

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

Witness Statement of Stanley Warrie

Paragraph / Part of Paragraph	Objection	Applicant's response	Resolution/ Ruling required
[11] (5 th and 6 th sentences); [27]; [51]-[69]; [71]; [73]-[74]; [75] (1 st sentence); [76]-[78]; [83]-[86]; [95]; [99] (3 rd sentence, reference to "... and divided by FMG"); [101]-[108]; [114]-[115]; [136]	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.
[54] (1 st sentence: reference to "...was created by FMG"; 2 nd sentence: reference to "... created by FMG")	Opinion Conclusory assertion	Press as s 78 EA lay opinion. Rely on s 78A EA to the extent statement conveys opinion about tl&c's.	Resolution: EA 136
[56] (3 rd sentence)	Opinion	As above	Resolution: EA 136
[95]	Relevance Opinion Conclusory assertion	Paragraph is relevant to relationship between Yindjibarndi and FMG; the division and as background to matter generally. It informs SW's perception of events. Press as s 78A EA lay opinion or as statements of belief.	Resolution: EA 136
[100] (1 st , 2 nd , 3 rd , 11 th sentences)	Opinion Conclusory assertion	Propose change the 1 st sentence to "I am concerned FMG is going to make the mine go deeper. Press remaining sentences as statements of belief.	Resolution: 1 st , 2 nd , 3 rd , 11 th sentences are admitted as statement of belief EA 136.

NOTICE OF FILING

Details of Filing

Document Lodged:	Witness Statement
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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.

WITNESS STATEMENT OF STANLEY WARRIE

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 and others

Respondents



Personal and family history

1. My name is Stanley Warrie and I am an Yindjibarndi man. I was born in Roebourne on 1 October 1963. My father Yilbie (Warreenha) Warrie was an Yindjibarndi man who was born at Wannanha near Millstream Station in Jindawarana ngurra (country). My mother, Bridget Warrie (nee Jacob), was also a Yindjibarndi person. She was born at Mt Welcome Station because her parents were working there at the time. It is on Ngarluma country.

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2. I am a common law native title holder as recognised by the determination 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. I have been a director of the Yindjibarndi Aboriginal Corporation (**YAC**) since it started in 2005 and the Yindjibarndi Ngurra Aboriginal Corporation (**YNAC**) since it started in 2017. I am familiar with the businesses and other interests of both corporations.

Family

4. My father's father, Wimiya King, was Yindjibarndi; and my father's mother, Yiili was Ngarluma/Yindjibarndi/Banjima. Her father was Dingoman from Mulga Downs, and he was Yindjibarndi/Banjima. The Solomon Hub Project Mine (the **Mine**) is in the *ngurra* of Wimiya King. Yiili and Wimiya had children Joyce King and my dad Yilbi Warrie. My dad and Mum had 10 children Kathy (deceased), Kerry, Sheila (deceased), Doreen, Lindsay (deceased), me, Janice, twins Wendy and Kaye Warrie and Sharon. I am cousins with Allery Sandy and her brothers and sister as my grandfather, Wimiya's ~~first~~ ^{second} wife was Yali who had Allery's Mum who was named Lila. **He had two wives at the same time.**
5. My mother's father, Peter (Yulgarri) Jacob-Miller, was the youngest brother to Long Mack, and he was Yindjibarndi too. They had 2 sisters Judith Coppin's grandmother, Winnie Mack, and Mable Mack. My mother's mother, Lilla Snowball, was Karriyarra. Long Mack, Yulgarri, Winnie and Mabel Mack's father was Binju who was Yindjibarndi.
6. I am *ngurrara* (I belong to the country) for *Garlwinji* where the Mine is located. I can speak for that country through my father's father, Wimiya King. I know the songs and stories from the *Bundut* for that country. It is my religious belief that the *Bundut* comes from the *Marrga* who used songs and did things to make the country, plants and animals. Each family have their own *ngurra*. There are 13 *ngurra* in Yindjibarndi country.

7. People who are not *ngurrara* under my religion and Law are *manjangu* (strangers) who need permission to come onto our Yindjibarndi country. The Yindjibarndi People had to get permission from the Ngarluma to go to Roebourne when we were moved off the stations. My Dad, Yilbie Warrie, told me that the government moved us off the stations into Roebourne. It was humiliating for my Dad's generation because they had to leave their country and move onto someone else's country. Once they moved to Roebourne, they had no cars to go and visit country. That is why the 'Homelands movement' was so important to us so we could get back to Yindjibarndi country. I talk more about the Homelands movement below.

Permission

8. When *manjangu* come to our country under Yindjibarndi Law we must do the *wuthurru* (introduce them to country) by calling out to the spirits of our ancestors. We also have to look after the *manjangu* by telling them where they can or cannot go on country. If we don't, they will get sick from the ancestor spirits if they go to a wrong place. I talk more about the ancestor spirits on country at the Mine below.
9. When Yindjibarndi People came to Roebourne they would not come into Roebourne without permission from the Ngarluma People. When Yindjibarndi People arrived in the area, the Ngarluma *warlu* (the dreaming Watersnake) could smell the *manjangu* Yindjibarndi People. A big storm came up. The Ngarluma *warlu* got wild and wanted to drown the Yindjibarndi People. The Yindjibarndi *marban* men (witch doctor men) called on the Yindjibarndi *warlu* from a *yinda* (permanent pool) on Yindjibarndi country. The *marban* men saw the two *warlu* fighting and then when the two *warlu* sorted it out, the Ngarluma *warlu* went back to the sea and the Yindjibarndi *warlu* went back to the *yinda* on Yindjibarndi country. After that, the Ngarluma People agreed that the Yindjibarndi People could live in Roebourne.

Galharra

10. Yindjibarndi People have special relationships in the *Galharra* and relationships elsewhere. For example, men cannot speak to their mother-in-

laws. This is a strong law and culture that has been handed down since *Ngurranyujunggamu* (when the world was soft) and connects us with the *ngurra* and our religion. Another rule about relationships is that men put their sons through the Law. They are called *jinjanoonung*, and the sons are called *nyuju*, and they have a close relationship.

11. Another special relationship comes about with our *urruru*. They are the women who helped our mothers when we are being born. Sylvia Allen (deceased) is my *urruru*. In a *urruru* relationship we look after and care for each other. Sylvia Allen took me and Michael Woodley to the Supreme Court about the memberships of YAC. I was very upset by this because she was my *urruru*, and it broke cultural rules and damaged our cultural relationship.
12. Under *Galharra* I am Banaga skin and I can marry a Garimarra woman under my religious belief and Law. I have done this. My children are Balyirri. All skin groups have obligations for the *nguju*'s wellbeing at Law and culture time. Anyone who is the same skin group as the *nguju* has to look after him until he is right to walk on his own. The *jinjanoonung*, and all the men who have the same skin have to look after the *nyuju*. These are some of the kinship obligation rules in the *Galharra*.

Yindjibarndi businesses

13. Some white people say that Aboriginal people sit around and drink alcohol and waste their money. YAC has businesses and does important things like community training and employment with the compensation money we have been getting from the Rio Tinto rail corridor since 2007. YAC has a business called 'Cheeditha Energy' for setting up solar panels. YAC has a business called 'Yurra Pty Ltd' (**Yurra**) that does contract cleaning, undertakes landscape design and maintenance (parks and businesses), industrial services (like grinding wheels for a balance machine, does design fabrication), building, scaffolding and civil maintenance. Yurra employs 250 people. Yurra handles mining operations maintenance contracts with Rio Tinto and Hancock. YAC has a joint venture with Enterprise rental cars, owning 50% of outlets in Karratha, Port Hedland and Newman.

14. We have trusts set up for the Yindjibarndi People like Yindjibarndi Corporate Community Limited (YCCL) that provides Yindjibarndi People with assistance like food vouchers and getting to medical appointments. I will leave it to the accountants to explain the business structures more fully.
15. Businesses held by Yindjibarndi People own real estate in Roebourne like the Gunalili Centre and the park next door. YAC-run businesses are currently building 10 transitional accommodation units for people coming from unemployment to employment. YAC also owns the Jurluwarlu building (which stores archives) and another at 45 Roe Street, Roebourne which houses 'Ngarda Media' (funded by YAC) and a free community gym. YAC also funds Cheeditha, Buminjinha and Ngurrawaana (all homeland movement communities). YAC funds the ranger programme at Millstream. YAC owns a renewables business called 'Yiyangu' which develops renewable energy in the Pilbara (utilising solar and wind). 'First Nations Water' is developing projects for YAC such as developing a de-salination plant in Karratha to take the pressure off Millstream's water that is being used by the mines and the towns nearby. YAC are heading toward creating an Eco-tourism resort in Millstream National Park. There is a feasibility study being drafted and YAC is waiting for the road to be fully bituminised before work is started. YAC also has a heritage business.

The Homelands Movement

16. After the Yindjibarndi People were moved off the stations and into Roebourne in the late 1960s, some Yindjibarndi People suffered from excessive alcohol drinking. My father's generation was upset by the addiction and violence that came with alcohol at that time. That is why the homelands movement started and Woodley King set up Ngurrawaana, and my Dad (and Kenny Jerrold) set up the Cheeditha community.
17. In the 1980s I went on a trip with my father as part of the Homelands Movement to get the land for our Yindjibarndi Ngurrawaana Community. The elders wanted to set up a dry community on Yindjibarndi country. My father, Cheedy Ned, Long Mack, Woodley King, and some whitefellas from the WA

government went on that trip to Ngurrawaana. Some of the old fellas went up in the charter plane from Millstream airstrip and flew over the area and showed the government whitefellas where they wanted to set up Ngurrawaana community. Later on, they built the community and it is still there. Sister Bernadette, Sister Bernadine and Bob Hart from the Catholic Church helped us by lending a car to go down there. Those people from the Catholic Church also helped us get a minibus and eventually to build the community there.

18. Cheeditha is named after the hill close to there. It was part of old Mt Welcome Station and elders moved there after the Old Reserve closed. In the 1970s, my family lived in the State Housing Village in Roebourne, then we moved to the Old Woolshed in the late 1970s and in 1984 we got housing at Cheeditha. Once Ngurrawaana Ngurrawaana was set up I moved there for two years in about 1997. I moved to Cheeditha in 2000 and I have lived there ever since.

Surveys with Fortescue Metals Group (FMG)

19. Between 6 and 17 July 2007 I participated in a survey with 'Eureka Archaeological Research and Consulting' (Eureka) with Ricky Sandy, Barry Pat, Lawrence Woodley, Daniel True, Devon Woodley, Glenn Toby, Allan Mack, Harry Mills, Bruce Woodley and Lyle Wally for the Mine site. There was no mining then. Annexed and marked "SCB-1" to the affidavit of Simon Charles Blackshield to be affirmed 28 April 2023 (SCB Affidavit) is a copy of the Eureka report of the survey conducted between 6 and 17 July 2007.
20. On the July 2007 survey, I saw bulldozer tracks going across the Ganjingaringunha *jinbi* (spring), I said to the FMG workers, "*what happened there?*". They said, "*we are putting something on the other side of the creek*". The *jinbi* was very important to us because it was the *jinbi* of my father's father, Wimiya King, and where Yindjibarndi People have always got their water. So I told the whitefella from FMG and the archaeologists to be careful and not to cut through the *jinbi* with the bulldozers. I told them in good faith. They agreed they would go around the site. I trusted them to do what I asked.

I thought that arrangement showed both Yindjibarndi People and the country respect.

21. Not long after I asked the FMG workers to go around the *jinbi*, FMG destroyed the site with a bulldozer. After a letter was sent from Andrew Forrest apologising for destroying the Ganjingaringunha *jinbi*, we were really upset because we had told them about the important site, and they then destroyed it. I felt like it was my fault. I thought to myself "*did I cause its destruction because I told FMG about it?*". I felt really upset and angry and I still am. If those FMG workers took me into their home and showed me a special object that belonged to their ancestor, they would be devastated if I destroyed it. Annexed and marked "**SCB-2**" to the SCB Affidavit is a copy of a letter from Andrew Forrest to the "Yindjibarndi People" dated 22 August 2007. I feel that a letter of apology does not make it better because the *jinbi* is gone forever.
22. I thought Yindjibarndi People were doing something good by going on surveys to protect the sites but then we got the letter from Andrew Forrest saying the site was destroyed. I had never done a survey for a mine site before and I thought it was about protecting sites (not showing miners where they are so they could destroy them). Andrew Forrest says he knows Aboriginal people because he grew up with them but if he did, he wouldn't destroy their sites. I thought that if he knew how important country is to us, he would know that when he destroys our sites, he also destroys our *wirrard* (soul).
23. When I first met Andrew Forrest, I trusted him because he told us he grew up with Aboriginal people at Mindaroo Station. He said at meetings with the Yindjibarndi People that he was raised up by an Indigenous person named Scotty Black, so we thought he understood our culture. He would respect us because he said he knew about Law and culture at Cane River near Mindaroo Station. He knew that we were keeping our Law and culture alive. He knew about our suffering from being taken off our land. I thought that he was a good bloke. Looking back now, I can see that there was no respect, and he was going to stop at nothing to build the Mine without taking the Yindjibarndi People's permission, culture or feelings into account.

24. Our country and the *jinbis*, tell a story about the people who own the land. Those springs keep country alive. I am trying to keep the *bowar* (water) safe. The country is within us. When FMG first came to talk with YAC, and before the mine was built, we were worried about the *bowar*. The Fortescue *Wundu* (river) starts at Jigalong, goes through Newman and goes under the ground at the Fortescue Marsh on Banjima country and flows into Millstream in Yindjibarndi country.
25. I am very unhappy about the iron ore mine interfering with our *bowar*. When I went to the mine in 2021, I saw the Dam and I see that FMG is often applying for water licences. When we went into the gullies, I could see that the Paperbark trees were dead. FMG are using the water to wash their iron ore. That Wirlu-Murra *Jinbi* and the Wirlu-Murra *Wundu* (Creek) are very close to the Mine. They are in the dreaming story and sung in the *Bundut* song at ceremonial times. Wirlu-Murra means 'curlew' in Yindjibarndi. It is the *thalu* for the curlew. There was a men's Law site there. The songs record our history and our country.

Nyinyaard

26. When I was growing up, senior Yindjibarndi men told me that as owners of their Yindjibarndi *ngurra* they had to honour the principle of *nyinyaard* (sharing and caring). Not following the rules of sharing in the *nyinyaard* means that you are *Dtadamundar* (greedy) and the rules are being broken. I was taught *muyar-gay* (don't steal from others). When FMG does not include all the Yindjibarndi People to make decisions about Yindjibarndi country (including me and my family who are the rightful owners) and just focuses on the Wirlu-Murra Yindjibarndi Aboriginal Corporation (**WYAC**) members, they are breaking the rules of the *nyinyaard*. Everyone must be included. When FMG and the WYAC talk over the top of us *ngurrara* (rightful owners), they are *ngindow dtadamundari* (getting greedy). *Nyinyaard* is taught by the elders that all Yindjibarndi, including the WYAC members, should follow under Yindjibarndi Law. Everyone must share and look after each other. I talk more about how WYAC came about below.

Disagreements before FMG

27. In the old days when there was a disagreement, that was usually about alcohol or women, we would hold a meeting to discuss the problem. After talking about problems, we would shake hands and make up. People who are now members of WYAC would go on trips ^{we} ^{with} me and others and we all got on well together. The film, *Exile and the Kingdom* (released in 1993), shows how well everyone was getting on at that time. That all changed in about 2010. Exhibited to me at the time of my making this statement and marked "EXSW-1" is a copy of the DVD of that film.

Heritage surveys suspended

28. After Ganjingaringunha *Jinbi* was destroyed, the YAC directors wanted to negotiate a new Yindjibarndi Heritage Agreement (YHA) because we did not like what the Pilbara Native Title Services (PNTS) had agreed to in the existing YHA. On 15 November 2007, the directors of YAC wrote to Andrew Forrest asking about the negotiations for an amended YHA. These negotiations were stalled because FMG wanted to negotiate a "Whole of Claim Land Access Agreement". After an FMG presentation about its plans to develop the "Solomon Project", the YAC directors decided to temporarily suspend heritage surveys in order to develop a negotiation protocol between FMG and the Yindjibarndi community. The negotiation protocol was forwarded to Andrew Forrest, signed by all 12 directors, including me. Annexed and marked "SCB-3" to the SCB Affidavit is the letter dated 15 November 2007.
29. In early 2008, I attended an Yindjibarndi #1 claim group meeting to decide whether PNTS should continue to represent our claim or to have YAC get a law firm to represent us. Annexed and marked "SCB-4" to the SCB Affidavit are the meeting minutes dated 30 January 2008.

Meeting 7 February 2008 with FMG in Perth

30. On 7 February 2008, FMG's Blair McGlew handed me a letter stating that FMG would take legal action against the Juluwarlu Aboriginal Corporation (JAC) and YAC, for breach of contract, if heritage surveys were not

recommenced; and would carry out its own heritage surveys, without the Yindjibarndi People. Annexed and marked "SCB-5" to the SCB Affidavit is the letter dated 7 February 2008.

31. I was really shocked by this letter because it meant that the mining company would go on to our *ngurra* with archaeologists and anthropologists without our permission. They would be going to areas they did not know about without the *ngurrura*. I felt like they were taking over and pushing us off our land. I felt like there was no respect.
32. On 7 February 2008, Michael Woodley, me and Phil Davies met Andrew Forrest and Blair McGlew in Perth. Andrew Forrest told us he had a good connection, grew up with and knew Aboriginal people. I thought he could be trusted and he would know about the pain and suffering in our community because he knew Aboriginal people and their history.
33. The day after the meeting in Perth, I wrote to FMG because mine and the YAC Directors' authority was being questioned. At the meeting on 7 February 2008, Andrew Forrest requested an Yindjibarndi Community meeting so FMG could hear from the Yindjibarndi that the YAC Board had authority, and to gauge the level of support there was for YAC's position in the broader Yindjibarndi community. Those Yindjibarndi men present at the meeting on 7 February 2008 told Andrew Forrest that activities such as Yindjibarndi heritage surveys would only be authorised by the YAC Directors on behalf of all Yindjibarndi People and that we required a land access agreement. Annexed and marked "SCB-6" to the SCB Affidavit is a letter dated 8 February 2008 explaining my position. We walked out of the meeting very angry because he was questioning us about rejecting \$4 million a year on behalf of all the Yindjibarndi People. I said to Michael Woodley "*who is this bloke questioning us and our authority?*".

Meeting 12 February 2008 at Roebourne Basketball Courts

34. FMG asked YAC to hold a meeting so Michael Woodley organised a Yindjibarndi #1 Claim Group meeting for 10am on 12 February 2008 at the Roebourne Basketball Courts. The meeting was attended by FMG's Blair

McGlew and their lawyer Alexa Morecombe. More than 70 members of the Yindjibarndi #1 claim group attended (including Aileen and Allery Sandy), and resolved:

"That the Yindjibarndi People continue to hold their position with the Fortescue Metals Group (FMG) – that is that we will continue to suspend and not perform Yindjibarndi heritage surveys for FMG until the Yindjibarndi People, via their representatives, reach a signed Land Access Agreement with FMG on their three tenements - E47/1333, E47/1334 and E47/447."

Annexed and marked "SCB-7" to the SCB Affidavit are the minutes of the meeting dated 12 February 2008.

Meeting 10 March 2008

35. On 10 March 2008, I attended a meeting with many Yindjibarndi People and met with Andrew Forrest and Blair McGlew. FMG wanted to negotiate a whole of Yindjibarndi land access agreement that covered the Yindjibarndi land in both Ngarluma, Yindjibarndi and Yindjibarndi #1 areas. Aileen Sandy, Sylvia Allen and Vince Adams also attended. One of the first things Andrew Forrest said to the group was, *"if you don't own something then you don't have the sense of responsibility – we want to help people to help themselves"*. Andrew Forrest talked about training, jobs, money to set up businesses and money in trust for elders and those who can't work. Michael Woodley told Andrew Forrest that the Yindjibarndi wanted 5% uncapped royalties. Andrew Forrest said that *"native title is not property rights – it goes to the native title Tribunal – the people who hold out for a bag full of money will get nothing"*. He also said *"if I agree to 5%, then the banks will say we are being irresponsible, and they may sack us"*.
36. I asked about Gina Reinhart and Lang Hancock getting money for their land from miners and asked, *"how can they get money when it is not even their land that their deals are done on"* and I said *"we are living in poverty – we don't want to live on government handouts"*. Andrew Forrest offered a \$325,000 signing fee, \$1.2 million capped for employment and training (after a 3-year royalty free period), plus \$3.4 million to the Yindjibarndi People each

year. I thought the offer was insulting and should be rejected. Annexed and marked "**SCB-8**" to the SCB Affidavit is a true copy of the meeting minutes.

Discussions about a return of heritage surveys and whole of claim area agreement

37. On 18 March 2008, YAC agreed to do heritage surveys to try to improve the relationship between FMG and the Yindjibarndi. Annexed and marked "**SCB-9**" to the SCB Affidavit is a 9-heritage clearance form to Veritas Heritage Survey.
38. On 15 April 2008, YAC Directors decided that Yindjibarndi men would go on another heritage survey at Firetail and Valley of the Kings with Eureka. Annexed and marked "**SCB-10**" to the SCB Affidavit is a true copy of the preliminary advice of Vivienne Brown and Sean Winter dated June 2008.
39. On 23 April 2008, I attended a meeting with other YAC directors and some Yindjibarndi community members. Blair McGlew and four other FMG staff members (including Andrew Forrest's brother, David) attended the 50 Cent Hall. They talked about the Mine, how many tonnes they would extract, and the types of iron ore found. I was worried about the Ganjingaringunha (Kangeenarina) *Wundu* (Creek) bed and asked FMG about it. I also asked about digging and disturbing the underground *bowar*. A FMG staff member, Eamon Sullivan, said that there would be a lot of water to deal with because the area is part of the Millstream water catchment area. It was decided a group would go to the area where the proposed mine was going to be and to the existing FMG mine at Cloud Break to look at the operations. I don't know if that ever happened. Blair McGlew also said that FMG might want to construct a railway line through our country. Annexed and marked "**SCB-11**" to the SCB Affidavit is a true copy of the meeting minutes dated 23 April 2008.
40. On 6 May 2008, the YAC Directors decided that Slater and Gordon and George Irving would be our legal representatives, and not PNTS. I worked with Slater and Gordon to sign the necessary documents for YAC. At that meeting, the Directors decided not to carry out any heritage surveys without a

signed heritage agreement with FMG. Annexed and marked "**SCB-12**" to the SCB Affidavit are copies of the minutes of the meeting dated 6 May 2008.

41. On 26 May 2008, YAC received a letter from FMG indicating that YAC's refusal to conduct heritage surveys until it had a signed agreement with FMG was a "breach of contract" that had been negotiated by PNTS. Annexed and marked "**SCB-13**" to the SCB Affidavit is a letter from FMG to YAC dated 26 May 2008.
42. On 11 and 12 June 2008, the YAC Directors met with FMG regarding a whole of claim area agreement or an agreement for the grant of M47/1409, 1411 and 1413. We informed FMG that we wanted uncapped 5% royalty. Blair McGlew said to us *"If we give you that money you will blow it because you don't have the skills to do it – if we give you a lot of cash then you will not know how to handle it"*. I was trying to do everything in my power to do things right but I was not being acknowledged for it. I felt insulted and not appreciated. Annexed and marked "**SCB-14**" to the SCB Affidavit is a true copy of the meeting minutes dated 11 and 12 December 2008.
43. On 19 June 2008, a YAC Directors meeting was held and motion was passed that YAC is the only entity that governs all Yindjibarndi affairs – Yindjibarndi members are not to go outside of the YAC process. Annexed and marked "**SCB-15**" to the SCB Affidavit is a true copy of the YAC Directors meeting minutes dated 19 June 2008.
44. On 20 October 2008, YAC wrote to FMG offering that it would enter into a whole of claim area agreement for an uncapped 2.5% royalty. Annexed and marked "**SCB-16**" to the SCB Affidavit is a true copy of the letter of offer dated 20 October 2008.
45. On 12 November 2008, FMG rejected YAC's offer made on 20 October 2008. Annexed and marked "**SCB-17**" to the SCB Affidavit is a copy of the letter dated 12 November 2008.

46. On 4 April 2009, the YAC Directors agreed to recommence heritage surveys to improve the relationship with FMG. Annexed and marked "SCB-18" to the SCB Affidavit is a copy of a report of Western Heritage dated 4 April 2009.
47. On 24 April 2009, the National Native Title Tribunal (NNTT) found that the native title party failed to prove an absence of good faith on FMG's part when negotiating whether M47/1413 may be granted. Annexed and marked "SCB-19" to the SCB Affidavit is the decision in *FMG v Ned Cheedy* [2009] NNTTA 38. On 23 June 2009, the NNTT found that the native title party failed to prove an absence of good faith on FMG's part when negotiating whether M47/1409 and M47/1411 may be granted. Annexed and marked "SCB-20" to the SCB Affidavit is the decision in *FMG v Ned Cheedy* [2009] NNTTA 63.
48. On 18 June 2009, YAC Directors wrote to Blair McGlew about negotiating a land access agreement and seeking a commitment from FMG to negotiate. Annexed and marked "SCB-21" to the SCB Affidavit is a true copy of the letter dated 17 June 2009. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

WYAC emerges

50. On 10 August 2010, I attended a meeting with FMG and all Yindjibarndi People, including those who would become WYAC members. The President of the NNTT chaired the meeting. I was one of the Yindjibarndi negotiation team. Some of the people there who later became WYAC members said they wanted to go out on their own, separate from YAC. The President asked the Yindjibarndi People to write to FMG to respond to its offer, whether the Yindjibarndi People would continue to negotiate with FMG and on what basis. Annexed and marked "SCB-22" to the SCB Affidavit is a true copy of a letter

to Andrew Forrest dated 9 September 2010. Late in November 2010, I found out that WYAC had been set up.

51. On 15 December 2010, the YAC Annual General Meeting (**AGM**) was held in Roebourne. YAC members resolved to cancel 27 YAC memberships of WYAC members. Annexed and marked "**SCB-23**" to the SCB Affidavit is a true copy of the YAC AGM meeting minutes dated 15 December 2010.
52. On 21 December 2010, Mavis Pat, Aileen Sandy and Sylvia Allen called a Yindjibarndi #1 meeting at the 50 Cent Hall. Ron Bower, was at the meeting and was now the WYAC lawyer. Allery Sandy asked all the 'whitefellas' to leave the 50 Cent Hall so the Yindjibarndi People could talk amongst themselves. After we talked through some issues, the meeting was called off. Annexed and marked "**SCB-24**" to the SCB Affidavit is a true copy of the Yindjibarndi #1 meeting minutes dated 21 December 2010.

The split

53. Michael Gallagher worked for FMG and was visiting Roebourne all the time. In 2010, he set up the WYAC office on the hill near the Roebourne post office. He then started working for WYAC. He used to come around to JAC talking to Yindjibarndi People about FMG. I thought he was being friendly. I wasn't aware of why he was there. [REDACTED]
[REDACTED]
54. The split was created by FMG and has made Yindjibarndi People break their Law and culture and has damaged our community. The split created by FMG in our community has created *yoondri* (tearing apart).
55. There is a fire in my heart that brings out all of my sad feelings and a pain that cannot be healed because of the *yoondri* in the Yindjibarndi community. *Ngayu wirrardgu wirdarna* means breaking apart the spirit and that is how I feel. I think about the *yoondri* that is growing inside Yindjibarndi People like feelings of revenge and hate that grows inside of them like a cancer. It grows hard and burns and you have fires burning with every person you are up against, and you start hating everyone. You are then full of hate, and it is

burning up inside you and it will kill you and it can make people kill. I can see this in our Yindjibarndi community now. Even though we are family, these issues with FMG are *yoondri* until people can forgive and clear everything up.

56. My Yindjibarndi religion and Christianity match. *Minkala* the creator and God are the same. I told Jeff Nelson, the psychologist, that Andrew Forrest is a *joona* (evil spirit) and the WYAC are *nanji* (law breaker and wanted men) and are being used by the *joona*. The *joona* are the visitors who are looking for the *nanji*. The *joona* get the *nanji* to do their bad deeds, this is called *marlueegay*. The *joona* is a *marban* man and can control people and urge them to go wild and he is in the background suggesting what they should do. Members of WYAC take us to the Supreme Court, Eastern Guruma put an overlapping claim over the Yindjibarndi #1 claim, the Todd Family want to be part of the Yindjibarndi #1 claim [REDACTED]. Everyone is blaming WYAC, but it is really FMG who wants all the people to fight each other, and we will destroy each other. The WYAC are suffering too.
57. The split between YAC and WYAC has changed everything. Yindjibarndi People have gone through a lot due to that split. Some of the young people go against each other from each side, fighting in the streets. We try to tell them "No, we don't go about it this way" and we try to do the right thing. But I don't think we will ever be able to bring peace back to the community. FMG has caused this split. I know this and I will explain how I know this below.
58. The Aboriginal community was peaceful when the Ngarluma-Yindjibarndi claim was being heard. Elders back then were the ones who kept the peace. They talked with the neighbouring people and elders in each family and discussed problems with each other. Law and culture was (and is still) alive, and was (and is) shared between the Ngarluma and Yindjibarndi. Our men's ceremonies are now split. I talk more about this below.
59. I remember the first meeting we had with FMG in 2007. Michael Gallagher was there. Michael Gallagher came to town for FMG and would try to get to know Yindjibarndi People. I remember he came into JAC and said he wanted to see people. I was the Chair of YAC then. In September 2010, I saw

Michelle Adams outside Weeriana Hostel (the Community Development Employment Program (CDEP) office) and she told me that she was going to a meeting at Five Mile, and that George Ranger called a meeting and it was about the Mine. From what she said I could tell her mind had already been made up. Michelle talked about learning to be a lawyer and she wanted to know more about the FMG agreement. I felt like she wanted to go ahead and make a deal with FMG because they were in fear of losing everything. She said *"we will get no money for the mine if we don't sign an agreement with FMG. We can't stop the mine"*. I told her not to go because we all had to stick together to be stronger as one for negotiations.

60. Before 2010, I saw Michael Gallagher hanging around Roebourne and talking to George Ranger, Allery Sandy, Aileen Sandy, Bruce Monadee, Sylvia Allen and Michelle Adams. In 2010, ~~be~~ he seemed to be in Roebourne a lot. He wanted to talk with anyone on the streets about whether they were happy with the way YAC was running the negotiations with FMG. Then, later in 2010, Michael Gallagher set up a WYAC Office on the hill near the post office in Roebourne and was in Roebourne most of the time working there for WYAC. He was there until 2016. He attended all the hearings even though WYAC were not a party in the Yindjibarndi #1 claim.
61. Before Michael Gallagher and FMG showed up, I never had a problem with Allery and Aileen Sandy. I went to a meeting convened by Blair McGlew at the Roebourne Diner on 8 March 2010. I had heard about the meeting from other Roebourne residents.
62. There were approximately 20-30 Yindjibarndi people at the meeting. I told the Yindjibarndi People at the meeting that they should not attend the meeting and that by doing so they were compromising the proper native title negotiation process.
63. I told them and Blair McGlew that the meeting was not the proper process and that any meetings held between FMG and the Yindjibarndi People should be organised and agreed to between FMG and the YAC. I advised the people at

the meeting that YAC was the proper representative organisation for the Yindjibarndi People as the prescribed body corporate.

64. I told the Yindjibarndi people and Blair McGlew that YAC already had a negotiation process in place and that all meetings between YAC and FMG were advertised with notice to all Yindjibarndi People so that all Yindjibarndi people could attend meetings. By holding and attending the meeting, they were disrespecting me and the proper native title process that had been put into place by law.

65. I said to Blair McGlew words to the effect that, *"you and FMG are trying to divide and conquer our family, and destroy our culture and country"*. Annexed and marked "**SCB-25**" to the SCB Affidavit is an 'FMG Yindjibarndi information paper' (**Paper**) handed out at the meeting that has Blair McGlew as a contact. The Paper has no date.

66. I saw Michael Gallagher at that meeting. I did not threaten anyone at that meeting. Shortly after the meeting, FMG wrote to YAC saying we threatened people at the meeting. It was part of their tactics to try to keep us away from meetings organised by FMG. I went to the meeting to see what was going on behind our backs. Annexed and marked "**SCB-26**" to the SCB Affidavit is a letter from Blair McGlew dated 6 July 2010 saying that we were threatening the meeting.

67. I believe that the only problems you see in Roebourne today are caused by the split that was caused by FMG. We did not have all the fighting before they showed up. If there were any fights in the Yindjibarndi community in the past the elders from each family would come together and agree on a plan. Now the community is in two groups, and this has never happened before.

WYAC payments

68. My wife's sister, Dianna Indji, is a WYAC member and has told me that she is getting \$5,000 every Christmas for being a member. She also gets food vouchers. Members of YAC can't and don't get anything from WYAC. I applied to be a member of WYAC but I was rejected. I know about WYAC

because some of our family members tell us about what they get at WYAC. It's very hard to see the WYAC keeping the money for themselves because I see our old people, like my Aunty Joyce Hubert (recently deceased), not given anything, and she was an old lady. We've now had 12 or 13 years like this. We have nothing to show for it. It has been a real struggle. Seeing the country being destroyed that we are a part of, the elders suffering and the division in the community is very hurtful to me.

[REDACTED]

Meeting 16 March 2011

70. On 16 March 2011, Mavis Pat, Aileen Sandy and Sylvia Allen called a Yindjibarndi #1 claim group meeting at the 50 Cent Hall to replace the Applicant and to enter into a land access agreement with FMG. FMG staff including Andrew Forrest, Blair McGlew and Alexa Morcombe attended. Michael Gallagher (who was now working for WYAC) was there and Ron Bower and Kerry Savas from Corser and Corser were also there. Graham Castledine was supposed to be the Chair of the meeting but he left early on. Annexed and marked "**SCB-27**" to the SCB Affidavit is a true copy of the transcript of the meeting. A USB drive containing a copy of a video recording of the meeting is annexed hereto and marked "**SW-1**".
71. I had not seen an Yindjibarndi meeting where Yindjibarndi People were so angry and yelling at each other. When the Harding River Dam was built, I remember some very wild meetings, but all the anger was directed at the government people because they were going to destroy our sacred sites. At the 2011 meeting, Andrew Forrest said he was a 'local boy'. He said that he had been looked after by Aboriginal people when he was growing up, so I thought he must be a good bloke. He said he understood our culture and he would look after us.

72. Blair McGlew got up and said FMG's current offer was a \$500,000 signing fee, \$3 million to the Yindjibarndi and \$1 million for an elders' agreement each year for the whole Yindjibarndi area within the Ngarluma-Yindjibarndi area (which already had native title determined) and the Yindjibarndi #1 claim area, and once we agreed we could not claim any future compensation. At that time, we had no idea what was going to happen with the Mine. We didn't know how big it was or how deep or where it was going to be. We had no idea what they were doing, and we were being pressured to sign the agreement. I felt helpless.
73. The WYAC lawyer, Ron Bower, ran the meeting and pushed hard on the agenda. He talked to Andrew Forrest. FMG had bused in people from Carnarvon. He was disrespectful and was not listening to Cheedy Ned who was 103 years old. The WYAC people and those that had been bused from Carnarvon were also disrespecting Cheedy Ned and other senior men. The old fella wanted to get up and say something. The rule is that everyone should go quiet and hear what he has to say. That man was the key to country at the time and was the *Tharngungarli* (held the knowledge for *ngurra*, the mouthpiece of law and order and the one who strangers had to go to for permission). He said "*wanyari marr*" (listen to me) but no one listened to him. The WYAC people broke all the protocols for Law and culture at that meeting and have been doing it ever since. This has made me and my family very stressed and sad.
74. Recently, I looked at the video of the meeting on 16 March 2011. I look back now, and Andrew Forrest is standing up the front talking, and I realise that the damage in the community was already done before that meeting. The room was divided and WYAC members were on one side near the door and YAC supporters were sitting away from the door on the other side.
75. We have done everything in our power to make amends with WYAC but nothing works. At the March 2011 meeting Andrew Forrest said, "*the more you know Aboriginal people, the more you love them*". I was thinking that this guy was a hero and was going to look after us (I now get a headache talking about him). Andrew Forrest said, "*We want to give benefits for generations to*

come". I knew that the Banjima had a good agreement with Rio Tinto and BHP. I was hoping our kids could get a good education and we could build more houses at Cheeditha. When Andrew Forrest stood up at the front of the meeting and said that the words that Michael Woodley had said at the meeting were "untrue" and "false" I started to doubt Andrew Forrest. He wanted Yindjibarndi People to believe him as a *manjangu* (stranger) over one of our own people. Michael Woodley was telling us that the FMG agreement was no good.

76. At the meeting I was disappointed Cheedy Ned's two sister in-laws, Berry Malcolm and Dianna Smith, went against him. They were mothers for Cheedy Ned's kids. Allery Sandy's oldest brother, Max Sandy, was married to Rosie Cheedy (Old Ned's daughter). They were all against Old Cheedy Ned. It was all so wrong and went against the *Galharra*.
77. I can remember Allery Sandy working together with the elders during the Ngarluma-Yindjibarndi claim and she spoke in the video in *Exile and the Kingdom*. *Exile and the Kingdom* was about Yindjibarndi Law and culture and the elders fighting against the Harding River Dam being built. Everyone was peaceful and getting on and talking about Law and culture.
78. Me and my family are getting tired. We need to find peace. I want the Judge to understand what we have been through. As the years go by, the elders are getting sicker and dying. How long before enough is enough? FMG brought lies, conflict and violence into our community. The battle has been too long. We have been doing it for so long and fighting all the court battles, battles in the street too. It is too much. You can see it in the video from the meeting on 16 March 2011. We have been living in this nightmare since then.
79. In 2010/2011, FMG were telling Yindjibarndi People at meetings that, after the NNTT had decided FMG had negotiated in good faith, "*it would not appear to be in the interests of the company to now pay millions in compensation for a tenement that would now hopefully be granted to us without the need to pay such a royalty*". FMG were always questioning whether the YAC directors and Yindjibarndi #1 applicant's decisions were those of the whole Yindjibarndi

group. Annexed and marked "**SCB-28**" to the SCB Affidavit is a copy of a letter dated 26 February 2010 and an attached file note dated 22 February 2010 from Blair McGlew to our solicitor at that time, Simon Millman from Slater and Gordon.

80. On 31 March 2011, Corser & Corser Lawyers (WYAC's lawyers), wrote to YAC attaching a copy of the FMG WYAC Agreement (**Agreement**) signed by Mavis Pat, Aileen Sandy and Sylvia Allen and requesting YAC to sign it and arrange for the remaining members of the Yindjibarndi #1 Applicant to sign the Agreement. Annexed and marked "**SCB-29**" to the SCB Affidavit is a copy of the FMG and WYAC agreement dated 31 March 2011.
81. On 25 May 2011 in response to YAC correspondence about heritage surveys, Lisa Maher, FMG's Heritage Manager, wrote to YAC stating on page 2 that:

"We thank you for your offer to consider a heritage agreement, but YAC's offer seems misconceived. As you are aware Yindjibarndi People, including many YAC members, agreed to enter into the FMG - Yindjibarndi People Land Access Agreement at the Yindjibarndi community meeting on 16 March 2011. Yindjibarndi People are currently in the process of ratifying this agreement for both the Yindjibarndi determined and application areas".

Annexed and marked "**SCB-30**" to the SCB Affidavit is a true copy of Lisa Maher's letter dated 25 May 2011.

82. After this time, YAC members did not attend the Mine on heritage surveys until invited by Elizabeth Gaines in 2021. I talk more about the 2021 survey below.

Meetings in 2014

83. On 11 April 2014, we had a meeting with WYAC and YAC members to try to come back together. At an earlier meeting, on 8 March 2014, we had agreed on seven important issues to discuss. On 11 April 2014, we all came together and agreed the seven issues, we apologised to each other and hugged. I felt

like we were finally coming back together. I was so hopeful. Annexed and marked "SCB-31" to the SCB Affidavit are the minutes of the meeting dated 11 April 2014.

84. In 2014, there was a concerted effort for the Yindjibarndi people to come together. [REDACTED]
[REDACTED] At the 2014 YAC AGM, on 10 September 2014, the WYAC members Jill Tucker and Charmaine Adams were put up for election as directors and they were successful. Annexed and marked "SCB-32" to the SCB Affidavit are the minutes of the meeting on 10 September 2014.
85. Soon after the meeting on 10 September 2014, the YAC Directors Jill Tucker and Charmaine Adams called a special general meeting for the purpose of replacing the elected YAC Directors, other than Charmaine Adams and Jill Tucker, with WYAC Directors. Annexed and marked "SCB-33" to the SCB Affidavit are the minutes of the meeting on 10 November 2014.
86. A lawyer named Martin Bennett attended the meeting for WYAC and they failed in their attempt to replace me and others as YAC Directors. I was very shocked by this behaviour after we had included Charmaine Adams and Jill Tucker as YAC Directors. I was very hurt that they were treating me with disrespect. Jill is my mother, as she is my mother's sister through my grandfather Yulgari. She is my family and should not be treating me with disrespect. I am Charmaine Adams' elder and she should respect me under Yindjibarndi Law in the *Galharra*.

Breaking up of Yindjibarndi song lines and other aspects of Yindjibarndi religion

87. The Mine has broken my religion, our *jowi* song line and the *Bundut* story. We told the Judge in our Yindjibarndi #1 native title claim all about that song line in a restricted mens' evidence session. This story is one of the most important song lines for Yindjibarndi country from when the *ngurra* was soft. It travels through the Mine area from Millstream. But now it can't travel through there anymore. It is broken. We don't have a story to tell any more. Places in the

Mine area on that song line have just gone. FMG has blown them up. That's our religion. Now we can't practice our religion properly in the right way.

88. There is also a *jowi* (song) for the country around the Mine and now that whole song is gone. The spirits give us that *jowi*. The spirits aren't there anymore so the song has gone too. When we go to the country near the Mine it's very hard to look at. We sing out to the *ngurra* – we always greet the country. But now we have no connection with the spirits there in that country because the spirits are gone. Everything there is now lost with that mine. The story telling is gone, the *ngurra* is broken and the people are broken.

No permission

89. The *ngurra* is my religion and without the *ngurra* I can't tell the story. *Ngurra* tells me who I am and without it I have nothing. FMG went to the country where the Mine now is without Yindjibarndi permission. They just went in and did it. To me, FMG stole our country. They have taken away my right to speak up for and protect my country as a Law carrier. We never agreed to FMG building the Mine.
90. My father carried the Law and passed it to me. I don't understand why I have to explain my religion to the Court when FMG has done the wrong thing. They have taken my religion, my Laws and my *wirrard* (soul and spirit) away from me.
91. We also had a lot of *thalus* (increase sites) in the Mine area. They are part of our religion too. But most of those *thalus* have been destroyed. There is one left, a *mungurla thalu* (or baby *thalu*). But the rest have all gone.
92. I have been to *Bangkangarra* plenty of times. Last year, me and a group of Yindjibarndi People camped at *Bangkangarra* with Kingsley Palmer. Before breakfast, there was an explosion and dust was coming from the Mine. We just looked at how close it was, and everyone was getting scared. I was thinking about that extra damage to the country. I was feeling terrible. I felt my heart getting smaller. We were worried that we were in danger and that FMG were targeting us. They knew we were there because we had asked for

access to the Mine site. We were denied access because they said they were blasting. This hurt me and made me feel less trust for FMG. They also called the Police about our visit to our own country. The whole experience was humiliating. When the Police are called by FMG it makes me feel like the old days before native title when we were told we had no rights in our own country. It makes me feel powerless and like a second-class citizen on my own country. Using their power to shut us out is what has happened to Yindjibarndi People since the police and the pastoralists turned up in our country. Now it is FMG. I feel so fed up as I think there are only so many times that whitefellas can chuck us off our land, but it keeps happening.

93. On that trip, we found a burial site in a cave at *Bangkangarra*. Michael Woodley smoked the cave to calm the spirits. The spirit was released out of the cave and the big thick smoke came out in the shape of a skeleton and the eyes were looking at Michael Woodley who was doing the smoking. One of the kids carried a rock away from the area and the spirit followed the kid and pulled him out of the car and threw him on the ground. I put the rock back on a tree branch and talked to the spirits to leave the boy alone and the girl was sorry for taking the rock. Kevin Guinness touched the girl on the head to see if she was ok. Annexed hereto and marked "SW-2" is a copy of the photograph of the spirit being smoked.

Impact of the long history with FMG

94. We have been trying to talk with FMG for many years, to get them to respect us and listen to us so that we can stop them taking our country and destroying our religion. But it's taken a lot of energy and fight from all of us and from our elders who have already passed away, like old Ned Cheedy, who were broken hearted. It has been very hard because the fight with FMG has stopped us from protecting our country in other areas. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

95. FMG made it really hard for us to get our exclusive native title recognised. They funded and used other Aboriginal groups to fight us. They funded the Eastern Guruma to make an overlapping claim and a revised determination to add the area of the Mine to their determination. They were also funding WYAC members to fight us in the Supreme Court and they are still taking us to court now. FMG were funding the Todd family as a respondent party in our native title claim so they could bring extra numbers into the claim group. It has all been very exhausting and difficult. It has drained our money just to pay lawyers. That money should have been going to our Yindjibarndi People.
96. I thought Yindjibarndi People would have a good life when FMG turned up and I thought we Yindjibarndi would have a say about where the Mine went. But we didn't have a say at all. They didn't talk to the elders. They went behind our backs and talked to WYAC. You have to ask permission to go on to Yindjibarndi country. You have got to ask the senior men. *Manjangu* (strangers) must ask permission and that is our Law. *Manjangu* must go and see the elders when they go to someone else's country. Men know the song lines and special places. The ladies will sit in the meeting on their own. They wait for the men to make the decisions about the country. As one of the Law bosses (*Tharnungarli*) I am involved in making decisions. We decide if a *manjangu* can come onto Yindjibarndi country by looking at the person –and asking is this person carrying trouble or not? FMG and Andrew Forrest have taken away our ability to make these important decisions.
97. Senior Yindjibarndi law carriers were not asked by FMG if they could build the Mine. We were ignored. If they asked me, I could have given them permission if they asked in the right way and listened to us about where to put the Mine. They never showed us respect. We thought we were equals when we were negotiating with FMG [REDACTED]. Because we had seen the fair deals that other Aboriginal groups were doing with Rio Tinto and BHP, we thought we may be able to help the future Yindjibarndi generations.
98. I know the government gave FMG permission to build the mine where it is, not WYAC but WYAC supported FMG.

99. We have tried to ask FMG for fair compensation but they wouldn't listen to us. They never talked to the right people who could have told them where the Mine should go. It's a big shock the way we have been treated and divided by FMG. I have seen other companies giving fair agreements to other groups around us. People in the Pilbara all talk, and I know the Banjima have got good deals. I know about the Nyiyaparli deal at Roy Hill. They are getting industry standard compensation – that's what I have heard.
100. ~~I have looked at the mine site and it looks like~~ **am concerned** FMG is going to make the Mine go deeper. This will interfere with the water system going into Millstream. The water travels there along the *Bundut* songline from Ganjingaringunha (Kangeenarina) Creek and from Wirlu-Murra Creek. When I last went there, I saw a lot of areas being pegged out. This was just last year. They had also put in bores on Ganjingaringunha Creek. When I saw this, I said to FMG—*“break those up”*. I was so worried and am still worried about how much water they're pumping out every day from there. That's our water they are taking. All our water places are connected all over Yindjibarndi country. When that Ganjingaringunha Creek stops running, it will put more pressure on Millstream.

Legal disputes with WYAC members

101. I understand how WYAC heard from FMG that they would not get compensation from the mine, so they decided to agree with FMG.
102. When WYAC formed, they tried to take over YAC with membership applications. [REDACTED]
[REDACTED] The legal disputes with WYAC in the Supreme Court started as well and have been very difficult. [REDACTED]
[REDACTED]
[REDACTED] Any mistake we make at YAC, they pounce on it with the Supreme Court actions or reporting us to the Office of the Registrar of Indigenous Corporations (ORIC).
[REDACTED] We get notices from ORIC, and we were investigated three or four times, but ORIC never finds anything wrong. We

can't get on with our business because we are constantly dealing with these complaints, court cases, costs, and interference. The last court case we lost early in 2018 in the Supreme Court cost us more than \$600,000 for the costs of WYAC's lawyer's, Bennett & Co. I feel like we have no time to breath before the next attack. I was told by YAC's lawyers on 23 April 2023 that Bennett & Co, on behalf of the WYAC, have filed documents in another Supreme Court case. I get so stressed and sad that the attacks never end and that they are happening when we were trying to get our exclusive native title, and now when we are seeking compensation.

103. I am always on the edge. I'm always worried, nervous and anxious. I wonder *"what now?" "What are they going to do to us next?"*. I worry before each YAC meeting, each funeral or if there will be violence in the community.
104. We haven't been able to fund the Yindjibarndi programs we want to do because we have got to keep turning around and fighting WYAC and FMG. We have had to pay for lawyers.

Trying to get WYAC members back together with YAC

105. I have tried and tried to bring WYAC back to YAC. I'm tired of trying to do this. For example, on 13 (Woodbrook) and 17 (Roebourne Basketball Courts) January 2012 and 17 February 2012 (Roebourne Basketball Courts), I met with men from WYAC and YAC to discuss resolving the dispute between us. On 26 March 2012, I wrote to WYAC from my heart hoping that Yindjibarndi families could come back together again and suggested that we sit down and talk. Annexed and marked "**SCB-34**" to the SCB Affidavit is a true copy of the letter dated 26 March 2012.
106. I believe that the dispute with WYAC stops us following our Yindjibarndi Laws. For example, we have strict Laws around attending funerals of family members. As an elder and a carrier of the Law, I need to attend funerals for all my family. Recently, my nephew passed away who was married to Allery Sandy's daughter. I couldn't bring myself to attend the funeral. I was very upset about my nephew but I couldn't go to the funeral. I just couldn't be there because I knew Allery always talks at funerals and says, *"let's come together*

again". It just feels false to me when I have tried so hard to get everyone back together and I have been rejected over and over again. I have just found out that John Sandy has activated another Supreme Court case he started a while ago and did nothing about for six years. I am so hurt by the attacks.

107. We tried many times to get back together with WYAC. Each time we tried, it failed. Every time that happens, my feelings are really hurt, and I get frustrated. It feels like I'm failing as an Yindjibarndi elder to get the community together. I feel like this FMG business has even stopped me from being a good elder. I can't keep my community together and I see this effect trickling all the way through the community. I feel shame because I think the other Aboriginal communities are looking at the Yindjibarndi and thinking the elders can't lead and keep their community together.
108. It's really hurting other families as well. Lots of Yindjibarndi families are married into the Sandys and Adams. They are all hurting and are broken. For example, my other nephew Terrence Warrie is married to Janice Sandy's daughter. Terrence is supporting Yindjibarndi, and his wife supports WYAC. It's just so hard for them as they need support from their families on both sides.
109. On 31 January 2013, I received a letter from Bruce Woodley who was the Chairman of the WYAC. He sought my assistance regarding WYAC who he said was being misled and obstructed properly carrying out both native title heritage interests of Yindjibarndi People. Annexed and marked "SCB-35" to the SCB Affidavit is a true copy of the letter from Mr Woodley dated 31 January 2013.

Yindjibarndi #1 hearing

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Negotiations in 2021

114. As I said earlier in this statement, there were many times when we (YAC Board and members) were trying to get back together with WYAC. We tried again in 2021. I went to the Ibis Hotel on 13 October 2021 and WYAC and YAC board members talked. Me and other Yindjibarndi men went down to the Mine area in 2021. YAC board members planned on doing surveys together, with four participants from WYAC and four from YAC. A true copy of the correspondence between YAC and WYAC dated 2 September to 19 October 2021 about the meeting on 13 October 2021 at the Ibis Hotel, Karratha is annexure "**SCB-36**" to the SCB affidavit.
115. When Elizabeth Gaines came to talk with all Yindjibarndi in 2021, I was hopeful that YAC and WYAC could get together. She seemed like she wanted WYAC and YAC to come together. I was looking forward to it and to repairing the damage. It felt really good. I talked with WYAC people, who are our family. We had not talked for such a long while. Before that, I saw people in the street

and we were too frightened to say "*wanthiwa*" (good day). I wanted to get back together as one group to give the kids an education about things like *ngurra*, where we come from and our history. I wanted our community reunited but now it is under threat again.

116. In 2021, I went on a survey to the Mine area in a car for FMG. It got windy so I didn't want to go in a helicopter like other Yindjibarndi People did. An anthropologist from FMG called Erin was driving the car for me. Middleton Cheedy and Devon Woodley sat in the back seat. We were driving through the Mine. I can remember we got to where the rail loop turns the train around. Middleton, Devon and I were all talking amongst ourselves but when we saw the rail loop, we all stopped talking and went very quiet after driving past the pits. Erin explained to us some of the work FMG were doing and showed us some of the sites in the middle of the Mine which had been left alone at Firetail. But all I could see was the destruction everywhere.
117. I used to see all that country where the Mine is looking so beautiful and untouched. Our food was there. Now when I look at the big Mine and all the destruction, it just makes me feel no good, sad. That's why Middleton Cheedy, Devon Woodley and I all went quiet and I started crying when we saw the mine in 2021. Our *wirrard* (spirit) was broken. Looking at photographs today of the mine makes me feel really sad, but when you are there looking at the country, the feeling is so much stronger. Annexed hereto and marked "SW-3" is a true copy of two photographs of the mine taken from a hill near *Bangkangarra*. I feel the connection I got to the country and the connection there at the Mine has all been broken. When I look at the bulldozers driving around, and the destruction of the country, I can feel those bulldozers and blasts digging into me, blowing up my *wirrard* and my heart.
118. There were lots of little caves at the Mine which have been blasted away. These caves were important places for Yindjibarndi People. Some of the caves high up in the hills were used for storage of artifacts, *mabarn* objects (that have magic/power) and for burials of our old people. These caves were sacred places. Spirits lived there and now they are all gone.

119. The spirits were in the country. But now their homes have been destroyed by the Mine. Those spirits show themselves to people now in the Mine camp because they don't know where to go. They are affecting the FMG fly in/fly out mob. I have heard lots of stories about this. Those FMG workers come to us Yindjibarndi People looking for help. They want something to heal them, so they don't get visited by those spirits. The spirits are angry at the FMG workers for destroying their home. The white workers tell us that they see the spirits. They say they are getting followed back to the camps and their homes and being tormented. The spirits have no home and no sites. The spirits are lost.
120. Anger is also affecting us Yindjibarndi People. It's heartbreaking. It's our job to protect the country, speak for the country and protect the spirits in the country. But, by building the Mine without our permission, FMG have taken this right away from us and now we're being punished by the spirits. The spirits are angry at everyone. Interference with the country means dangerous objects could be anywhere.
121. Other blackfellas who work at the Mine are seeing spirits too. Other Yindjibarndi People and workers are telling me this. Truck drivers are seeing spirits of ladies and men walking around. We call them *warntathalu*. There are also *nguga nulli* (little spirits of the land which also look after country) with nowhere to go. They are the spirits that live in the caves that have been destroyed. I know there is also a *mordul* in this area. That is a dangerous spirit that can change into a lady and distract men. She takes them into her spirit world and make them *wandanali* (crazy). Those spirits are gone now. Aboriginal workers, wherever they come from, see these spirits. The spirits torment them. FMG workers tell me that complaints have been made to John Sandy and Ken Sandy. That's what I have heard. I believe those things are happening. This is because FMG is destroying the country and touching those spiritual things in their home.
122. When I hear about these things, I just stand there. I feel really bad. It's my responsibility but it's something that I cannot stop. I feel helpless and very sad. I'm angry too.

Dreaming stories for the Mine area

123. There is a story for the Gamburdayinha (Hamersley Range). The Mine is in Gamburdayinha. *Barganyji* (Olive Python) was a savage snake with huge sharp teeth who ate flesh. *Burlinyjirrmarra*, a Marrga (creation spirit) who lived in Yindjibarndi country, went out hunting and was confronted by *Barganyji*. *Burlinyjirrmarra* ran off and *Barganyji* chased him, the Marrga hoped that the snake would get tired. *Burlinyjirrmarra* then sang a special song which made the *Barganyji* dizzy and blurred his vision. But it also made him snap his jaws in a frenzy. Eventually, *Burlinyjirrmarra* saw a Snappy Gum which he climbed. *Barganyji* took a last bite, his jaws missed the Marrga but instead sinking his teeth into the trunk of the tree smashing his teeth. While his jaw was locked on the tree, his poison seeped into the tree. The *Barganyji* is now harmless to humans. He lives in the gorges and rock holes along Gamburdayinha (Hamersley Range) and around the Fortescue River where the mine is located.
124. Access to Ganjingaringunha and Bangkangarra is no longer possible using the track we have used in 2015 for the Yindjibarndi #1 hearing because it was destroyed and covered with tailings. This used to be an old dogging (killing dingos and other vermin which should not be on country) track. Before that, the track was used by Yindjibarndi old people as one of their traditional pathways. Going through the mine site to Bangkangarra, we have to ask for permission and get supervision from FMG. I don't ask because it is humiliating to ask for access to your own country and if you do you are told 'no' because of safety reasons. Lots of consultant people are allowed into the Mine site but when YAC members ask, me and my family are refused.
125. I am very angry about having to ask permission from FMG to enter my Yindjibarndi *ngurra*. FMG are the *manjangu* and they should be the ones who should be asking the Yindjibarndi for permission. This is another loss we have had to come to terms with when FMG does not include YAC in any decision making about country, ignores us and locks us out of country. This was not the way the Minkala had ordained it.

126. We can't go to the area where the Mine is located and practice the *wuthurru*. Taking the young ones to explain and teach them about the Dreamtime stories and song lines has been handed down to me. You can't go there now and show the young ones the sites like hills and caves. They are all gone and lost forever.
127. If you don't have the landscape, you don't have the story. You can't explain the story to the young fellows without the sites. The mine makes the *jowi* meaningless if the country is gone. The *jowi* tells you of the significance of the *ngurra*. The Dreaming stories are all connected to our neighbour's country.
128. Barngkawinha is the subject of a Dreaming story. Senior Yindjibarndi men have responsibility to perform rituals at certain places because we are the 'bosses' (*nyambali*) and as *thamgungarli*, (the keepers of Yindjibarndi Law). When we went to Ganjingaringunha Gorge with Kingsley Palmer in 2022, the trees and plants were very dry and there were hardly any birds. FMG is taking the water from the ground, and it affects the plants and animals and the Fortescue River.
129. There are ochre sites within the Mine area that have been destroyed. We use ochre to paint our bodies for the Bidarra Law. We must paint our bodies with ochre for the ceremonies. There are also other resources found within the Mine area used for male restricted sections of the ritual (I can't talk about it openly). We can get these things from other places in Yindjibarndi country, but getting those things from particular locations links us to sites in areas that relate to the Bidarra Law. The links are broken and the *Bundut* is weakened.
130. One of the *Bundut* songs is about the many clouds forming and building up over the Hamersley Ranges (Gamburdayinha). The songs travel along Gamburdayinha to a hill called Mumiyanha which is an important site for being the place where the rules for the *Galharra* roles in the Bidarra ritual comes from in a song. The song travels to the next hill in the range called Billin-Billin. From Billin-Billin, it goes to the Barnkwirnanha (Split Hill) which is about a song about the boomerang splitting the hill while they 'follow the *Bundut* line'.


The line then travels down the Ganjingaringunha *wundu* (creek] to Bangkangarra.

131. The Bundut song line then returns to Yindjibarndi country across the country where the Mine is now, to the Fortescue River flats where it 'caught up with the young girls, *gurri gurri*, they were running'. Some people call them the Seven Sisters. They start in the Burrup Peninsular. The *gurri* were given three songs in the *Bundut* as they travelled, running out of Yindjibarndi country and into Banjima country. I was told that Minkala gave the *gurri* 'three songs in the *jina* [footprints]' since they 'covered a big distance'. They ended up at Uluru.
132. If the *Bundut* song line is sung, it regenerates the whole country. If the senior men do not sing the *Bundut*, the country will dry up. The *Bundut* goes from *Bangkangarra* south or southwest to somewhere near Duck Creek where the spear thrower is and then comes back into Yindjibarndi country again and crosses the Mine area to the Fortescue River flats where it meets up with the *gurri gurri* and the three songs that was given to them as they travel.
133. This language of the *Bundut* was the first language and is an ancient language. Bangkangarra is an important site in the *Bundut*. It is so close to the Mine that it is now not the same as the country around it is destroyed and the spirits have been disturbed. The stillness has been destroyed.
134. Old Blind Billy or Bambardu, who is now long deceased sang the *jowi* for the travels of the Barrimirndi in the *Ngurranyujunggamu* (creation time when the Earth was soft).
135. The Mine is moving too close to Barngkawinha (Split Hill) at the boundary between Eastern Guruma and the Yindjibarndi. I do not know if anything is going to be safe. FMG say they are going to look after it but they often don't do what they say they will so I am worried.
136. The Mine is a reminder of the split in the group and the way FMG has treated us. You can't move on when your *wirrard* is damaged you are always reminded of the hurt.

Compensation Claim Meeting

137. We had a meeting on 11 December 2021 at the 50 Cent Hall. We agreed that there was not a traditional decision-making process for such things as compensation claims. At the meeting, YNAC consulted with the native title holders who attended whether or not YNAC should make a compensation claim. There was a lot of support for the compensation claim and everyone put up their hands. Everyone that attended the meeting agreed that we should make a compensation claim. I moved one of the resolutions. Annexed and marked "**SCB-37**" is a copy of the minutes of the meeting of 11 December 2021.

Signed:



Stanley Warrie

Date: 27 April 2023

“SW-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 cover page for the annexure marked “SW-1”, which is a USB drive containing a video recording referred to at paragraph [70] in the witness statement of Stanley Warrie made at Roebourne in the State of Western Australia this 27th day of April 2023 before me:

J. L. Edwards
Justin Edwards
Legal practitioner

“SW-2”

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 and the following page is the annexure marked “SW-2” referred to in the witness statement of Stanley Warrie made at *Roebourne* in the State of Western Australia this 27th day of April 2023 before me:

J. L. Edwards

Justin Edwards
Legal practitioner



“SW-3”

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 and the following page is the annexure marked “SW-3” referred to in the witness statement of Stanley Warrie made at Roeboorn in the State of Western Australia this 27th day of April 2023 before me:

J. L. Edwards
Justin Edwards
Legal practitioner

