



Proxy Alert: Proposal on Cultural Heritage Protection at BHP

September 9, 2020

BHP (BHP Group Limited, AUS; BHP Group Plc, UK)

Symbol: BHP (ASX; LON)

Annual Meeting date: October 14 (AUS) & October 15 (UK), 2020

Filer: Australasian Centre for Corporate Responsibility (ACCR) & over 100 co-filing shareholders

Resolution No. 2: Ordinary Resolution on Cultural Heritage Protection

Recognizing that legislative review processes are underway in relation to the extent of Indigenous cultural heritage protections in Australia, in order to manage immediate risks of cultural heritage and shareholder value, shareholders recommend that our company take the following interim steps, until such time that relevant laws are strengthened:

A) adopt a moratorium on undertaking activities which would disturb, destroy or desecrate cultural heritage sites in Australia, to be reviewed annually by the Board;

B) commit to non-enforcement of any relevant contractual or other provisions that limit the ability of Aboriginal and Torres Strait Islander Traditional Owners to speak publicly about cultural heritage concerns on their land; and

C) disclose its expectations in relation to any lobbying on cultural heritage issues by any industry association of which it is a member.

Nothing in this resolution should be read as limiting the Board's discretion to take decisions in the best interests of our company.

Vote Recommendation:

Vote FOR Ordinary Resolution No. 2 on Cultural Heritage Protection.

SHARE's Recommendation and Rationale

SHARE is committed to advocating for Indigenous rights and title and the protection of Indigenous cultural heritage and languages in Canada and globally. The recent detonation of a 46,000-year-old site at the Juukan Gorge rock shelters in Australia by peer company Rio Tinto highlights the gaps between local laws and international standards on Indigenous rights and heritage protection, as Rio Tinto's destructive actions were granted approval under Australian law. Rio Tinto has since faced near-universal



condemnation; intense scrutiny from investors, media, and the public at large; significant reputational damage; and financial losses to its senior executives [1].

BHP has planned to disturb 40 cultural heritage sites through its operations in the Pilbara, and applied for ministerial consent for these disturbances earlier this year despite Indigenous opposition. Following the Juukan Gorge rock shelter destruction, in June 2020, BHP signalled its intent to renew consultation ahead of planned disturbance to these 40 cultural heritage sites. Affected Native Title holders have previously voiced concerns over and opposition to these planned disturbances.

The potential impacts of BHP's operations upon Indigenous rights pose substantial risks. Possible impacts to cultural heritage and other Indigenous rights expose companies, and therefore their shareholders, to reputational and financial risks. In such contexts, enhanced due diligence mechanisms to manage risks are critical, particularly in legally permissive environments.

In the absence of domestic laws sufficient to uphold relevant Indigenous rights and heritage standards, including those contained within the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), further transparency and internal process at the company is imperative. Resolution No. 2 offers several important mechanisms through which BHP can mitigate risk and uphold Indigenous rights:

Clause A) of the resolution would manage risk by ensuring Board oversight while regulatory reform is ongoing in Australia.

Clause B) of the resolution would also help manage risk by ensuring affected Native Title holders can air concerns without fear of adverse legal consequences.

Clause C) of the resolution would help ensure that BHP's expectations of its industry associations are transparent in light of the ongoing regulatory reform processes in Australia.

This resolution enjoys the support of the First Nations Heritage Protection Alliance, a coalition of more than 20 Aboriginal and Torres Strait Islander organisations and leaders from across Australia [2].

SHARE's recommendation: Vote FOR the proposal to ensure BHP manages immediate risks to cultural heritage and shareholder value until laws on Indigenous cultural heritage protections in Australia are strengthened through reform.

Link to the full proposal: <https://www.asx.com.au/asxpdf/20200817/pdf/441l2stk4hy378.pdf>

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[1] <https://www.theguardian.com/business/2020/aug/24/rio-tinto-chiefs-lose-millions-in-bonuses-over-destruction-of-juukan-gorge>

[2] <https://www.ntsg.org.au/first-nations-heritage-protection-alliance/>