



MEDIA RELEASE: 09 December 2020

YMAC statement on Interim Report from the Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia

Yamatji Marlpa Aboriginal Corporation (YMAC) acknowledges the Puutu, Kunti Kurrama and Pinikura (PKKP) Traditional Owners, and the harm that has come to them through the destruction of the Juukan Rock Shelters.

YMAC welcomes the release of the [interim report](#) by the Joint Standing Committee Northern Australia on 9 December 2020.

The findings make it clear that several laws must change.

Agreement making alone is not sufficient to protect heritage. Both State and Federal governments must address the power imbalance inherent in legislation, to ensure the negotiating process is fair for ALL parties. Aboriginal heritage must be considered from day one; and continue to be considered as new information comes to light.

Under the principles of Free, Prior and Informed Consent, until Traditional Owners are provided with a veto under the *Mining Act* (1978) and the *Native Title Act* (1993), Free consent is not possible to achieve.

Listening to Traditional Owners through proper consultation is the right way to find the balance between economic outcomes and heritage protection for ALL parties.

Agreements need to be participative, robust and contain processes to address new information as it comes to light. An agreement is only as good as its implementation and the commitment of the involved parties. Taking advantage of review provisions in agreements is a critical part of implementation.

A clear distinction must be created between heritage protection and the mining approval process.

Clear sentiment has been expressed by the Australian public and world community about the destruction of Aboriginal heritage. Just as mining benefits all Australians, protecting and preserving Aboriginal cultural heritage is also the responsibility of all Australians.

Under Western Australia's current *Aboriginal Heritage Act* (1972), there are:

- no obligations on developers to conduct cultural heritage surveys;
- no rights to notification of Traditional Owners;



- no rights to consultation with Traditional Owners;
- no rights to objections by Traditional Owners;
- no rights to appeal decisions by Traditional Owners; and
- no rights to receive copies of the consent documents.

This is a once-in-a-generation opportunity to get things right.

The WA Government's work on the Draft Aboriginal Cultural Heritage Bill is a critical piece of work to address this imbalance. Government must address community feedback on the draft in the next stage of the review process.

YMAC's proposed Roadmap to Reform

To address the current power imbalance and inequity in agreement making and heritage protection for Traditional Owners, Governments must:

1. Introduce comprehensive Federal and State laws that, embody heritage protection across a range of legislations and ensure successful implementation of agreed reform. These include the *Native Title Act* (1993), the *Mining Act* (1978), *Local Government Act* (1995).
2. Legislate consultation rights and the need for Aboriginal heritage to be considered early in a development process and continue to be considered as new information comes to light, both before and after agreements have been made.
3. Mandate cultural heritage plans including ethnographic and archaeological surveys with the involvement of Traditional Owners, legislate a clear regulatory framework surrounding agreement-making, heritage decisions and project approvals.
4. Ensure Traditional Owners have a greater voice in the management and mining of their land during negotiations and throughout the entire lifecycle of a project, including the right of veto.
5. Introduce an independent appeal mechanism for all parties and a more equitable and significantly more rigorous Section 18 equivalent in the proposed *Aboriginal Cultural Heritage Act*.
6. Provide appropriate funding and training to ensure Prescribed Bodies Corporate (PBCs) are properly resourced to undertake the necessary work to participate in the new heritage regime in Western Australia.
7. And finally, promote the global significance of Aboriginal heritage as an original and irreplaceable part of Australia's collective cultural heritage and create a clear distinction between heritage protection and the mining approval process.



Yamatji Marlpa
ABORIGINAL CORPORATION



All quotes to be attributed to Mr Simon Hawkins, CEO Yamatji Marlpa Aboriginal Corporation.

About Yamatji Marlpa Aboriginal Corporation

Yamatji Marlpa Aboriginal Corporation (YMAC) is the Native Title Representative Body (NTRB) for what are described as the Pilbara and Geraldton regions of Western Australia. YMAC is run by an Aboriginal Board of Directors, representing several native title groups (each of whom have their own language, culture, traditions and protocols). YMAC provides a range of services, including native title claim and future act representation, heritage services, community and economic development assistance, and natural resource management support.

Media contact: **Jane Mitchell**, Communications Manager, email jmitchell@ymac.org.au or editor@ymac.org.au , mobile **0427 463 796**.