

NOTICE OF FILING

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Registry: WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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

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



Second Affidavit of Christopher Ian Leonard Oppenheim

WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

Division: General

YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC

Applicant

STATE OF WESTERN AUSTRALIA & ORS

Respondents

Affidavit of: **Christopher Ian Leonard Oppenheim**

Address: c/- Fortescue Metals Group, Level 2, 87 Adelaide Terrace, East Perth WA 6004

Occupation: Hydrogeologist

Date: 4 August 2023

Filed on behalf of (name & role of party)	FMG Pilbara Pty Ltd, Pilbara Energy (Generation) Pty Ltd, Pilbara Energy Company Pty Ltd, Pilbara Gas Pipeline Pty Ltd and The Pilbara Infrastructure Pty Ltd		
Prepared by (name of person/lawyer)	Mark van Brakel		
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I, Christopher Ian Leonard Oppenheim, c/- Fortescue Metals Group, Level 2, 87 Adelaide Terrace, East Perth WA 6004, General Manager – Resource Definition, make oath and say as follows:

1. I am employed by FMG Personnel Services Pty Ltd, a subsidiary of Fortescue Metals Group Limited (FMGL), as a General Manager – Resource Definition. I have been in this role since March 2023. Prior to being employed in this role, I have been employed by FMG Personnel Services Pty Ltd in various roles since March 2011. This is my second affidavit in these proceedings.
2. I am authorised to make this affidavit on behalf of the 2nd to 6th respondents (FMG Respondents). In this affidavit, I refer to FMGL, the FMG Respondents, and other entities related to them collectively as “FMG”.
3. Unless otherwise stated, the facts contained in this affidavit are within my own knowledge and are true.
4. The purpose of this affidavit is to identify the geographic location of groundwater abstraction licences and water-related infrastructure relating to the Solomon Hub, which are located within the compensation application area.

WATER MANAGEMENT MISCELLANEOUS LICENCES

5. I have been shown a list titled “Water Management Miscellaneous Licences”, which I understand to be a list of FMG’s miscellaneous licences which:
 - (a) are within the compensation application area; and
 - (b) were granted for purposes including “taking water” (as well as other purposes including water-related and non-water-related infrastructure).

Annexed to this affidavit and marked “CILO-8” is a list of the Water Management Miscellaneous Licences.




6. I note that of those licences, the licences L47/302 and L47/396 are no longer active. I have not had regard to those licences in this affidavit.

GROUNDWATER LICENCES

7. FMG holds multiple licences to take water under s 5C of the Rights in Water and Irrigation Act 1914 (WA) in relation to the Solomon Hub. In this affidavit, I refer to these licences as “groundwater licences”. A groundwater licence authorises FMG to take water from a proclaimed groundwater resource.
8. A groundwater licence is granted over a specified geographic area. As regards the groundwater licences granted for the purpose of the Solomon Hub, the area of each licence is defined by reference to specific tenements held by FMG, and the groundwater resource identified by the Department of Water and Environmental Regulation (DWER).
9. Currently, FMG holds six groundwater licences in relation to the Solomon Hub. Annexed to this affidavit and marked “CILO-9” are copies of those licences.
10. In relation to those licences, I note that:
- (a) groundwater licence GWL174095(9) authorises the taking of water within the area of Water Management Miscellaneous Licences L47/361 and the use of such water within tenements L47/801, and L47/813, as well as mining lease M47/1431 and exploration licence E47/1398;
 - (b) groundwater licence GWL175139(3) authorises the use of groundwater within the area of Water Management Miscellaneous Licences L47/801, and L47/813, as well as other tenements relevant to the Solomon Hub;
 - (c) groundwater licences GWL176913(3), GWL177110(2), GWL177974(1), and GWL177976(1) relate to other tenements within the Solomon Hub area.

WATER-RELATED INFRASTRUCTURE


11. I am aware that FMG has constructed various water-related infrastructure across the Solomon Hub. Now shown to me is a map of the Solomon Hub area which shows the location of that infrastructure by reference to the Water Management Miscellaneous Licences. Annexed to this affidavit and marked “CILO-10” is a copy of that map.
12. From my review of that map, I observe that the following infrastructure can be identified within the geographic area of each Water Management Miscellaneous Licence:
- (a) L47/361: production bore, borefield, water pipeline;
 - (b) L47/362: production bore, borefield, water pipeline;
 - (c) L47/472: production bore, borefield, water pipeline;




- (d) L47/697: borefield;
- (e) L47/801: production bore, borefield, water pipeline;
- (f) L47/813: borefield, water pipeline;
- (g) L47/814: water pipeline;
- (h) L47/914: borefield; and
- (i) L47/919: water pipeline.

13. I am aware, from my involvement in the Solomon Hub generally, that FMG has also constructed other infrastructure within the geographic area of each Water Management Miscellaneous Licence which does not relate to the management of water. Some of the infrastructure has been constructed on land which is the subject of multiple overlapping tenements.


Sworn by Christopher Ian Leonard Oppenheim)
 at Perth)
 in the State of Western Australia)
 on 4 August 2023)



 Signature of deponent

Before me: 

 Signature of witness


 a legal practitioner who has held a practice certificate for at least 2 years and who holds a current practice certificate.

“CILO-8”

WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

Division: General

YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC

Applicant

STATE OF WESTERN AUSTRALIA & ORS

Respondents

This is the annexure marked “CILO-8” referred to in the affidavit of Christopher Ian Leonard Oppenheim sworn on 4 August 2023.



Signature of witness

Hamish Hamilton Robertson
a legal practitioner who has held
a practice certificate for at least
2 years and who holds a current
practice certificate.

WATER MANAGEMENT MISCELLANEOUS LICENCES

1. Miscellaneous licence L47/302
2. Miscellaneous licence L47/361
3. Miscellaneous licence L47/362
4. Miscellaneous licence L47/363
5. Miscellaneous licence L47/367
6. Miscellaneous licence L47/396
7. Miscellaneous licence L47/472
8. Miscellaneous licence L47/697
9. Miscellaneous licence L47/801
10. Miscellaneous licence L47/813
11. Miscellaneous licence L47/814
12. Miscellaneous licence L47/914
13. Miscellaneous licence L47/919

“CILO-9”

WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

Division: General

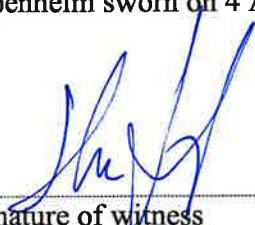
YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC

Applicant

STATE OF WESTERN AUSTRALIA & ORS

Respondents

This is the annexure marked “CILO-9” referred to in the affidavit of Christopher Ian Leonard Oppenheim sworn on 4 August 2023.


Signature of witness

Hamish Hamilton Robertson
a legal practitioner who has held
a practice certificate for at least
2 years and who holds a current
practice certificate.



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

Licensee(s)	Fortescue Metals Group Limited		
Description of Water Resource	Pilbara Wittenoom - Wittenoom	Annual Water Entitlement	1,300,000kL
Location of Water Source	AL70/1 L47/361		

Authorised Activities	Taking of water for	Location of Activity
	Dust suppression for earthworks and construction purposes	L47/361
		L47/801
		L47/813
	Dust Suppression for mining purposes	M47/1431
	Earthwork and construction purposes	L47/361
		L47/801
		L47/813
	Exploratory drilling operations	E47/1398
	Mineral ore processing and other mining purposes	M47/1431
	Mining camp purposes	L47/361
		L47/801
		L47/813
	Railway construction and maintenance	L47/361
		L47/801
		L47/813
	Water for Industrial purposes	L47/361
		L47/801
		L47/813
		M47/1431
Duration of Licence	From 19 June 2019 to 31 October 2025	

This Licence is subject to the following terms, conditions and restrictions:

- The annual water year for water taken under this licence is defined as 1 January to 31 December.

This Licence is granted subject to the Rights in Water and Irrigation Regulations 2000.



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

This Licence is subject to the following terms, conditions and restrictions:

2. The licensee must submit to the Department of Water and Environmental Regulation the volume of water taken within the water year, every 12 Months commencing 30/01/2020.
3. Every 12 Months the licensee shall provide to the Department of Water and Environmental Regulation a Groundwater Monitoring Summary for the preceding water year. The first report is due 31/03/2021.
4. Every 3 Years the licensee shall provide to the Department of Water and Environmental Regulation a Groundwater Monitoring Review. The first report is due 31/03/2020. A Groundwater Monitoring Summary need not be submitted in a year in which a Groundwater Monitoring Review is due.
5. The licensee is to comply with the "Solomon Groundwater Operating Strategy" Rev7 dated 14 May 2015 and any amendments made by or with the approval of the Department. and any amendments made by or with the approval of the Department.

End of terms, conditions and restrictions



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

Licensee(s)	Fortescue Metals Group Limited		
Description of Water Resource	Pilbara Hamersley - Fractured Rock	Annual Water Entitlement	16,000,000kL
Location of Water Source	E47/1011 E47/1334 M47/1409 M47/1411 M47/1413		

Authorised Activities	Taking of water for	Location of Activity
	Conservation purposes	E47/1011 E47/1334 M47/1409 M47/1410 M47/1411 M47/1413 M47/1431
	Dewatering for mining purposes	M47/1409 M47/1410 M47/1411 M47/1413 M47/1431 M47/1474 M47/1475
	Dust Suppression for mining purposes	E47/1011 E47/1334 L47/360 L47/381 L47/382 L47/710 L47/711 L47/713

This Licence is granted subject to the Rights in Water and Irrigation Regulations 2000.



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

	L47/801 L47/813 M47/1409 M47/1410 M47/1411 M47/1413 M47/1431 M47/1453 M47/1474 M47/1475
Earthwork and construction purposes	E47/1011 E47/1334 L47/360 L47/381 L47/382 L47/710 L47/711 L47/713 L47/801 L47/813 M47/1409 M47/1410 M47/1411 M47/1413 M47/1431 M47/1453 M47/1474 M47/1475
Exploratory drilling operations	E47/1011



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

		<p>E47/1334</p> <p>L47/360</p> <p>L47/381</p> <p>L47/382</p> <p>L47/710</p> <p>L47/711</p> <p>L47/713</p> <p>L47/801</p> <p>L47/813</p> <p>M47/1409</p> <p>M47/1410</p> <p>M47/1411</p> <p>M47/1413</p> <p>M47/1431</p> <p>M47/1453</p> <p>M47/1474</p> <p>M47/1475</p>
	<p>Mineral ore processing and other mining purposes</p>	<p>L47/360</p> <p>L47/381</p> <p>L47/382</p> <p>L47/710</p> <p>L47/711</p> <p>L47/713</p> <p>L47/801</p> <p>L47/813</p> <p>M47/1409</p> <p>M47/1410</p> <p>M47/1411</p> <p>M47/1413</p>

This Licence is granted subject to the Rights in Water and Irrigation Regulations 2000.



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

		M47/1431 M47/1453 M47/1474 M47/1475
Duration of Licence	From 19 June 2019 to 1 November 2025	

This Licence is subject to the following terms, conditions and restrictions:

1. The annual water year for water taken under this licence is defined as 1 January to 31 December.
2. The licensee must submit to the Department of Water and Environmental Regulation the volume of water taken within the water year, every 12 Months commencing 30/01/2020.
3. The licensee shall comply with the commitments of the operating strategy "Solomon Groundwater Operating Strategy Rev 7", as prepared by FMG and approved by the Department of Water and Environmental Regulation on 28/10/2015 including any modifications to the commitments as approved during the term of the licence.
4. Every 12 Months the licensee shall provide to the Department of Water and Environmental Regulation a Groundwater Monitoring Summary for the preceding water year. The first report is due 31/03/2021.
5. Every 3 Years the licensee shall provide to the Department of Water and Environmental Regulation a Groundwater Monitoring Review. The first report is due 31/03/2020. A Groundwater Monitoring Summary need not be submitted in a year in which a Groundwater Monitoring Review is due.

End of terms, conditions and restrictions



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

Licensee(s)	Fortescue Metals Group Limited		
Description of Water Resource	Pilbara Hamersley - Fractured Rock	Annual Water Entitlement	2,200,000KL
Location of Water Source	M47/1411		

Authorised Activities	Taking of water for	Location of Activity
	Dust suppression for earthworks and construction purposes	L47/360
		L47/381
		L47/382
		L47/710
		L47/711
		L47/713
		M47/1409
		M47/1410
		M47/1411
		M47/1431
	Dust Suppression for mining purposes	L47/360
		L47/381
		L47/382
		L47/710
		L47/711
		L47/713
		M47/1409
		M47/1410
		M47/1411
		M47/1431
	Mineral ore processing and other mining purposes	L47/360
		L47/381
		L47/382

This Licence is granted subject to the Rights in Water and Irrigation Regulations 2000.



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

		L47/710
		L47/711
		L47/713
		M47/1409
		M47/1410
		M47/1411
		M47/1431
	Reinjection of groundwater	M47/1410
		M47/1431
Duration of Licence	From 19 June 2019 to 31 October 2025	

This Licence is subject to the following terms, conditions and restrictions:

1. The annual water year for water taken under this licence is defined as 1 January to 31 December.
2. The licensee must submit to the Department of Water and Environmental Regulation the volume of water taken within the water year, every 12 Months commencing 30/01/2020.
3. The licensee shall comply with the commitments of the operating strategy "Solomon Groundwater Operating Strategy" Rev7 dated 14 May 2015, as prepared by Fortescue Metals Group Ltd and approved by the Department of Water and Environmental Regulation on 28/10/2015 including any modifications to the commitments as approved during the term of the licence.
4. Every 12 Months the licensee shall provide to the Department of Water and Environmental Regulation a Groundwater Monitoring Summary for the preceding water year. The first report is due 31/03/2021.
5. Every 3 Years the licensee shall provide to the Department of Water and Environmental Regulation a Groundwater Monitoring Review. The first report is due 31/03/2020. A Groundwater Monitoring Summary need not be submitted in a year in which a Groundwater Monitoring Review is due.

End of terms, conditions and restrictions



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

Licensee(s)	Fortescue Metals Group Ltd		
Description of Water Resource	Pilbara Hamersley - Fractured Rock	Annual Water Entitlement	600000 kL
Location of Water Source	L47/296, L47/293		
Authorised Activities	Taking of water for	Location of Activity	
	Dust suppression for earthworks and construction purposes Mining camp purposes Potable Water Supply purposes	L47/296, L47/293	
Duration of Licence	From 2 November 2015 to 1 November 2025		

This Licence is subject to the following terms, conditions and restrictions:

- 1 The licensee must install an approved meter to each water draw-point through which water is taken under this licence.
- 2 The meter(s) must be installed in accordance with the provisions of the document entitled "Guidelines for Water Meter Installation 2009" before any water is taken under this licence.
- 3 The licensee is to comply with the "Solomon Groundwater Operating Strategy" Rev7 dated 14 May 2015 and any amendments made by or with the approval of the Department. and any amendments made by or with the approval of the Department.

End of terms, conditions and restrictions

This Licence is granted subject to the Rights in Water and Irrigation Regulations 2000



LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

Licensee(s)	Fortescue Metals Group Limited		
Description of Water Resource	Pilbara Wittenoom - Wittenoom	Annual Water Entitlement	8100000 kL
Location of Water Source	L 47/381, L 47/382, L 47/360		
Authorised Activities	Taking of water for	Location of Activity	
	Mineral ore processing and other mining purposes Mining camp purposes	M 47/1409-I, M 47/1431-I, M 47/1413-I	
Duration of Licence	From 14 October 2013 to 13 October 2023		

This Licence is subject to the following terms, conditions and restrictions:

- 1 That the combined total draw under this licence and groundwater licence number 177976 shall not exceed 8100000 kilolitres per annum.
- 2 The licensee shall comply with the commitments of the operating strategy "Solomon Remote Borefield Groundwater Operating Strategy, 27 September 2013", as prepared by Fortescue Metals Group and approved by the Department of Water on 14th October 2013 including any modifications to the commitments as approved during the term of the licence.
- 3 The licensee must install an approved meter to each water draw-point through which water is taken under this licence.

End of terms, conditions and restrictions

File No: RF167-07



Government of Western Australia
Department of Water

Page 1 of 1

Instrument No. GWL177976(1)

LICENCE TO TAKE WATER

Granted by the Minister under section 5C of the Rights in Water and Irrigation Act 1914

Licensee(s)	Fortescue Metals Group Limited		
Description of Water Resource	Pilbara Hamersley - Fractured Rock	Annual Water Entitlement	8100000 kL
Location of Water Source	L 47/381, L 47/382, L 47/360		
Authorised Activities	Taking of water for	Location of Activity	
	Mineral ore processing and other mining purposes Mining camp purposes	M 47/1409-I, M 47/1431-I, M 47/1413-I	
Duration of Licence	From 14 October 2013 to 13 October 2023		

This Licence is subject to the following terms, conditions and restrictions:

- 1 That the combined total draw under this licence and groundwater licence number 177974 shall not exceed 8100000 kilolitres per annum.
- 2 The licensee shall comply with the commitments of the operating strategy "Solomon Remote Borefield Groundwater Operating Strategy, 27 September 2013", as prepared by Fortescue Metals Group and approved by the Department of Water on 14th October 2013 including any modifications to the commitments as approved during the term of the licence.
- 3 The licensee must install an approved meter to each water draw-point through which water is taken under this licence.

End of terms, conditions and restrictions

This Licence is granted subject to the Rights in Water and Irrigation Regulations 2000

“CILO-10”

WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

Division: General

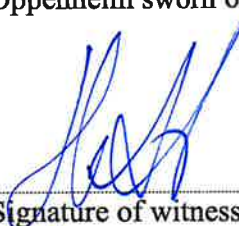
YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC

Applicant

STATE OF WESTERN AUSTRALIA & ORS

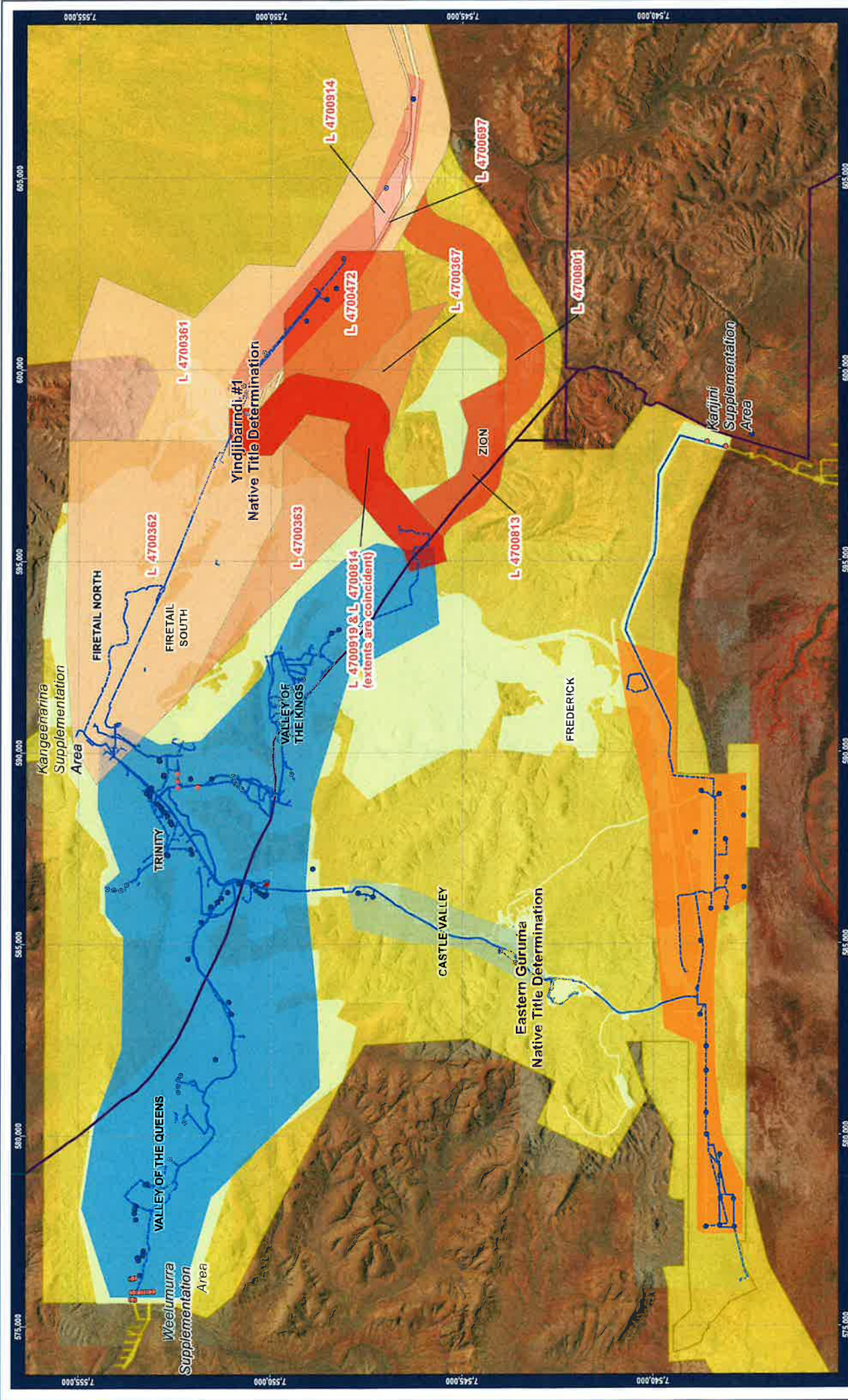
Respondents

This is the annexure marked “CILO-10” referred to in the affidavit of Christopher Ian Leonard Oppenheim sworn on 4 August 2023.



Signature of witness

Munira Hamid Roberto
a legal practitioner who has held
a practice certificate for at least
2 years and who holds a current
practice certificate.



LEGEND

- Water Management Injection Bore
- Water Management Infiltration Pond
- FMG Asbuilt Water Pipelines
- Approved Mining Proposal Footprint
- Approved EP Act Part IV Footprint
- Native Title Determination Boundary
- Dewatering Borefields
- Potable Water Supply Borefield
- Southern Fortescue Borefield
- Stockyards Borefield

Borefield Polygon Areas are for Communication Purposes only

Data Sources:
 Tenements sourced from DIMRS, 2021.
 Aerial, FMG and Landgate.
 All other data, FMG, 2021.

Scale: 0 1,000 2,000 3,000 4,000 5,000 Meters

Requested By: M. Carroll
Drawn By: M. Carroll
Approved By: M. Carroll
Scale: 1:50,000
Coordinate System: GDA 1994 MGA Zone 50
Document Name: SO_MP_IV_0103001_G_Ashoc update_v2

Date: 1/09/2023
Size: A3L
Revision: 14
Confidentiality: 0

Indicative Water Distribution and Storage Network Map

Fortescue