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

**Witness Statement of Estelle Guinness**

<b>Paragraph / Part of Paragraph</b>	<b>Objection</b>	<b>Applicant's response</b>	<b>Resolution/ Ruling required</b>
[25]-[36]	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.

## NOTICE OF FILING

### Details of Filing

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## WITNESS STATEMENT OF ESTELLE GUINNESS

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**

Respondent



### Family and personal history

1. My name is Estelle Guinness and I live at 30 Marsh Way Pegs Creek in Karratha.
2. I was born on the 3 of September 1992 in the Nickol Bay old hospital in Karratha. My children were born there too. I have a daughter called Roselyn and a son called Roman. They are in the photo with me included in the top of this statement.

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3. I have 2 big brothers and 1 big sister. Their names are Isaac, Brockwell and Ramona.
4. My father was Billy Guinness. He has passed away. He was a Yindjibarndi man through his father Guinness Gilby. My mother is Gloria Dale. She's also Yindjibarndi through her mother and Ngarluma through her father.
5. People usually pick one mob to follow. I choose Yindjibarndi because I know it more than Ngarluma. The old Yindjibarndi people always made sure the culture and language stayed alive. That's why I love Yindjibarndi People.
6. Growing up, my old people (Yindjibarndi elders) were Guinness Gilbie, Berry Malcolm (Nana Marra) and Nana Bridget Warrie. I knew Pigeon (Kenny) Jerrold too. Most of the old people died when I was young although Cheedy Ned was still around. I lived in Roebourne growing up.
7. I have also learnt a lot from Marion Cheedy and Jane Cheedy, Cheedy Ned's daughters. When I was younger they would also take me out bush and teach me Yindjibarndi language.
8. My dad worked a lot when I was young. So my brothers and sisters and I would go out with Dennis Long, my Dad's brother. He belonged to Guinness **Gilbie Gilby** but he was raised by the Long family. He took us on fishing trips and camping trips on Ngarluma country. Charlie Cheedy and Barbara Guinness took us out hunting on our Yindjibarndi country too.
9. Yindjibarndi language is always spoken by my family and other Yindjibarndi families. We are also strong with the *Birdarra* law. I go out to Woodbrook at Law time. Ngarluma language is the language of Karratha and Roebourne but it is not spoken as widely as Yindjibarndi is. Yindjibarndi people share their language with everyone.

### **Garlawinji**

10. All Yindjibarndi share the *ngurra*, the country, together. But our old people come from different parts of Yindjibarndi country. Guinness Gilby's country is

Garlawinji. My old people told me this. We went there for the court hearing for the Yindjibarndi #1 native title claim. I was there to watch. That was when I found out I was pregnant. Lorraine Coppin told me she could hear my baby crying (inside me). That's how Yindjibarndi People know someone is pregnant in the Yindibarndi way. That was in 2015. I was pregnant with my son Roman.

### **Solomon Hub Mine**

11. I worked at the Solomon Hub Mine (**the Mine**) about 10 years ago for 2 years. I started out working on the water carts and then moved over to the workshop with the boiler makers. I worked for FMG. I saw Wirlu-murra members working there on heritage surveys. But I didn't see them working on the mine. I saw Ken Sandy, Michelle Adams, Charmaine Adams and other members of the Sandy and Adams families.
12. I worked on the Mine because I thought it would be good to be able to work on our own *ngurra*. But once I was in the workshop I started working along the bottom of the pits to do welding on the excavators. I saw a lot of land get destroyed. Every time I saw a pit dug, I got upset and so I quit that job.

### **Spirits**

13. I also quit because spirits started visiting me in the camp. Once, I was asleep and I woke up and heard some spirits talking in language. They told me to go, to leave the Mine. I told them I was from the country. But they kept coming to me and I would go stiff. It happened every shift. It made me feel no good. That's why I quit. The spirits were giving me a warning sign. They were telling me to stop destroying the *ngurra*. They told me that Yindjibarndi people had died on the spot where the mining camp was in the old times. I spoke to the spirits in Yindjibarndi language, and I said sorry to them. I told them I was sorry for helping destroy the *ngurra*. After that, I couldn't go back and work on the Mine. Whenever I felt the explosions, I would feel really bad.
14. I worked in the Firetail pit. I saw FMG make the pit at Kings Valley and I knew that was terrible. The size of the mine is just awful. I am worried they are going

to keep making it bigger and bigger and destroy more and more Yindjibarndi *ngurra*.

15. I've just got a job with the Yindjibarndi Rangers. I am so happy because it means I get to be out on Yindjibarndi *ngurra*. When I do this, the spirits of the *ngurra* give me a good feeling. *Wirraard* means feelings in Yindjibarndi. I feel good in my *wirraard*, in my heart. I never had that feeling at the Mine. I just had a feeling to leave.
16. A lot of people have told me that they have had felt the spirits at the Mine. They don't really like to speak about it. But one white lady who worked for Eastern Gurruma told me that when she worked at the Mine, she started having dreams about killing her family. We used to work along with Eastern Guruma workers and she told me that. I told her that was a sign to get out of that Mine and she quit. I told her to speak to the Yindjibarndi elders and that they would help her.
17. We have little people living on Yindjibarndi *ngurra*. My old people taught me about them and about how they live in caves. I have heard at YAC meetings that the Mine has destroyed caves and hills that belong to those little hairy people. Now that those little people don't have their homes, they will be hanging around the Mine and at night people will see them. They show themselves at night. This is what my old people have taught me.
18. I drove past the Mine recently and it looks much bigger than when I was working there. I got a shock seeing it. I noticed it's getting closer and closer to the Rio Tinto access road.
19. Looking at more recent photos taken of the mine makes my heart sink. It's just no good. That's Yindjibarndi *ngurra* and Yindjibarndi people were living there raising their families. They are my ancestors. But FMG don't seem to care about this. They just keep making that mine bigger. I have seen the 2 photos of the Mine which are attached to the Statement of Stanley Warrie signed 26 April 2023 at "**SW-3**".

20. I don't believe the *ngurra* can ever be fixed when the mine is finished. Even if they try to rehabilitate it it won't be the same. The spirits still won't have their home back.
21. I am worried about the country in and around the Mine. I am worried about the impact on Yindjibarndi *ngurra*, animals and water. I have seen the water drying up around the Mine. The rivers and creeks have been blocked by the Mine and all the rain in the land needs to go into the ground water or get out to ocean. This is what I have been taught by the old people. But the water can't do this so the land is drying up. I believe this is because of the Mine.

22.



23.



## Bangkangarra

24. I have been to Bangkangarra. It is called Satellite Springs by the white people who work at the Mine. Berry Malcolm told me it is called Bangkangarra and she told me it is a sacred site. She told me her grandfather is buried near the Mine. I believe it is his spirit who visited me when I was working there.

## The Split

25. When I was growing up, all the Yindjibarndi got along together. There were arguments from time to time but I felt safe in the community around Roebourne. I could pull up and ask for a drink of water from anyone. But then FMG and Andrew Forrest turned up and everything changed. This was in 2007, when I was 15. I don't know of any other reason why there is a split in the community. Now I can't even ask people for water around Roebourne. Everyone is grumpy and growling. This is one of the reasons why I live in Karratha now.
26. Before the split, many in the Wirlu-murra camp were my elders. We are close family with them. So I was around **my grandmother Betty Dale** (who is **Ngarluma Wirlu-murra**) in the village in Roebourne. Allery Sandy and Aileen Sandy were lovely aunties around the village then too. They weren't how they are now. They just say hello to me now but they don't really talk for long with me. This is because I'm with the YAC mob and they are with Wirlu-murra. We don't trust each other. This makes me really sad. We shouldn't be that way. I wish we could be how we were before, taking care of one another without hate and judgement. We are supposed to share and care for each other Yindjibarndi way but people aren't doing this because of the hate.
27. My sister Ramona goes to Wirlu-murra meetings and is a member. She gets Christmas money. About \$1500. ~~All the elders~~ **My Aunt Jennifer Williams** get \$5000. [REDACTED]



[REDACTED] It seems like only the Sandy and Adams families really benefit from Wirlu-murra. [REDACTED]

[REDACTED] Ken Sandy lives in the house across the street from me [REDACTED]

[REDACTED]. I know ~~this because this is what they were doing when I worked for FMG hires houses for their workers~~. He is my close uncle but I can't really talk to him even though he lives across the street. I don't want to be judged for talking with him. This is because he is an elder on the Wirlu-murra side.

28. I always saw Aileen and Allery Sandy as elders for Yindjibarndi people. But Allery doesn't behave like an elder now. At meetings, she doesn't stop and listen. She talks over the YAC mob all the time and screams. She thinks YAC has the money and they are not sharing. This is what she screams out at YAC meetings. But we don't have enough money to share out to everyone all the time. There is no deal with FMG and there are no other mines on Yindjibarndi country.
29. I asked Wirlu-murra for money at Christmas time just recently. But they wouldn't give me any. They told me this is because I'm not a member.
30. I've been going along to Yindjibarndi meetings since I was a child. There was no shouting at those meetings, not until Andrew Forrest turned up. The people who come to YAC meetings now and shout are the Wirlu-murra crew – Allery Sandy, Robert Toby and Michelle Adams. They scream and they don't give Aunty Lyn (Cheedy) and Aunty Pansy (Cheedy) time to speak, and then they walk out. They don't want to listen.
31. I just can't understand why the Wirlu-murra mob keep sticking up for Andrew Forrest when really he hasn't given them anything. Most of them look poor to me.
32. This split has broken the *Gahlarra* system, which is the system that we Yindjibarndi follow to make sure we relate to each other the proper way. For example, you have to be respectful of your fathers and mothers. But people are not following the rules anymore. They are putting the fight between YAC and Wirlu-murra ahead of these rules.
33. YAC has tried many times to get Wirlu-murra to come back together so there is one Yindjibarndi group, but it never happens. I've seen this at YAC meetings.

I've seen YAC elders ask the Wirilu-murra to come back but the Wirilu-murra people just shout over the top of the YAC people.

### **Violence**

34. Since Andrew Forrest and FMG turned up, there has been fighting in the streets. This never happened before in my memory. It's always YAC families versus Wirilu-murra families. Mainly it's the Sandy and Adams families wanting to fight the Woodley family. I have seen videos of these fights but I don't like watching them. They get sent to me through Messenger or Facebook but I never save them. I've been through domestic violence myself. I find watching these fights distressing for that reason. It also hurts to see people I love or care about enjoying the fighting. Sometimes there will be rocks getting thrown around. There can be around 20 people involved. Young people and older people. Men and women. A lot of people appear to be enjoying the fighting. Sometimes people get badly hurt.
35. I know they're fighting about Andrew Forrest and FMG money. [REDACTED]  
[REDACTED] When I was a little girl there were some fights but they were small. And when this happened the elders would get in and stop the fight. But now the elders are joining in the fighting or encouraging it. It makes me feel so bad. To see young people hitting old people is just terrible. This is against Yindjibarndi Law. I've seen this in person and on videos. You can't hit old people – you have to let them hit you.
36. I left Roebourne about 10 years ago. I moved to Karratha because of all of the fights. I don't like seeing my families fighting and I don't want my children growing up thinking that is normal. Those big fights never happened when I was a young.

### **Compensation**

37. I receive money from Centrelink and my children get support from the Banjima people through their father. I don't have much money though.

38. If we get compensation money we will share with all YAC and Wirlu-murra members because it is for all Yindjibarndi people and this is the proper way to behave. We must share with everyone.
39. I would like to see compensation money be put back into the community in Roebourne. I would like the money to make more activities for children so they don't go and do bad things. I would like the compensation money to fund more housing for Yindjibarndi people.
40. If I got money from the compensation claim, I would buy a house and make sure it's all paid off so my children always have a home.
41. YAC does food vouchers for Yindjibarndi people now and then but I understand there isn't enough money to do this regularly for all Yindjibarndi people whenever they need it.

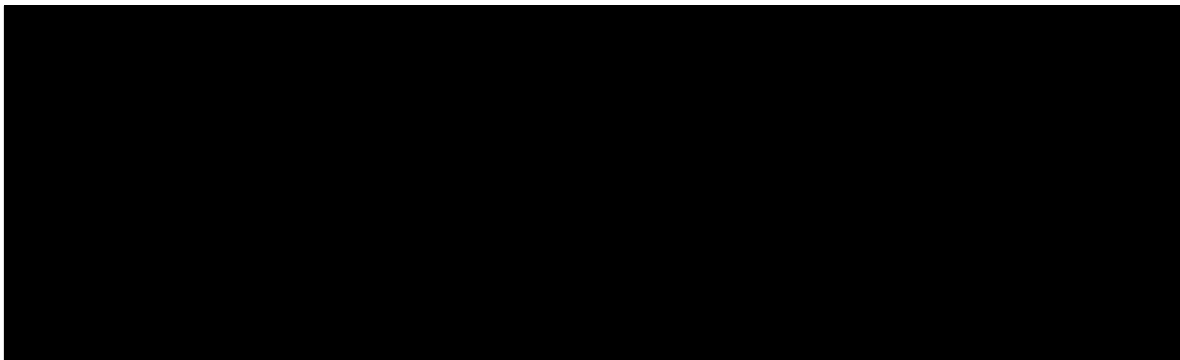
#### **Prevention of Access and Exercising decision making rights in relation to the Mine**

42. Under our traditional rules, Yindjibarndi have rights to do whatever they want on their own *ngurra*. But we have to do these things following the Yindjibarndi laws. When we take from the country we also have to give back to the country. We have to look after the country and the spirits in the country.
43. But on the Mine country now, I can't just go there and do what I like. I have to get permission off FMG or white people. This makes me feel sad. FMG didn't get permission to go there from the Yindjibarndi elders. There's no agreement in place. There should have been an agreement before FMG went there and built that mine. [REDACTED]
44. It is a traditional Yindjibarndi rule for strangers, *manjangu*, to get permission from the owners of the country. This is to make sure you follow the rules of the country. You have got to get introduced to the country respectfully by the elders when you are *manjangu*. FMG are *manjangu*. They are strangers. They were

never introduced to the country and I believe that is why the workers are being visited by spirits there.

### **Negotiations with FMG**

45. As I say above, there has never been any deal done by the Yindjibarndi and FMG. I've heard about the negotiations in 2010 that FMG and YAC had, and that no agreement was reached. I heard this at YAC meetings. I also know that there were negotiations a few years ago but still no deal was finalised.



### **Making the Compensation Claim**

47. On 11 December 2021, I went to a meeting with YAC at the Fifty Cent Hall in Roebourne where we all talked about making this compensation claim. I voted for and agreed to the compensation claim being brought. Everyone else there wanted to do it too.

Estelle Guinness

Signed by Estelle Guinness

Date: 01/05/2023