

BHP: fine words, foul play

23 September 2020

Introduction

BHP presents itself, and is often considered by investors, as the very model of a modern mining company. Not only does it present itself as socially and environmentally responsible but now as indispensable in the efforts to save the world from climate catastrophe.

Given the impacts and potential impacts of its Australian operations on Aboriginal sites and the furore over Rio Tinto's destruction of the Juukan Gorge site earlier this year, perhaps BHP will begin to tread more carefully.

It certainly needs to. This briefing summarises concerns around current and planned operations in which BHP is involved in Brazil, Chile, Colombia, Peru and the USA. LMN and our member groups work with communities or partner organisations in these five countries. Concerns include ecological and social impacts, violation of indigenous rights, mining waste disposal and the financing of clean-up. Other matters of current concern are briefly noted.

At the end of the briefing are reports on three legacy cases - in Papua New Guinea, Indonesia and Colombia - where BHP pulled out, leaving others to deal with the environmental destruction and social dislocation caused by its operations.

LMN exists to work in solidarity with communities harmed by companies linked to London, including BHP, the world's largest mining corporation. This briefing is intended to encourage those who finance the company to use that finance to force change, and members of the public to join us in support of communities in the frontline of the struggle to defend their rights and the integrity of the planet's ecosystems.

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Current cases of concern

Samarco, Brazil

In November 2015, the collapse of the Fundão tailings dam in Minas Gerais, Brazil, led to 45 million cubic metres of mining waste spilling into the Rio Doce and its tributaries. This dam was owned by the Samarco mining company which is a joint venture of BHP and Vale. Its collapse resulted in 20 people being killed, the degradation of 637 kilometres of the river basin and the destruction of the settlements of Bento Rodrigues, Paracatu de Baixo and Gesteira. The degradation of the river basin has generated knock-on effects in the water-supply, agriculture, fishing and tourism, and thus in turn on household livelihoods, social life and health. Many people who depended on the river for their livelihood consider the river to be dead, while it is estimated that restoration of the basin of the Rio Doce will take decades. BHP is also facing multiple lawsuits because of this catastrophic dam failure.

A Framework Agreement was reached between the mining companies and the relevant Brazilian authorities in March 2016 establishing Renova, a foundation funded by the mining companies to implement remediation and compensatory programmes to restore the environment and re-establish affected communities.

However, close to five years after the disaster, only 43 of the 355 planned new dwellings are under construction in the settlements that were destroyed, and none has been completed. BHP claims that these delays are due to factors outside its control. The Movement of People Affected by Dams in Brazil (MAB), on behalf of the affected communities, describes the fact that affected people have lived in temporary accommodation for five years as a disgrace. A Foundation backed by well-resourced mining companies should be able to deal with the planning and technical issues much more effectively. The inefficiency of the Renova Foundation has also meant that the process of compensating communities is slow, leading to increased vulnerability of households.

The mining waste released by the breach of the Fundão Dam was deposited on riverbanks and flood-plain areas in the upper reaches of the Rio Doce basin. The further movement of this sediment has been controlled by replanting erosion-control vegetation, but this prevents the use of those areas for crop-raising and animal husbandry. It is unclear how access to these areas and agricultural production can be re-established without increasing risks of erosion of this mining waste sediment.

The flow of mining-waste sediment down the Rio Doce has thus been reduced in comparison with the period immediately after the Fundão Dam collapsed but local reports state that there are still significant amounts of sediment in the river flow after heavy rainfall events in the wet season.

BHP claims that results from water and sediment quality, aquatic habitat and fish surveys demonstrate that the river ecology downstream of the Candonga reservoir and along the coast has recovered from any tailings-related impacts. It is unclear what the evidence is for this assertion. Scientific studies of long-term impacts of the flow of mining waste sediment down the Rio Doce to the estuary and the coast are still in progress. Though the flow of sediment down the Rio Doce has been reduced, there are significant amounts already deposited in the bed of the lower river, the estuary and the sea: the impact of this is still the subject of scientific investigation.

Escondida and Cerro Colorado, Chile

BHP has two major mines in Chile, the Escondida mine and Pampa Norte. Pampa Norte consists of two wholly owned operations: Spence and Cerro Colorado. Both mines are in the Atacama Desert and both have severely depleted local water resources at a time when Chile is experiencing a megadrought. The Escondida mine is the world's largest copper mine and is majority owned by BHP. [According to Lucio Cuenca, Director of OLCA](#) (Observatorio Latinoamericano de Conflictos Ambientales, or Latin American Observatory of Environmental Conflicts), not only does it use vast amounts of water, it also wastes over three times as much water as any other BHP operation. Meanwhile, the [Cerro Colorado mine was found to extract almost three times as much water as it was authorised to](#). This has resulted in damage to lakes and wetlands that cannot easily be reversed, while many people whose livelihoods depend on the land have been forced to move to urban areas.

When the issue of water depletion was raised at last year's AGM, BHP's chairman responded that he was very proud of BHP's work. He referred to the fact that all of Escondida's water requirements were to be provided by its own desalination plant by 2030 and emphasized that BHP had ceased water extraction from the Salar de Punta Negra in 2017. However, this does not change the fact that irreversible damage has been done to that ecosystem which has disappeared due to water extraction. Andrew MacKenzie (then CEO of BHP) also stated that extraction of groundwater would be reduced from 1400 litres a second to 400 litres a second. But it was not specified when this would happen, a crucial detail considering the urgency of the problem in the context of the current megadrought.

The Consejo de Pueblos Atacameños (Council of Atacameño Peoples), made up of 18 indigenous communities, together with the Peine community, have criticised the lack of information in the company's Environmental Impact Assessment (EIA). BHP was asked by the regulatory authorities to conduct a further study of the impacts of its water extraction but has avoided having to do so by announcing that [it will stop extracting water from the Salar de Atacama](#). It is also increasing extraction of water by desalination. In the meantime, the mining giant is currently facing a [sanctioning process by the Chilean government](#) because over fifteen years it has extracted ten times as much water from the Monturaqui-Negrillar Tilopozo aquifer as was permitted.

Another issue raised at last year's AGM was the tailings dam for the Escondida mine. This was defined by the company as 'high risk' even when it only holds a quarter of the tailings projected to be collected there. To this the company responded that while there was a risk, it was being 'managed'. However, considering the history of risk and destruction associated with tailings dams, this is far from a satisfactory response.

Despite BHP's operations' environmental impact, the company is keen to present itself as key to combating climate change. The CEO claimed that BHP is a leader on water, climate and indigenous rights, and that since 5-20 times more copper would be needed for a transition to renewable energy, BHP is playing a key part in the Green New Deal. Yet this ignores the large environmental impacts of BHP's mining operations, including for example damage to glaciers and other ecosystems, not to mention its share in coal mining and the carbon emissions of its operations. Using the climate crisis as an opportunity to advance the interests of its own destructive industry is a form of greenwashing. It falsely implies that local environmental damage and violation of indigenous rights is necessary in combating climate change.

Cerrejón Coal, Colombia

BHP bought into the massive opencast Cerrejón Coal mine in 2000 as part of a consortium with Anglo American and Glencore. The consortium took complete control of the mine in February 2002. Cerrejón already had a history of forced displacement of small farming and herding indigenous Wayuu and African descent communities in the arid region of La Guajira in northern Colombia. It has so far failed to address adequately the needs of communities forced off their land before that time. Since the consortium took over, it has begun to negotiate with communities and relocate whole villages to new sites, but the relocation areas are semi-urban, with inadequate land for agricultural livelihoods. Older people have sunken into depression at the loss of their rural way of life. Many of the alternative economic projects set up with Cerrejón funding have failed, leaving people without adequate incomes.

The mining operations have created six enormous coal pits resulting in the destruction of local watercourses and loss of rare dry tropical forest. Local people fear that the mined-out land will never be fully restored, even once mining stops. There are conflicts over water use as local people complain they do not have enough water. They also denounce both air and water contamination generated by the mine. Additionally, the coal trains going to the port kill local livestock while soldiers guarding the railway line threaten and harass local people, especially women. The noise of the trains also disrupts the ability of the Wayuu to dream, breaking an integral element of their spirituality and culture, which has been gradually disappearing as their territory and livelihoods changed from producers to consumers in an urban lifestyle.

Historically BHP has hidden its responsibility for what happens in the mine by saying that it is only a 33.3% shareholder in the mine. Nonetheless, in light of the international obligations of companies with regard to human rights and the company's own declared policies, it is unacceptable that BHP intends to disengage from its responsibility for the operations of the Carbones del Cerrejón Company in Colombia, asserting that it is an independent company.

In this brief we focus on two main issues:

1. Non-compliance with legal orders by the Colombian Constitutional Court and other courts in the country around environmental damage and violation of rights such as the right to water, food sovereignty and health, both in processes of resettlements and regarding plans to expand the mine.
2. BHP is looking for a way out of coal given the growing financial market pressure. However, its strategy does not seem to include the possibility of developing and implementing a closure plan with a just transition in this area. Instead the company is trying to reduce the costs of running the mine at the expense of the workers, as well as through diverting water sources such as the Arroyo Bruno in order to expand mining operations. It is doing this even though the coal market is falling and there is the prospect of imminent climate catastrophe.

1. Non-compliance with legal orders in Colombia and with international standards

- The village of Tabaco, forcibly evicted in August 2001, has still not been reconstructed despite a court order in 2002 and an agreement signed between the company and the community in 2008. The company blames the local municipality for not playing its part covering the costs of the infrastructure, but international standards accept that such costs should be covered by companies. Villagers accuse the company of deliberately creating divisions.
- The company diverted the Arroyo Bruno, the main tributary of the Rio Rancheria, the only major river in the area, despite Colombian Constitutional Court ruling SU-698 of 2017 that the river should not be diverted. As a result, the natural course of the river has run dry while the artificial new course had only a small flow when LMN representatives visited last year. The communities, technical and academic participants, as well as social organizations have attacked the decision to keep the stream diverted - a decision that was made unilaterally by the 'inter-institutional roundtable' which includes Carbones del Cerrejón itself.

The Delegate Auditor for Environmental Affairs of Colombia agreed with these criticisms in an audit report of July 2020. This report focused on the deficient reasons given for not returning the waters of the stream to their natural channel. The control entity recognizes that it is not giving “strict compliance with what is required in Sentence SU 698/17.”

- The Constitutional Court ordered Cerrejón to adopt measures to protect the rights to health and a healthy environment of the Wayuu Indigenous Reservation of Provincial through the T 614 sentence of 2019. The sentence was published in February 2020, yet the company and the defendant Government Institutions have still not provided any type of accurate information, consultation, or actual participation in compliance with the orders. Even though the company has repeatedly denied the reported violations, the Court held that the community's assertions are not unsupported. On the contrary, the Court's ruling confirmed the serious health impacts that the community is exposed to by being within two kilometres of the mine. The company and the State Institutions have only had conversations with those sections of the communities that support the Carbones del Cerrejón company, while the rest of the community is not being consulted. This is another example of how the company divides communities to achieve its goals.

2. Cut and Run: An irresponsible way out of coal.

- Members of the main union at the mine, Sintracarbon, have been on strike since 31 August in opposition to Cerrejón's attempts to change working conditions at the mine. The company is imposing a new shift pattern which will require miners to work for many more days consecutively than before. Workers fear the impact these changes will have on their health and safety as well as the detrimental effect it will have on the amount of time they can spend with their families. Additionally, they say that the changes will enable the company to lay off 25% of the workforce. While the company is blaming coal market conditions for the changes, the union has pointed out that the mine has been enormously profitable and provisions could still be made for decent treatment of the workers.
- Despite worsening coal market conditions, the urgent need to phase out coal use in order to avert climate catastrophe, and the fact that the mine's licence runs out in 2035, workers and local communities are not being consulted about a mine closure plan. There needs to be broad based consultation to ensure that the mine site is properly rehabilitated and that alternative livelihoods are developed for local people so that when the mine closes it does not cause further devastation to the local economy.
- BHP has announced its intention to sell its 33.3% share in Cerrejón. It cannot be allowed to 'cut and run' from the mine - it must fulfil its responsibility to repair and compensate for the social and environmental devastation that the mine has caused before selling its share.

Santa Teresa 1 and 2 concessions, Ecuador

In September 2019, a regional assembly of 1,500 people in the county of Apuela, Intag, [unanimously rejected mining in the area](#).

In December 2019 BHP attempted to hold a closed-door meeting in the community of Cazarpamba. Some concerned residents of nearby communities found out about it and attended. On seeing the visitors, the BHP representatives [promptly packed up and left](#). **Communities raised concerns about lack of consultation and transparency during the meeting.**

In mid-January 2020, community residents of Cazarpamba and Irubí, both situated in BHP's Santa Teresa 2 concession, got fed up with unauthorised night-time access by BHP vehicles and installed a chain across access roads into the communities. They [prevented the entry](#) of three BHP employees who arrived unannounced in the company of thirty military police. **Communities raised concerns**

about BHP using the military as bodyguards when trying to enter the area against the community's wishes and without consultation.

At a regional assembly on 18th January 2020, representatives from the six communities in BHP's Santa Teresa 2 concession drafted a [formal document of resolutions](#). This declares the Intag zone free of mining, demands the immediate exit of mining companies and their representatives, and requests support for development of local economies such as ecotourism and sustainable agriculture in place of mining. **Communities declared that they would take legal action against mining personnel who tried to enter in breach of these agreements.**

Question: Given the above examples, can the Board truthfully assure its investors that activities and community engagement in Ecuador's greenfields sites, such as the Santa Teresa 1 and 2 concessions, is in line with BHP's own Code of Business Conduct with regard to FPIC; transparency of information sharing with stakeholders; and respect of the human rights of communities within those concessions?

Investors need to demand that:

- The company is transparent about the tactics used to enter and conduct activities in areas which are strongly resistant to mining
- The company honours its [Code of Business Conduct](#) with regard to communities within or near its operating sites

Antamina, Peru

Antamina is now the seventh largest mining operation in the world based on the extraction of copper and zinc, accounting for 2% of all copper produced in the world. BHP Billiton is 33.75% shareholder [through](#) RALCayman Inc. Antamina is currently in the expansion phase preparing the extension of the mine until 2036.

Antamina started operations in the late 1990s. Since its inception it has [been characterized](#) by trying to work with "social licence". It adopted the Code of Social Responsibility of the International Council on Mining and Metals (ICMM) and committed to:

- respect the individual, their culture and customs;
- integrate the company's objectives with local, regional and national objectives;
- recognize local communities, as well as the general population and their authorities, as valid interlocutors, and to maintain a permanent process of communication and consultation;
- commit to the sustainable economic and social development of the communities.

Antamina is considered an operation of "latent" conflict according to José de Echave, Former Vice Minister at the Peruvian Ministry of the Environment and Program Coordinator at Peruvian NGO CooperAcción. While there have been several incidents throughout its history, the company has always managed to achieve relatively quick agreements, with the support of either the government or other institutions such as the church and the Ombudsman's Office. An example of these connections is that after the rupture of the mining pipeline that transports minerals from the mine to the port of Huarney in 2002, it was agreed that the company would pay US\$111.5 million as a penalty. With that money the Ancash Development Investment Fund (FIDA) was created, administered by the National Decentralization Council and [monitored](#) by Antamina.

Antamina won the first prize in the National Water Authority's category "good practices in the management of water resources" within the sub category "large company", for the use "of recycled and treated water in the transport process of copper and zinc concentrates, for the irrigation of the Antamina forest in Huarney."

However, for Ruth Preciado, an engineer specialising in water management at the Catholic Pontifical University of Peru, the calculations of water usage from mining will [always remain low](#) and undervalued because the water that is lost in open-pit pumping is not included, nor is the drainage that companies carry out to dry the area and avoid infiltration into their projects.

Antamina says that 100% of the water used in its operations comes from the rain and that 99% of the water used is recycled. However, [there are 10 resolutions](#) that give Antamina rights to freshwater sources including streams, a river and a lagoon in Ancash, and an aquifer in Barranca, Lima. We need to know more about the extent to which the company is using these fresh water resources. We also need to know more about the criteria that the company uses to determine the use of rainwater. This is important so that we can understand the impact of the mine on the local hydrological cycle more generally, including the amount of water that is no longer available to replenish streams in the dry season or to recharge the aquifers.

The state has no equipment to measure the volumes of water used by mining companies. It is the companies themselves that send an affidavit report on the amount of water consumed in a year. If they fail to do so, the National Water Authority bills the company an approximate average based on the maximum allowed limit. Despite the amounts being minimal, companies do not always pay their water bills. Antamina, for example, [did not have](#) its water bills up to date in 2016, while processing 430 thousand tons of copper and 170 thousand tons of zinc in Ancash.

Another issue of concern is the company's slow response to the global Covid-19 pandemic. At the beginning of the pandemic in Peru, Antamina was allowed to continue operating by the Peruvian government, albeit in modified form. On 31 March the company [reported](#) its first infected workers, and on 3 April, [workers complained](#) that the company was not taking the outbreak seriously and that there were many more workers showing symptoms. Despite these warnings, the company did not move to shut down the mine [until 13 April](#). By the end of April, one worker [had died](#) and another 120 had [been infected](#). The question remains why the company was so slow to act on the spread of the pandemic.

Resolution Copper, USA

In the United States, in the face of decades of legitimate Indigenous opposition, BHP is the minority owner (45%, along with Rio Tinto 55%) of Resolution Copper, which is proposing a large copper mine near Superior, Arizona. The proposed mine would destroy the religious and sacred place known as Oak Flat, including a public campground and thousands of additional acres of public land.

The project is currently in the permitting stage and the permitting agency (the US Forest Service) released a Draft Environmental Impact Statement (DEIS) in August of 2019 and is currently writing a Final Environmental Impact Statement (FEIS) which may be completed in December of 2020. A special interest law dictates that Oak Flat must be turned over to Resolution Copper within 60 days of the publishing of the FEIS. However, the appraisal of the land, which is necessary for the land transfer, will not be complete until sometime in 2021.

The project includes a controversial and technically problematic deep underground block cave mine 2,134 meters below the surface of Oak Flat. This would create a crater roughly 3,200 meters wide and 300 meters deep due to subsidence of the land. The total project area studied in the DEIS indicated that as much as 6,000 hectares of land would be destroyed. However, the acreage impacted is not yet fixed because Resolution Copper is still making changes to the proposal. Besides the destruction of public land, the mine would dump nearly 1.4 billion tons of toxic mining waste into an unlined tailings dump. The preferred alternative tailings site will ultimately cover an additional six square miles with a dam 150 meters high, with serious concerns whether the proposals to deal with the tailings would meet Arizona's standards for tailings dams safety.

Another issue with this project is that it would use significant amounts of water, enough to supply a city of 180,000 people, for 40 years. In the DEIS the US Forest Service stated that the amount of water used "could be greater than the estimated amount of physically available groundwater."

This is a serious issue considering that the southwestern United States is facing an extended drought. Local farmers in particular would be affected by Resolution Copper's water extraction.

Other people affected are Indigenous people to whom Oak Flat is sacred, including the Apache who call it Chí'chil Bı́dagoteel. Oak flat is on the National Register of Historic Places (NRHP) as a traditional cultural property (TCP), which is the Chí'chil Bı́dagoteel historic district. Additionally, it is a world-class recreational area, attracting climbers from all over, not to mention a place of biological diversity. Several endangered species will be harmed by the mine, including the Arizona hedgehog cactus, the yellow-billed cuckoo, and the narrow-headed garter snake.

It is striking that after Rio Tinto destroyed the Juukan Gorge Rock Shelters in Western Australia earlier this year it promised "to rebuild Rio Tinto 's reputation for cultural heritage management". Similarly, BHP stated that "in order to properly address cultural heritage matters when making land use decisions, it is necessary to take into account the views of the traditional owners of the lands where that cultural heritage is located." This is contrary to its dealings in Arizona where the company is moving full speed ahead with plans to destroy Chí'chil Bı́dagoteel.

BHP claims they have the legal right to build the mine in the manner they intend to, while denying that the area is culturally significant to tribes and refusing to demonstrate the infeasibility of alternate mining methods.

Demonstrating financial responsibility

Financially responsible companies provide for the cost of their activities right through to the cessation of those activities. Mining is highly disruptive to both local and global environments, and the costs of rehabilitation need to be fully recognised in mining companies' provisions in their balance sheets.

BHP has two major thermal coal exposures, Mt Arthur in New South Wales and Cerrejón in Colombia, with huge potential rehabilitation costs against a backdrop of falling coal prices and a global movement away from fossil fuel.

- The Annual Report shows an increase in the estimate within the provision for closure and rehabilitation costs of \$1,255m, representing 18% of the opening provision of \$6,977m. The Annual Report does not disclose the reason for this. BHP should provide a detailed explanation.
- Given recent reports that BHP is actively considering offloading its coal assets, BHP should assure investors and other stakeholders that it will commit to funding the full rehabilitation of these sites in recognition of the disruption brought about by its past and current activity, and the profits it has made from them.

Good practice would be for mining companies to post full security with governments to cover the eventual cost of reclamation at the start of projects, to hold sufficient financial assurance against likely environmental damage and third-party losses, and to publish reclamation plans and estimates in a manner accessible to all stakeholders.

- It is unclear from BHP's Annual Report what level of security has been posted with the governments of the territories in which it operates for mine reclamation costs. It should provide a breakdown at least for the ten countries where it has the most activity.
- The extent to which BHP holds sufficient financial assurances to meet the costs of likely environmental damage and third-party losses that arise due to mine related accidents is unclear from its Annual Report. It should be clear about whether its approach is to self-insure. If so, where is this reflected in its accounts? If it is not planning to insure for this, this should be made more explicit.
- The company should make clear its view on proposals to establish an industry-funded pool based on a charge against volume of production from operating mines, to cover reclamation costs where actual reclamation costs exceed estimated costs and a mine owner is unable to pay; or when the costs of an unexpected event, such as a tailings pond breach, exceed the financial assurances required for such a loss, and no party is found to be at fault, or the polluter is unable to pay.

- The company should make clear its view on proposals to create a claims process for compensable damage which is arms-length from the mine operator and includes a process for review of disputes regarding claims adjudication without the need to go to court.
- In the interests of transparency and accountability, and to reassure investors, BHP should publish, on an annual basis, site reclamation plans, reclamation cost estimates, and related security, for each of its mines and in aggregate. It should also make publicly available on an annual basis proof of security provided for unexpected environmental harm events for each of its mines.

Other current issues

Climate change

BHP is under pressure from many of its own investors to reduce its carbon emissions. [Research by the Climate Accountability Institute](#) puts the company among the top twenty carbon emitters on the planet. The research attributes 63 percent of the carbon dioxide and methane emitted between 1751 and 2010 to just 90 entities. Fifty are investor-owned companies, including BHP.

BHP has recently revamped its strategy to cut operational emissions by 30% by 2030 from this year's levels, but it stopped short of tackling Scope 3 emissions — those generated indirectly when consumers burn or process its oil, coal or iron ore. Mining news website [Mining.com comments](#) that 'Scope 3 emissions are undoubtedly the hardest to tackle, but they account for as much as 97% of BHP's total, according to Market Forces executive director Julien Vincent. They are also larger than Australia's total emissions in 2019 of 532.5 million tonnes of carbon dioxide equivalent, so stakeholders were expecting more.'

Worker rights and COVID-19

Global union IndustriALL's BHP network is urging the company to [respect the right to occupational health and safety](#) at all its global operations during the Covid-19 crisis. It says that while BHP in Australia and Canada is implementing proper occupational health and safety measures for the Coronavirus pandemic, the same cannot be said of its operations in Latin America. It accuses the company of claiming to have had no deaths at its Peruvian operations when in fact there have been two deaths at Antamina. It says the situation is similar for BHP workers in Chile, where the workers staged a 24-hour stoppage when the pandemic broke out, to press for measures and protocols to be able to continue to work.

Igor Díaz, president of Colombian mining union Sintracarbón, explained that there had been more than 250 cases among workers at the Cerrejón mine, partly owned by BHP, and that two workers had died as a result of Covid-19 in the mines.

Dust suppression at Port Hedland, Western Australia

At BHP's [2019](#) and [2018](#) AGMs, representatives of residents of Port Hedland raised the issue of fine dust pollution around the company's iron ore loading facilities at Port Hedland. They expressed concern about the health impacts of dust, especially on children. However, the company has claimed that their questions were too detailed to be dealt with at an AGM.

Mining waste at Olympic Dam, South Australia

BHP controls a huge copper and uranium mine, Olympic Dam, in South Australia. Approval was given in 2019 for a massive new tailings dam there, Tailings Storage Facility 6 (TSF6).

In a [15 September 2020 article in The Ecologist](#), Dr Jim Green and David Noonan say: 'This tailings dam is to be built in the same risky 'upstream' design that featured in both the Samarco disaster and the January 2019 Vale Brumadinho tailings dam disaster that killed over 250 people – mainly mine workers – in Brazil. ... An internal 2016 report reveals that TSF6 has the potential to cause the death of 100 or more BHP employees and to cause "irrecoverable" environmental impacts from release of tailings waste. ... TSF6 is to cover an area of nearly three sq km in tailings waste up to a height of 30 metres at the centre of the tailings pile, equivalent to the height of a nine-story building. BHP will leave this toxic mine waste there forever. ... Radioactive tailings waste at Olympic Dam poses a significant long-term risk to the environment and must be isolated for over 10,000 years – effectively forever.'

The article also points out the lack of respect that the company has shown to the Aboriginal Peoples in whose traditional territory the mine is situated.

Dr Jim Green is the national nuclear campaigner with Friends of the Earth Australia and editor of the Nuclear Monitor newsletter. David Noonan is an independent environmental campaigner.

Aboriginal sacred sites in Australia

At the Australian Federal Parliamentary Inquiry into the destruction of the Juukan Gorge Aboriginal site in Western Australia by mining company Rio Tinto, BHP admitted on 17 September that it had been 'aware of Australian Aboriginal groups' worries about the future of dozens of heritage sites before it sought and obtained approval to destroy them, as part of a \$3.4 billion expansion of its South Flank iron ore project' (reported in [Mining.com](#)). Mining.com reports that 'The company, the second major miner to appear at a federal parliamentary inquiry investigating Rio Tinto's destruction of two 46,000-year-old sacred shelters, obtained approval from the Western Australia government on May 29, executives said. That was just five days after Rio destroyed the Juukan Gorge caves.'

BHP plc's [Notice of Meeting](#) for this year's AGM includes proposed resolutions (from page 39 onwards) by the Australian Centre for Corporate Responsibility, representing a number of institutional shareholders, calling on the company to do much more than it has yet undertaken to do to ensure that Aboriginal heritage is not destroyed.

Membership of industry bodies

Numerous institutional shareholders have long been concerned about BHP's membership of industry bodies whose political lobbying positions are not in line with the Paris climate agreements. Concern has recently been expressed about the use being made by the industry of the need for post-pandemic economic recovery to reduce environmental regulations and ignore the need for sharp reductions in fossil fuel use. The Australian Centre for Corporate Responsibility is proposing a resolution on this matter as well - also included in BHP's [Notice of Meeting](#).

Legacy issues

Ok Tedi

The Ok Tedi copper and gold mine in Papua New Guinea was majority owned and operated by BHP until 2002. Since it started production in 1986, the mine has discharged 80,000 metric tonnes of mine wastes per day, including heavy metals, directly into the Fly river system. This has made the river run thick and grey, such that when the river floods it rises over the banks and smothers the forests and food-producing gardens of the indigenous peoples living along the Ok Tedi and Fly rivers. Similar destruction is caused where the polluted water travels up side-creeks.

Over 2,000 square kilometres of forest have been damaged or destroyed by tailings from the Ok Tedi mine, including the hunting, fishing and garden areas of more than 40,000 indigenous people. Mount Fubilan, the site of the Ok Tedi Mine, has been reduced from a peak of over 2,000 metres, to an open pit, the bottom of which lies at sea level.

When indigenous peoples and environmentalists tried to compel BHP to install proper mine waste management facilities, the company resisted these efforts. Yet in 1999, after more than a decade of damage, BHP CEO Paul Anderson declared that the Ok Tedi Mine was “not compatible with our [BHP’s] environmental values and the company should never have got involved”.

Despite recognising the environmental destruction caused by the mine, the company did not take responsibility for cleaning up the mess or compensating the people affected. In 2002, BHP transferred its 52% stake in the mine to the Papua New Guinea Sustainable Development Program Limited, which is considered an attempt to limit the company’s environmental liability for cleaning up the biggest environmental disaster in the country’s history. The mine is now scheduled to close in 2025; however much of the damage remains, with reports suggesting that the area deforested by the mine will permanently remain savannah grassland.

Cerro Matoso

Another case of BHP trying to evade its responsibility for the devastating effects of its mining operations is the case of Cerro Matoso. Situated in the grasslands of Córdoba, Colombia, it is one of the world’s largest ferronickel mines and has caused severe health impacts on the local population. BHP was involved in Cerro Matoso from the beginning of large-scale mining operations there in 1982, acquiring full ownership in 1997.

In the 1990s evidence started to emerge of the devastating health impacts on local indigenous (Zenú and Embera) and Afro-descendant communities. These were subsequently confirmed in a scientific study undertaken by the Colombian Institute of Legal Medicine and Forensic Science and presented to the Colombian Constitutional Court. Alarming high rates of miscarriage, birth defects and cancer are widespread in nearby communities and have been linked to the heavy metal contamination found in local air, soil and water.

In 2015 a new company was spun out of BHP which took over the Cerro Matoso operations, allowing BHP to distance itself from yet another operation laden with liabilities. Despite BHP’s denial of its role in the deteriorating health of nearby communities, in March 2018 the Constitutional Court found South32 (the new company) responsible for irreparable damage to local communities and ordered it to compensate communities. After South32 appealed, the compensation order was nullified by the court in September 2018. The company was allowed to continue its mining operations whilst at the same time responding to the Court order to re-apply for its mining licensing as its operations did not meet environmental standards.

Indomet

Indomet is another example of BHP abandoning a mining project with little regard for the destructive legacy left behind. In the 1990s, BHP developed and secured the mining rights to the IndoMet coal concessions in the Borneo rainforest. They cover 350,000 hectares, which is about twice the size of Greater London.

The destructive impacts of the coal industry in Kalimantan became increasingly clear throughout the 1990s, with entire communities displaced and disenfranchised, livelihoods and social structures destroyed and rivers polluted.

In 2007 the 'Heart of Borneo Conservation Area' was established in the centre of the island of Borneo. Its aim was to prevent further destruction of one of the last and largest remaining intact primary rainforests, both to protect biodiversity and to help tackle the climate crisis. At least two of IndoMet's seven coal concessions overlap with the Heart of Borneo Conservation Area.

Besides the impacts on biodiversity, coal mining has had severe effects on the indigenous guardians of these forests and their downstream neighbours in the villages and towns of Central, East and Southern Kalimantan. BHP used its financial power to dominate the political realities of the area. Cronies were sent in to get local inhabitants of Maruwai village to cut down the rainforest in order to change the legal categorization of local lands and forest. This happened at arm's length from the company, allowing them to claim ignorance of what was happening on the ground. When local resistance started to appear, intimidation and other means were used to ensure the right outcome for the company.

Communities were encouraged to cooperate through token social projects and the promise of a modern urbanized future. Similar promises had been made previously by timber and palm oil companies keen to exploit the natural resources. BHP and other mining companies effectively dominated communities and the road networks started by the logging companies, with little real concern for the needs of local communities and the environment. The lawless reality of the region encouraged and allowed BHP and other coal companies to bully their way into the lives of local people and to take control of their natural heritage.

In defending the development of coal mining in the forests of Borneo, BHP makes much of the distinction between metallurgical and thermal coal, but this distinction rings hollow in the face of the climate emergency facing the world. The company's role in exacerbating the destruction of the Borneo rainforest and Indonesia's continued reliance on coal cannot be erased. BHP needs to be held accountable for its irresponsible investment and pay appropriate compensation.

In addition to the severe environmental and social impacts, the project made no sense financially either. In 2016 BHP sold its 75 percent share of the project to Adaro Energy at a huge financial loss for US\$120 million, well below the US\$ 335 million Adaro had paid for their 25 percent stake in the project in 2010.

Although the project is now fully controlled by Adaro Energy, one of the largest Indonesian mining companies, BHP's role in developing this 'extreme' coal project cannot be forgotten. In particular since the mining industry now claims both community legitimacy and social and environmental responsibility. This includes BHP, which for years has claimed good practice both in terms of stewardship of the climate and in their dealings with indigenous communities.

Please refer to the London Mining Network report - ['Cut and Run: How Britain's top two mining companies have wrecked ecosystems without being held to account'](#) for a fuller account of the legacy issues of Ok Tedi and Indomet highlighted in this brief.