
FMG Respondents' outstanding objections and evidence subject to limitations under the *Evidence Act 1995* (Cth) (EA)

Witness Statement of Lyn Cheedy

(Paragraph / Part of Paragraph)	Objection	Applicant's response	Resolution/ Ruling required
[4]-[7]; [9]; [12]; [25]; [36] (4 th and 5 th sentences); [37]; [38] (5 th sentence); [42] -[47]; [48] (1 st to 3 rd sentences); [50]-[53]; [54] (8 th to 10 th sentences); [55]-[70]	Relevance (Social disharmony)		Resolution: the parties have agreed that the ruling on this objection is appropriately dealt with when judgment is delivered because whether social disharmony is compensable under Part 2, Division 5 of the NTA is a matter in issue between the parties.

NOTICE OF FILING

Details of Filing

Document Lodged:	Witness Statement
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	2/05/2023 5:22:32 PM AWST
Date Accepted for Filing:	2/05/2023 5:22:43 PM AWST
File Number:	WAD37/2022
File Title:	YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC (ICN 8721) AND STATE OF WESTERN AUSTRALIA & ORS
Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



AMENDED WITNESS STATEMENT OF LYN CHEEDY

Federal Court of Australia

District Registry: Western Australia

Division: General

No: WAD 37/2022

**YINDJIBARNDI NGURRA ABORIGINAL
CORPORATION RNTBC (ICN 8721)**

Applicant

STATE OF WESTERN AUSTRALIA

Respondent



1. My name is Lyn Cheedy. My Ngarda name is Woe and it was given to me by Bigali Hanlon's mother Ejit. I was born on 30 September 1970 at Roebourne

Filed on behalf of the Applicant
Prepared by Simon Blackshield
Law firm: Blackshield Lawyers
Tel: (08) 9288 4515 / 0414257435
Email: simon@blackshield.net

Address for service

Level 28, AMP Tower, 140 St Georges Terrace PERTH WA 6000

Hospital. My children are Tenellia Lockyer, Amorette Lockyer, Curtis Lockyer and Simon Lockyer. My husband is Arnold Lockyer, and he is a Ngarluma man.

2. I am a common law native title holder as recognised by the Determinations of the Federal Court in *Daniel v State of Western Australia* [2005] FCA 536 and upheld by the Full Court in *Moses v State of Western Australia* [2007] FCAFC 78 (**Ngarluma Yindjibarndi claim**) and in *Warrie on behalf of the Yindjibarndi People v State of Western Australia (No 2)* [2017] FCA 1299 (**Yindjibarndi #1**).
3. My Mum is Cherry Cheedy (Gilbie) and she passed away in 2007. My father is Wilson Wally a senior Law man and he passed away in 1987. My surname is Cheedy because when my Mum had me, the hospital gave me the name Cheedy because my mother didn't add my father to the birth certificate. That's how I carry the Cheedy name. Cheedy Ned, my sisters' and brothers' father, also helped raise me up and was the grandfather that my children grew up with. Cheedy Ned was always my Dad, he was like my second father when my Dad passed away. My parents are Yindjibarndi, and they raised me as Yindjibarndi.

Ngarluma Yindjibarndi hearing

4. Before and during the Ngarluma Yindjibarndi hearing the Yindjibarndi were all united as one and were peaceful. We would always talk to each other in the street. When we had the Ngarluma Yindjibarndi meetings people were respectful to the elders. If there were problems in the past families would sort out their differences by physical fighting and then putting the problem behind them. If young people were having problems the elders would talk to each other about it.
5. Now when it comes to meetings it is fighting all the time and issues are carried on and on. That has been going on since the meeting in March 2011. I talk more about the March 2011 meeting below.

6. Meeting after meeting, mediation after mediation, AGM after AGM it is still the same with people shouting and physically fighting. I always feel on the offensive at AGMs. Allery Sandy and Michelle Adams come to the meetings shouting and carrying on.
7. We have been fighting for native title, fighting Fortescue Metals Group (FMG) and Wirlu-Murra Yindjibarndi Aboriginal Corporation (WYAC) (that FMG set up behind the back of the Yindjibarndi Aboriginal Corporation (YAC)). It has been exhausting. I feel like FMG treats us Yindjibarndi People like we are rocks and we have no feelings. We have suffered so much by FMG causing the split in our community and damaging our *ngurra*. I feel like FMG thinks me and my families are idiots and that we do not notice what they are doing to break up our families. I talk about the FMG behaviour below that has split my Yindjibarndi community and YAC.

FMG meeting 10 March 2008

8. The first time I heard of FMG was in 2008. Andrew Forrest and Blair McGlew came to the Police Youth Hall, what we call the Fifty Cent Hall, in Roebourne on 10 March 2008. They came to talk to Yindjibarndi People about mining on our country. Andrew Forrest told us that he knew Aboriginal culture and people after being brought up in the Pilbara. Hearing the name of his company FMG was important to me. The name FMG makes me think of our important river that goes through Yindjibarndi country called Yaandanyirra (Fortescue) River. It made me feel connected to the company. I felt happy to hear that name on the news because it was promoting our special river.
9. At the first meeting with Andrew Forrest and FMG in March 2008 I thought that the offer of \$3,000,000 per annum for them building a mine on top of not **being** able to access our country was a bad deal. Andrew Forrest said he didn't want us to give Yindjibarndi too much cash and wanted "no grog no gunja". I thought he was saying that we are all alcoholics and druggies. I was offended. It angers me when he stands up at a meeting and says to our face that we don't know how to spend money or make our own decisions. He was going to train people but that is good for some of the young people but no good for the

elders. He was going to offer \$1 million for the elders who can't work but that was not enough to look after everyone and do the things we want to do with money for services for our old people. If we want to buy a house in Perth to house Yindjibarndi people who need health care in Perth, then we would not be able to do that under Andrew Forrest's proposals. Annexed to the affidavit of Simon Charles Blackshield executed 1 May 2023 (**SCB Affidavit**) and marked "**SCB-8**" is a copy of the meeting minutes dated 10 March 2008.

Yaandanyirra Fortescue River

10. The most special thing for Yindjibarndi People is water from the Yaandanyirra (Fortescue) River and it flows all the way from Jigalong to Millstream. It gives our country life. Yaandanyirra links the water from one side of our country at the Solomon Hub Project (**Mine**) on the Hammersley Ranges to the other side at Bilin Bilin. Our Dreaming story comes from the Fortescue River as the *munda* (hill) called Gumana is in Gregorys Gorge and it is where the *Ngaarda* (Aboriginal people) were created by the Marga (our creator being). The Yaandanyirra comes into Yindjibarndi country at Gumbalana (the Hammersley Ranges), it goes underground at the Fortescue Marsh, comes up at Deep Reach, then flows down into Mullinmundjunannaha (Crossing Pool), then it goes to Marlimalunga (lazy sitting in something), Brargormarlinnah (**olive python**) which is on the opposite side of the Fortescue River from Marlimalunga, then the river flows **to** Wuyunmarlinnah (Gregorys Gorge), then it flows to Bilin Bilin (Flat Rocks) (where the first *Bundut* was performed). After Bilin Bilin the Fortescue River flows into Mardudhunera country and then out to the sea. The Fortescue River and the water from it is sacred to the Yindjibarndi People.

FMG Arrival

11. Around the time FMG's Michael Gallagher and Blair McGlew arrived in Roebourne I was really happy they came to talk with us. In the past I had attended meetings with PNTS and negotiations with Woodside for the gas hub at the Burrup Peninsular. I would sit at the back with my mother when David Daniel and PNTS ran the meetings. We heard that Banjima and Ngarluma

had mining agreements. Ngarluma had the Woodside agreement. Banjima had a deal with BHP. I would feel sad for my Mum and Dad that they weren't getting any money from compensation that they could benefit from in their old age. Like we wanted better health care, better cars to go out visiting our country and better homes. I wanted my elderly people to have a more comfortable life.

12. Blair McGlew and Alexa Morcombe came to a meeting on 12 February 2008 at the Roebourne basketball courts. FMG were challenging whether Yindjibarndi People supported Michael Woodley and the YAC Directors about suspending surveys and entering into a land access agreement. I think it was important for me to attend the meeting and show my support for Michael and the others. We all supported Michael Woodley at the meeting. Annexed and marked "SCB-7" to the SCB Affidavit are the minutes of the meeting dated 12 February 2008.

Permission

13. Ngaarda *manjangu* (strangers) must ask an Yindjibarndi elder if they want to get some wood, ~~or~~ ochre **or anything** from Yindjibarndi country. If people do not ask for permission to go on Yindjibarndi country the *nguga nulli* (little hairy spirit creatures) will follow the strangers home and they might get sick.
14. When you go to another person's country you can be *wirrard wardawinji* (spirit feels that something is wrong), you can be told by the spirits if you are in the wrong. The protocols are strict: ask *Ngaarda manjangu* (indigenous stranger) elder to go to the country of the *Ngaarda manjangu* and once you are there you must *wuthuru* (call out to the spirits and tell them your name, why you are there and what country you are from).
15. Yindjibarndi people have to greet the spirits in the country in the right way. For example, when we get to a *yinda* (permanent pool) we must blow out the water from the *yinda* from their mouths and call out to announce ourselves to country and that you are not there to harm the country. If there is no water, we wipe our hands over our armpits so the spirits can smell us and know we are family.

16. My Mum, Dads and older sister Rosie taught me about the Yindjibarndi laws and customs. When my Dad, Cheedy Ned, went through the Law, there were no cars, good roads or shops. There were just stations there then. Dad, Cheedy Ned loved his country and knew it well. My family came off those stations in living memory. Dad and my brothers and sisters lived and worked on the stations. My brother, Middleton Cheedy went through Law in the bush on a station.
17. Dad was born on Hooley Station and brother Middleton was born on Coolawanya Station. The Pat and Sandy families were born, lived and worked on Mt Florance Station. They are descended from the old people who lived and walked on Yindjibarndi country. They have that unbroken connection and belong to it. Then in the late 1960s all the families were moved off the stations. My Mum and Dad and most of the Yindjibarndi eventually were told by the government to move into Ngarluma country in Roebourne. My sister Rosie (deceased) remembered **our parents** ~~that time well and would talking~~ about coming in and waiting on the edge of town until the Ngarluma gave them permission to come into town.

Going to the FMG lease area before mining started

18. In 2006, I went on a flora and fauna survey for Rio Tinto with my mum, Harry Mills, Berry Malcolm and Julie Stevens to Garliwinjinha. After the FMG lease was granted in 2008, a group of us went to see the country around Ganjigurrangurra where they were going to build the Mine. We wanted to see it before it was gone and damaged. There was a mob of us, including my sisters Pansy Cheedy and Rosie Cheedy, the Pat sisters (Mavis, Esther and Patricia), Wayne Stevens, Michael Woodley, Lorraine Coppin (her kids), Kaye Warrie, Joylene Warrie (her kids), Jean Norman (her grandkids), Joyce Hubert, Angus Mack, Thomas Jacobs, Stanley Warrie and my brothers Middleton Cheedy.

While we were at the mining lease area in 2008, Michael Woodley wanted to go to check out a cave where he was told bones of our old people were located. The men did a smoking ceremony as we went close to the cave so the spirits in the land would not harm us. The cave was located in a steep ravine.

19. We went to Ganjigurrangurra (meaning laying down on the edge). This is a creek that whitefellas call Kangeenarina Creek. I have been told by my **grand**son Ashton Cheedy that the *jinbi* and part of the creek has been destroyed by the Mine and that FMG have built up like a dam wall to stop the water from Wirlu-Murra Creek from coming on to the Mine site. The miners use the water there. Because FMG won't let us on to the mining site, we don't know if there is any water there anymore. That area was a big meeting place for us and our old people. The water flows down from the hills into that area. Everyone there was worried about the water drying up. My Yindjibarndi people have had so many concerns over the years with the use of our water like when they dammed up the Harding River. This makes us very worried when another waterhole is going to dry up. Water brings life to our country and without it our plants and animals will die.
20. Our old people fought to stop the damming of the Harding River in the 1980s. That was a long hard fight when my dad, Long Mack, Woodley King and others tried to stop the government building the dam. It broke their hearts to see the river dammed and the *thalu* sites covered. A copy of a film called *Exile and the Kingdom* about the Yindjibarndi fighting to stop the dam is exhibit **EXSW-1** to the witness statement of Stanley Warrie signed 27 April 2023. The construction of the Mine and the destruction of the *thalu* sites to me is like the Harding River Dam fight all over again, except it is bigger and worse. We were taken off our country and pushed into Roebourne in Ngarluma country, the government dammed the Harding River and now FMG build a mine in our country and cut us out. Me and my family are traumatised from being dispossessed time and time again.
21. When we visited the FMG mine site in 2008 there were workers there doing what looked like drilling, exploring work and making access roads. They told us

where to go and where not to go. We camped the night near Tom Price. Back then we could go into the area on our own, with no escort. We had not been locked out yet. We wanted to look at the big *munda* there at Ganjigurra one last time and enjoy our country before it was disturbed. There were bag samples lying around and there was some heavy machinery. While we were there watching those FMG workers, I started to feel like this place was no longer ours, and we may be growled at if we went to a place they did not want us to go to. But it was our country, and we were feeling like *manjangu* (strangers). We wanted to go into the cave to rescue the bones of our ancestors before they were blown up or dug up. The bones were too far into the cave and the entrance was steep. The men declared it was too dangerous to proceed to get them. [REDACTED]
[REDACTED]

22. When we left the FMG lease area I thought I may never see the *munda* again but I thought we would be able to visit it in a flexible way when the Mine started. But that was not to be. From the beginning of negotiations access to the area where the Mine site is situated has always been my number one concern. If we cannot connect with country, we have nothing and we are lost. If we can't go to our country we cannot teach our young people about the country, the culture and our ways of getting bush tucker and preparing it. I think to myself and say to my family 'how can we teach the kids about the country and the spirits of their ancestors if we cannot go there?' It pulls at my *wirrard* (spirit) and it cuts me deeply.
23. Keeping my connection with country is so important. I take my kids and grandchildren camping, visit our birthing sites, visit the old Law grounds, collect bush foods and medicines, go to *thalu* sites, go to our water holes (*yindas*), visit the springs (*jinbis*) and the dreaming sites. Being stopped from doing that is heart breaking for us and that a big hole has been dug on our land is like torture to me. It is very upsetting. If we don't protect the land, it has an impact on the wildlife and everything. It makes me feel powerless.

Going to Ganjigurrangurra

24. FMG wanted a 4-day fauna and flora survey done for a gas pipeline on 9 and 10 October 2013. I went with Jane Cheedy's daughter [Casey Cheedy] in one car. Wayne Kelly, Shane Cheedy (Charlie Cheedy's ~~uncleson~~), Danny True and Angus Mack went in another car to the FMG mine site with 2-3 scientists. The survey was for future revegetation done through YAC. When I got to the mine site I went to the front desk and then waited in the carpark for 2 hours. We were then shown to the visitor's camp. I noticed that there were 2 mining camps. One was for visitors and one for permanent workers.
25. We arrived at the camp waited to get in. When we first arrived John Sandy from WYAC and an Eastern Guruma man Ronald Hicks talked to Shane Cheedy and said words to the effect, "*What are you doing here? Why don't you fuck off, this is not your country.*" It turned out that the survey company came to the PBC and didn't know that FMG would not go to YAC and instead went to WYAC.
26. At that time, FMG were ~~just about to mininge but had not started~~ **I did not see the pits yet. I only saw the roads and other construction.** The day after we arrived we flew in a helicopter to a place where we sat down for lunch and the scientists were on the radio talking. Then they came over to us and said words to the effect "*you need to get out of here now. We talked to people in Perth. We are getting you back on the helicopter to go back to the camp so you can get your things and go.*" Before we got onto the helicopter, I rang Michael Woodley on the satellite phone and told him what had happened, Michael said words to the effect "*Yeah Mum, you better get out of there.*" [REDACTED] because I was being flung off my country like a [REDACTED]

Spirits

27. Your *wirrard* develops as you are a child, and you have country to go with it because your parents give that to you and their parents gave that to them.
28. The spirits are now more visible on country because of the Mine and they have nowhere to hide. My **grand**son Ashton Cheedy, used to work at the Mine, and he told

me about workers coming to him for help because they were being tormented by the spirits. I believe the spirits are restless because they have lost their home. The *nguga nulli* (little spirits of the land which also look after country and live in the caves) have been dispossessed by the Mine like the Yindjibarndi have. It makes me sad that they have nowhere to go.

29. The caves are places for the bones of our old people, WYAC has cleared them and agreed to FMG to destroy **some** sites on heritage surveys, and this makes me angry and sad. The caves are being destroyed at the Mine, and we know that they were the resting places of our ancestors, artifacts were stored there, mowan objects and they are sites of rock art. It is so troubling for these places to be destroyed and our culture is being destroyed with it.
30. The Mine hole and the noise generated by the machinery is disturbing the spirits. The spirits no longer have a home as the caves and deep valleys where they formerly lived have been destroyed. They are homeless and have been frightened out of their country. One consequence of this is that the spirits have now moved into the accommodation units where they confront and frighten the Mine workers. Some Mine workers have gone crazy, and are being haunted by the spirits, who have lost their homes.
31. When my **grand**son, Ashton Cheedy, started working for FMG at the Mine he was approached by a whitefella who was being tormented by the spirits and he called me to discuss the problem. Ashton told me the whitefella saw Ashton in the mess and said, "*can you please help me? I am being haunted by a spirit*". He told Ashton that he dreaded going into his room as the spirit would look down on him while he laid in bed. He said it was very close up to his face. Every day the spirit was there watching him. He could feel him, it followed him into the mess and onto the mine site. He was frozen for 4 hours for fear of the spirit following him. Ashton went to this fellow's room and spoke to the spirit and told him not to upset this man and to "leave him alone" in Yindjibarndi language. It was a *nguga nulli*. The fellow told Ashton later that it was the first time he had had a good sleep since he had been at the Mine.

32. Late last year Ashton called me again and said that there was a Noongar woman who was afraid to go back to her room and could see a cloud of smoke in the room. I told Ashton to get the *Goonawoyu* tree green leaves in a tin and burn them and smoke the room out. He told me he did what I said and spoke in Yindjibarndi language and said to the spirit, "*leave this person alone*". The spirit left her room.
33. I believe that the country has been torn apart and the spirits are getting lost because they do not know where to go. There are no sites as landmarks anymore so they have lost their way. The *nguga nulli* are moving into people's rooms because their country has been destroyed. I am very upset that our Yindjibarndi spirits, who usually look after our country, are being evicted from their country.

Wuthuru

34. When I did a flora and fauna survey on 9 and 10 October 2013, I felt happy and peaceful being back on my country. While we were looking at something on the side of the Rio Tinto access road a native bee landed on my finger, so I knew honey was around. When you have been away from country for a long time the country welcomes you back and it provides for you too. When you return after a long time you have to be quiet and let the spirits of the ancestors recognise you again. If children are with you, you tell them not to make a lot of noise, not to climb the *munda* or a tree. Teach them about the spirits in the country. We teach them to do *oodorongarta* (spitting out the water from a *yinda*) if there is no water you rub your arm pit when you arrive. We don't do it when we go to the same place all the time. If we haven't been camping in a place for a while, we will do a smoking ceremony too. The spirits can smell you and know if you are family and they will greet you sometimes in your sleep.
35. When we go on Yindjibarndi country I call out in language, "*I belong to this ngurra, I am Yindjibarndi.*" We do this to respect the spirits in the land, the country and we perform the ceremony for the benefit of others. We can't perform the *oodorongarta* at Ganjigurrangurra anymore. We are disjointed from our

country. Our teaching about that country has been cut off. We can't see it and we can't teach the young people about it. This is one of our greatest losses. We have lost our access to the spirits in the land, and we can't teach the younger generations about this important site. We want to talk about our *ngurra* but we are not allowed. We are shut out. It is painful for me to think about it and talk about it.

***Nyinyaard* (culture of sharing)**

36. *Nyinyaard* is a rule about Yindjibarndi People looking after our family and extended family. If people don't have something, you have to share with them. If people need sugar, meat or milk, people will share it with them. When I was growing up, we would always pack up Dad's car and it was always full. So now when I see and experience WYAC members only looking after WYAC members I see the *Nyinyaard* rule being broken. Since FMG landed in town they have cut the *Nyinyaard* rules in two.

37. Before FMG came into the Yindjibarndi People's lives I observed that Yindjibarndi People were close knit and followed the *Nyinyaard* rules. We always ask each other for things. Now we are afraid to ask because we think they will say 'No'.

Galharra

38. Every year people go to Woodbrook for Birdarra Law. YAC have meetings and WYAC have separate Law meetings. The mens' meetings got separated around 2016. Tim Douglas is a Law boss for both. It made me angry that Law business is separated because the Law is for everybody, and it is a time when we should come together and celebrate the life of the child who is going to become a man. Before FMG arrived every Yindjibarndi person would go to Law. But now people have stopped going to Woodbrook because of the split in the community. As an Yindjibarndi person I have obligations to make sure that things are done properly. There are *jinjangu* (workers) who have to do everything for you. Everyone in the *Galharra* has their roles. The obligations in the *Galharra* are strong but not everyone is carrying their weight as they should.

Senior Yindjibarndi men

39. Men have the authority to look after the *ngurra* through men's Law. The men go to Law and sing the songs for the *Bundut*. This allows men to go out to survey the country first to ensure it is safe and then the women can set foot on the *ngurra* without fear. If there is a men's place, then women can't go there. The *Bundut* songs are about moving around on country and seeing things on country. The Marga was travelling and made the Yindjibarndi world. When you hear the song in the *Bundut* it is sung in the language of where the Marga went. For example, if it goes to Ngarluma country it is sung in Ngarluma language.
40. Yindjibarndi law is also matriarchal law (mother's law). The mother has the right through the *Galharra* that when the family decide to put the boy through the Law they go through the mum's *Galharra*.
41. The PBC should be organising the heritage surveys. They represent the common law native title holders and should make decisions about country. They should handle native title decisions and make sure the right people with the knowledge under Yindjibarndi traditional law and custom are the correct people to go to the Mine site and speak for the areas where the mining lease is.

Social Disruption

Five Mile meeting on 7 February 2008

42. FMG approached the Yindjibarndi People about the Mine in about 2007. As time went on it seemed that we could not stop the Mine. Then George Ranger came to Marion's house and asked me and my sisters (Rosie, Pansy and Marion (married to George Ranger) to go to a meeting at Five Mile Community near Roebourne on 7 February 2008. At the meeting John Sandy and George Ranger talked about how if we didn't agree to the FMG agreement we would have a mine but get no money. They were trying to convince us that we should go ahead with the FMG deal which was \$3 million a year at that time. [REDACTED]
- [REDACTED]
- [REDACTED]



Meeting on 6 July 2010

43. I went to a meeting at the Roebourne Diner on Roe Street on Tuesday, 6 July 2010 where transitional housing is now being built. In 2010 it was a Diner. The meeting was convened by Blair McGlew and Michael Gallagher of FMG to discuss training and jobs with an indigenous job programme called Vocational Training and Employment Centre (VTEC). I had heard about the meeting from another Roebourne resident. I can't remember who. The people I can remember that were at the VTEC meeting were George Ranger, Allery Sandy, Aileen Sandy, Bruce Monadee, Jill Tucker, Amy Jerrold and Maudie Jerrold. I was asked to put my contact details down if I was interested in work. Lots of people gave their contact details. Blair McGlew passed around a paper and the meeting was told by Blair McGlew that the Yindjibarndi People would not get any money if we didn't agree to the \$3 million per year offer. He said FMG did not have to pay anything to the Yindjibarndi People for the Mine.
44. Michael Gallagher was talking about heritage surveys rather than about jobs and training. Blair McGlew and Mr Gallagher said that later that week FMG would do heritage surveys without Yindjibarndi People if someone did not go with them. I remember my nyirdi Vince Adams, and some other men present, agreed to do surveys. Annexed and marked "SCB-25" to the SCB Affidavit is an undated 'FMG Yindjibarndi information paper' handed out at the meeting that listed Blair McGlew as a contact.
45. On Thursday 8 July 2010, I attended another meeting at the Marnda Mia Meeting Rooms in Roe Street, Roebourne, together with my sisters, Rosie and Jane. The meeting was called by YAC the day before to discuss the meeting I had attended on 6 July 2010, developments with the Yindjibarndi #1 claim and FMG's having caused conflict in the community by calling the VTEC meeting on 6 July 2010. Michael Gallagher also attended the YAC meeting on 8 July 2010. Annexed and marked "SCB-39" to the SCB Affidavit is a copy of the minutes of the 8 July 2010 meeting.

46. After YAC was set up we had Annual General Meetings. In the early years everyone got on at the meetings. After the Five Mile meeting in 2008 I could see people in the group getting upset with Michael Woodley, Chief Executive Officer (CEO). People like George Ranger, Bruce Woodley, Allery Sandy, Maudie Jerrold, May Adams, Vince Adams, Rodney Adams, John Sandy and Michelle Adams would talk up and make comments. Then in late 2010 these people started the WYAC.

47. I talked to Allery Sandy about WYAC, and I said "*What is this new Yindjibarndi Aboriginal Corporation about? We have already got YAC.*" Allery said, "*It's not about native title, it's about welfare, health, old people.*" I believed her, but then I found out that they were doing heritage surveys with FMG over the top of YAC.

Those people were clearing the sites for the new FMG Mine on our country. YAC was cut out of the heritage surveys. Me and my family were upset about this.

48. From 2011 the members of WYAC started joining YAC in large numbers. They indicated that they were doing this so they could take over the management of YAC and negotiate an agreement with FMG. They also wanted to agree to a consent determination of non-exclusive native title just like the Ngarluma Yindjibarndi determination. The YAC members, including myself, wanted exclusive native title. We knew strangers had no right to come on to our country without seeking permissions and that, if a stranger did come on to country that was not their country, they would be punished by the spirits if they did not seek guidance and permission from an Yindjibarndi elder. The spirits make sure you don't touch or take anything from that place. If you do the spirits will chase you and make you *wanda wanda* (lose your mind) and torment people.

49. The Ngarluma Yindjibarndi determination gave us non-exclusive native title and we wanted to go forward with the Yindjibarndi #1 claim to prove we had

exclusive possession and the right to control access. FMG opposed the Yindjibarndi #1 claim of exclusive possession and appealed all the way to the High Court.

50. Members of WYAC tried to take over the running of the Yindjibarndi #1 claim at meetings on 16 March 2011 and 23 June 2015. The meetings were held by members of WYAC to authorise a replacement Yindjibarndi #1 Applicant. Both attempts were unsuccessful. I talk more about the meeting on 16 March 2011 below and the meeting on 23 June 2015 was the subject of a decision by Justice Rares in *TJ (on behalf of the Yindjibarndi People) v State of Western Australia* [2015] FCA 818.

Meeting with Graham Neate on 10 August 2010

51. On 10 August 2010 I attended a meeting at the 50 Cent Hall. There was a big mob of Yindjibarndi People including those who later became the WYAC like Allery Sandy, Ken Sandy, Russell Sandy, Jill Tucker, Bruce Woodley, Sylvia Allen and others. The President of the National Native Title Tribunal, Graeme Neate attended with Alan Toogood to facilitate the meeting. The meeting was about getting an agreement between the Yindjibarndi People and FMG. Blair McGlew, Alexa Morcombe, David Forrest, Sukphal Singh, Michael Gallagher, Michael Thompson and Beck Alston were there from FMG.
52. Blair McGlew said that if the Yindjibarndi People rejected the FMG offer of \$5.5 million (which included training subsidised by the government), “the risk you have is that you will not get anything because you are likely to lose in the Federal Court”. I took this to mean the Yindjibarndi #1 claim. I said to Mr McGlew words to the effect, “why do you say we will lose – the country is our home – what you are offering is not enough”. [REDACTED]
- [REDACTED]
- [REDACTED] Bruce Woodley and Jill Tucker made it very clear that they were going to separate from YAC. Jill Tucker said that she did not want anything to do with the Solomon Hub mine area and wanted to start a business at Millstream. Bruce Woodley said words to the effect that, “we want

to go separately on our own". Annexed and marked "SCB-43" to the SCB Affidavit is a copy of the meeting minutes dated 10 August 2010. I was very upset that they had come to the meeting with their minds made up, had been talking behind my back about agreeing with FMG and were turning against YAC members who wanted to keep pushing for exclusive possession native title. It was devastating for me because I realised that our family had split and I was powerless to do anything about it.

Meeting 16 March 2011

53. I attended the meeting on 16 March 2011. Andrew Forrest addressed the meeting and he said, "*The more that I know Aboriginal people the more I love them*". He talked about Scotty Black teaching him how to ride a horse. My elders had told me that Mr Black was a Banjima man worked on Mindaroo Station that was owned by the Forrest family for generations.

54. Blair McGlew addressed the meeting on 16 March 2011 and offered \$43 million plus a \$1 million elder's payment capped with no CPI increases. Part of the \$4 million, about \$1.2 million, was offered as training so it wasn't money we could use and make decisions about. It was about jobs and training dictated by FMG. I thought to myself that I should be able to decide what training Yindjibarndi People need to do and what jobs we would like. The thing that upset me the most at the meeting on 16 March 2011 was that we would not be allowed on the area where the Mine was being built site anymore. I couldn't believe it because my brother Middleton and sister Pansy many of my brothers and sisters were born on Coolawanya Hooley Station at Jidi Pool not far from where the mine is now. My Mum and her siblings was were born on country. Andrew Forrest said it was a good deal and should be accepted. We were trying to stop WYAC because it was a bad deal. Members of WYAC also tried to authorise a new applicant for the Yindjibarndi #1 claim. Annexed and marked "SCB-27" to the SCB Affidavit is a copy of the transcript of the 16 March 2011 meeting.

55. Lots of people asked questions at the 16 March 2011 meetings and it seemed to me there was unhappiness amongst those at the meeting. It was like a funeral. On top of it, FMG bussed Yindjibarndi people from Carnarvon to get the numbers up for the FMG agreement to be passed. Andrew Forrest attended the meeting

with a broken arm. There was so much shouting. My Dad, Cheedy Ned, stood up and said, "*Listen*" in Yindjibarndi language. No one stopped and listened to him. I was so worried that the WYAC members were disrespecting him. There was almost fisticuffs. It was horrible. Some people who are from Carnarvon were not descended from Yindjibarndi apical ancestors and were not allowed to vote.

56. Dad getting up made me stop and think. Me and my brothers and sisters rushed to him. In order to protect Dad, we then decided to leave before the vote. At that time he was over 100 years old, so we had to go to avoid Dad being in that situation. I was very upset about the way people were not listening to Dad.
57. Then, at the meeting, Andrew Forrest said that Michael Woodley was not telling the truth about other mining companies like Rio Tinto who were paying more money than FMG. I told Andrew Forrest that he had been found in court to be a liar. He and I said the following words (as partially recorded on page 28 of the transcript of the meeting, and at 10.08 on the video recording of the meeting on the USB disc which is annexed hereto and marked "**LC-1**"):

Lyn: "I'm not a highly educated person but I sat down, and I listened, and I took notes, and I thought wow, this is really crap. If we're going to give you our country and when we want to go visit country we say, "oh gee, there's a big fence, we can't go there". Just like there's been "(cannot decipher)."

Andrew: "(cannot decipher)"

Lyn: "No because ... and you are a liar. You can prove in Court you're a liar.

Andrew: "No" "I am not a liar" "(cannot decipher)

Lyn: "You have been proved in the Federal Court or the High Court, whatever it is, that you are a liar. You have lied to your investors, you come here and you are telling lies to all these people here."

Andrew: "No, I'm telling the truth."

Lyn: "You're a liar. You are lying to yourself."

Meeting between YAC and WYAC in March 2014

58. I attended a meeting on 28 March 2014. I saw the YAC and WYAC Directors sign a document agreeing to come together. This was a meeting in the building over the road from the Gunalili Centre where the old Four Square Store used to be. The Directors agreed that YAC and WYAC would come together and have:
- a. half YAC and half WYAC board members on the YAC Board;
 - b. half YAC and half WYAC board members on the YCCL Board;
 - c. half YAC and half WYAC members on Aboriginal heritage surveys;
 - d. half YAC and half WYAC members negotiating native title deals;
 - e. Michael Woodley would resign and a new YAC CEO would be jointly be chosen;
 - f. the outstanding YAC memberships from WYAC members would be dealt with; and
 - g. WYAC wanted to contribute to having a say YAC private companies.

Annexed and marked “**SCB-41**” to the SCB Affidavit is a copy of the signed document reflecting this agreement.

59. These were all the things WYAC asked for and we agreed to them. Although I was not a YAC Director at that time I wanted to go to the meeting to ensure that we were reunited. I recall that Bruce Monadee also was at the meeting. I thought the agreement was important because all Yindjibarndi would come together and there would not be tensions in the community anymore. Michael Woodley resigned. Sometime later I was told that the day after the meeting Nev Powers flew into Roebourne and had a meeting with WYAC Directors at the WYAC offices near the Roebourne post office. Michael Woodley called a YAC meeting and told us the deal was off and he had been called by someone at WYAC who told him the deal was off. I was devastated.

Supreme Court cases

60. I gave evidence in both of the *Sandy* cases before Justice Pritchard. These proceedings involved allegations of oppression by WYAC members who accused YAC of controlling the membership. Justice Pritchard found that YAC

had been controlling membership defensively to avoid the WYAC members taking control and agreeing to an agreement with FMG.

61. When YAC was taken to the Supreme Court the elders were cross-examined and it was humiliating. A lot of money was spent on the Court cases. The Supreme Court, and the fighting with WYAC, has taken its toll on the elders. They have passed away while the fighting continues and there is sadness. I want us to come together for funerals, as a community, for law ceremony for our future generations.
62. Before WYAC was started the whole Yindjibarndi mob would go in a bus to Jigalong or other Law grounds. For example, I would knock on Aileen Sandy's door and say "*Hey, are you coming to Jigalong?*" and she would come in the bus with us all together. Aileen Sandy used to travel on the bus with us too. Now Allery and Aileen (**recently passed away**) see us in the street and just ignore us. It makes me so sad.
63. After the Supreme Court Proceeding in 2016, I flew from Perth to Karratha with my sister Pansy. When we arrived at Karratha, I noticed that Michelle Adams was on the same plane. Cherine Wally (who is related to me through my biological father) was waiting outside the terminal. Michelle must have told Cherine that I had given evidence before the Supreme Court about May Adams' youngest son at Law ceremonies at Woodbrook. We got our bags and went through the doors to leave the terminal. Michelle comes up to us and was swearing at me and Pansy. Cherine walked up and was swearing at us and then walked up to me aggressively and king-hit me in the face. In self-defence I fought back, and Cherine hit me again. I received two black eyes. The airport security reported it to the Police. Charges were laid against all four of us for creating a public nuisance. The case never ended up going to Court. I was humiliated as well as physically injured. The fighting in the Yindjibarndi community around 2015 and 2017 when the court cases were active was bad.
64. I was also embarrassed about European people at the airport thinking we were acting like lawless blacks. I was angry to be attacked by my tribal daughter. The girls should never have touched us under our law and customs. We are the

elders. We should have had a family meeting at their Mum's house, and sorted it out at May Adams' house because Rodney Adams (nyirdi) is May's son. If there was going to be fighting, we could have had our daughters there to fight for us elders. That is the right way to deal with disputes.

18 May 2021 meeting

65. I attended two Yindjibarndi community meetings on 4 May and 18 May 2021 that included WYAC members at the Ngurin Centre and the 50 Cent Hall respectively. Tom Weaver and Nerolie Nikolic from FMG attended the meeting on 4 May 2021. I saw the meetings as an opportunity to sort things out with WYAC and come back together. I hoped that we could come together with WYAC members and also work together to agree to an indigenous land use agreement with FMG. At both meetings in May 2021 Michael Woodley asked WYAC members to drop the Supreme Court cases against YAC. John Sandy responded saying words to the effect, "if everything goes well then we will drop the court case – but we have to go through a process to do this". I then asked John Sandy and Paul Aubrey words to the effect, "what does dropping the court case depend on?". John Sandy said words to the effect, "we didn't make that case – that was FMG - this is just part of the process – we can't just rip up that Mirli-Mirli" (document). Annexed and marked "**SCB-45**" and "**SCB-46**" to the SCB Affidavit are copies of the meeting minutes dated 4 May 2021 and 18 May 2021 respectively.
66. On 1 June 2021 me, and Yindjibarndi People met with Elizabeth Gaines, CEO FMG and Tom Weaver to discuss an indigenous land use agreement. I became hopeful that WYAC and YAC could come together again in 2021. Elizabeth Gaines the CEO of FMG seemed very motivated to negotiate compensation and to bring YAC and WYAC together. I believed in her intentions. I was again disappointed when our meetings between FMG, WYAC and YAC failed. Annexed and marked "**SCB-47**" to the SCB Affidavit is a copy of the Truth and Reconciliation document put forward to FMG at the meeting on 1 June 2021. Annexed and marked "**SCB-48**" to the SCB Affidavit is a copy of an email dated

3 June 2021 from Michael Woodley to Phillip Davies with a summary of points of the meeting held on 1 June 2021.

67. I went to the IBIS Styles Hotel on 13 October 2021 as a YAC Director to talk with and WYAC Directors about getting back together. Annexed and marked “**SCB-36**” to the SCB Affidavit is a copy of a bundle of correspondence between YAC and WYAC dated from 2 September to 19 October 2021.

68. I had hoped going into that meeting that WYAC were going to drop the court cases against YAC and all Yindjibarndi People could become united with YAC. But they didn’t agree. We found out the next day that WYAC weren’t going to come to the table to talk with us. The split had been going on for so long and when I got the idea that we were going to finally come together I was overwhelmed with joy. It breaks my heart every time I get my hopes up. WYAC are my family and I have tried so hard to negotiate and bring them together with us. I have attended so many mediations and meetings and every time WYAC want to organise another meeting it goes nowhere.

69. FMG also stopped negotiations with us for an agreement in September 2021. As the current CEO of YAC, Michael Woodley reports everything to the YAC Board and seeks our agreement and endorsement on all the work he does. At a YAC meeting Michael Woodley read out an email from Tom Weaver to him dated 2 September 2021. Annexed and marked “**SCB-49**” to the SCB Affidavit is a copy of the email from Tom Weaver dated 2 September 2021.

70. I see my family physically fighting over the FMG Mine and the appropriate position to take about an agreement. [REDACTED]

[REDACTED]

I have ~~12~~ 14 grandchildren and I worry about the long term affects on them from the split. My grandchildren get really upset. FMG doesn’t see the physical side of the fights. Andrew Forrest adds insult to injury by telling the media that Aboriginal people who get paid “mining welfare” or “sit down money” are part of an “alcohol disaster” like Alice Springs. We have a broken community that has not been

caused by “mining welfare” but by the split caused by FMG. The young people are really feeling the brunt of it. Young people like to go out and party and have fun, but they end up having a fight because when they get drunk the issues come up.

Compensation Claim Meeting

71. I attended a meeting of YNAC and Yindjibarndi People on 11 December 2021 at the 50 Cent Hall. At the meeting, YNAC consulted with the native title holders in attendance whether or not YNAC should make a compensation claim. There was a lot of support for the compensation claim. Annexed and marked “**SCB-37**” to the SCB Affidavit is a copy of the Certificate in Relation to Consultation and Consent dated 15 February 2022, which includes the details of the meeting of 11 December 2021.

Signed:



Lyn Cheedy

Date: 1 May 2023

“LC-1”

No: WAD 37 of 2022

Federal Court of Australia
District Registry: Western Australia
Division: General

**YINDJIBARNDI NGURRA ABORIGINAL
CORPORATION RNTBC (ICN 8721)**

Applicant

STATE OF WESTERN AUSTRALIA & ORS

Respondents

This is the annexure marked “LC-1” referred to in the witness statement of Lyn Cheedy
made at _____ in the State of Western Australia this 29th day of April 2023 before
me:



[tape USB here]