



## 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: **AMANDA LEE ROSCOE**  
Address: c/- Department of Mines, Industry Regulation and Safety  
100 Plain Street East Perth WA  
Occupation: Senior Geospatial Officer  
Date: 2 February 2023

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

A handwritten signature in blue ink, appearing to be "Alicia Warren".

A handwritten signature in blue ink, appearing to be "Rachel Eaton".

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I, AMANDA LEE ROSCOE, 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 the Senior Geospatial Officer for Native Title Projects within Title Information (**TI**) within the Geological Survey and Resource Strategy Division of the Department of Mines, Industry Regulation and Safety (**DMIRS**) in Western Australia.
2. 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.
3. I am a qualified cartographer, having obtained a Graduate Diploma in Geographic Information Science in 2013. I have been employed by DMIRS since 2008 and have been in my current position since 2019. Prior to that my other roles within DMIRS have all been within the TI branch working on the Titles Services team which is primarily responsible for supporting the State of Western Australia (**State**) in native title claim determination matters.
4. I am authorised by the First Respondent, the State of Western Australia (the **State**), to affirm this affidavit on its behalf in WAD 37 of 2022 (**Yindjibarndi Compensation application**).
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.

#### **BACKGROUND TO TITLE INFORMATION**

6. TI has been in existence in various forms since 2002. TI currently falls within the Geological Survey and Resource Strategy Division of DMIRS.
7. TI maintains all the data associated with tenements granted by DMIRS in connection with mining in the State. It is TI's responsibility to gather, record and maintain custody of information relating to new and historical mining tenement applications. This is done by integrating information relating to new applications and grants with records of the existing mining tenements and information.
8. TI prepares work at the request of the State Solicitor's Office (**SSO**), the Aboriginal Engagement directorate within the Department of the Premier and Cabinet and other government departments on request.

#### **YINDJIBARNDI #1 PROCEEDINGS (WAD 6005 OF 2003)**

9. On 23 August 2013, DMIRS received a request from SSO to identify, and spatially depict the location of, certain current and historical mining tenements and petroleum titles which had been granted within the land and waters of the Yindjibarndi #1 native title determination application (WAD 6005 of 2003) (**Yindjibarndi #1 application**).
10. On 7 July 2014 and 17 July 2014, DMIRS provided Landgate with data and information with respect to the requested mining tenements and petroleum titles. The data provided by DMIRS comprised a series of .shp and .pdf files. A .shp (shape) file is a type of geospatial file format that allows the shape and geographical location of a polygon (i.e. of a tenement) to be viewed spatially. The .shp files provided showed the geographical location of the requested mining tenements and petroleum titles in the Yindjibarndi #1 application area. The .pdf documents supplied were images of the source documents supporting the grant of those tenements and titles.
11. I understand that this spatial information and supporting documents were then incorporated by Landgate into the tenure information prepared by Landgate at the request of SSO (**Yindjibarndi #1 Tenure Project**). I am informed that the Yindjibarndi #1 Tenure Project was contained on a DVD attached to the affidavit of Lee Rex Morgan sworn on 19 November 2014 as annexure "LRM4".




**YINDJIBARNDI COMPENSATION APPLICATION**

12. On 1 December 2022, DMIRS received a letter from SSO requesting that DMIRS:
- (a) capture for inclusion in an updated version of the Yindjibarndi #1 Tenure Project to be produced by Landgate the:
    - (i) boundary of each mining tenement listed in Annexure 1 of the letter (the **compensable acts**) as at date of grant; and
    - (ii) current boundary of each compensable act;
  - (b) provide a spreadsheet setting out the history of any compulsory or voluntary drop-offs of each of the compensable acts; and
  - (c) identify and capture certain additional mining tenements for inclusion by Landgate in an updated version of the Yindjibarndi #1 Tenure Project. Boundaries of tenements (which are not compensable acts) were only to be captured as at date of grant.
13. A copy of the letter received from SSO on 1 December 2022 is annexed to this affidavit and marked "**ALR1**".
14. On 5 December 2022, SSO informed DMIRS that the applicant for the Yindjibarndi Compensation application intended to amend the compensable acts claimed and provided DMIRS and Landgate with an updated list of compensable acts to replace Annexure A of the letter annexed at ALR1. A copy of this updated list is annexed to this affidavit and marked "**ALR2**".
15. After ascertaining the boundaries of the Yindjibarndi Compensation application, the processes described in paragraphs [24] – [27] below were undertaken to provide the information requested. That information was provided to Landgate on 9 December 2022. It included the geographical location of the requested mining tenements (as .shp (shape) files), the source documents supporting the grant of those tenements (as .pdf files) and summary spreadsheets (as .xlxs (excel) files).
16. On 19 January 2023, SSO requested that DMIRS provide some further information for inclusion in an updated version of the Yindjibarndi #1 Tenure Project. SSO requested the following additional information:
- (a) a list and data set depicting the geographical location of mining tenements granted within the Yindjibarndi Compensation application prior to 31 October 1975;





- (b) a list and data set depicting the geographical location of mining tenements granted within the Yindjibarndi Compensation application between 1 November 1975 and 31 December 1993; and
- (c) a list and data set depicting the geographical location of mining tenements granted within the Yindjibarndi Compensation application between 1 January 1994 and the present day. The compensable acts were not to be included in this dataset.

Boundaries of mining tenements were to be provided as at the date of grant.

17. The processes described in paragraphs [24] – [27] below were undertaken to provide the information requested. That information was provided to Landgate on 23 January 2023. It included the geographical location of the requested mining tenements (as .shp (shape) files), the source documents supporting the grant of those tenements (as .pdf files) and summary spreadsheets (as .xlsx (excel) files).

## SEARCHES UNDERTAKEN BY DMIRS

### Background

18. The grant of mining tenements within the State is administered by 10 separate mining registrars (divided into geographical regions). Mining tenement applications and grants are issued unique district identifiers depending upon where the application falls within the State and within which mining registrar's administrative boundary they are lodged.
19. Mining tenement applications and grants, as well as any transfers, mortgages, caveats and other dealings and conditions affecting the land that is the subject of a mining tenement are recorded by DMIRS in the **Official Register**. The Official Register includes some limited details of historic dealings. These include the date on which an application was made, when it was received in the relevant registrar's office in DMIRS and when it was granted. The Official Register also records the date on which a mining tenement is scheduled to end (the 'expiry date') and the date on which the mining tenement actually ceased to exist (the 'death date').
20. Prior to 2 April 2001, the Official Register was a hard copy tenement register in the form of a series of bound volumes containing entries in sequential order. Each volume contained only one type of mining tenement and one district to which those tenements applied. The spine of the volume identified the mining tenement type and district. The hard copy Official Register was initially completed by hand by DMIRS staff from the relevant details contained in the application for any particular tenement.



21. Since 2 April 2001, an electronic register, known as the Mining Tenement Information System (**EMTIS**), progressively became the Official Register with full State coverage released on 5 May 2003. Auditors within DMIRS continually audit the information contained within EMTIS to correct errors or enter missing information which may have been incorrectly entered into EMTIS from the old hard copy Official Register.
22. DMIRS also prepares plans which are large graphical representations of the State depicting tenement positions in relation to other land tenure and topographical detail. Since 1994, the computerisation of DMIRS's records of plans has been progressively achieved. In 1999, a computer system using proprietary software called TENGRAPH became the official electronic plan of tenements for the State. From that time, hard copies of plans have not been routinely kept, although the computer systems utilised by DMIRS permit plans to be created when needed.
23. All tenements applied for since the introduction of TENGRAPH have had their spatial data (i.e. the location and shape of the tenement) captured for entry into TENGRAPH by Geospatial Officers employed by DMIRS. Geospatial Officers are generally specialists in the geospatial aspects of mining tenements and are trained specifically to work with TENGRAPH. DMIRS is also in the process of capturing and plotting into TENGRAPH the location and shape of historical mining tenements.

## **The Tenure Search**

### Identification of Additional Tenements

24. Following the request from SSO for specific additional mining tenement information to be supplied (referred to at paragraphs [12(a)], [12(c)] and [16] above), an analysis was then carried out to determine which tenements fell within or intersected with the external boundaries of the Yindjibarndi Compensation application and met the requirements of the particular request from SSO.
25. If the location and shape of any of those tenements had not already been captured in TENGRAPH they were subsequently mapped into TENGRAPH. Once the relevant tenements had been identified and ultimately plotted into TENGRAPH, a .shp (shape) file was created, setting out spatial and attribute details of those tenements.
26. Since tenements which have been plotted into TENGRAPH do not have any tenement documents physically attached to them, it was then necessary to obtain copies of source documents which record, or give rise to, the existence of the relevant tenements.

27. The geographical location of the requested mining tenements (as .shp (shape) files), the source documents supporting the grant of those tenements (as .pdf files) and summary spreadsheets (as .xlxs (excel) files) were then provided to Landgate for inclusion into an updated version of the Yindjibarndi #1 Tenure Project.

History of compulsory or voluntary drop-offs of the compensable acts

28. In addition to the requests by SSO for the identification and capture of additional mining tenements, DMIRS was also requested to provide a spreadsheet setting out the history of any compulsory or voluntary drop-offs in respect of each of the compensable acts (see paragraph [12(b)] above).
29. This information was produced by utilising the Official Register searches to determine the official dates of compulsory/voluntary surrenders as listed and compiling into a single spreadsheet. This was also compared to data stored in TENGRAPH & EMTIS.
30. A copy of the spreadsheet is annexed to this affidavit and marked "**ALR3**".

Affirmed by the deponent  
at Perth in the State of Western Australia  
on 2 February 2023  
Before me:

)  
)  
)  
)  
)



Signature of deponent



Signature of witness

IAN ALEXANDER REPPER

Name

Experienced Legal Practitioner  
as defined in section 8 of the *Oaths, Affidavits and  
Statutory Declarations Act 2005* (WA)

## 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 ALR1

**Letter from the State Solicitor's Office to the Department of Mines, Industry Regulation and  
Safety dated 1 December 2022**







## STATE SOLICITOR'S OFFICE

David Malcolm Justice Centre  
28 Barrack Street  
Perth, Western Australia 6000

GPO Box B83 Perth WA 6838  
Telephone (08) 9264 1888  
Fax (08) 9264 1440  
Email [sso@sso.wa.gov.au](mailto:sso@sso.wa.gov.au)  
DX 175

SSO Ref: 668/22  
Enquiries: E. Owen | (08) 9264 9669 | [e.owen@sso.wa.gov.au](mailto:e.owen@sso.wa.gov.au)

Department of Mines, Industry Regulation and Safety 100 Plain Street EAST PERTH WA 6005 <b>Attention:</b> Amanda Roscoe (by email)	Graphic Services Landgate 1 Midland Square MIDLAND WA 6056 <b>Attention:</b> Xavier Marszal (by email)
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Date: 1 December 2022

### **WAD 37/2022 YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC (ICN 8721) AND STATE OF WESTERN AUSTRALIA & ORS**

1. I refer to our previous discussions on and around 12 October 2022 in relation to the above compensation application.
2. Pursuant to orders made by the Federal Court on 11 October 2022, the State (First Respondent) is required to file and serve, by 6 February 2023, a fresh affidavit containing a version of Annexure LRM5 to the affidavit of Lee Rex Morgan sworn 19 November 2014 in WAD 6005 of 2003 which has been updated to include:
  - the compensable acts (listed in *Attachment A*); and
  - any additional historical mining tenure not originally included.
3. To enable the State to comply with the abovementioned order, can you please provide, by no later than 13 January 2023, the following:

#### **MAPS**

4. Could Landgate please provide maps of the application area depicting:
  - (a) current tenure;
  - (b) topography; and
  - (c) the compensable acts as at the date of grant.

#### **MINING TENURE SEARCH**

5. I would be grateful if the Department of Mines, Industry Regulation and Safety ("**DMIRS**") could please do the following:
  - (a) check all mining tenure layers previously captured in the existing Yindjibarndi #1 (WAD 6005 of 2003) Mapinfo project are complete;

- (b) capture (for inclusion as two new layers in an updated version of the Yindjibarndi #1 Mapinfo project) the:
    - (i) boundary of each compensable act as at date of grant; and
    - (ii) current boundary of each compensable act;
  - (c) in respect of each of the compensable acts, provide a spreadsheet setting out the history of any compulsory or voluntary drop-offs; and
  - (d) capture all historical mining tenure in the period 31/10/1975 – 16/7/2014 for inclusion in an updated version of the Yindjibarndi #1 Mapinfo project. Boundaries of tenements (which are not compensable acts) only need to be captured as at date of grant.
6. Each of the tenement categories in the Mining Tenure Search should be provided by DMIRS to Landgate in a separate spreadsheet or other document.
7. Upon receipt of this material from DMIRS, it would be appreciated if Landgate could please create an updated version of the Yindjibarndi #1 Mapinfo project which:
- (a) contains a different layer for each category of mining tenure identified in paragraphs 5(b)(i), 5(b)(ii) and 5(d) above; and
  - (b) amend, to the extent necessary, mining tenure layers previously captured in the event that DMIRS identifies any incomplete material in accordance with paragraph 5(a) above.

Guidelines for the provision of Mapinfo data can be found in the document entitled "*Provision of Mapinfo data*".

8. Please do not hesitate to contact me if you have any queries in relation to the foregoing.

Yours sincerely



Emma Owen  
**SENIOR ASSISTANT STATE SOLICITOR**

**Attachment 1: Compensable Acts**

1. Mining lease M47/1409-I
2. Mining lease M47/1411-I
3. Mining lease M47/1413-I
4. Mining lease M47/1431-I
5. Mining lease M47/1453-I
6. Mining lease M47/1473-I
7. Mining lease M47/1475-I
8. Mining lease M47/1513-I
9. Mining lease M47/1570
10. Miscellaneous licence (State Agreement) L1SA
11. Miscellaneous licence L47/302
12. Miscellaneous licence L47/361
13. Miscellaneous licence L47/362
14. Miscellaneous licence L47/363
15. Miscellaneous licence L47/367
16. Miscellaneous licence L47/396
17. Miscellaneous licence L47/472
18. Miscellaneous licence L47/697
19. Miscellaneous licence L47/801
20. Miscellaneous licence L47/813
21. Miscellaneous licence L47/814
22. Miscellaneous licence L47/859
23. Miscellaneous licence L47/901
24. Miscellaneous licence L47/914
25. Miscellaneous licence L47/919
26. Exploration licence E45/2842-I
27. Exploration licence E45/2844-I
28. Exploration licence E47/1319-I
29. Exploration licence E47/1333-I
30. Exploration licence E47/1334-I
31. Exploration licence E47/1349-I
32. Exploration licence E47/1361-I
33. Exploration licence E47/1384-I
34. Exploration licence E47/1397-I
35. Exploration licence E47/1398-I
36. Exploration licence E47/1399-I
37. Exploration licence E47/1447-I
38. Exploration licence E47/1611-I
39. Exploration licence E47/1669-I
40. Exploration licence E47/1670-I
41. Exploration licence E47/1673-I
42. Exploration licence E47/1674-I

43. Exploration licence E47/2574-I
44. Exploration licence E47/3205-I
45. Exploration licence E47/3397-I
46. Exploration licence E47/3464-I
47. Exploration licence E47/3483-I
48. Prospecting licence P47/1945
49. Prospecting licence P47/1946
50. Prospecting licence P47/1947



## 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 ALR2

#### Amended List of Compensable Acts



**Attachment 1: Compensable Acts (as amended by Applicant on 5/5/2022)**

1. Mining lease M47/1409-I
2. Mining lease M47/1411-I
3. Mining lease M47/1413-I
4. Mining lease M47/1431-I
5. Mining lease M47/1453-I
6. Mining lease M47/1473-I
7. Mining lease M47/1475-I
8. Mining lease M47/1513-I
9. Mining lease M47/1570
10. Miscellaneous licence (State Agreement) L1SA
11. Miscellaneous licence L47/302
12. Miscellaneous licence L47/361
13. Miscellaneous licence L47/362
14. Miscellaneous licence L47/363
15. Miscellaneous licence L47/367
16. Miscellaneous licence L47/396
17. Miscellaneous licence L47/472
18. Miscellaneous licence L47/697
19. Miscellaneous licence L47/801
20. Miscellaneous licence L47/813
21. Miscellaneous licence L47/814
22. Miscellaneous licence L47/859
23. Miscellaneous licence L47/901
24. Miscellaneous licence L47/914
25. Miscellaneous licence L47/919
26. ~~Exploration licence E45/2842-I~~
27. ~~Exploration licence E45/2844-I~~
28. Exploration licence E47/1319-I
29. Exploration licence E47/1333-I
30. Exploration licence E47/1334-I
31. ~~Exploration licence E47/1349-I~~
32. ~~Exploration licence E47/1361-I~~
33. ~~Exploration licence E47/1384-I~~
34. ~~Exploration licence E47/1397-I~~
35. Exploration licence E47/1398-I
36. Exploration licence E47/1399-I
37. Exploration licence E47/1447-I
38. ~~Exploration licence E47/1611-I~~
39. ~~Exploration licence E47/1669-I~~
40. ~~Exploration licence E47/1670-I~~
41. ~~Exploration licence E47/1673-I~~
42. ~~Exploration licence E47/1674-I~~

- 43. ~~Exploration licence E47/2574-I~~
- 44. Exploration licence E47/3205-I
- 45. ~~Exploration licence E47/3397-I~~
- 46. Exploration licence E47/3464-I
- 47. ~~Exploration licence E47/3483-I~~
- 48. Prospecting licence P47/1945
- 49. Prospecting licence P47/1946
- 50. Prospecting licence P47/1947

**Affidavit**

WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

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**YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC**

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**STATE OF WESTERN AUSTRALIA and others**

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**ANNEXURE ALR3**

**Spreadsheet setting out the history of any compulsory or voluntary drop-offs in respect of each  
of the compensable acts**





Tenement ID	Boundary 1	Reason 1	Boundary 2	Reason 2	Boundary 3	Reason 3	Boundary 4	Reason 4	Boundary 5	Reason 5	Boundary 6	Reason 6	Boundary 7	Reason 7	Boundary 8	Reason 8	Boundary 9	Reason 9	Boundary 10	Reason 10
LISA	29/11/2006	Applied For	29/11/2006	Granted	25/08/2008	Special Act Adjustment	04/06/2009	Vol Partial Surrender	15/10/2010	Vol Partial Surrender	10/08/2011	Special Act Adjustment	21/10/2011	Special Act Adjustment	02/09/2019	Special Act Adjustment	03/09/2019	Special Act Adjustment	08/01/2020	Special Act Adjustment
E 47/1319	16/10/2033	Applied For	16/03/2012	Granted	26/11/2010	Conversion	03/02/2011	Conversion	29/11/2021	Conversion	10/12/2021	Conversion								
E 47/1333	18/11/2003	Applied For	28/07/2001	Granted	26/11/2010	Conversion	08/07/2011	Conversion	22/11/2012	Partial Expiry	17/01/2013	Conversion	29/08/2014	Conversion	03/12/2018	Partial Expiry				
E 47/1334	18/11/2003	Applied For	02/06/2007	Granted																
E 47/1398	08/04/2004	Applied For	08/07/2011	Granted	15/08/2019	Partial Expiry														
E 47/1399	08/04/2004	Applied For	08/07/2011	Granted																
E 47/1447	10/08/2004	Applied For	02/06/2007	Granted	08/07/2011	Conversion Voluntary Partial Surrender	29/08/2014	Conversion												
E 47/3205	15/09/2014	Applied For	21/09/2016	Granted	11/09/2020															
E 47/3464	01/03/2016	Applied For	24/02/2017	Granted																
L 47/302	10/07/2008	Applied For	05/06/2009	Granted																
L 47/361	05/03/2010	Applied For	11/10/2011	Granted																
L 47/362	04/03/2010	Applied For	03/05/2011	Granted																
L 47/363	04/03/2010	Applied For	03/05/2011	Granted																
L 47/367	22/04/2010	Applied For	02/03/2012	Granted																
L 47/396	13/10/2010	Applied For	23/05/2012	Granted																
L 47/472	11/04/2011	Applied For	18/07/2014	Granted																
L 47/697	07/05/2013	Applied For	02/12/2013	Granted																
L 47/801	25/05/2017	Applied For	24/05/2019	Granted																
L 47/813	15/11/2017	Applied For	06/04/2018	Granted																
L 47/814	15/11/2017	Applied For	06/04/2018	Granted																
L 47/859	30/10/2018	Applied For	06/02/2019	Granted																
L 47/901	13/03/2019	Applied For	26/06/2019	Granted																
L 47/914	20/08/2019	Applied For	15/11/2019	Granted																
L 47/919	18/10/2019	Applied For	10/01/2020	Granted																
M 47/1409	24/09/2007	Applied For	26/11/2010	Granted	18/09/2011	Surveyed														
M 47/1411	15/11/2007	Applied For	26/11/2010	Granted	18/09/2011	Surveyed														
M 47/1413	13/12/2007	Applied For	26/11/2010	Granted	17/09/2011	Surveyed														
M 47/1431	22/07/2009	Applied For	08/07/2011	Granted	17/09/2011	Surveyed														
M 47/1453	13/10/2010	Applied For	17/01/2013	Granted	21/06/2014	Surveyed														
M 47/1473	05/11/2011	Applied For	29/08/2014	Granted																
M 47/1475	16/03/2012	Applied For	29/08/2014	Granted																
M 47/1513	12/07/2016	Applied For	03/12/2018	Granted	13/03/2019	Surveyed														
M 47/1570	26/03/2018	Applied For	31/03/2020	Granted	18/06/2020	Surveyed														
P 47/1945	16/06/2020	Applied For	11/08/2021	Granted	14/03/2022	Partial Expiry														
P 47/1946	16/06/2020	Applied For	11/08/2021	Granted	14/03/2022	Partial Expiry														
P 47/1947	16/06/2020	Applied For	11/08/2021	Granted																

## NOTICE OF FILING

### Details of Filing

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Registry:	WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "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.