Australia ICOMOS statement on Juukan Gorge rockshelters – Western Australia

The recent destruction of the significant Juukan Gorge rockshelters, located in Puutu Kunti Kurrama and Pinikura (PKKP) country in the Pilbara region of Western Australia, underscores the pressing need to reform and modernise the WA Aboriginal Heritage Act 1972 and its administrative processes.

Although consent to destroy the site was granted in 2013 under Section 18 of the Act, subsequent archaeological excavations revealed remarkable new information about the significance of Juukan Gorge. It was found to contain evidence of over 46,000 years of human occupation, which places the site in the oldest bracket of dates for the human occupation of Australia’s arid regions. DNA evidence from a 4,000 year old plaited human hair belt also directly associates the site with contemporary PPKP Traditional Owners.

Australia ICOMOS is concerned that the Western Australian Aboriginal Heritage Act 1972 legislative and administrative processes are not in line with modern, best-practice heritage management principles such as The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013 (Burra Charter). That it authorised the destruction of a place before the cultural significance of that place was fully understood is a major flaw of the Act and its associated administrative processes, and is in direct contradiction of the Burra Charter Process, as set out in Article 6 of the Charter:

6.1 The cultural significance of a place and other issues affecting its future are best understood by a sequence of collecting and analysing information before making decisions. Understanding cultural significance comes first, then development of policy and finally management of the place in accordance with the policy. This is the Burra Charter Process.

It is also problematic that the Act and its administrative processes do not allow for the consideration of new information or up-to-date assessments of significance to be considered once a section 18 permit has been issued, nor is there currently any avenue for the Traditional Owners to appeal a decision.

Australia ICOMOS will be urging the Western Australian government to expedite the development of the proposed new Aboriginal Cultural Heritage Act, and to ensure that:

- The new Act is developed with the full participation of representatives of Western Australian Aboriginal communities;
- The new Act adopts the Burra Charter principles and process;
- The cultural significance of a place is comprehensively understood before making irreparable land use or development decisions;
- The new Act is responsive to changes in circumstance, new information or perspectives about the cultural significance of places;
- The new Act includes mechanisms for Traditional Owners and other stakeholders to appeal decisions; and
- The new Act and its administration must have a high level of openness and transparency, particularly around decision-making.

Whilst we acknowledge that it will take some time to complete, Australia ICOMOS also strongly recommends that all existing Section 18 permits be reviewed to identify whether similar problems may arise at other heritage places.

Australia ICOMOS will also be contacting the Commonwealth Minister for the Environment to ensure existing statutory mechanisms can operate in a timely manner to afford protection in situations where State processes fail to protect precious heritage places.
While these comments address the role of governments, there is also the role of the company, Rio Tinto, which undertook works which resulted in the destruction of the rockshelters and deserves scrutiny. Australia ICOMOS will approach the company to seek a detailed understanding of its processes and decision-making which led to the destruction and how this situation can be avoided in the future.

3 June 2020