



Affidavit

WAD 37 of 2022

Federal Court of Australia
District Registry: Western Australia
Division: General

YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC

Applicant

STATE OF WESTERN AUSTRALIA and others

Respondents

Affidavit of: **DAVID CRABTREE**
Address: c/- Department of Mines, Industry Regulation and Safety
100 Plain Street East Perth WA
Occupation: Team Leader – Resource Tenure Division
Date: 23 October 2023

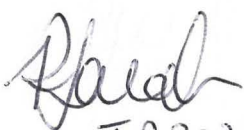
Filed on behalf of: State of Western Australia
Prepared by: Alicia Warren / Emma Owen
Law firm: State Solicitor's Office
Telephone: (08) 9264 1188 Fax: (08) 9264 1440
Email: a.warren@sso.wa.gov.au; e.owen@sso.wa.gov.au
Address for service: David Malcolm Justice Centre, 28 Barrack St, Perth WA 6000

David
JP: 30240

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I, DAVID CRABTREE, Public Servant, care of the Department of Mines, Industry Regulation and Safety, 100 Plain Street, East Perth in the State of Western Australia, declare and affirm:

1. I am currently employed as the Team Leader of the Resource Tenure Division in the Department of Mines, Industry Regulation and Safety (**DMIRS**) within Western Australia.
2. I have worked at DMIRS for the past 42 years and held various roles within the Department. Those roles have included being a Mining Registrar in the various DMIRS Outstations, Area Manager in the Mineral Titles Division and Case Manager/Project Officer in the Tenure and Native Title Branch of DMIRS. For the last 24 years, I have been involved in the processing and determination of applications for mining tenements under the *Mining Act 1978* (WA) (**Mining Act**) and the *Native Title Act 1993* (Cth) (**NTA**).
3. DMIRS is, amongst other things, the department responsible for managing Western Australia's mining, petroleum and geothermal industries and maintains the State's official register of mining, petroleum and geothermal titles. In this affidavit I include in any reference to DMIRS, reference to DMIRS's predecessors, including the Department of Mines, the Department of Minerals and Energy, the Department of Mineral and Petroleum Resources, the Department of Industry and Resources and the Department of Mines and Petroleum.
4. In my role as Team Leader of the Resource Tenure Division, I oversee the development and implementation of strategies to progress the timely approvals of applications for mining tenements. I manage and monitor the progress of mineral title applications through the expedited procedure and right to negotiate future act processes pursuant to the NTA as administered by the National Native Title Tribunal (**NNTT**) and in line with department objectives.
5. Unless stated otherwise I affirm this affidavit on the basis of facts which have come to my knowledge, including facts which have come to my knowledge from my examination of records maintained by DMIRS and, where specified, information provided by other State government departments. Where I rely on facts outside my personal knowledge, I have identified the source of those facts and believe them to be true.
6. On 28 April 2023, DMIRS received an email from the State Solicitor's Office (**SSO**) requesting information held by DMIRS in relation to the notifications and processes undertaken pursuant to the NTA with respect to the grant of the following mining tenements (which are listed as compensable acts in native title compensation application WAD 37 of 2022 (**Yindjibarndi Compensation Application**)):
 - (a) mining leases: M 47/1409-I; M 47/1411-I; M 47/1413-I; M 47/1431-I; M 47/1453-I; M 47/1473-I; M 47/1475-I; M 47/1513-I and M 47/1570;


JP 30240



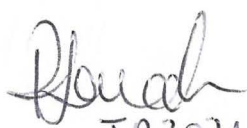
- (b) miscellaneous licences: L1SA; L 47/859 and L 47/901. The other miscellaneous licences which are listed as compensable acts in the Yindjibarndi Compensation Application were the subject of my affidavit affirmed on 16 June 2023;
- (c) exploration licences: E 47/1319-I; E 47/1333-I; E 47/1334-I; E 47/1398-I; E 47/1399-I; E 47/1447-I; E 47/3205-I; and E 47/3464-I; and
- (d) prospecting licences: P 47/ 1945; P 47/1946; and P 47/1947.

7. The information located is described below.

MINING LEASES

M 47/1409-I

- 8. On 3 October 2007, Fortescue Metals Group Ltd lodged an application pursuant to section 74 of the *Mining Act 1978* (WA) (**Mining Act**) for the grant of M 47/1409-I.
- 9. On 19 November 2007, the application for M 47/1409-I was transferred from Fortescue Metals Group Ltd to FMG Pilbara Pty Ltd.
- 10. On 14 December 2007, DMIRS sent a letter to the registered native title claimant in native title determination application WAD 6005 of 2003 (**Yindjibarndi #1 claimant**) providing notice under section 29 of the NTA of the State's intention to grant M 47/1409-I.
- 11. On 20 May 2008, DMIRS sent the the **grantee party** and the **native title party** (as those parties are defined in sections 29(2) and 30 of the NTA) a letter and attached documents (together, the **information package**) containing:
 - (a) confirmation of contact details for each of the parties;
 - (b) a copy of the application for M 47/1409-I, together with relevant maps or plans of the tenement;
 - (c) a copy of information from the Register of Aboriginal Sites in respect of the area of M 47/1409-I;
 - (d) advice stating that all of the negotiation parties have an equal obligation to negotiate in good faith with each other, together with a summary of how to negotiate in good faith and a copy of the State's Negotiation Protocol;
 - (e) an outline of DMIRS's proposals in relation to M 47/1409-I (including proposed conditions and a summary of approvals and responsibilities required by the State before activities could commence on M 47/1409-I);



JP30240



- (f) a request that the grantee party provide, within 14 days of the letter, certain information to assist the native title party in making submissions regarding the proposed grant of M 47/1409-I; and
- (g) a request that the native title party provide any submission to DMIRS regarding the proposed grant of M 47/1409-I by a set date. The native title party was requested that any correspondence or submissions be copied to all parties.

A copy of the covering letter accompanying the information package is attached and marked "DC66".

- 12. On 23 January 2009, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF09/01). The application was made on the basis that the **negotiation parties** (as defined in section 30A of the NTA) had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1409-I.
- 13. On 16 February 2009, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA and, accordingly, pursuant to section 36(2) of the NTA the NNTT did not have the power to make the future act determination requested by FMG Pilbara Pty Ltd.
- 14. On 23 June 2009, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation; Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2009] NNTTA 63 and determined that both the State and FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant.
- 15. On 27 August 2009, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation; Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2009] NNTTA 99 and determined that the grant of M 47/1409-I may be done, subject to the imposition of those extra conditions contained in paragraph [18] of the NNTT's decision.
- 16. On 23 September 2009, the Yindjibarndi #1 claimant appealed to the Federal Court pursuant to section 169 of the NTA from the determination made by the NNTT in WF09/01 (WAD 168 of 2009). That appeal was heard together with an appeal made by the Yindjibarndi #1 claimant from a determination made by the NNTT in WF08/31 (WAD 161 of 2009).
- 17. On 2 July 2010, the Federal Court (constituted by McKerracher J) delivered judgment and made orders in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2010] FCA 690 (WAD 161 of 2009 and WAD 168 of 2009). The Federal Court dismissed the appeals.



JP30240



18. On 20 July 2010, the Yindjibarndi #1 claimant appealed to the Full Court of the Federal Court in respect of the orders made by McKerracher J in WAD 168 of 2009 (WAD 193 of 2010). That appeal was heard together with an appeal made by the Yindjibarndi #1 claimant from the orders made by McKerracher J in WAD 161 of 2009 (WAD 192 of 2010).
19. On 12 August 2011, the Full Court of the Federal Court (constituted by North, Mansfield and Gilmour JJ) delivered judgment and made orders in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2011] FCAFC 100 (WAD 192 of 2010 and WAD 193 of 2010). The Full Court dismissed the appeals.
20. On 16 September 2011, the Yindjibarndi #1 claimant applied to the High Court for special leave to appeal from the judgment of the Full Court of the Federal Court in WAD 193 of 2010 (P 41 of 2011).
21. On 14 October 2011, special leave application P 40 of 2011 was deemed abandoned by the High Court in accordance with Rule 41.10.4 of the *High Court Rules 2004* (Cth).
22. On 26 November 2010, M 47/1409-I was granted for a term of 21 years.

M 47/1411-I

23. On 16 November 2007, Fortescue Metals Group Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1411-I.
24. On 19 November 2007 the application for M 47/1411-I was transferred from Fortescue Metals Group Ltd to FMG Pilbara Pty Ltd.
25. On 25 January 2008, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant M 47/1411-I.
26. On 20 May 2008, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1411-I. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1411-I).
27. On 23 January 2009, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF09/01). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1411-I.


JP30240



28. On 16 February 2009, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA and, accordingly, pursuant to section 36(2) of the NTA the NNTT did not have the power to make the future act determination requested by FMG Pilbara Pty Ltd.
29. On 23 June 2009, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation; Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2009] NNTTA 63, and determined that both the State and FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant.
30. On 27 August 2009, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2009] NNTTA 99, and determined that the grant of M 47/1411-I may be done, subject to the imposition of those extra conditions contained in paragraph [18] of the NNTT's decision.
31. On 23 September 2009, the Yindjibarndi #1 claimant appealed to the Federal Court pursuant to section 169 of the NTA from the determination made by the NNTT in WF09/01 (WAD 168 of 2009). That appeal was heard together with an appeal made by the Yindjibarndi #1 claimant from a determination made by the NNTT in WF08/31 (WAD 161 of 2009).
32. On 2 July 2010, the Federal Court (constituted by McKerracher J) delivered judgment and made orders in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2010] FCA 690 (WAD 161 of 2009 and WAD 168 of 2009). The Federal Court dismissed the appeals.
33. On 20 July 2010, the Yindjibarndi #1 claimant appealed to the Full Court of the Federal Court in respect of the orders made by McKerracher J in WAD 168 of 2009 (WAD 193 of 2010). That appeal was heard together with an appeal made by the Yindjibarndi #1 claimant from the orders made by McKerracher J in WAD 161 of 2009 (WAD 192 of 2010).
34. On 12 August 2011, the Full Court of the Federal Court (constituted by North, Mansfield and Gilmour JJ) delivered judgment and made orders in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2011] FCAFC 100 (WAD 192 of 2010 and WAD 193 of 2010). The Full Court dismissed the appeals.
35. On 16 September 2011, the Yindjibarndi #1 claimant applied to the High Court for special leave to appeal from the judgment of the Full Court of the Federal Court in WAD 193 of 2010 (P 41 of 2011).
36. On 14 October 2011, special leave application P 41 of 2011 was deemed abandoned by the High Court in accordance with Rule 41.10.4 of the *High Court Rules 2004* (Cth).

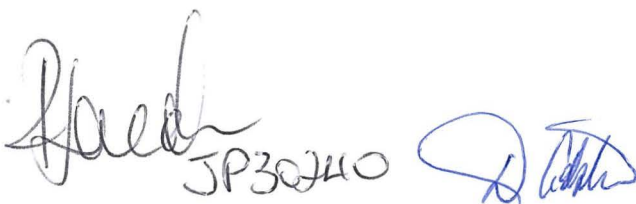

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37. On 26 November 2010, M 47/1411-I was granted for a term of 21 years.

M 47/1413-I

38. On 14 December 2007, FMG Pilbara Pty Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1413-I.
39. On 18 April 2008, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant M 47/1413-I.
40. On 20 May 2008, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1413-I. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1413-I).
41. On 28 November 2008, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF08/31). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1413-I.
42. On 15 December 2008, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA and, accordingly, pursuant to section 36(2) of the NTA the NNTT did not have the power to make the future act determination requested by FMG Pilbara Pty Ltd.
43. On 24 April 2009, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2009] NNTTA 38, and determined that both the State and FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant.
44. On 13 August 2009, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2009] NNTTA 91, and determined that the grant of M 47/1413-I may be done, subject to the imposition of those extra conditions contained in paragraph [32] of the NNTT's decision.
45. On 11 September 2009, the Yindjibarndi #1 claimant appealed to the Federal Court pursuant to section 169 of the NTA from the determination made by the NNTT in WF08/31 (WAD 161 of 2009). That appeal was heard together with an appeal made by the Yindjibarndi #1 claimant from a determination made by the NNTT in WF09/01 (WAD 168 of 2009).

JP30240

46. On 2 July 2010, the Federal Court (constituted by McKerracher J) delivered judgment and made orders in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2010] FCA 690 (WAD 161 of 2009 and WAD 168 of 2009). The Federal Court dismissed the appeals.
47. On 20 July 2010, the Yindjibarndi #1 claimant appealed to the Full Court of the Federal Court in respect of the orders made by McKerracher J in WAD 161 of 2009 (WAD 192 of 2010). That appeal was heard together with an appeal made by the Yindjibarndi #1 claimant from the orders made by McKerracher J in WAD 168 of 2009 (WAD 193 of 2010)
48. On 12 August 2011, the Full Court of the Federal Court (constituted by North, Mansfield and Gilmour JJ) delivered judgment and made orders in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2011] FCAFC 100 (WAD 192 of 2010 and WAD 193 of 2010). The Full Court dismissed the appeals.
49. On 16 September 2001, the Yindjibarndi #1 claimant applied to the High Court for special leave to appeal from the judgment of the Full Court of the Federal Court in WAD 192 of 2010 (P 40 of 2011).
50. On 14 October 2011, special leave application P 40 of 2011 was deemed abandoned by the High Court in accordance with Rule 41.10.4 of the *High Court Rules 2004* (Cth).
51. On 26 November 2010, M 47/1413-I was granted for a term of 21 years.

M 47/1431-I

52. On 22 July 2009, FMG Pilbara Pty Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1431-I.
53. On 21 August 2009, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant M 47/1431-I.
54. On 12 March 2010, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1431-I. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1431-I).
55. On 25 August 2010, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF10/19). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1431-I.


JP30240



56. On or around 10 September 2010, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA and, accordingly, pursuant to section 36(2) of the NTA the NNTT did not have the power to make the future act determination requested by FMG Pilbara Pty Ltd.
57. On 18 November 2010, the Yindjibarndi #1 claimant withdrew its assertion of a failure to negotiate in good faith against FMG Pilbara Pty Ltd and the State.
58. In early January 2011, the Yindjibarndi #1 claimant reasserted the allegation that FMG Pilbara Pty Ltd had not negotiated in good faith in accordance with section 31(1)(b) of the NTA.
59. On 17 June 2011, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2011] NNTTA 107 and determined that:
- (a) FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant; and
 - (b) the grant of M 47/1431-I may be done, subject to the imposition of those extra conditions contained in paragraphs [43] and [119] of the NNTT's decision.
60. On 8 July 2011, M 47/1431-I was granted for a term of 21 years.

M 47/1453-I

61. On 22 October 2010, FMG Pilbara Pty Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1453-I.
62. On 7 January 2011, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant M 47/1453-I.
63. On 17 March 2011, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1453-I. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1453-I).
64. On 30 July 2012, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF12/22). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1453-I.

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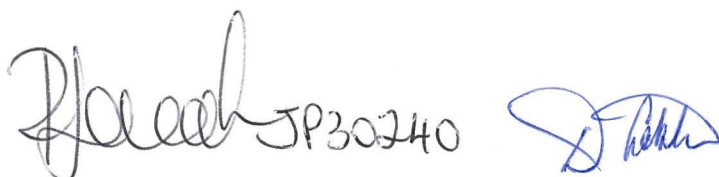
65. On 19 December 2012, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/NC (deceased) and Others on behalf of the Yindjibarndi People/ Western Australia* [2012] NNTTA 142, and determined that the grant of M 47/1453-I may be done, subject to the imposition of those extra conditions contained in paragraphs [21] and [62] of the NNTT's decision.
66. On 17 January 2013, M 47/1453-I was granted for a term of 21 years.

M 47/1473-I

67. On 5 November 2011, FMG Pilbara Pty Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1473-I.
68. On 14 September 2012, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant M 47/1473-I.
69. On 7 November 2012, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1473-I. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1473-I).
70. On 11 October 2013, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF13/15). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1473-I.
71. On 1 November 2013, the Yindjibarndi #1 claimant advised the NNTT that it did not intend to submit that FMG Pilbara Pty Ltd or the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA.
72. On 31 July 2014, the NNTT delivered judgment in *FMG Pilbara Pty Ltd and Another v Yindjibarndi #1* [2014] NNTTA 79, and determined that the grant of M 47/1473-I may be done, subject to the imposition of those extra conditions contained in paragraphs [50], [51] and [202] of the NNTT's decision.
73. On 29 August 2014, M 47/1473-I was granted for a term of 21 years.

M 47/1475-I

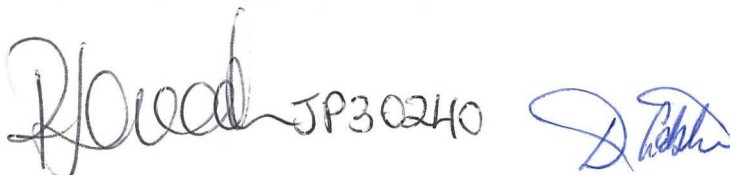
74. On 26 March 2012, FMG Pilbara Pty Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1475-I.

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75. On 6 July 2012, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant M 47/1475-I.
76. On 7 November 2012, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1475-I. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1475-I).
77. On 11 October 2013, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF13/16). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1475-I.
78. On 1 November 2013, the Yindjibarndi #1 claimant advised the NNTT that it did not intend to submit that FMG Pilbara Pty Ltd or the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA.
79. On 31 July 2014, the NNTT delivered judgment in *FMG Pilbara Pty Ltd and Another v Yindjibarndi #1* [2014] NNTTA 79, and determined that the grant of M 47/1475-I may be done, subject to the imposition of those extra conditions contained in paragraphs [50], [51] and [202] of the NNTT's decision.
80. On 29 August 2014, M 47/1475-I was granted for a term of 21 years.

M 47/1513-I

81. On 13 June 2016, FMG Pilbara Pty Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1513-I.
82. On 5 August 2016, DMIRS sent a letter to the Yindjibarndi Aboriginal Corporation RNTBC providing notice under section 29 of the NTA of the State's intention to grant M 47/1513-I.
83. On 13 January 2017, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1513-I. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1513-I).
84. On 25 August 2017, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF17/18). The application was made on the basis that the negotiation parties had not been able

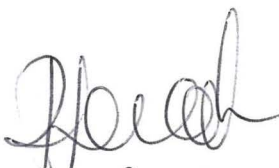
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to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1513-I.

85. On 25 October 2017, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA and, accordingly, pursuant to section 36(2) of the NTA the NNTT did not have the power to make the future act determination requested by FMG Pilbara Pty Ltd.
86. On 30 November 2017, the Yindjibarndi #1 claimant withdrew its assertion of a failure to negotiate in good faith against FMG Pilbara Pty Ltd and the State.
87. On 25 October 2018, the NNTT delivered judgment on *FMG Pilbara Pty Ltd v Yindjibarndi Ngurra Aboriginal Corporation RNTBC and Another* [2018] NNTTA 64, and determined that the grant of M 47/1513-I may be done, subject to the imposition of those extra conditions contained in paragraph [94] of the NNTT's decision.
88. On 3 December 2018, M 47/1513-I was granted for a term of 21 years.

M 47/1570

89. On 29 March 2018, FMG Pilbara Pty Ltd lodged an application pursuant to section 74 of the *Mining Act* for the grant of M 47/1570.
90. On 18 January 2019, DMIRS sent a letter to the Yindjibarndi Ngurra Aboriginal Corporation providing notice under section 29 of the NTA of the State's intention to grant M 47/1570.
91. On 6 February 2019, DMIRS provided the grantee party and the native title party with an information package with respect to the proposed grant of M 47/1570. That information package contained the same type of material as described at paragraph [10] above and was relevantly in the same form as Annexure DC66 (with such modifications as were necessary for M 47/1570).
92. On 31 July 2019, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF19/04). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of the intention to grant M 47/1570.
93. The Yindjibarndi #1 claimant subsequently advised the NNTT that it did not intend to submit that FMG Pilbara Pty Ltd or the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA.


JP30240




94. On 5 February 2020, the NNTT delivered judgment in *FMG Pilbara Pty Ltd v Yindjibarndi Ngurra Aboriginal Corporation RNTBC and Another* [2020] NNTTA 8, and determined that the grant of M 47/1570 may be done, subject to the imposition of those extra conditions contained in paragraph [99] of the NNTT's decision.
95. On 31 March 2020, M 47/1570 was granted for a term of 21 years.

MISCELLANEOUS LICENCES

L 1SA

96. On a date prior to August 2006, The Pilbara Infrastructure Pty Ltd applied for the “*Special Railway Licence*” as defined in clause 1 of the agreement scheduled to, and ratified by, the *Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Act 2004 (WA)* (the **Pilbara Infrastructure Agreement**). For the purpose of its computerised public plan system, the area the subject of the proposed Special Railway Licence was given the designation “*File Notation Area 7330*” (**FNA 7330**) by DMIRS.
97. On 29 November 2006, in accordance with clause 14(1)(a) of the *Pilbara Infrastructure Agreement*, The Pilbara Infrastructure Pty Ltd was granted a miscellaneous licence in respect of the area covered by FNA 7330. That miscellaneous licence was given the tenement identification “*AL700001 (L 1SA)*”.
98. As granted, L 1SA did not include any land or waters within the area of the Yindjibarndi Compensation Application.
99. On 19 April 2011, The Pilbara Infrastructure Pty Ltd applied, pursuant to clause 12 of the *Pilbara Infrastructure Agreement*, for an extension to the area of L 1SA to allow for the construction of a spur line connecting the Solomon mine with the existing Special Railway.
100. The area the subject of the proposed Solomon spur line was given the designation “*File Notation Area 8923*” (**FNA 8923**) by DMIRS. Part of the area of FNA 8923 included a portion of the area of the Yindjibarndi Compensation Application.
101. On or about 28 February 2011, DMIRS sent a letter to the Yindjibarndi #1 claimant giving notice under section 24MD(6B)(c) of the NTA of its intention to include the area of the proposed Solomon spur line (FN 8923) into the area of L 1SA. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 28 April 2011.


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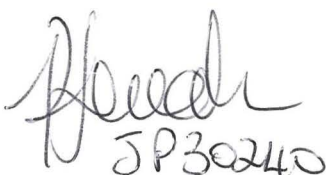
102. No objection was made by the Yindjibarndi #1 claimant with respect to the inclusion of the area of the proposed Solomon spur line (FN 8923) into the area of L 1SA pursuant to section 24MD(6B)(d) of the NTA.
103. On 10 August 2011, pursuant to clause 14(6) of the *Pilbara Infrastructure Agreement*, the Minister for Mines and Petroleum included the area of the proposed Solomon spur line (FN 8923) into the area of L 1SA by endorsement.

L 47/859

104. On 30 October 2018, Pilbara Energy Company Pty Ltd lodged an application for the grant of miscellaneous licence L 47/859 for the purpose of "*a power generation and transmission facility*".
105. On 16 November 2018, DMIRS sent a letter to the Yindjibarndi Ngurra Aboriginal Corporation giving notice under section 24MD(6B) of the NTA of its intention to grant L 47/859 to Pilbara Energy Company Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 23 January 2019.
106. No objection was made by the Yindjibarndi Ngurra Aboriginal Corporation with respect to the grant of L 47/859 pursuant to section 24MD(6B)(d) of the NTA.
107. On 6 February 2019, L 47/859 was granted for a term of 21 years for the purpose of "*a power generation and transmission facility*".

L 47/901

108. On 13 March 2019, Pilbara Energy (Generation) Pty Ltd lodged an application for the grant of miscellaneous licence L 47/901 for the purpose of "*a power generation and transmission facility*".
109. On 29 March 2019, DMIRS sent a letter to the Yindjibarndi Ngurra Aboriginal Corporation giving notice under section 24MD(6B) of the NTA of its intention to grant L 47/901 to Pilbara Energy (Generation) Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 5 June 2019.
110. No objection was made by the Yindjibarndi Ngurra Aboriginal Corporation with respect to the grant of L 47/901 pursuant to section 24MD(6B)(d) of the NTA.
111. On 26 June 2019, L 47/901 was granted for a term of 21 years for the purpose of "*a power generation and transmission facility*".


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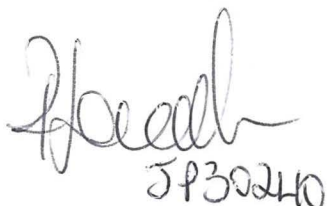
EXPLORATION LICENCES

E 47/1319-I

112. On 16 October 2003, Fortescue Metals Group Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/1319-I.
113. On 23 April 2008, DMIRS sent a letter to the Yindjibarndi # 1 providing notice under section 29 of the NTA of the State's intention to grant E 47/1319-I.
114. On 9 January 2010, Fortescue Metals Group Ltd sought mediation assistance from the NNTT pursuant to section 31(3) of the NTA in respect of the proposed grant of E 47/1319-I (NNTT File No. WM10/13).
115. Between 25 May 2010 and 5 April 2011, seven mediation conferences were convened by the NNTT between DMIRS, Fortescue Metals Group Ltd and the Yindjibarndi #1 claimant.
116. On 15 April 2011 the mediation was terminated by the NNTT for non-participation of the Yindjibarndi #1 claimant.
117. On 27 June 2011, Fortescue Metals Group Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF11/10). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of its intention to grant E 47/1319-I.
118. On 7 February 2012, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2012] NNTTA 11 and determined that:
- (a) there was no material provided which could justify a finding of a lack of good faith against Fortescue Metals Group Ltd; and
 - (b) the grant of E 47/1319-I may be done, subject to the imposition of those extra conditions contained in paragraphs [42] and [63] of the NNTT's decision.
119. On 16 March 2012, E 47/1319-I was granted for a term of 5 years.

E 47/1333-I

120. On 18 November 2003, Fortescue Metals Group Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/1333-I.



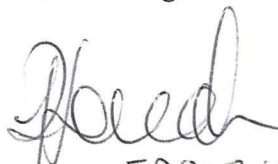
121. On or about 20 December 2006, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant E 47/1333-I. The notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of E 47/1333-I was an act attracting the expedited procedure. The notice indicated that the four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 20 April 2007.
122. On 20 April 2007 the Yindjibarndi #1 claimant made an application to the NNTT pursuant to section 32(3) of the NTA objecting to the inclusion of the expedited procedure statement in respect of E 47/1333-I (Application No. WO07/288).
123. On 3 July 2007, the Yindjibarndi #1 claimant withdrew expedited procedure objection WO07/288.
124. On 28 July 2007, E 47/1333-I was granted for a term of 5 years.

E 47/1334-I

125. On 18 November 2003, Fortescue Metals Group Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/1334-I.
126. On 8 November 2006, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant E 47/1334-I pursuant to section 29(2) of the NTA. That notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of E 47/1334-I was an act attracting the expedited procedure. The notice indicated that the four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 8 March 2007.
127. On 8 March 2007, the Yindjibarndi #1 claimant made an application to the NNTT pursuant to section 32(3) of the NTA objecting to the inclusion of the expedited procedure statement in respect of E 47/1334-I (Application No. WO07/166).
128. On 4 May 2007, expedited procedure objection WO07/166 was withdrawn by the Yindjibarndi #1 claimant.
129. On 2 June 2007, E 47/1334-I was granted for a term of 5 years.

E 47/1398-I

130. On 8 April 2004, FMG Pilbara Pty Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/1398-I.

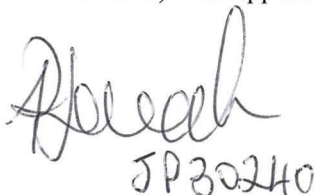

JP 33240



131. On 7 January 2005, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant E 47/1398-I.
132. On 25 August 2010, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF10/19). The application was made on the basis that the negotiation parties had not been able to reach agreement within six months of DMIRS giving notice of its intention to grant E 47/1398-I.
133. On or around 10 September 2010, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA and, accordingly, pursuant to section 36(2) of the NTA the NNTT did not have the power to make the future act determination requested by FMG Pilbara Pty Ltd.
134. On 18 November 2010, the Yindjibarndi #1 claimant withdrew its assertion of a failure to negotiate in good faith against FMG Pilbara Pty Ltd and the State.
135. In January 2011, the Yindjibarndi #1 claimant reasserted the allegation that FMG Pilbara Pty Ltd had not negotiated in good faith in accordance with section 31(1)(b) of the NTA.
136. On 9 July 2011, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2011] NNTTA 107 and determined that:
 - (a) FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant; and
 - (b) the grant of E 47/1398-I may be done, subject to the imposition of those extra conditions contained in paragraphs [43] and [44] of the NNTT's decision.
137. On 8 July 2011, E 47/1398-I was granted for a term of 5 years.

E 47/1399-I

138. On 8 April 2004, FMG Pilbara Pty Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/1399-I.
139. On 13 January 2006, DMIRS sent a letter to the Yindjibarndi # 1 claimant providing notice under section 29 of the NTA of the State's intention to grant E 47/1399-I.
140. On 25 August 2010, FMG Pilbara Pty Ltd made an application to the NNTT pursuant to section 35 of the NTA for a future act determination under section 38 of the NTA (Application No. WF10/19). The application was made on the basis that the negotiation parties had not been able


JP30240



to reach agreement within six months of DMIRS giving notice of its intention to grant E 47/1399-I.

141. On or around 10 September 2010, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the State had not negotiated in good faith in accordance with section 31(1)(b) of the NTA and, accordingly, pursuant to section 36(2) of the NTA the NNTT did not have the power to make the future act determination requested by FMG Pilbara Pty Ltd.
142. On 18 November 2010, the Yindjibarndi #1 claimant withdrew its assertion of a failure to negotiate in good faith against FMG Pilbara Pty Ltd and the State.
143. In early January 2011, the Yindjibarndi #1 claimant reasserted the allegation that FMG Pilbara Pty Ltd had not negotiated in good faith in accordance with section 31(1)(b) of the NTA.
144. On 9 July 2011, the NNTT delivered judgment in *FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia* [2011] NNTTA 107 and determined that:
 - (a) FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant; and
 - (b) the grant of E 47/1399-I may be done, subject to the imposition of those extra conditions contained in paragraphs [43] and [44] of the NNTT's decision.
145. On 8 July 2011, E 47/1399-I was granted for a term of 5 years.

E 47/1447-I

146. On 10 August 2004, FMG Pilbara Pty Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/1447-I.
147. On 22 September 2006, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant E 47/1447-I. The notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of E 47/1447-I was an act attracting the expedited procedure. The notice indicated that the four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 27 January 2007.
148. On 23 January 2007, the Yindjibarndi #1 claimant made an application to the NNTT pursuant to section 32(3) of the NTA objecting to the inclusion of the expedited procedure statement in respect of E 47/1447-I (Application No. WO07/28).


JP30240



149. On 4 May 2007, expedited procedure objection WO07/28 was withdrawn by the Yindjibarndi #1 claimant.

150. On 2 June 2007, E 47/1447-I was granted for a term of 5 years.

E 47/3205-I

151. On 15 September 2014, FMG Pilbara Pty Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/3205-I.

152. On 29 April 2016, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant E 47/3205-I. That notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of E 47/3205-I was an act attracting the expedited procedure. The notice indicated that the four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 4 September 2016

153. No objection was made by the Yindjibarndi #1 claimant with respect to the grant of E 47/3205-I pursuant to section 32(3) of the NTA.

154. On 21 September 2016, E 47/3205-I was granted for a term of 5 years.

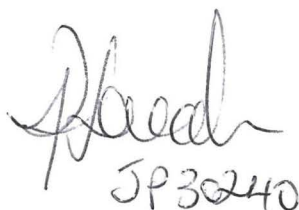
E 47/3464-I

155. On 1 March 2016, FMG Pilbara Pty Ltd lodged an application pursuant to section 58 of the *Mining Act* for the grant of E 47/3464-I.

156. On 30 September 2016, DMIRS sent a letter to the Yindjibarndi #1 claimant providing notice under section 29 of the NTA of the State's intention to grant E 47/3464-I. That notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of E 47/3464-I was an act attracting the expedited procedure. The notice indicated that the four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 5 February 2017.

157. No objection was made by the Yindjibarndi #1 claimant with respect to the grant of E 47/3464-I pursuant to section 32(3) of the NTA.

158. On 24 February 2017, E 47/3464-I was granted for a term of 5 years.


JP30240



PROSPECTING LICENCES

P 47/1945

159. On 16 June 2020, FMG Pilbara Pty Ltd lodged an application pursuant to section 41 of the *Mining Act* for the grant of P 47/1945.
160. On 29 January 2021, DMIRS sent a letter to the Yindjibarndi Ngurra Aboriginal Corporation RNTBC notice under section 29 of the NTA of the State's intention to grant P 47/1945. That notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of P 47/1945 was an act attracting the expedited procedure. The four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 8 June 2021.
161. No objection was made by the Yindjibarndi Ngurra Aboriginal Corporation RNTBC with respect to the grant of P 47/1945 pursuant to section 32(3) of the NTA.
162. On 11 August 2021, P 47/1945 was granted for a term of 4 years.

P 47/1946

163. On 16 June 2020, FMG Pilbara Pty Ltd lodged an application pursuant to section 41 of the *Mining Act* for the grant of P 47/1946.
164. On 29 January 2021, DMIRS sent a letter to the Yindjibarndi Ngurra Aboriginal Corporation RNTBC providing notice under section 29 of the NTA of the State's intention to grant P 47/1946 pursuant to section 29(2) of the NTA. That notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of P 47/1946 was an act attracting the expedited procedure. The four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 8 June 2021.
165. No objection was made by the Yindjibarndi Ngurra Aboriginal Corporation RNTBC with respect to the grant of P 47/1946 pursuant to section 32(3) of the NTA.
166. On 11 August 2021, P 47/1946 was granted for a term of 4 years.

P 47/1947

167. On 16 June 2020, FMG Pilbara Pty Ltd lodged an application pursuant to section 41 of the *Mining Act* for the grant of P 47/1947.

 JP 30240 

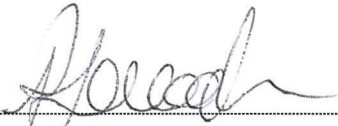
168. On 29 January 2021, DMIRS sent a letter to the Yindjibarndi Ngurra Aboriginal Corporation RNTBC providing notice under section 29 of the NTA of the State's intention to grant P 47/1947. That notice included a statement pursuant to section 29(7) of the NTA that DMIRS considered that the grant of P 47/1947 was an act attracting the expedited procedure. The four month period given by section 32(3) of the NTA in which to lodge an objection against the inclusion of the expedited procedure statement ended on 8 June 2021.
169. No objection was made by the Yindjibarndi Ngurra Aboriginal Corporation RNTBC with respect to the grant of P 47/1947 pursuant to section 32(3) of the NTA.
170. On 11 August 2021, P 47/1947 was granted for a term of 4 years.

Affirmed by the deponent
at Perth in the State of Western Australia
on 23 October 2023
Before me:

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)
)
)
)



Signature of deponent



Signature of witness

Ruth Lavender

Name

Ruth Sarah Lavender JP
Justice of the Peace
Western Australian Reg. No: 30240

Affidavit

WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

Division: General

YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC

Applicant

STATE OF WESTERN AUSTRALIA and others

Respondents

ANNEXURE DC66

Information Package for M 47/1409-I

Your Ref:
Our Ref: PO:po M47/1409
Enquiries: Paola O'Neill Tel: (08) 9222 3547 Fax: (08) 9222 3808
Email: paola.o'neill@doir.wa.gov.au

Yindjibarndi #1 People
Chairperson
Yindjibarndi Aboriginal Corporation
PO Box 111
ROEBOURNE WA 6718

20/5/2008

Dear Sir / Madam

**APPLICATION FOR MINING LEASES: 47/1409,
FOR FMG PILBARA PTY LTD
NATIVE TITLE DETERMINATION: MUNTULGURA GURUMA (WAD 6208/98)**

The Tenure and Native Title Branch of the Department of Industry and Resources, represents the Government of Western Australia in this matter ("Government party").

This letter is being sent simultaneously to the tenement applicant ("grantee party") and to each of the native title party over the area of the proposed tenement, which the National Native Title Tribunal (NNTT) has identified as; being **Muntulgura Guruma (WAD 6208/98)**.

On 10/10/2007, under section 29 of the *Native Title Act 1993* ("NTA"), this Department gave notice that **FMG Pilbara Pty Ltd** had applied for the issue of **M47/1409** ("the act").

We now enclose herewith:

- a copy of the tenement application;
- a TENGRAPH plan of the tenement;
- a topographical plan of the tenement;
- a copy of the search of the Register of Aboriginal Sites; and
- an extract of section 39(1) of the NTA.

In September 1998 section 31(1)(b) of the NTA was amended, to state that all of the negotiation parties – which means the Government party, the grantee party and any native title party - have an equal obligation to negotiate in good faith with each other with a view to obtaining the agreement of the native title party/s to the grant, with or without conditions. If despite proper negotiations of the tenement(s), agreement is not reached, section 35 of the NTA provides that any negotiation party may apply to the NNTT for a determination in relation to the grant of the tenement(s) if at least six months have passed since the date of the section 29 notice.

Section 31(1)(a) of the NTA requires the Government party to give all native title parties an opportunity to make submissions to it regarding the grant.

To enable the native title parties to make these submissions, **FMG Pilbara Pty Ltd** is requested to provide to all of the native title parties within **14 days** of the date of this letter by REGISTERED MAIL:

- an outline of the proposed work programme for the tenement area, if available;
- copies of the company's last annual report, if available;
- advice as to whether Aboriginal heritage surveys within the tenement area are proposed or have been completed.
- any company policies or information which might be relevant to native title claimants; and
- a suitable map of the project area (if applicable).

FMG Pilbara Pty Ltd is requested at the same time to send copies of this information to the Tenure and Native Title Branch.

An outline of the Government party's proposals is enclosed, being:

- a copy of the draft conditions and endorsements for this tenement/s in accordance with the Mining Registrar's recommendations; *This information to follow, ps*
- a copy of four additional conditions for discussion;
- a copy of "Administration and Operation of Exploration Licences, Prospecting Licences, Mining Leases, General Purpose Leases and Miscellaneous Licences in Western Australia";
- "Fees and Charges: Information on Mining Tenements"; and
- a summary of approvals and responsibilities required by Government before activities can commence on the mining tenements.

The **native title party** is requested to make their submissions regarding the act to the Tenure and Native Title Branch by no later than **08/07/2008**. Each native title party is requested to copy its submission to each of the other negotiation parties: all contact details are provided below.

These submissions should include details of all native title parties' views on the effects which the act will be likely to have on their native title rights and interests as detailed in section 39 of the NTA. The NNTT has recommended that it is these submissions which will form the basis of the negotiations which will follow between the parties as listed below.

Thereafter, all parties are at liberty to contact each other directly in connection with any matter that will advance the negotiations. All parties are encouraged to actively pursue these negotiations.

Meetings may take place without all of the parties being present if issues to be discussed concern only some of the parties. However to ensure that all parties are kept informed of progress, it is suggested that all correspondence should be copied to each of the parties for their information – unless the communication is personal or confidential.

To assist with negotiations we also enclose:

- a guide to what constitutes "negotiations in good faith"; and
- a copy of the State's Negotiation Protocol: the negotiation procedure can be developed as necessary during the course of each negotiation.

The contact details for all of the parties are:

Grantee Party

FMG Pilbara Pty Ltd
C/Tenement Administration Services
Level 2, 326 Hay Street
EAST PERTH WA 6004

Tel: 08 6218 8888
Fax: 08 6218 8880

Native Title Party/s

Mutulgaura Guruma People
Wintawari Guruma Aboriginal Corporation
C/- Corser and Corser
93 Colin Street
WEST PERTH WA 6005

Tel: 08 9215 0900
Fax: 08 9481 1735

Yindjibarndi #1 People
Chairperson
Yindjibarndi Aboriginal Corporation
PO Box 111
ROEBOURNCE WA 6718

Tel: 08 9182 1497
Fax: 08 9182 1035

Government Party

General Manager
Tenure and Native Title Branch
Department of Industry and Resources
100 Plain Street
EAST PERTH WA 6004

Tel: 08 9222 3811
Fax: 08 9222 3808

Should you at any stage have any queries or suggestions as to how this Department can assist in the negotiations then please contact Paola O'Neill on (08) 9222 3547. Similarly, if you are aware that any of the above contact details are incorrect could you please advise this office as soon as possible.

We remind you that under section 31(3) of the NTA any party may at any time request the NNTT to mediate among the parties to assist in obtaining an agreement on this matter.

Yours sincerely



pp DIRECTOR
MINERAL & TITLE SERVICES DIVISION

NOTICE OF FILING

Details of Filing

| | |
|---------------------------|---|
| Document Lodged: | Affidavit - Form 59 - Rule 29.02(1) |
| Court of Filing | FEDERAL COURT OF AUSTRALIA (FCA) |
| Date of Lodgment: | 26/10/2023 2:07:13 PM AWST |
| Date Accepted for Filing: | 26/10/2023 2:07:17 PM AWST |
| File Number: | WAD37/2022 |
| File Title: | YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC ICN 8721 AND STATE OF WESTERN AUSTRALIA & ORS |
| Registry: | WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA |



A handwritten signature in blue ink, reading "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.