

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

Witness Statement of Angus Mack

Paragraph / Part of Paragraph	Objection	Applicant’s response	Resolution/ Ruling required
[15] (4th sentence words “also intentionally split the Yindjibarndi as a community”); [43] (2nd and 3rd sentences); [44] (3rd and 4th sentences); [45] (1st sentence words “and the community”); [56] (3rd sentence words “supported by FMG”); [75] (3rd sentence); [103] (2nd to 4th sentences); [105]-[116]; [118]- [125]	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.
[51] (4th sentence)	Opinion Conclusory assertion	Press as a statement of belief.	Resolution: admitted as a statement of the witness’ belief under EA 136.
[88] (1st and 2nd sentences)	Opinion Conclusory assertion	Press first sentence as s78 EA lay opinion. Press second sentence because AM giving evidence about his state of mind.	EA 136: admitted for the limited purpose as a statement of the witness’ belief.
[88] (3rd sentence)	Hearsay	AM giving evidence about CC told him. Do not press as evidence of matter asserted. What he has been told about the “dams and creeks” is part of the reason for AM’s worry expressed in the paragraph.	EA 136: admitted for the limited purpose as a statement of the witness’ belief.

NOTICE OF FILING

Details of Filing

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Sia Lagos

Registrar

Important Information

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WITNESS STATEMENT OF ANGUS MACK

Federal Court of Australia

No: WAD 37/2022

District Registry: Western Australia

Division: General

YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC (ICN 8721)

Applicant

STATE OF WESTERN AUSTRALIA and others

Respondents



Background

1. My name is Angus Mack. I was born at Roebourne Hospital, in Western Australia on 15 March 1972. I live at Yandeyarra community in Western Australia with my partner Judith Priscilla Coppin and our grandson Romiaz.
2. I am an Yindjibarndi person. I am Yindjibarndi through my Dad, Long Mack. His ~~Yindjibarndi ngaarda (First Nations Pilbara people)~~ name was 'Inbirra'. I am ~~ngurrara (First~~

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~~Nations~~ person responsible for the country) for Binyjimanarnjarri and Thunggawarna. They are areas in Yindjibarndi country. I am responsible for looking after those areas under our Yindjibarndi Law.

3. 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**). I am a member of the Yindjibarndi Aboriginal Corporation (**YAC**). I became a Director of YAC at the 2012/13 AGM on 10 September 2014 and have been a Director ever since. I have been a Director of Yindjibarndi Ngurra Aboriginal Corporation (**YNAC**) since 2018. I was an Applicant on the Yindjibarndi #1 native title claim.
4. I am not a member of the Wirlu-Murra Yindjibarndi Aboriginal Corporation (**WYAC**).
5. Growing up in Roebourne, everyone was together like a family and all the old people respected each other. Sometimes, we would go to the Woolshed on Mt Welcome Station near Roebourne (where the Cheeditha Community is now) and spend time with family and friends there (including the Warries, **Jacobs, Alberts, including Aunty Mabel Albert [nee Mac] and Jerrols**).
6. Judith and I moved from to Yandeyarra Roebourne a couple of years ago to be closer to her family. A couple of times a month, I return to Roebourne: to see my family and friends (it is important to do this in person because it is not the same connection over the phone); for YAC and YNAC Director work; for heritage surveys; to support Michael Woodley and the Yindjibarndi community.
7. I worked as a Heritage Officer for YAC through the Juluwarlu Aboriginal Corporation (**JAC**). I also operated the GIS system at Juluwarlu and produced the maps which show the sites in our Yindjibarndi country. In total, I worked for YAC for more than 10 years until about **23** years ago.
8. I am a Yindjibarndi Lawman (and can speak for) the part of Yindjibarndi country called ~~Buthurna~~ **Galarwinjina** ngurra (country) because my grandfather, Pinju (father of

Long Mack), was one of the people who spoke for that country **as a senior man**. It is an area of country situated near the middle of Yindjibarndi country covered by the Yindjibarndi #1 Native Title determination (between Garlawinji *ngurra* to the west; and Winyjuwarranha *ngurra* to the east). I refer to annexure "MC-1" to the witness statement of Middleton Cheedy being a copy of a map that shows the 13 areas in Yindjibarndi country.

9. I have some trouble with my memory. It comes and goes. It has been like this for more than 10 ~~year~~ years. I cannot remember my childhood very well, just a few things. It is a long story and I don't want to do go into all of it but there is a spiritual reason why my memory comes and goes. When I was a young fella, I had a really good memory but due to cultural reasons I now have problems.

█ [REDACTED]

█ [REDACTED]

Financial circumstances

12. Judith and I pay for food, clothes, gas, licence, rego, tyres once a year, fuel, service.
13. Judith and I work at Yandeyarra Community School. She is an education support officer support for First Nations students and staff at the school. I work part-time as a gardener. The number of hours I work depends on what needs to be done. It's a flexible thing. If the grass is high, I will trim it down so that the

kids can play. I usually do about 10 hours per week and get paid \$65 per hour. Sometimes, I go on heritage surveys on Yindjibarndi country. I did one recently for 10 days with Rio Tinto.

Compensation

14. I was at the consultation meeting where YAC agreed to file a compensation claim against FMG.
15. Michael Woodley and the lawyers put it forward to me and the other YNAC Directors. In my mind, this was a straightforward decision. YNAC are suing FMG for building the Solomon Hub Project mine (the **Mine**) on our country without our consent and they have not paid any compensation to the prescribed body corporate. FMG have also intentionally split the Yindjibarndi as a community and taken our water **and ngurra**.

Personal

16. Andrew Forrest has made comments to journalists about Yindjibarndi getting compensation. One example is annexure "MRR-3" to the affidavit of Margaret Roslyn Read (who has sadly passed away). I do not drink alcohol or take drugs. If the Yindjibarndi were to get compensation, and depending on what we get individually and after we have looked after the elders, I would probably buy a car so that I can visit family more often. Because of the rough country, you need a good car to get around from A to B. I would also like to buy a house to live comfortably and look after my family.
17. One day I would like to have a block on Yindjibarndi country to go back to, like in the homeland movements in the 1980s (where people like Woodley King set up Ngurrawaana and **Yilbie Warrie** ~~Kenny-Jerrold~~ set up Cheeditha community when Yindjibarndi People suffered from excessive alcohol drinking after being moved off the stations into Roebourne in the late 1960s).
18. Mostly, I would share money with the rest of the family. It's part of the *nyinyaard* (showing generosity and sharing when people are in need). This extends to the

extended family like in-laws, not just immediate family. The Law requires me to be responsible for all of my family.

Yindjibarndi Community

19. YNAC's goal is to look after the whole community with compensation, including the members of the WYAC. At YAC, we came up with the 'Three Cs' for how we use money and look after the Yindjibarndi people being: Commercial, Community and Culture.
20. For the 'Commercial' side, YAC has started a business called Yurra that does gardening, cleaning and building. Profits go back into the business so we can build the business to create jobs and training.
21. We want to grow businesses, but you need money to do that. We need equipment for Yurra. We need money to help support people to get training certificates. We want to get young people up and running, and make sure they avoid relying on handouts. The YAC and YNAC Directors, talk about plans for businesses but we need money to make our dreams a reality.
22. For the 'Community' side, YNAC needs to support all our community members in Roebourne, Cheeditha, Ngurrawaana and everyone else. We want to do more for the Yindjibarndi People, but we don't have the money for it. We need money to continue to grow these communities, including to build and maintain houses for Yindjibarndi People and elders. We also need to help build services for Ngurrawaana. At the moment, we have to wait a long time if we need someone to go there. With Roebourne, everything is there: community services, hospitals, shops. We need money for these things too. We need to look after Roebourne because there are so many people there, including many of the old people. *Nyinyaard* is about looking after everyone. I talk more about *nyinyaard* further below.
23. Education is also part of this Community side. If some of the young kids want to go to Perth to get an education or go to university, we want to have the resources to help them follow their dreams.

24. We also need transport which can easily connect people from the different towns. Lots of people (including elders) miss important meetings because they cannot easily travel. The same goes for funerals and health care. Good buses will help the Yindjibarndi get around easily to all the places on country.
25. Finally, we want to buy a house (maybe several houses) in Perth for when family members are in hospital, visiting school kids or those at university.
26. For the 'Culture' side, compensation would help us do so much more on country. Already there is the ranger program. If we have more resources, we can get our young people out there more often; we could train people to do ranger work. More four-wheel drives and more equipment would allow more people involved in cultural mapping and site protection. There's a lot of work involved: food preparation, visiting sites, using the DIA, computers, all the gadgets for recording heritage.
27. The *ngurra* needs us and we need to stay connected to our *ngurra*. So, compensation would help us do this by allowing us to take more trips out on country.
28. Compensation would also help with participation in the *Bundut*. Some tribes are using generators to light up Law Grounds. We would like to do the same. It also costs a lot of money to pay for fuel and tucker for everyone. At the moment, people have to fork out for these things, balancing the budget against paying rent and other expenses. And cost of living these days is so high. There's also the tucker and fuel needed for the other mobs groups which participate in our Law. Yindjibarndi People want to go out on country to see sacred sites and participate in Law at Woodbrook. To do that, you need money. In Roebourne, the closest Yindjibarndi country is Harding River Dam which is about 30 kilometres away. It is 100 kilometres to get to Millstream but there's no fuel there. Broken or old cars are not going to do it. We need good cars to properly see and maintain country.
29. Yindjibarndi has companies and trusts for the "Three Cs". There is YAC and YNAC. There are two trusts – YCCL and Y3CN. There are other companies like Yindjibarndi Nation. Yurra sits under Yindjibarndi Nation. There are other

companies but that is as far as I know. We are just starting out with the Y3CN trust and Yindjibarndi Nation. They got set up in the last couple of years.

30. YAC and YNAC gets money from Rio Tinto. We have had an agreement with Rio Tinto for a long time. In the last couple of years, they agreed to modify it. Rio Tinto used to pay about \$6 million under the agreement but now it pays about \$20 million. Half the money goes to YCCL and half the money goes to Y3CN.
31. If we succeed after all these hard times, it will be so rewarding. Compensation is not just for now but for the future generations. It's our duty to speak up for our *ngurra* and people. No one else is going to do it. We still have a strong culture and we need to make sure we can maintain and build on it for the future.

Andrew Forrest ABC article

32. When I saw an ABC article about Andrew Forrest's comments dated 15 February 2023 that is annexure "**MRR-3**" to the affidavit of Margaret Roslyn Read I was deeply hurt. Comments like this about the Yindjibarndi depicts us like we don't know how to manage our money even though we established YAC in order to look after the community, to develop it sustainably for future generations and to start businesses for jobs and training Yindjibarndi People. Mr Forrest's message in the article about how the Yindjibarndi would spend money on alcohol is totally different to how me and my family see our futures.
33. I feel sad because Yindjibarndi are trying to achieve something that is good for the Yindjibarndi. It sends a bad message to the general public who do not know much about what's happening with this case.
34. I try not to read too many of the articles like this because it hurts my feeling.

Galharra

35. The *Galharra* system goes way back to the creation time and governs everyday life, how to act on country, and how every person in the Yindjibarndi community relates to each other. It determines which people you can marry and how you

relate to family and extended family. For example, how you talk to fathers, brothers, aunts, uncles and in-laws. *Galharra* is part of life, you have to do it.

36. The *Galharra* places everyone in a skin group. I am a member of the *balyarri* skin group. The other skin groups are *burungu*, *garimarra* and *banaga*.
37. My connection with the other men in your skin group is formed during the *bundut* ceremony at the Law ground. The skin group you are in comes from the Mum's side and gives you certain roles and responsibilities, like looking after certain people and certain parts of country (including flora and fauna). The skin group also means that there are certain places I can and can't go, some people I can and can't talk to.

Wirrard and nyinyaard

38. The *wirrard* is my spirit or my soul. It can be healthy and good or unhappy and unwell. Your *wirrard* can leave you. When it does your body will soon follow, and you finish up for good. Spirits from the country can harm you physically and spiritually. In a spiritual way they can make your spirit go out of alignment, it starts to go out of your body. This will make you sick. And if you do not do anything you will get more and more sick. You need to see a *marban* or a healer to help you.
39. *Nyinyaard* is about sharing so that you're looking after others. Caring and sharing for everything. This is who we are as Yindjibarndi People. For example, if I catch a Kangaroo and cook it, there is no way I can eat all of it. I need to share pieces of it with others. Because I have done that, when I'm in need of something, other people have to give something back in return.
40. *Nyinyaard* is a very significant part of Yindjibarndi culture. You cannot forget it and it stays in you; it guides you with the right way to act, it is the law of life. It was set down in the creation time and is similar with Christianity with its morals for life. We were given rules by *Marrga* (the creator). We must follow these rules no matter where we are or which generation we are part of. We must teach it to the younger generations.

41. If I break the *nyinyaard*, it will disrupt my *wirrard*. I cannot feel good because I did not share. I will feel uncomfortable around the people who I didn't share with. It is like if I had some pocket change and someone asked me for a couple of dollars for food. If I walked straight past that person, I would then feel uncomfortable if I have to see them again and talk. If I did this, my *wirrard* would be down and it will show in my body.
42. When Andrew Forrest and FMG came to the Yindjibarndi community with the capped \$4 million Indigenous Land Use Agreement (ILUA) offer, I thought about *nyinyaard*. Traditionally, I was taught that *nyinyaard* means compromising and making sure I do not take too much from the person who I am negotiating with. I was taught by my elders that it is an important rule not to take too much so the other person still has enough for themselves, the family and more into the future. The rule is that the person who is sharing must look after the person they are dealing with so that everyone gets enough. If this rule is not followed then any greed shown can destroy the relations in the group you live and share with.
43. That is why the *nyinyaard* of the Yindjibarndi community has been greatly affected by the building of the Mine. I feel sad and angry because the community is divided and FMG, one of the biggest companies in Australia, is making so much money from it. FMG has not dealt with me and my family under the Yindjibarndi cultural rules and has pulled the WYAC members away from their Yindjibarndi families and those rules.
44. FMG building the Mine on Yindjibarndi country makes my *wirrard* break and the sadness overwhelms me to see my country destroyed, the spirits homes dug up without the Yindjibarndi's consent or any proper compensation. When I think about my Yindjibarndi people, and particularly the elders, missing out on so much which could have been shared amongst all of us as part of the *nyinyaard* I feel like my community is dying a long slow death in front of my eyes. It makes me angry that some Yindjibarndi People in my community have given away so much country and did surveys that have not protected important sites at the Mine. The members of WYAC have also wasted time and money in Supreme Court actions against us to distract us from our native title claim and spend

money on lawyers instead of the Yindjibarndi community. This would not have happened if we were given the opportunity to sign a good deal with FMG in the first place.

45. My *wirrard* feels weaker because of all the things that have happened with the Mine and the community. I can feel a part of country that is missing which has made me feel sick and miserable, unable to speak with anyone about it. My *wirrard* has been displaced and this affects me as a person, inside and out. When someone does something wrong to my country like what has happened with the Mine, it takes the life out of me and others in my family. This is why it is important for me to go out on country; it helps heal my *wirrard*.
46. Even though my *wirrard* has been affected by the Mine, I am motivated to keep fighting for the *nyinyaard* of the community. This is right thing to do because of my responsibilities under the Yindjibarndi Laws.

Jowis and the Bundut

47. I was taught by my elders, such as ~~TJ Woodley King~~ and Cheedy Ned, that *Jowis* (spiritual songs given to Yindjibarndi People by spirits of the *ngurra*) are part of the song lines. The *jowi* takes me on a journey from one place to another. *Jowis* come from the country. A spirit from the country comes and grabs someone's *wirrard* when they are asleep and takes them on a journey. They teach Yindjibarndi People about country, special places and everything in between. When I wake up from sleep I have the *jowi* in my head. *Jowis* are different to the ceremony songs we sing for Birdarra law. There is a *jowi* for Gamburdayinha. That's our word for the Hamersley Ranges. It's a long song, I know some of it. Michael Woodley can sing the whole song, I have heard him sing it. The Mine is in Gamburdayinha.
48. I have been taught through going through Law that *Bundut* is the Law ceremony songs. It's separate to the *jowis*. It's the key to who Yindjibarndi People are and where we come from. There are *Bundut* songs that travel through the Mine. We sing about the creation of Bangkangarra. The creation spirit, the *Marrga*, who created Bangkangarra created all the country where the Mine is, even the caves. We sing about the caves. The *Bundut* helps us connect

with all the caves, flora and fauna. Yindjibarndi caves are important places for storing objects, spirits, burials and rock art.

49. When we sing the *Bundut* at ceremony time we explain to young people what we are singing about. This is an important way of teaching young people about their country. This is an ongoing teaching process. You learn more over time, when you keep going to Law ceremonies. It has always been like this.
50. The Mine has already impacted the song cycle with the destruction of the caves near Bangkangarra. It's like a limb of your body coming off because it makes Yindjibarndi People sick. When you sing the song cycle, the spring and the caves are a part of it. It becomes a missing part of life. When I sing these songs now, I do not feel connected to country in the same way. The country is weakened, and you are weakened as a person because the song is not connecting to country as it is no longer there. I feel like this even when I'm not on country because you feel for country in your spirit. It also stops me teaching the young people because I can no longer show them the places in the *Bundut*.
51. I am anxious about the Bangkangarra *jinbi* (spring). I am uncertain about whether it will be there in the future. FMG have a tenement in the area. The ground water is being affected by the Mine because they are taking water from the aquifer that goes under the ground to Millstream. I am worried that the waterfall at Bangkangarra will stop and it will go dry because of the impact of mining on the groundwater.

FMG comes to Roebourne

52. When we started YAC, the Yindjibarndi People were all together and had a vision to look after our members and build our community for their health and wellbeing. Occasionally, there was a need to convince people to choose the right path. Most of the time, we were all together as one people on big decisions.
53. In 2007, Andrew Forrest and FMG approached YAC with the \$4 million cap ILUA. I thought it was a bad deal – it was a \$4 million capped payment for the life of the mine over all our country. Michael Woodley and some of the other

team members (Fabian (AKA Charlie) Cheedy, Lyn Cheedy and Kevin Guinness) explained what it meant to the Yindjibarndi People. Not everyone has the education, reading and writing but they explained it in a way that was understandable for everyone. We were also able to bring in lawyers to work out what a good deal looked like without taking too much from FMG so they had enough for themselves and their families. Even though Michael and the others explained why it was a bad deal not all Yindjibarndi People agreed. I remember after a few years Allery Sandy, Jill Tucker and Maudie Jerrold saying at meetings that they wanted to take it because the Yindjibarndi People would get nothing from FMG.

54. I remember that Andrew Forrest and the other FMG people were very smiley when they spoke with us in 2007 and 2011. They talked really nice and told us that they were offering a great deal for the Yindjibarndi. Andrew Forrest especially. He told a story about when he first came to Roebourne, being taught how to ride a horse by Scotty Black. He told the meeting in March 2011 about how he was raised by blackfellas out near Onslow and so he understood blackfellas. I remember him very clearly saying words to the effect:

"I know black fellas. I know how you work. I was raised by black fellas out at Onslow."

55. The deal that FMG offered was not enough for our people to share. I believed that Yindjibarndi People were entitled to an amount that would properly benefit our community. Not just something that would suit the company. FMG were not following the *nyinyaard* even though Andrew Forrest said ". *I know how you work*". Me and the other Directors rejected FMG's offer.
56. There were a few YAC people who wanted to sign the ILUA even though the Directors made it clear that it was not a good deal for all Yindjibarndi. Mostly the Sandy and the Adams families wanted to sign the agreement with FMG. Around late 2010 some of the Sandy and the Adams families started WYAC supported by FMG.

Surveys

57. Over the years, I have done many heritage surveys for mining companies: FMG, Rio Tinto, Gina Reinhardt's company (Hancock) too. Many of the surveys I was involved with related to mining tenements where the Yindjibarndi #1 claim area is. Most of these surveys were because the mining companies wanted to do land clearing, exploration and drilling.
58. During a survey, I would walk through the area the mining company would want to clear, in a six or seven person line (usually six or so Yindjibarndi People and one or two anthropologists) looking for rocks, grinding stones, artefacts, caves (especially around Ganyjingarringunha, Garlawinji and Bankgankarra, at places where ancestors and old people used to stay) and flakes (rock flakes which ancestors used for hunting and all sorts of other things). Sometimes, we would also find bailer shells which were traded from coastal tribes. As part of the *nyinyaard*, in the old days, our Yindjibarndi ancestors would trade things like *yandis* (a dish cut out from tree which is good for cooking and carrying babies), spears, kangaroo meat with coastal tribes in exchange for the shells and fish. I was taught by my elders that it was Yindjibarndi custom and Law to share like this.
59. When I was a heritage officer at YAC, FMG requested surveys at the area where the Mine is. I went on some surveys at that country in those early days. I went on quite a few. I went on the surveys with other Yindjibarndi men. Some of them have passed away now. I remember getting the sense of feeling that spirits were watching us during the surveys. While I don't remember exactly how many, I discuss those I can recall further below.
60. I remember Tony Godley from FMG telling me that there was going to be a big mine where we were surveying. I had a sense that so many archaeology sites, caves and creeks and gullies would be destroyed by the Mine. And the spirits from those places. It was a sad feeling knowing that it would happen. I felt it walking around on the surveys.
61. Archaeology sites are important because our ancestors left those things there. Sometimes when you pick up something, you can feel the spirit of the person

who left it there and feel in judgment by that person what you are going to do with it. It is important to leave those sites as they are. The spirits of our ancestors who left things there can get angry and maybe harm us if we move things around. I was taught by my parents not to move things or take them off country or I could get sick.

62. Yindjibarndi are the ones who have to look after and manage the country in the right way. Our old people told us to do this. It goes right back. This is what happened to my dad, Long Mack. His rainmaking site got destroyed and the spirits from that country took his life. It did not matter that he tried to save it.
63. Between 13 and 17 March 2008, I attended a five-day survey with Yindjibarndi men for an FMG archaeological and ethnographic survey. During the site survey, archaeological sites were located, photographed and delineated. Each day of the heritage survey was professionally filmed. I attended the survey with Thomas Jacobs (TJ) (deceased), Jeffrey Adams/ Gilbey, Glenn Lee and Lyle Wally.
64. On 15 and 22 April 2008, I attended an eight-day survey for FMG with Yindjibarndi men for archaeological and ethnographic purposes. During the survey, eight archaeological sites were located, photographed and delineated. While we were there, we did the *wuthurru* (ceremony to introduce strangers / *manjangu* onto country) and we discussed our religious and spiritual connection to country. I attended the survey with TJ, Stephen Hubert, Clifton Mack, Rohan Davies, Jonathon Watson, Glenn Toby and Lyle Wally.
65. Between 28 April and 7 May 2009, I attended an archaeological and ethnographic survey. We identified 16 archaeological sites that were photographed and delineated. While we were on country, we greeted country with the *wuthurru* and we spoke about our religious and spiritual connection to country. I attended the survey with TJ, Ken Sandy, Darren Jacobs (deceased), David Woodley, Middleton Cheedy, David Jerrold (deceased) and Bobby Willis.
66. Between 12 and 13 May 2011, I attended the inspection of burial caves at Ganjingaringunha (especially sites and features in M47/1413). I was very concerned about this highly significant site of *yamararra* (caves and rock

shelters) and the burial/walled niches that existed in that area. The findings were presented to the Aboriginal Cultural Materials Committee in a report dated May 2011 called 'YAC Heritage Report' in response to FMG's February 2011 Section 18 Application at Firetail Priority Mining Area and Firetail Priority Infrastructure Area. On that survey I was accompanied by Michael Woodley, TJ, Stanley Warrie, Wayne Stephens (a Guruma man), Harry Mills, John Woodley, Pansy Cheedy, Rosy Cheedy, Jean Norman, Tootsie Daniel, Lyn Cheedy, Lorraine Coppin, Finola Woodley, Jane Cheedy, Wendy Warrie, Kaye Warrie, Joylene Warrie and 12 Yindjibarndi children.

67. We went there because WYAC men found the burial site during a survey. I remember YAC receiving information about this. I think it came from WYAC and FMG. We did a smoking ceremony at the burial site. We did this to let the spirit know we were there as Yindjibarndi People. When a niche is opened and it's a burial, the spirit for that person comes out. That spirit might be disturbed or not be at ease. Performing the ceremony gives the spirit peace.
68. On 10 June 2011, I attended a trip with ABC '4 Corners' to Ganjingaringunha to inspect a *yamarrara* burial site within the FMG Firetail tenement M47/1413 which shares a boundary with M47/1473. When we attended, we performed the *garnjarmarri* burial ritual for the cache of the bones that was in the cave. The ceremony was filmed and recorded. I attended that trip with Michael Woodley, TJ, Stanley Warrie, Hayden Woodley, John Woodley, Esther Pat, Theresa Coppin, Deborah Coppin, Wendy Warrie, Jasmine Mack, Lorraine Coppin, Judith Coppin, Finola Woodley, Pansy Sambo, Rose Cheedy, Lyn Cheedy, Joyce Hubert and 10 Yindjibarndi children.
69. On 28 October 2011, I attended a trip with some Yindjibarndi People to Ganjingaringunha. We did the *wuthurru* and sung a *jowi* and collected *yarna* (ochre) and *birra* (tree bark) that we use for ceremonies. I attended the survey with Michael Woodley, TJ, Charlie Cheedy, Curtis Lockyer, Davis Hicks, Stanley Warrie, and Mark Lockyer.
70. On 25 November 2011, I met with the Department of Aboriginal Affairs (DAA) around the area near the Mine. The DAA were conducting an investigation into

FMG's destruction of Yindjibarndi's heritage sites. We camped at a place north of the Mine area called Bumanjinna with Michael Woodley, Lorraine Coppin, TJ and Stanley Warrie. The Yindjibarndi group was blocked by FMG at the security gate, and we were not allowed to gain access. The denial of access by FMG personnel was filmed, photographed, and recorded. It made me feel sad because I could not access my own country.

71. On 10 March 2012, I attended a visit at Ganjingaringunha where Michael Woodley was interviewed and the *wuthuru* ceremonies were recorded. TJ and a journalist called Paul Cleary were also there.
72. On 31 January and 1 February 2014, I recorded with Curtis Lockyer GPS coordinates for significant sites on M47/1473 on 31 January 2014 (22 features and nine significant areas), and M47/1475 on 1 February 2014 (24 features and six significant areas).
73. Between 22 March 2018 and 26 March 2018, I attended an archaeological and ethnographic survey around the area where the Mine is.
74. I cannot remember surveys I attended between 7 and 13 August 2008 and 3 and 9 April 2009.
75. All of these surveys were in support of the Yindjibarndi #1 claim. I participated in many surveys for the *Daniel* claim as well. [REDACTED]
[REDACTED]
[REDACTED] That has made me feel sick and traumatised that Yindjibarndi People would stop the sites from being protected so the Mine can destroy the sites.

Significant sites and the Mine

76. Before my old people were moved to the Old Reserve, they would live off the land and carry Law and culture on Yindjibarndi country. If you don't visit a significant place and make sure it is being maintained and looked after, you lose part of yourself. This is why me and other Yindjibarndi People always go out on country, to the pools, creeks and sacred places. By doing this I get a feeling for country.

Garlawinji

77. Garlawinji is an important place for all of the Yindjinbarndi people. Many years ago, it held a Law Ground. I have visited Garlawinji my entire life. Even though our ancestors were pushed off the land at Garlawinji, we have to go back there. Before the companies came, we would often go to places like Garlawinji, and the creek there, 'Garlawinji Beredera'. The creek is the main resource for all life: birds, animals, flora and the Yindjibarndi People. Michael Woodley is responsible and speaks for Garlawinji and Ganyjingarringunha.
78. There are significant 'mens' business' sites at Garlawinji which I cannot speak about.
79. Even when FMG started only working with WYAC to run the heritage surveys at Garlawinji (including for the area where the Mine was built), I would go visit to check all the important sites: the springs and pools, the Bangkangarra spring. We were making sure that nothing had been destroyed.
80. Bangkangarra is a very important place for the Yindjibarndi song cycle which has been sung for every year since the beginning. During the Yindjibarndi #1 claim, we took Justice Rares to Garlawinji and to the spring at Bangkangarra because it is such a significant place for all Yindjibarndi People. We sang some of the songs for him.
81. When I first saw the Mine on Ganyjingarringunha, I was greatly affected. I was speechless. I felt my energy drain away. I felt my spirit lower. Yindjibarndi country is like a whole person. The building of the Mine hurt me as if a part of my body was injured. Like a body, even though one part can be hurt, it affects the whole body. You have a feel for the lost country, the caves, the song cycles which connect it all. You know that some of these places are no longer there. The Mine affects the whole country.
82. It also makes you feel lost. Even looking at a satellite photo of the country where the Mine is, I can lose my bearings. This happens when I go out on survey too. Sometimes I get lost because country has been destroyed and places are no longer where they used to be. I cannot see the hills and caves so I cannot get

my bearings. Seeing the Mine and its destruction of Yindjibarndi country is so upsetting. I feel sad about the country which has been destroyed without consent.

83. I can see the Mine from all over Yindjibarndi country: when driving near Mt Florance near the Hooley Station area; on the road from Tom Price to Wittenoom; along the Rio Tinto Access Road.
84. When I see the FMG rail out at Port Headland, I grieve because it is so sad to see your country being exported overseas. It feels like part of me is being taken away. As I get older, I develop a feeling for any part of country. It also makes me angry because the Yindjibarndi should get paid for that iron ore and we are not. You see the train go past and you know someone is getting paid while my people are not. As the rightful owners of this land, we have a right to speak for this country and for FMG to do negotiate with us in a fair way.

Jindawarranna

85. Jindawarranna (Millstream) is an important place for all Yindjibarndi People. Today, Harry Mills, his brother, Jimmy Morris, and Bruce Monadee are responsible and speak for the country at Millstream. Back in the day, it was my father, Long Mack, and Woodley King.
86. Jindawarranna is where the Yindjibarndi People believe the creation started. There were two boys doing Law, initiates who broke the Law by killing two parrots which were in the same family as the rainbow serpent. We believe that the rainbow serpent came down from the sky to what is known as the Fortescue River, angered by what the two initiates had done. At that time, the river was just a dry riverbed. First, the rainbow serpent created a big wind from the coast to show that it was angry with the two boys for breaking the Law. The rainbow serpent then went underground and swallowed the boys up his anus. The families of the boys were at a nearby camp. They apologised to the rainbow serpent including by cutting themselves. They wanted the rainbow serpent to return the boys. The rainbow serpent just got angry and drowned them with water. The water at Jindawarranna / Millstream (including the Fortescue River) is from when the rainbow serpent drowned the families.

87. One of the key messages of this Yindjibarndi story is that tampering with country in the wrong way can lead to punishment. This is a bit like with my Dad, Long Mack. He was responsible for looking after the Harding River rain making *thalu* area. When it was tampered with when the government built the dam, he was unable to protect it in the way he was supposed to. It broke his *wirrard* so that he was unable to protect the land. He was later punished by the spirits for not protecting the country. It is similar with the Yindjibarndi People's *wirrard* with what has happened with the Mine.
88. Most of the water comes from the underground and it flows into Millstream. I am very worried about Millstream not getting the water from the ground water because the Mine is taking water to wash the iron ore. I am told from mine workers like Charlie (Fabian) Cheedy that there are dams and creeks being damaged at the Mine. It makes me feel very sad for all Yindjibarndi because Millstream is the capital and if it is affected then all of Yindjibarndi country is affected.

Thalus

89. *Thalus* are increase sites which help multiply things on country like: babies, flora, fauna and water. There are many *thalus* around Yindjibarndi country. My Dad, Long Mack, was responsible for a rain making *thalu* on the Harding River. For rainmaking, my father would perform a ceremony where he would poke with a spear an ant hill which was in the water at the Harding River. He would get the clay from the ant hill and put it in his mouth and then spit it out.
90. There is a rainmaking *thalu* at Millstream too. There is a *yumbalong* tree (Gum Tree) which has a pattern of a snake all around it. Alongside it is a stream with mud and lily pads. For this *thalu*, Yindjibarndi People grab the mud from the stream and walk in a snake pattern back to the tree and call out for rain.
91. There is a '*baby thalu*' at Gregorys Gorge. People will go there and perform a ceremony and ask the spirits for children. I have seen this help increase fertility. A woman in our community, Shelly Parsons, had some kids after having fertility issues for some time.

92. At Garlawinji, close to the Wirlu-Murra Creek, there is the *marliya* (honey) *thalu*. It is a religious site but I do not know much more about it. Other Yindjibarndi People know more about it. I am worried about the *thalu* being affected by the dust from the tailings next to the Rio Tinto access road.
93. There are also *thalus* in the Bangkangarra area. Because of how close the Mine is to Bangkangarra, I am also concerned about those *thalus*.
94. The destruction of *thalus* can have very serious consequences for the ecosystem of Yindjibarndi country.
95. My father was heartbroken after the destruction of the important rain making *thalu* at the Harding River. It was his responsibility to manage it, work it, and make sure it continued. He was heartbroken when the government destroyed that site. The consequence was that he died of a heart attack. Part of his responsibility for that *thalu* was to hand down the knowledge to his sons. However, because the site was destroyed, he was unable to do so.
96. We cannot teach young people about the *thalus* if they are destroyed. You cannot replace it and talk about its significance because it is no longer part of the country and no longer part of you. It is missing. So, when you're singing about the site, you can see the place in your mind, but it is actually no longer there. It is a heartbreaking experience.

Post-Mine

97. I understand that some of the FMG mining leases deal with what the Yindjibarndi People can do with the country after the Mine closes. This seems silly to me when a hole has already been dug. We've already lost the trees, hills, creeks, valleys and caves. Those important sites can never be returned.

Elder permissions and manjanju

98. A *manjangu* is someone who is not a person from the *ngurra* (country), a stranger. I was taught by my elders like my parents, Woodley King and Cheedy Ned that traditionally, if someone from another tribe wanted to come onto Yindjibarndi country they would have to see the *ngurrara*. They would have to ask first; whether for walking through country, visiting a family or seeing a

particular place. It has been this way since the creation time. It is a simple rule, but powerful. If someone wants to walk on country with the *manjangu*, they would often need to have an Yindjibarndi person present.

99. Traditionally, I was told by my elders that punishment for breaking the laws as a *manjangu* were serious. Someone who broke the law might get speared. The spearing location depended on the location where the person was caught. If someone was caught stealing, there was a debt involved. Depending on the situation, you may just spear someone to teach them a lesson. If it was a more serious issue, the person may have been killed to teach everyone a lesson. Sometimes, the *marban* (spirit leader / keepers of Law) people would harm someone internally. *Marban* could also heal with their healing tools. Nowadays, the *marban* mostly heal people.
100. We do not punish with spears anymore but the spirits will punish *manjangu* for trespassing. My exclusive possession native title should protect my rights and interests, especially against people who break the laws relating to the protection of sites.
101. These days, *manjangu* must seek permission from elders of YAC/YNAC to access Yindjibarndi country. This was one of the reasons YAC was set up: to protect our country.
102. FMG are *manjangu*. They did not get permission from Yindjibarndi to build the Mine. Permission from WYAC was not permission from the whole Yindjibarndi community.
103. FMG not getting proper permission still leaves me lost for words at times. [REDACTED]

[REDACTED]

[REDACTED]

The split

104. I have read the affidavit that was sworn by Ned Cheedy in April 2010, a year before he passed away, and I know that what he said in that affidavit about

Michael Woodley's knowledge and authority in respect of Yindjibarndi country and our law and culture is true and correct. Annexed and marked "SCB-51" to the affidavit of Simon Charles Blackshield to be affirmed on 18 May 2023 (**Third SCB Affidavit**) is a copy of the affidavit sworn by Ned Cheedy (deceased) on 7 April 2010.


105. Growing up in Roebourne, there were occasional feuds here and there, but we'd always sort it out and come back together. I have never seen anything like the conflict between friends and family after FMG came. We're still divided to this day.
106. Before FMG came, we were all just one people trying to achieve the best outcomes for the Yindjibarndi community. With the people that went off to start WYAC, the Yindjibarndi were split in a way that I had never seen before. Families that used to be great friends are no longer speaking to each other and not getting along.
107. The Yindjibarndi community knows that FMG came to YAC with an ILUA and that members of YAC formed their own corporation to do a deal with FMG. The deal was not a good one which would benefit all, which is important for *nyinyaard*. Our YAC / YNAC mob has been fighting against this huge organisation to secure a good deal where no one is excluded (including WYAC). That is *nyinyaard*. WYAC receive money from FMG which only benefits their people and excludes the rest of the Yindjibarndi community. And then WYAC members come into meetings and ask questions aggressively, showing no respect for themselves or others. It is so sad that WYAC mob sided with the company over their own people.
108. On 23 August 2012, I, and 12 other Yindjibarndi lawmen, signed a letter that was addressed to Mr John Waters, a barrister who was appointed by the Commonwealth Minister to inquire into an application, made on behalf of YAC and YAC's Directors and the CEO, which sought a protection order under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (**Heritage Act**), for an area of land and waters covered by the Yindjibarndi #1 native title claim.

109. We wrote this letter because of the evidence that was given in affidavits sworn by some members of the breakaway WYAC group, which had been filed in the National Native Title Tribunal concerning an application made by FMG for a determination to allow the grant of a mining lease, M47/1431, and other mining tenements. That evidence contradicted the evidence given by Michael Woodley in that matter, and the WYAC affidavits were relied upon by WYAC and FMG to oppose YAC's application under the *Heritage Act*. Annexed and marked "**SCB-52**" to the Third SCB Affidavit is a copy of the letter addressed to Mr John Waters.
110. I am no longer connected to the members of WYAC. If I see them in a shop or at a funeral, I will say "*hello*" and shake hands but nothing else.
111. I was especially sad about my late older brother, Clifton Mack (deceased). He was led to WYAC by extended family who had joined that mob and so we would only see him now and then (same with the extended family). He worked as an artist for WYAC. My relationship with him, and my relationships with the other extended family that moved to WYAC, fell apart. It affected me a lot and I could tell it was the same for him. I felt sad. At AGMs and other meetings, he would sit on the WYAC side and me on the YAC side. For some time, I was able to visit him and it would be OK. Eventually, however, it became too uncomfortable. The respect between us under the *Galharra* system fell away even though some kinship remained. This was the same for others in the community. People stopped respecting each other in the community and did not follow the *Galharra* in the way we have since the creation time.
112. I believe that the WYAC mob threw away respect, traditions and skin group rules to get the deal done. It has been so disappointing to see the way that WYAC has been fighting us all these years, for the wrong reasons.
113. And then FMG just keeps making billions of dollars and Andrew Forrest gets richer and richer from the Mine. The fact that the Native Title Act has not been able to make much of a difference brings more grief to me. It makes me feel hopeless and insignificant. It is just like how my father felt over the Harding River Dam. We keep losing our country over and over again.

Complaints about YAC to ORIC

114. In 2011, WYAC complained to ORIC in relation to the YAC governance. These complaints were upsetting because it was people like John Sandy and Jill Tucker complaining about their own corporation to ORIC. All the money and time spent on the investigation could have gone to the Yindjibarndi community. And then the evidence showed that YAC had done nothing wrong.
115. It saddens me that Yindjibarndi People could do this to their own community.

Declassification of heritage sites in 2011

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117. Many important artefacts and caves were destroyed at this time, including at Bangkangarra and Ganyjingarringunha. There were spirits of our ancestors in the caves; ancestors who were laid to rest there. It is like removing someone from a cemetery. It is disturbing and sad for me and other Yindjibarndi People.

Status of the Bundut

118. The split has affected our culture and participation in Law. Before the split, we were all one with the *nyinyaard* and participating in Law. The formation of WYAC caused separation with pretty much everything. I see this when Yindjibarndi People are travelling to the Law Ground at Woodbrook. Sometimes, YAC members will ask WYAC members for money for fuel, tucker or other assistance; money which we all know is coming from FMG. A lot of YAC members do not have much money for Law ceremonies. In response, I have heard WYAC members say words to the effect:

"No, you're from YAC. I won't give you that."

119. At the last couple of *Bundut* meetings, I have felt and seen the division. It is obvious. It is awkward. The ceremony is meant to be one people celebrating these young ones growing up. It is custom that the community joins as one

people to do the *Bundut*. But it is awkward for members of each group to participate together in the ceremonies.

120. The young people see this division too and so don't talk to each other even though they are meant to be when participating in Law. They have roles to play, talk to different people and interact with different mobs. It comes back to the leadership from the older people. They have to teach the young ones how to participate and work together.
121. Before the split, the elders were a role model for all and would teach the young people. But that knowledge is not being passed on in the same way anymore. Young people are missing out because of the split. This is not good for knowledge like the system behind the *Galharra*. Now, due to the split, I can see that young people are unsure about who they can relate and speak to within their skin groups. They have to pick a side, even against people in their own skin group. I have noticed that a lot of people have stopped coming to Law.
122. It makes me sad and upset that people are taking the division to the Law Ground.

Violence in the community

123. Before the split, there wasn't much violence in the community. When there were fights, every now and then, they would be quickly settled. They would only last a day, or a week at most. The violence in the community now just goes on and on and on. The violence has deepened the split between the YAC members and the WYAC members.
124. I have never been involved in any of the fights. I've just been around to support, hold up people and break up fights. I have been regularly concerned for my family and friends, especially Michael Woodley and his family because they were always getting attacked. I have seen many fights and their aftermaths. I have seen Allery Sandy with her minibus transporting people to fights.
125. Violence is not a part of the *Galharra* system. The system tells us to respect yourself and others, and so we are taught to take a calm approach to conflict. I

believe that the split and the violence have disrupted the *Galharra* system for the Yindjibarndi People.

Elizabeth Gaines meetings in 2021

126. I remember when Elizabeth Gaines first started contacting Michael Woodley. Then there were a couple of meetings with her in about 2021. I remember one which included Michael Woodley, myself, Elizabeth Gaines and a man from FMG called Tom Weaver. He looked after heritage work. I used to always see him in Roebourne, hanging out with the WYAC mob. The purpose of the meeting was to try to re-negotiate a good deal.
127. Because Elizabeth Gaines was the CEO of FMG at that time, I did not know what to expect from her. By this time, we had been fighting for so many years and so I thought it might just be another meeting with FMG. I was not overly hopeful but I did want to hear what she had to say. We had to check if FMG was actually genuine about coming to the table to negotiate. Unfortunately, the meetings just felt like FMG were ticking a box, like so many of the meetings with FMG over the years; just a procedure to follow.
128. In the meetings, I also got the sense that Elizabeth Gaines was not aware of the Yindjibarndi side of the story. I remember that she seemed surprised by some of the things Michael Woodley was saying about YAC's businesses and future goals. Elizabeth Gaines seemed genuine about her intentions to understand the Yindjibarndi side, but in the end, I got the impression it was not up to her to finalise an ILUA. She still pushed for the \$4 million cap deal. I understand that Elizabeth Gaines is no longer the CEO of FMG.
129. It was upsetting because we have the Mine on our country and FMG were still not willing to give us a good deal, or even just meet us half-way.

Nguga Nulli and spirits

130. *Nguga* (single) or *Nguga nulli* (more than one) are spirits which protect and manage the country. They have been given the same rules as we have from the *Marrga*. The *nguga nulli* and the spirits of our old people live on country. They are walking the country still.

131. I know that the spirits and the *nguga nulli* are lost in their own country. Because YAC was not properly consulted for the heritage surveys, land has been destroyed which contained the homes of the spirits. The point of heritage surveys is to ensure that any destruction is alright for both the company and the *ngurra*.
132. I am unsure what is happening to the spirits and *nguga nulli* on the land where the Mine is. We don't know because we are not allowed into the Mine. *Nguga nulli* have the power to haunt people who do the wrong thing. The *nguga nulli* can harm you (both spiritually and physically) if you do something wrong like not looking after the flora and fauna on country. I hear stories about the *nguga nulli* tormenting workers at the Mine. They are restless because their homes have been destroyed.

Signed:

Angus Mack

Angus Mack

Date: 16 May 2023