-evaluate the mine plan in light of this material new information?'</p> <p>(e) What were the 'missed opportunities re-evaluate the mine plan in light of this material new information?'</p>	<p>In our submissions at paragraphs 15 and 16 we state that:</p> <p><i>15 In preparation for the section 18 consent, a further ethnographic survey was conducted in 2013 and three excavations of the Juukan rockshelters were subsequently conducted in 2014 to ensure the salvage, analysis and ex situ preservation of the cultural heritage material contained within the rockshelters.</i></p> <p><i>16 As a result of these surveys, material new information on the significance of the Juukan rockshelters became available to the PKKP and Rio Tinto. It is clear that various opportunities were missed to re-evaluate the mine plan in light of this material new information. A further opportunity was missed in 2018, with the publication of the final report on the archaeological excavations at Juukan 2 conducted during 2014.</i></p> <p>To answer your questions specifically:</p> <p>(a) (b) and (f) the material new information was set out in the ethnographic survey report provided by Dr Builth discussed at part 3.6 (ii) and (iv) of our submissions (preliminary advice provided to Rio Tinto on 24 June 2013 and final report provided on 10 September 2013), as well as the three preliminary reports received from Dr Slack of Scarp Archaeology following his three excavation and salvage trips to the Juukan sites in 2014 detailed at 3.7 of our submissions (received by Rio Tinto in June, July and August 2014) and final report of Scarp Archaeology provided on 31 December 2018. As Dr Builth was retained by YMAC on behalf of PKKP to conduct the ethnographic work, YMAC had Dr Builth's final report before Rio Tinto did and provided it to Rio Tinto on 10 September 2013. In terms of the</p>

No.	Question	Response
	<p>(f) Did Rio Tinto provide this material new information to PKKP? If so, on what date? If not, why not?</p>	<p>archaeological salvage works, the findings of the first two salvage trips were shared with the PKKP at the LIC meeting on 14 July 2014. These were also shared with the Department of Aboriginal Affairs and at various archaeological conferences. The final report of Scarp Archaeology provided to Rio Tinto in December 2018 was provided to PKKP and YMAC on 8 January 2019. We also note that PKKP representatives were involved in all of the ethnographic and archaeological survey, excavation and salvage work set out above.</p> <p>(c) These reports provided greater detail on the ethnographic and archaeological significance of these sites than had been obtained from the initial ethnographic and archaeological survey work undertaken in 2003 and further surveys conducted in 2008. For example, this included that the report of Dr Builtth placed the ethnographic significance of the rockshelters within a complex of sites of high significance to the PKKP; and the excavation work by Dr Slack undertaken on his second salvage trip identified the age of the two rockshelters with more specificity, including that Juukan 2 was over 40,000 years old.</p> <p>(d) As we have stated, Rio Tinto has conducted a thorough review of the events preceding the disturbance of the Juukan rockshelters. Through this detailed review, the missed opportunities set out in our submissions were identified. The Board Review Report also addresses the missed opportunities and their root causes in detail from paragraphs 22 to 51.</p> <p>(e) The missed opportunities to re-evaluate the mine plan in light of this material new information occurred when the reports on these archaeological and ethnographic surveys, excavation and salvage work identified in response to (a) and (b) above were provided to Rio Tinto, and again when the final report of Scarp Archaeology on its excavations and salvage work of the sites was provided to Rio Tinto in December 2018. The reasons why this new information was not acted upon and/or escalated within Rio Tinto are set out in the Board Review Report.</p>
3	<p>With reference to paragraph 17 of the submission, on what date did Rio Tinto become aware that there was 'growing awareness within the PKKP... of the greater cultural heritage significance of the wider Juukan Gorge area?'</p>	<p>There is not a specific date on which Rio Tinto became aware of the greater cultural heritage significance of the Juukan Gorge area. The awareness arose as a result of a series of events from February 2020 onwards:</p> <ul style="list-style-type: none"> as set out in section 3.13 of our submissions, in February 2020 survey activities were undertaken by PKKPAC's consultant anthropologist in the vicinity of Purlykuti Creek and Juukan Gorge for the purposes of the Social Surroundings consultation required for Rio Tinto to seek Part IV approval under the EP Act to expand the Brockman 4 Mine;

No.	Question	Response
		<ul style="list-style-type: none"> • on 23 March 2020, the PKKP consultant anthropologist sent Rio Tinto a draft preliminary advice for the Brockman Syncline Cultural Values consultation. This draft advice referenced, under a section entitled '<i>Identification and assessment of areas with significant social surrounds values</i>', Purlykuti Creek and the tributary Gorge featuring Juukan 1 & 2 as localities of high importance; • the final version of the draft advice (2020 Preliminary Advice) was sent to Rio Tinto on 20 April 2020. It included a note that '<i>No detailed boundaries have yet been established for the three locations. PKKP suggest that a detailed recording and mapping will be undertaken during the next field exercise.</i>'; • on 22 April 2020, there was some communication between Rio Tinto Heritage team members regarding the 2020 Preliminary Advice and the need to distribute it within the wider business; • on 29 April 2020, a Rio Tinto Heritage team member discussed the 2020 Preliminary Advice with Dr Built. It appears that during the discussion it was noted that the 2020 Preliminary Advice contained information regarding the Juukan tributary (associated with Purlykuti) that had not been included in previous reports; • on 15 May 2020, following a request by Dr Built on 14 May 2020 for permission for PKKP members to visit the Juukan sites for NAIDOC week, internal communications between the Heritage team and Technical Services took place regarding the status of the rockshelters, in which the Heritage team communicated to Technical Services that: <ul style="list-style-type: none"> <i>We have now received additional advice from PKKP, resulting from the Social Surroundings baseline survey completed earlier this year as part of the Brockman Syncline Proposal Part IV work. The advice is still preliminary and unfortunately has not included any GIS boundaries of values.</i> <i>In the PA [Preliminary Advice], PKKP identify Purlykuti Creek, Juukan tributary and Juukan rockshelters as being of key significance to PKKP people. The sites should be considered a cultural complex (there is also rock art site west of Purlykuti Ck mentioned in the report).</i>

No.	Question	Response
		<ul style="list-style-type: none"> on 18 May 2020, by email from Dr Builth, Rio Tinto was provided with clear visibility that the ethnographic significance of the Juukan Gorge area had increased for the PKKP. Dr Builth emailed Rio Tinto Heritage team members and stated: <p><i>We give 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.</i></p> <p><i>We have only been made aware on Friday that 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. We are bringing this to your notice due to the imminent danger of its destruction at this time.</i></p> <p><i>Given the time constraints we are giving advance notice that a letter formalising the Corporation's position on this matter will follow.</i></p> <p><i>Please accept the attached short report outlining the situation, including sensitive ethnographic information that has recently been provided to myself, as Culture and Heritage Manager for PKKPAC.</i></p>
4	With reference to paragraph 17 of the submission, on what date did Rio Tinto develop 'a growing awareness...within Rio Tinto, of the greater cultural heritage significance of the wider Juukan Gorge area?'	We refer to our response to question E3 above.
5	<p>With reference to paragraph 122 of the written submission:</p> <p>(a) What did the six PKKP representatives do or say that gave Rio Tinto the 'impression' that they supported the s 18 plans and the notion of further excavation?</p>	<p>At paragraphs 121 and 122 of its submissions, we state that:</p> <p><i>121 On 16 July 2013, a LIC meeting was held and six PKKP representatives attended. Rio Tinto gave a cultural heritage update, including that a decision in respect of Section 18 Consent was expected by the end of 2013 and fieldwork for development of this part of the mine would commence March 2014.</i></p> <p><i>122 It was Rio Tinto's understanding based on that meeting that the PKKP supported the section 18 and the notion of further excavation, and that it was understood by the PKKP that the consequence of this would be disturbance to the sites in the future.</i></p>

No.	Question	Response
	<p>(b) Did Rio Tinto explain to the six PKKP representatives the possible extent of 'disturbance' to the site in the future?</p>	<p>The likelihood that the Juukan sites would be disturbed was known well in advance of the LIC meeting held on 16 July 2013. For example, the archaeological and ethnographic surveys undertaken with the PKKP in 2008 were conducted on the express basis that it was likely that the sites would be disturbed. The reports prepared following those surveys, which were shared with the PKKP, recorded that fact. For example, the Scarp Archaeology report of October 2008 records that a section 18 consent would be sought because the sites would be '<i>situated within the actual pit and waste dumps [so] avoidance [wa]s not possible.</i>' Similarly, the final Williams ethnographic report of December 2008 stated '<i>the sites discussed in this report however, lie within the area designated as a mine pit and waste dump and their disturbance cannot be avoided.</i>' It was noted that it was proposed to '<i>ultimately secure ministerial consent for the removal of the [relevant sites] to make way for the Brockman 4 mine and associated infrastructure.</i>'</p> <p>The potential s18 application over the Juukan sites had also been discussed at the LIC on 28 March 2013. The minutes of the meeting record the following:</p> <p><i>Rio Tinto may submit a Section 18 to the August 2013 APMC meeting, for a ruling by the end of 2013. This application may contain up to 7 heritage sites (Brock 20, 21, 22, 23, 24, 25, and BS4-08-44) [Brock 20 and 21 corresponding to Juukan 1 and Juukan 2]. Section 16 test excavations and recording are complete. Ethnographic consultation would be required prior to this s 18 submission. If s18 consent is granted, fieldwork would commence approximately March 2014.</i></p> <p><i>Rio Tinto is likely to conduct additional excavation on significant heritage sites if s18 is required and granted. For example, initial dates from Brock 20 and 21 are 32,000 and 22,000 years old respectively</i></p> <p>Thereafter, the PKKP's representative, YMAC, was asked to schedule a site identification level ethnographic survey with the PKKP and consultation for section 18 notice purposes. YMAC proposed that the study be conducted by Dr Heather Built, an anthropologist who, at that time, was an independent consultant at Built Heritage Solutions Pty Ltd.</p>

No.	Question	Response
		<p>On 13 June 2013, Dr Builth conducted a one day Site Identification Survey of Brockman 4 Pit 1 of 7 sites (including Juukan 1 and Juukan 2) accompanied by a Rio Tinto heritage officer and PKKP representatives.</p> <p>On 24 June 2013, Dr Builth sent a Preliminary Advice Report in respect of the survey. That report noted:</p> <p><i>Dr Heather Builth has been engaged by Yamatji Marlpa Aboriginal Corporation (YMAC) to conduct a Site Identification ethnographic survey to record ethnographic comment from the Puutu Kunti Kurrama and Pinikura Native Title Group (PKKP) on seven archaeological sites within the proposed footprint of Pit 1, which is an integral part of the mine development at RTIO Brockman 4 Operations.....The stated aim of the survey is for PKKP to (re)visit the seven sites proposed for destruction and provide comments and opinions in relation to measures of possible mitigation at these locations prior to development. this document contains preliminary results and recommendations from the ethnographic survey undertaken with the people who are the appropriate representatives of the recognised Native Title claimants for this area; and that the final results and recommendations will be provided in the forthcoming S18 ethnographic survey report. This report will comprise the basis for an application to the Aboriginal Cultural Materials Committee under Section 18 of the Aboriginal Heritage Act (WA) 1972.</i></p> <p>It is also notable that the PKKP had been involved with a number of section 18 processes prior to the Juukan 1 and Juukan 2 application.</p> <p>Against that backdrop, the cultural heritage update given at the LIC meeting on 16 July 2013 conveyed the proposed dates for the additional ethnographic survey work required to be undertaken for the purposes of the application to disturb sites under s18 of the AH Act. The minutes record the aim to submit the section 18 application in October 2013 and that a decision in respect of the application would be expected by the end of 2013. Fieldwork to excavate and salvage the sites was to commence in March 2014.</p> <p>Employees of Rio Tinto who were involved in discussions with representatives of the PKKP in connection with the section 18 application do not recall any opposition to the application being pursued.</p>

No.	Question	Response
		<p>the minutes do not record any comments by the PKKP regarding the proposed section 18 notice, email exchanges within Rio Tinto on the following day record the view that the s18 process and excavation and salvage of the sites prior to their destruction was supported at the meeting.</p> <p>In 2016, Rio Tinto and the PKKP undertook a 5 year scheduled review of the Participation Agreement where it was noted that for the PKKP, cultural heritage management is one of the stronger aspects of their relationship with Rio Tinto and expressed satisfaction with the heritage management processes.</p>
6	<p>With reference to paragraph 133 of the written submission:</p> <p>(a) When were the errors noticed?</p> <p>(b) Were the errors fixed? If so, when? If not, why?</p> <p>(c) Did this error have any consequences on the destruction of the Juukan 1 and Juukan 2?</p>	<p>The errors in the Heritage Information Submission Forms were identified following the blast when the documentation was revisited. They had not been corrected.</p> <p>As stated in our submissions, it appears the Heritage Information Submission Form for Juukan 2 included information related to Juukan 1 instead of information related to Juukan 2 in some sections of the form.</p> <p>The form for Juukan 2 (also known as BROCK-21) did correctly state that:</p> <p><i>Site BROCK-21 was originally recorded in 2003 by Gavin Jackson P/L and was ascribed a moderate to high level of significance due to the significant amount of cultural material within the shelter and the potential for stratified deposit.</i></p> <p><i>Further recording, mapping and test excavation under a Section 16 permit was undertaken in 2008 by Scarp Archaeology. Dates obtained from this excavation show occupation of the site at least 22,000 years ago. Excavations ceased due to safety restrictions as opposed to reaching bedrock, therefore there is potential for an estimated additional 50 cm of deposit still to be excavated. Given the size of the site, the age estimates for human occupation, and the potential to yield more information regarding use of the local landscape and broader region, BROCK-21 was assessed as being of high archaeological significance.</i></p> <p>At the time, Juukan 1 was understood to be at least 32,000 years old, so the parts of the form where the information about Juukan 1 was incorrectly included created an impression that Juukan 2 was in fact older by approximately 10,000 years than had been established at that time.</p> <p>The underlying reports from which the information about Juukan 1 and Juukan 2 was drawn (Dr Builth's 2013 Report and Dr Slack's 2008 Report) were included with the submission in their entirety so the complete information was available to the ACMC at the time of recommending to the Minister that the section 18 consent be granted.</p>

No.	Question	Response
7	<p>With reference to paragraph 136 of the written submission:</p> <p>(a) Did the PKKP review the final s.18 application and documents provided with it before with was submitted to the Minister for Aboriginal Affairs?</p>	<p>As stated at [128] to [131] of our submissions:</p> <p><i>128 On 3 October 2013, Rio Tinto emailed a draft copy of the section 18 notice to YMAC.</i></p> <p><i>129 In the email, Rio Tinto requested YMAC's comments on the draft section 18 notice by 11 October 2013, noting Rio Tinto's intention to lodge the application on 17 October 2013. Under the draft section 18 notice, Rio Tinto sought consent to impact six sites; Brock 20 – 24 (being, Juukan 1 and Juukan 2 and the other 3 rockshelters in the Juukan complex), and an unrelated rockshelter, BS4-08-44.</i></p> <p><i>130 The draft application Rio Tinto provided to YMAC (proposed to be provided by a number of emails due to size) comprised: (a) a section 18 notice,</i></p> <p><i>(b) submissions in support of the Section 18 notice; (Submissions)</i></p> <p><i>(c) a consultation table attachment to the submissions,</i></p> <p><i>(d) a cover letter; and</i></p> <p><i>(e) four other documents being a 'Land Map', 'Purpose Map', 'Previous Surveys Map' and 'Location Map'.</i></p> <p><i>131 The Submissions set out the archaeological and ethnographic work conducted to date, and PKKP participation and consultation. They also note that 'Further salvage excavation' is required for Juukan 1 and Juukan 2.</i></p> <p>From 2011 to July 2019, YMAC was formally appointed by the PKKP to act for it in cultural heritage matters. While Rio Tinto does not have access to YMAC's internal records, it is expected that YMAC reviewed this documentation and provided the documentation and YMAC's views on it to the PKKP. Rio Tinto has no reason to believe this did not happen. This includes because, the PKKP were notified by letter (October 2013) and at the next LIC meeting (November 2013) that the Section 18 Notice had been lodged.</p>
8	<p>With respect to paragraph 181 of the written submission:</p>	<p>We state at paragraphs 180 and 181 of our submissions that:</p>

No.	Question	Response
	<p>(a) What does Rio Tinto mean by the phrase 'lament?'</p> <p>(b) Who from the PKKP 'lamented?'</p> <p>(c) Who at Rio Tinto did the PKKP 'lament' to?</p> <p>(d) How many times did the PKKP 'lament?'</p> <p>(e) Was this escalated or addressed in any way by Rio Tinto?</p>	<p><i>180 In 2015, YMAC organised and filmed with PKKP participation, a documentary. This was funded by Rio Tinto. It was undertaken as 'mitigation work' in respect of an ethnographic site at Purlykuti Creek (to the west of Juukan Gorge and within the boundary of Pit 1).</i></p> <p><i>181 Rio Tinto suggested ethnographic recording of the sites, in the form of a film to record the visual aspects of the Purlykuti landscape and facilitate PKKP inter-generational knowledge transfer. As part of the recording, the PKKP also requested to visit Juukan Gorge and requested Rio Tinto prepare a short script for an elder to read regarding the archaeological significance of the excavated material removed from the Juukan sites. On several occasions, some PKKP members interviewed lamented that the sites were facing destruction due to expansion of the mine.</i></p> <p>In response to your questions:</p> <p>(a) and (d) What Rio Tinto means by the last sentence of 181 is that, on several occasions in this documentary, some PKKP members interviewed by the documentary producers expressed regret or disappointment that the Juukan rockshelter sites were facing destruction due to expansion of the mine.</p> <p>(b) A number of Traditional Owners are featured in the documentary.</p> <p>(c) This documentary was funded by Rio Tinto but was not produced for Rio Tinto. It was organised by YMAC for the PKKP. On this basis it does not appear that the sentiments were directed to Rio Tinto specifically.</p>
9	<p>What consultation with the PKKP occurred after Rio Tinto determined it was not feasible to safely unload the blasts to protect Juukan 1 and Juukan 2?</p>	<p>Rio Tinto engaged with PKKP's independent blast consultant to ensure that all options were canvassed. As is outlined in the submissions at paragraphs 230 to 240 it was determined by Rio Tinto's internal experts and its independent blast consultant and agreed by PKKP's own independent blast consultant that it was not feasible to safely unload the blast pattern.</p> <p>Furthermore, on 23 May 2020 senior Rio Tinto Heritage representatives met with representatives from the PKKPAC in Karratha to discuss the blast.</p> <p>As set out in paragraphs 249 to 251 of our submissions, after the blast on 24 May 2020, Rio Tinto engaged with the PKKP in various way including, discussions with the PKKP about the Juukan Gorge and attending a site visit with representatives from the PKKP on 11 and 12 June 2020. Following the</p>

No.	Question	Response
		<p>blast, on 4 June, the CEO of Iron Ore issued a written letter of apology to the PKKP and, on 1 July 2020, Rio Tinto's senior leaders attended a PKKP board meeting to express Rio Tinto's unreserved apology. Since that time there have been ongoing discussions with the PKKP on the best way forward in relation to the Juukan Gorge.</p>
10	<p>With reference to paragraph 218 of the written submissions, what did PKKP say or do that gave Rio Tinto the understanding that 'the extensive salvage and preservation work undertaken in 2014 and satisfied' the agreement to mitigate impacts to heritage sites where it was not practicable to avoid them due to location near an iron ore body?</p>	<p>As set out below, the PKKP were consulted on mitigation of impacts and had requested that the sites be salvaged as early as 2008. Rio Tinto acted consistently with that request in the lead up to the s18 application, in the application documents and in implementing salvage works with the involvement of the PKKP after the s18 consent was granted.</p> <p>In our submissions at paragraphs 128 to 140, we provide details of the application under Section 18 of the <i>Aboriginal Heritage Act 1972</i> (WA):</p> <p><i>128 On 3 October 2013, Rio Tinto emailed a draft copy of the section 18 notice to YMAC.</i></p> <p>...</p> <p><i>132 On 17 October 2013, Rio Tinto submitted the Section 18 Notice. The land was described as 'a total area of approximately 0.0109 km²...situated within... lease AML70/00004' (Land). The listed purpose was 'the development of Pit One at Brockman 4' including 'all associated and incidental work and activities' (Purpose).</i></p> <p>...</p> <p><i>135 Rio Tinto's submission included:</i></p> <p><i>(a) a description of the 'potential effects on Aboriginal sites', including 'the impact/disturbance' of Juukan 1 and Juukan 2;</i></p> <p><i>(b) the strategies to 'minimise or avoid identified sites' include excavation and salvage work; and</i></p> <p><i>(c) as attachments, the Builth 2013 Report and 2008 Slack Report.</i></p> <p>...</p> <p><i>138 On 31 December 2013, the Minister for Aboriginal Affairs granted Rio Tinto a Section 18 Consent to use the Land, for the Purpose.</i></p>

No.	Question	Response
		<p>Our submissions set out that the PKKP were provided with the details of the Section 18 application, which indicated that Rio Tinto was seeking the State Government's consent to the destruction of the Juukan sites.</p> <p>The application indicated that salvage works would occur at the Juukan sites (see paragraph 135(b) of our submissions, which states that <i>'the strategies to 'minimise or avoid identified sites' include excavation and salvage work'</i>). These salvage works had been recommended by Dr Slack of Scarp Archaeology following his archaeological survey and report in 2008 (see submissions at paragraphs 87 and 88) and by Ms Roina Williams of the PNTS following her ethnographic survey in 2008 (see paragraphs 90-93 of the submissions). The PKKP were involved in these surveys and received these reports. Further, Dr Builth, in her preliminary advice report that followed her ethnographic survey work in 2013 for the purposes of the s18 application, recommended – at the request of the PKKP – that salvage and excavation occur at the Juukan 1 and Juukan 2 sites (see submissions at 119).</p> <p>As detailed in our submissions, this salvage work was undertaken in three field trips from May to August in 2014. The planning for it and the results of these salvage trips were shared with the PKKP through provision of Scarp Archaeology's findings including for instance at the LIC meeting on 14 July 2014. Paragraphs 144 and 145 of the submissions also note that the PKKP participated in the salvage excavation trips at the Juukan sites.</p> <p>Given the request of the PKKP to mitigate the impact on these sites in this way and their subsequent knowledge of and involvement in the salvage process, Rio Tinto held the view that this was the mitigation steps that had been agreed with the PKKP.</p>
11	<p>With reference to paragraph 220 of the written submission:</p> <p>(a) Will Rio Tinto release the report provided by Dr Builth on 18 May 2020?</p> <p>(b) What is the nature of the additional information that makes it 'culturally sensitive?'</p>	<p>Rio Tinto has provided the report provided by Dr Builth on 18 May 2020 to the inquiry in confidence, given it contains culturally sensitive information.</p> <p>The culturally sensitive information relates to 'ethnographic information of a highly sensitive nature' that relates to the changing significance to the PKKP of the rock pool in the Juukan Gorge. Dr Builth's report notes that this information was made available to her on 11 March and 25 March 2020 and was subsequently provided to Rio Tinto on 18 May 2020. It is this information that appears to have increased the significance of the Juukan Gorge, including the Juukan rockshelters, to the PKKP from high to extreme. Despite the increased significance of the Juukan Gorge, at the time of the social</p>

No.	Question	Response															
	(c) Who recommended or requested Rio Tinto not repeat the additional information provided within the report?	surrounds preliminary and final advice received on 20 March and 20 April 2020 respectively, the Purlykuti creek and tributary gorge fearing Juukan 1 and 2 rockshelters were reaffirmed by the PKKP to Rio Tinto to be of 'high significance'.															
12	<p>With reference to paragraph 13 of the written submission:</p> <p>(a) How much iron ore would Rio Tinto have had access to by choosing to pursue Option 1 for Brockman 4?</p> <p>(b) What quality of iron ore would have been accessible to Rio Tinto by choosing to pursue Option 1 for Brockman 4?</p> <p>(c) What is the estimated net present value of the iron ore that would have been accessible through the implementation of Option 1 for Brockman 4?</p> <p>(d) What was the estimated cost to Rio Tinto to implement Option 1 for Brockman 4?</p> <p>(e) How much iron ore would Rio Tinto have had access to by choosing to pursue Option 2 for Brockman 4?</p> <p>(f) What quality of iron ore would have been accessible to Rio Tinto by choosing to pursue Option 2 for Brockman 4?</p>	<p>(a) The table below outlines the 4 mine plan options referenced at paragraphs 13 and 116 of Rio Tinto's submission dated 31 July 2020. Each option sets out the tonnage that would not be mined depending on the size of buffer zone applied around the rockshelters.</p> <table border="1" data-bbox="976 539 2051 906"> <thead> <tr> <th data-bbox="976 539 1167 592">Option</th> <th data-bbox="1167 539 1711 592">Potential buffer zone</th> <th data-bbox="1711 539 2051 592">Tonnage Not Mined</th> </tr> </thead> <tbody> <tr> <td data-bbox="976 592 1167 644">Option 1</td> <td data-bbox="1167 592 1711 644">Including Juukan 1 and Juukan 2</td> <td data-bbox="1711 592 2051 644">0 Mt</td> </tr> <tr> <td data-bbox="976 644 1167 730">Option 2</td> <td data-bbox="1167 644 1711 730">65 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1711 644 2051 730">8.1Mt</td> </tr> <tr> <td data-bbox="976 730 1167 817">Option 3</td> <td data-bbox="1167 730 1711 817">200 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1711 730 2051 817">10.2 Mt</td> </tr> <tr> <td data-bbox="976 817 1167 906">Option 4</td> <td data-bbox="1167 817 1711 906">125 metre offset from Juukan 1 and Juukan 2</td> <td data-bbox="1711 817 2051 906">8.5Mt</td> </tr> </tbody> </table> <p>Option 1, the mine plan selected by Rio Tinto, was consistent with Rio Tinto's objective of maximising the resource at Brockman 4 and it was on this basis that Rio Tinto pursued a consistent course of action prior to the development of and during the operation of Brockman 4.</p> <p>(b) The quality of iron ore did not vary between the mine plan options. The volume of ore and waste varied in the different mine plan options.</p> <p>(c) Option 1 maximised extraction of the resource. Relative to Option 1, the lowest tonnage impact of the other options was Option 2, which would have resulted in removing 8.1 million tonnes of ore from the Brockman 4 mine plan. The 2012 net present value of 8.1 million tonnes of ore sold in 2020 is around US\$135 million.</p>	Option	Potential buffer zone	Tonnage Not Mined	Option 1	Including Juukan 1 and Juukan 2	0 Mt	Option 2	65 metre offset from Juukan 1 and Juukan 2	8.1Mt	Option 3	200 metre offset from Juukan 1 and Juukan 2	10.2 Mt	Option 4	125 metre offset from Juukan 1 and Juukan 2	8.5Mt
Option	Potential buffer zone	Tonnage Not Mined															
Option 1	Including Juukan 1 and Juukan 2	0 Mt															
Option 2	65 metre offset from Juukan 1 and Juukan 2	8.1Mt															
Option 3	200 metre offset from Juukan 1 and Juukan 2	10.2 Mt															
Option 4	125 metre offset from Juukan 1 and Juukan 2	8.5Mt															

No.	Question	Response
	<p>(g) What is the estimated net present value of the iron ore that would have been accessible through the implementation of Option 2 for Brockman 4?</p> <p>(h) What was the estimated cost to Rio Tinto to implement Option 2 for Brockman 4?</p> <p>(i) How much iron ore would Rio Tinto have had access to by choosing to pursue Option 3 for Brockman 4?</p> <p>(j) What quality of iron ore would have been accessible to Rio Tinto by choosing to pursue Option 3 for Brockman 4?</p> <p>(k) What is the estimated net present value of the iron ore that would have been accessible through the implementation of Option 3 for Brockman 4?</p> <p>(l) What was the estimated cost to Rio Tinto to implement Option 3 for Brockman 4?</p>	<p>(d) There is no meaningful difference in capital cost between the four mine plan options. For all four options there are operating costs, which were noted in Rio Tinto's 2020 Half Year Results as being US\$14.5 per tonne.</p> <p>(e) Option 2 would have resulted in 8.1 million tonnes being removed from the Brockman 4 mine plan.</p> <p>(f) Please see answer in (b) above.</p> <p>(g) Please see answer in (c) above.</p> <p>(h) Please see answer in (d) above.</p> <p>(i) Option 3 would have resulted in 10.2 million tonnes being removed from the Brockman 4 mine plan.</p> <p>(j) Please see answer in (b) above.</p> <p>(k) Option 3 would have resulted in 10.2 million tonnes being removed from the Brockman 4 mine plan. The 2012 net present value of 10.2 million tonnes of ore sold in 2020 is around US\$170 million.</p> <p>(l) Please see answer in (d) above.</p>
13	<p>With reference to paragraph 78 of the written submission:</p> <p>(a) To date, how much has Rio Tinto invested in the development of Brockman 4?</p>	<p>Rio Tinto has invested capital totalling A\$2.0 billion to date in the development of Brockman 4. This does not include sustaining capital and operating costs which are incurred as part of operations.</p> <p>Rio Tinto spent approximately \$423,000 in the preservation of cultural heritage from Juukan 1 and Juukan 2.</p>

No.	Question	Response
	(b) Of this amount, how much has been invested in the preservation of the cultural value of the Indigenous heritage site?	
14	By 18 May, when Rio Tinto first claims to have received formal communication on the revised significance of the Juukan Gorge, how much money had been invested by Rio Tinto into the development of Brockman 4?	Consistent with the response to question E13 above, as at 18 May 2020, Rio Tinto had invested capital totalling A\$2.0 billion in the development of Brockman 4.
15	<p>How much money did Rio Tinto spend:</p> <p>(a) Investigating the feasibility of safely unloading the blast and associated impacts; and</p> <p>(b) Unloading removing the stemming from eight of the holes on 23 May 2020?</p>	<p>When determining whether or not it was feasible to unload the blast, the costs of doing so were never a defining factor. At all times, the safety of personnel and the physical viability of the task were paramount.</p> <p>The cost of the blast consultant engaged by Rio Tinto to investigate the feasibility of safely unloading the blast was \$3,550. The cost of the vacuum truck to remove the stemming from eight of the holes was \$1,932.</p>