

NOTICE OF FILING

Details of Filing

Document Lodged:	Notice of Contention - Form 124 - Rule 36.24
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	15/09/2026 4:16:09 PM AWST
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File Number:	WAD299/2026
File Title:	YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC v STATE OF WESTERN AUSTRALIA & ORS
Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "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.



Notice of contention

No: WAD 299 of 2026

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

On appeal from the Federal Court

YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC

Appellant

STATE OF WESTERN AUSTRALIA and others named in the schedule

Respondents

FMG PILBARA PTY LTD and others named in the schedule

Cross-appellants

**YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC and others
named in the schedule**

Cross-respondents

To the Appellant and the First and Seventh Respondents

The Second to Sixth Respondents (together **FMG**) contend that the judgment of the Federal Court made on 1 July 2026 should be affirmed on grounds other than those relied on by the Court.

FMG has also cross-appealed against other parts of the judgment in its Notice of cross-appeal.

Grounds relied on

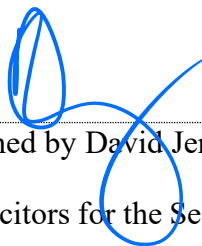
- As to Ground 3 of the Notice of Appeal filed by the Appellant (**YNAC**), the trial judge erred in failing to conclude that the grants of the mining leases were future acts that did

Filed on behalf of (name & role of party)	Second to Sixth Respondents and First to Fifth Cross-appellants		
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not result in an acquisition of property within the meaning of s 51(xxxi) of the Constitution. The trial judge, therefore, did not err in rejecting the alternative claim for compensation for economic loss on just terms under s 53(1) of the *Native Title Act 1993* (Cth) (**NTA**) the subject of Ground 3 of the Appellant's Notice of Appeal.

2. Further, if YNAC succeeds on Ground 3 of its Notice of Appeal (which is not accepted), any compensation to which YNAC or the Yindjibarndi people will be entitled for economic loss on just terms pursuant to s 53(1) of the NTA is an entitlement against the First Respondent (**State**), not FMG.
3. As to Ground 4 of YNAC's Notice of Appeal, the trial judge erred in suggesting that s 123(1) and s 123(2) of the Mining Act 1978 has a "discriminatory effect on the Yindjibarndi people" (thereby potentially engaging s 10(1) of the *Racial Discrimination Act 1975* (Cth) and s 45(1) of the NTA) (*Yindjibarndi Ngurra Aboriginal Corporation RNTBC v State of Western Australia (No 2)* [2026] FCA 585 [459]-[465]). The trial judge, therefore, did not err as alleged in Ground 4 of YNAC's Notice of Appeal.
4. Further, if YNAC succeeds on Ground 4 of its Notice of Appeal (which is not accepted), any compensation to which YNAC or the Yindjibarndi people will be entitled for economic loss on just terms under s 51(1) of the NTA is an entitlement against the State pursuant to s 45(2) of the NTA, not FMG.

Date: 15 September 2026



Signed by David Jenaway

Solicitors for the Second to Sixth Respondents
and First to Fifth Cross-appellants

Schedule

No. WAD 299 of 2026

Federal Court of Australia

District Registry: Western Australia Registry

Division: General

Respondents

Second Respondent:	FMG PILBARA PTY LTD
Third Respondent:	PILBARA ENERGY (GENERATION) PTY LTD
Fourth Respondent:	PILBARA ENERGY COMPANY PTY LTD
Fifth Respondent:	THE PILBARA INFRASTRUCTURE COMPANY LTD
Sixth Respondent:	PILBARA GAS PIPELINE PTY LTD
Seventh Respondent:	YAMATJI MARLPA ABORIGINAL CORPORATION

Cross-appellants

Second Cross-appellant:	PILBARA ENERGY (GENERATION) PTY LTD
Third Cross-appellant:	PILBARA ENERGY COMPANY PTY LTD
Fourth Cross-appellant:	THE PILBARA INFRASTRUCTURE COMPANY LTD
Fifth Cross-appellant:	PILBARA GAS PIPELINE PTY LTD

Cross-respondents

Second Cross-respondent:	STATE OF WESTERN AUSTRALIA
Third Cross-respondent:	YAMATJI MARLPA ABORIGINAL CORPORATION