



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

Compound Interest Royalty Calculation

15 October 2024

Mr Murray Meaton

Introduction

1. In my expert report dated March 2023, and during the hearing of expert evidence in April 2024, I expressed my opinion that simple interest is the applicable interest calculation to apply to economic loss suffered by the Yindjibarndi people.
2. However, on 30 September 2024, Blackshield Lawyers wrote to me asking that I prepare compound interest calculation to assist the parties and the Court in the event the Applicant establishes that compound interest ought to apply to any compensation awarded. A copy of these email instructions is **attached** to this report at **Attachment A**.
3. I confirm in preparing this report, I have been cognisant of, and complied with, the Federal Court of Australia's Harmonised Expert Witness Code of Conduct.
4. I have calculated compound interest based on the agreed sale revenues for historic and forecast production from the FMG Tenements within the Yindjibarndi native title determination area. These are the sale revenues used in my and Mr Jaski's joint report royalty calculation dated 26 September 2024.
5. Consistent with the joint report I consider that:
 - a. historical royalty-based payments should not be discounted
 - b. future royalty-based payments should be discounted back to the present date (1 January 2024)
 - c. pre-judgment interest should be applied to the historical royalty-based payments from the date of production through to the present day (1 January 2024).
6. Mr Jaski considers that:
 - a. historical royalty-based payments should be discounted back to the grant date of the tenement
 - b. future royalty-based payments should be discounted back to the grant date of the tenement
 - c. pre-judgement interest should be applied to the discounted historical and future royalty-based payments from the grant date of the tenement through to the present day (1 January 2024).
7. I have now calculated compound interest using my proposed royalty methodology and the discount methodology proposed by Mr Jaski. This interest has been calculated on the estimated royalty payments using both 1% and 0.55% of the FOB sales value.
8. The Federal Court rate of interest has been used in each year for both the simple and compound interest calculations.
9. Compound interest for Mr Jaski's methodology was calculated as follows:
 - FY2011 - 217 days of interest for M47/1409 and M47/1413
 - FY2012 - 358 days for M47/1431 and a full year for the closing balance from FY2011
 - FY2013 – full year interest on the balance carried from 2012
 - FY2014 - 165 days for M47/1453 and a full year for the closing balance from 2013
 - FY2015 - 306 days for M47/1475 and a full year for the closing balance from 2014
 - FY2016 to FY2023 - interest each year on the closing balance from the prior year
 - FY2024 - a half year ending December 2023 - interest at half the interest rate for FY2024

10. Compound interest for my royalty approach was calculated in two parts:
- For new revenue in a year, interest is based on half the revenue assuming the royalty is spread uniformly over the year.
 - Interest on the closing amount from the previous year is calculated at the full Federal Court rate for the year.

Compensation calculations with simple interest [REDACTED]

	Mr Jaski	Mr Jaski	Mr Meaton	Mr Meaton
Royalty rate	0.55%	1%	0.55%	1%
Historical royalty payments	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Interest on historic payments	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Future royalties	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Interest on future royalties	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Compensation calculations with compound interest (\$ million)

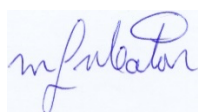
	Mr Jaski	Mr Jaski	Mr Meaton	Mr Meaton
Royalty rate	0.55%	1%	0.55%	1%
Historical royalty payments	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Interest on historic payments	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Future royalties	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Interest on future royalties	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Declaration

Mr Meaton confirms that he has had regard to the basis, material and the statements made throughout the conference of experts and has made all the inquiries desirable and appropriate and that no matters of significance have been withheld.

Signed:

:



Mr Murray Meaton
Dated 15 October 2024

Attachment A

Tuesday, October 15, 2024 at 14:26:25 Australian Western Standard Time

Subject: WAD37/2022 - YNAC v State of WA and others - applicable interest on compensation
Date: Monday, 30 September 2024 at 2:57:41 pm Australian Western Standard Time
From: Sophie Kilpatrick
To: murray@econs.com.au
CC: Simon Blackshield

Dear Murray

The Applicant acknowledges that you have expressed the view, in your expert report dated March 2023, and during the hearing of your expert evidence in April 2024, that simple interest is the applicable interest calculation to apply to economic loss suffered by the Yindjibarndi people.

Nevertheless, the Applicant has included in its pleadings (at paragraph [46(d)]) a claim for compound interest on economic loss. In the event the Applicant is successful in arguing that compound interest is applicable, we consider the Court would be assisted with some calculations. We note that the FMG Respondents do not consent to you conferring with Mr Jaski and seeking to agree on compound interest calculations. Accordingly, we are writing to request that you prepare your own compound calculations, along with an explanatory note that encloses this email as your instructions for provision to the Court. In preparing this note, you should comply with the Federal Court of Australia's Harmonised Expert Witness Code of Conduct you have previously been briefed with. Would you please also make yourself available to be called as an expert witness again in the next hearing tranche on 14-18 October 2024 to give any evidence about your calculations. Please let me know if you have any unavailability during that week.

Kind regards

Sophie Kilpatrick

Cross Country Native Title Services Pty Ltd
Lawyers and consultants
Ph: 0412 411 023
PO Box 5814 St Georges Tce Perth WA 6831

We acknowledge the Traditional Owners of the land on which we live, work and meet. We pay our respects to Elders past, present and emerging and recognise Aboriginal and Torres Strait Islander peoples' continued connection to land, waters and community.

Please note I receive numerous emails most days. My ability to receive, act upon or respond is at times delayed or constrained by other commitments. If a matter is urgent, please contact me by telephone.

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Registrar

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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.

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