

## Protecting Indigenous cultural heritage is the right thing to do and makes good business sense

*Five years since the destruction of Juukan Gorge, investors and businesses are calling for stronger laws to protect Australia's unique Indigenous heritage.*

The destruction of Juukan Gorge on 24 May 2020 highlighted the inadequacies in cultural heritage protection in this country and was a wake-up call to corporate Australia.

The ramifications of that incident and others, including the loss of trust from Traditional Owners across Australia, brought home to investors and business the very real financial and reputational risks that cultural heritage destruction poses to companies and portfolios.

Managing and caring for culture is a key responsibility of Traditional Owners and destroying it is a major blow to the continuation of the diverse and rich tapestry of Australia's history and identity. Cultural heritage protection is often seen in conflict with economic development but there is no reason the two can't both be achieved.

All Australians share the responsibility to protect this country's unique Aboriginal and Torres Strait Islander cultural heritage, which exists nowhere else in the world and forms the foundation of the rich history, culture and identity of this nation.

But, due to serious deficiencies in Australia's legislative framework, the destruction of Juukan Gorge was perfectly legal.

Current laws are largely focused on regulating the destruction of Aboriginal and Torres Strait Islander cultural heritage, rather than its protection. The legal framework considers cultural heritage matters too late in assessment and approval processes and requires little to no consultation with Traditional Owner groups.

It is a system that provides little certainty, neither to Traditional Owners nor to industry.

Responsible businesses and investors have been calling for stronger legislation in line with international standards to lower the risks that cultural heritage destruction poses to their investments.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) makes clear that First Nations peoples have the right to be the leaders and decision-makers in relation to their cultural heritage and enshrines the right to Free, Prior and Informed Consent (FPIC).

FPIC helps to mitigate risks by ensuring First Nations people are meaningfully involved in decision-making processes, ensuring projects manage impacts on traditional lands and resources. Projects that fail to obtain FPIC may face delays, increased costs and reputational and legal challenges.

Key industry leaders, including BHP, Lendlease and HESTA, are now working with Traditional Owner groups from across Australia to implement the Dhawura Ngilan - "remembering country" - Business and Investor Guide.

Launched in March 2024 by the First Nations Heritage Protection Alliance, in partnership with UN Global Compact Network Australia and Responsible Investment Association Australasia, the Guide includes First Nations led advice for how companies can achieve leading practice by identifying the right Traditional Owner groups to speak to, engaging early and in culturally appropriate ways, being transparent and accountable, and respecting the right of Traditional Owners to give their FPIC.

The Guide also addresses the due diligence investors should undertake. As stewards of capital, investors can decide where they are invested and influence corporate behaviour for clients' or beneficiaries' best financial interests. This can include assessing disclosures, voting at company AGMs and asking questions of company management. Research shows that Indigenous rights and cultural heritage protection are the fastest-growing non-climate themes for corporate engagement by Australian institutional investors – in 2023, 56% of investors that engaged with investee companies said they had raised the issue of Indigenous rights and cultural heritage.

Business and investors are now putting the Dhawura Ngilan Business and Investor Guide into practice through actions and policies that contribute to the protection of Australia's unique cultural heritage, led by First Nations views.

It is time to reform Australia's legal framework and work with Aboriginal and Torres Strait Islander Peoples to protect and celebrate for future generations the magnificent and unique heritage of Australia.

**Authors:**

Jamie Lowe, CEO, National Native Title Council

Estelle Parker, Co-CEO, Responsible Investment Association Australasia

Kate Dundas, CEO, UN Global Compact Network Australia