

LEGISLATIVE COUNCIL

Question On Notice

Wednesday, 7 November 2018

1750. Hon Robin Chappie to the Minister for Environment representing the Minister for Aboriginal Affairs

I refer to the Member's Statement I made in the Legislative Council on Wednesday, 31 October 2018 in which I tabled documents as evidence that Fortescue Metals Group (FMG) routinely by-passes the state's regulatory requirements, and ask:

(a) will the Minister confirm whether the Minister or the Department of Planning, Lands and Heritage were aware or have given FMG written permission to carry out significance assessments of Aboriginal sites independent of the Aboriginal Cultural Material Committee (ACMC);

(b) if no to (a), why not;

(c) will the Minister confirm that the four Aboriginal sites recorded by Archaeaus and traditional owners in 2008, referred to as FF08-004, FF08-06, FF08-009, and FF08-011, were deemed by FMG as sites not important enough to the traditional owners to warrant the protection of the *Aboriginal Heritage Act 1972* (the Act);

(d) if no to (c), why not;

(e) will the Minister confirm that without the authority of the Minister or the Department of Planning, Lands and Heritage, FMG themselves issued a Cultural Salvage Permit authorising the alteration of these four sites;

(f) if no to (e), why not;

(g) will the Minister confirm when FMG installed an access track on the land where these sites were located;

(h) if no to (g), why not;

(i) will the Minister advise of the relevant authority in the Act that authorises FMG to carry out significance assessments on Aboriginal sites then issue a permit to salvage them before it carries out ground disturbing activities;

(j) if no to (i), why not;

(k) has the Minister initiated an investigation into FMG's practices to establish:

(i) how wide spread is their practice of carrying out significance assessments of Aboriginal sites instead of referring the cultural heritage information to the ACMC per the requirements of the Act;

(ii) how many Aboriginal sites have been impacted following FMG's significance assessments where FMG determine whether the law applies to sites; and

(iii) how many sites have been damaged, destroyed, altered or concealed through the use of FMG's Cultural Salvage Permit without the express permission from the Minister under section 18 of the Act;

(l) if no to (k), when will the Minister seek this information from FMG and when does the Minister expect to report back to this Parliament with the findings;

(m) will the Minister confirm if the Minister or the Department of Planning, Lands and Heritage gave advice to FMG about their obligations to comply with the section 18 conditions attached to the consent granted by the Minister on 30 November 2017, reference 69-03609 that required FMG to invite traditional owners to salvage their cultural material;

(n) if no to (m), why not;

- (o) will the Minister confirm whether FMG has complied with the condition of consent that requires FMG to invite, in writing, representatives of Wintawari Guruma Aboriginal Corporation to have reasonable access to the land to conduct cultural salvage;
- (p) if yes to (o), why;
- (q) if no to (o), why not;
- (r) will the Minister seek to prosecute FMG under section 55 of the Act for not complying with the section 18 consent conditions issued by the Minister on 30 November 2017;
- (s) if no to (r), why not; and
- (t) if yes to (r), when?

Answer

(a)-(b) Neither the Minister nor the Department of Planning, Lands and Heritage issues these types of permissions.

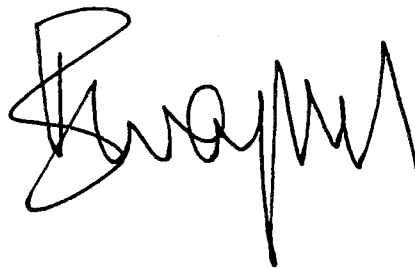
(c)-(h) The Member will need to seek advice from the company in question.

(i)-(j) The *Aboriginal Heritage Act 1972* grants authority to the Minister and to the Registrar of Aboriginal Sites to authorise activities in relation to Aboriginal sites.

(k)-(l) This matter is currently under investigation by the Department of Planning, Lands and Heritage.

(m)-(n) The Minister provides his advice, including any conditions, directly to the owner of the land that submitted the notice pursuant to section 18 of the Act. The Department of Planning, Lands and Heritage does not provide separate advice unless requested. I am advised that no such advice was requested from the Department.

(o)-(t) FMG has advised the Department of Planning, Lands and Heritage that it has not impacted any of the sites, that its current activities are designed to avoid all the sites and that, as a consequence, there is no need for cultural salvage at this stage of the work program.

A handwritten signature in black ink, appearing to be 'J. Wainwright', is located at the bottom center of the page.