



Statement of Facts Agreed Pursuant to s 191 of the *Evidence Act 1995* (Cth)¹

No. WAD 37 of 2022

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

YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC (ICN 8721)

Applicant

STATE OF WESTERN AUSTRALIA & ORS

Respondents

1. Pursuant to s 191 of the *Evidence Act 1995* (Cth), the Applicant, First Respondent and each of those respondents comprising the “FMG Respondents”¹ agree on those facts set out in Tables A – H below:

CONTENTS		
Agreed Fact	Table Heading	Page No.
1 – 92	A. Background and Chronology	4 – 16
93 – 98	B. Yindjibarndi people’s connection to country	17
99 – 144	C. Yindjibarndi beliefs, laws and customs governing their relationship to country	18 – 22
145 – 152	D. Yindjibarndi right to control access to and activities on Yindjibarndi country	23 – 24
153 – 157	E. Access to Yindjibarndi country and the SHM	25

¹ Being FMG Pilbara Pty Ltd, Pilbara Eergy (Generation) Pty Ltd, Pilbara Energy Company Pty Ltd, Pilbara Gas Pipeline Pty Ltd and The Pilbara Infrastructure Pty Ltd

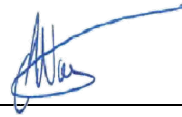
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CONTENTS		
Agreed Fact	Table Heading	Page No.
158-167	F. Alleged social division	26
168-172	G. Sites and Yindjibarndi heritage issues	27
173-323	H. Mining Tenure of the SHM	28 – 68



for ~~Signed~~ by Simon Charles Blackshield
Solicitor for the Applicant

Dated: 12 February 2024



Signed for the State Solicitor
Solicitor for the First Respondent

Dated: 12 February 2024



Signed by Allen & Overy
Solicitors for the Second to Sixth Respondents

Dated: 12 February 2024

DEFINED TERMS

PHRASE	DEFINED AS
Legal references	
<i>Aboriginal Heritage Act 1972 (WA)</i>	AHA
<i>Sandy v Yindjibarndi Aboriginal Corporation (RNTBC No.4)</i> [2018] WASC 124	Sandy 2018
<i>Warrie (formerly TJ) (on behalf of the Yindjibarndi People v State of Western Australia</i> [2017] FCA 803; (2017) 365 ALR 624	Warrie (No. 1)
<i>Warrie (formerly TJ) on behalf of the Yindjibarndi People v State of Western Australia (No. 2)</i> [2017] FCA 1299; (2017) 366 ALR 467	Warrie (No. 2)
Other phrases	
Agreement between FMG (via the entities Fortescue Metals Group Ltd, The Pilbara Infrastructure Pty Ltd and FMG Pilbara Pty Ltd) and WYAC	FMG Agreement
Area of the compensation application	compensation application area
Department of Mines, Industry Regulation and Safety	DMIRS
Eureka Archaeological Research and Consulting	Eureka
Indigenous Land Use Agreement	ILUA
Iron ore concentrate material (ie subject to substantial enrichment through a concentration plant)	beneficiated iron ore
Juluwarlu Aboriginal Corporation	JAC
Land Access Agreement	LAA
M47/1409-I, M47/1411-I, M47/1413-I, M47/1431-I, M47/1453-I and M47/1475-I	Relevant Tenements
National Native Title Tribunal	NNTT
M47/1474-I	Non-Relevant Tenement
Solomon Hub mine	SHM
Wirru-Murra Yindjibarndi Aboriginal Corporation	WYAC
Yindjibarndi #1 native title determination application WAD6005/2003	Yindjibarndi #1
Yindjibarndi Aboriginal Corporation	YAC

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
1.	The Applicant is a registered native title body corporate as defined in section 253 of the <i>Native Title Act 1993</i> (Cth) (NTA) and was registered as such on 11 October 2017.
2.	The Applicant has made this application for a determination of compensation under ss 50(2) and 61(1) of the NTA and has conducted the consultation and obtained the consent prescribed by Regulation 8B of the <i>Native Title (Prescribed Bodies Corporate) Regulations 1999</i> (Cth) prior to making this application.
3.	Under s 56(3) of the NTA the Applicant holds in trust for the common law holders (Yindjibarndi people) the native title rights and interests that were recognised in the <i>Warrie (formerly TJ) on behalf of the Yindjibarndi People v State of Western Australia (No. 2)</i> [2017] FCA 1299; (2017) 366 ALR 467 (<i>Warrie (No. 2)</i>) determination.
4.	In <i>Warrie (No. 2)</i> , the Court determined that in the ‘Exclusive Area’ as defined in [11] of the determination, ss 47A and 47B apply to disregard any prior extinguishment in relation to the land and waters described in Schedule 4 of the determination and by reason of that matter, the native title rights and interests of the Yindjibarndi people confer on them the right to possession, occupation, use and enjoyment of the Exclusive Area to the exclusion of all others, subject to the qualifications contained in [5] of the determination and the relationship with the “Other Interests” (as defined in [11] of the determination) set out in [9] of the determination.
5.	Save for a formatting error in respect of Attachment B1 of the Application (whereby rows 4 to 7 (inclusive) of the table on page 15 should be inserted on page 16 at the end of the first paragraph on that page following the words ‘ <i>through the following coordinate positions</i> ’), the area of the compensation application (compensation application area) is identical to the area the subject of the approved determination of native title made by the Court in <i>Warrie (No. 2)</i> .
6.	The Solomon Hub mine (SHM) is near a sacred site and freshwater spring that the Yindjibarndi people refer to as Bangkangarra and that the FMG Respondents refer to as ‘Satellite Spring’.
7.	The Yindjibarndi #1 native title determination application WAD6005/2003 (Yindjibarndi #1), which was the subject of the determination in <i>Warrie (No. 2)</i> was entered on the Register of Native Title Claims on 8 August 2003 and was determined by the Court on 13 November 2017.
8.	<p>Since May 2007, FMG has made applications to the National Native Title Tribunal (NNTT) under s 35 of the NTA for determinations under s 38 in relation to the grants of the following FMG tenements, all of which, apart from M47/1513, were opposed by the Yindjibarndi #1 Applicant and Yindjibarndi Aboriginal Corporation (YAC) on behalf of the Yindjibarndi people:</p> <ul style="list-style-type: none"> (a) M47/1413-I; (b) M47/1409 and M47/1411-I; (c) M47/1431-I, E47/1398-I and E47/1399-I; (d) E47/1319-I; (e) M47/1453-I; (f) M47/1475-I and M47/1473-I; (g) M47/1513-I; and (h) M47/1570-I.

A. BACKGROUND AND CHRONOLOGY

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9.	<p>The acts in respect of which compensation is sought are the grants by the First Respondent to the Mining, Exploration and Related industries of the Sixth Respondents of the following mining tenements within the compensation application area:</p> <p>(a) Mining Leases</p> <table border="1"> <thead> <tr> <th data-bbox="331 555 480 584">Tenement #</th> <th data-bbox="520 555 692 584">Date Granted</th> <th data-bbox="788 555 986 584">Current Holder</th> </tr> </thead> <tbody> <tr> <td data-bbox="331 618 475 647"><i>M47/1409-I</i></td> <td data-bbox="520 618 746 647">26 November 2010</td> <td data-bbox="788 618 1038 647">FMG Pilbara Pty Ltd</td> </tr> <tr> <td data-bbox="331 680 475 710"><i>M47/1411-I</i></td> <td data-bbox="520 680 746 710">26 November 2010</td> <td data-bbox="788 680 1038 710">FMG Pilbara Pty Ltd</td> </tr> <tr> <td data-bbox="331 743 475 772"><i>M47/1413-I</i></td> <td data-bbox="520 743 746 772">26 November 2010</td> <td data-bbox="788 743 1038 772">FMG Pilbara Pty Ltd</td> </tr> <tr> <td data-bbox="331 806 475 835"><i>M47/1431-I</i></td> <td data-bbox="520 806 655 835">8 July 2011</td> <td data-bbox="788 806 1038 835">FMG Pilbara Pty Ltd</td> </tr> <tr> <td data-bbox="331 869 475 898"><i>M47/1453-I</i></td> <td data-bbox="520 869 715 898">17 January 2013</td> <td data-bbox="788 869 1038 898">FMG Pilbara Pty Ltd</td> </tr> <tr> <td data-bbox="331 931 475 960"><i>M47/1473-I</i></td> <td data-bbox="520 931 708 960">29 August 2014</td> <td data-bbox="788 931 1038 960">FMG Pilbara Pty Ltd</td> </tr> <tr> <td data-bbox="331 994 475 1023"><i>M47/1475-I</i></td> <td data-bbox="520 994 708 1023">29 August 2014</td> <td data-bbox="788 994 1038 1023">FMG Pilbara Pty Ltd</td> </tr> <tr> <td data-bbox="331 1057 475 1086"><i>M47/1513-I</i></td> <td data-bbox="520 1057 730 1086">3 December 2018</td> <td data-bbox="788 1057 1331 1137">FMG Pilbara Pty Ltd (immediately prior to surrender in favour of the grant of M47/1570)</td> </tr> <tr> <td data-bbox="331 1171 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1933">Pilbara Gas Pipeline Pty Ltd</td> </tr> <tr> <td data-bbox="331 1966 432 1995"><i>L47/801</i></td> <td data-bbox="520 1966 683 1995">24 May 2019</td> <td data-bbox="788 1966 927 1995">TPI Pty Ltd</td> </tr> </tbody> </table>	Tenement #	Date Granted	Current Holder	<i>M47/1409-I</i>	26 November 2010	FMG Pilbara Pty Ltd	<i>M47/1411-I</i>	26 November 2010	FMG Pilbara Pty Ltd	<i>M47/1413-I</i>	26 November 2010	FMG Pilbara Pty Ltd	<i>M47/1431-I</i>	8 July 2011	FMG Pilbara Pty Ltd	<i>M47/1453-I</i>	17 January 2013	FMG Pilbara Pty Ltd	<i>M47/1473-I</i>	29 August 2014	FMG Pilbara Pty Ltd	<i>M47/1475-I</i>	29 August 2014	FMG Pilbara Pty Ltd	<i>M47/1513-I</i>	3 December 2018	FMG Pilbara Pty Ltd (immediately prior to surrender in favour of the grant of M47/1570)	<i>M47/1570</i>	31 March 2020	FMG Pilbara Pty Ltd	Tenement #	Date Granted	Grantee	<i>L 1SA</i>	29 November 2006	The Pilbara Infrastructure Pty Ltd (TPI Pty Ltd)	<i>L47/302</i>	5 June 2009	FMG Pilbara Pty Ltd	<i>L47/361</i>	11 October 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A. BACKGROUND AND CHRONOLOGY			
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	<i>L47/813</i>	6 April 2018	TPI Pty Ltd
	<i>L47/814</i>	6 April 2018	TPI Pty Ltd
	<i>L47/859</i>	6 February 2019	Pilbara Energy Company Pty Ltd
	<i>L47/901</i>	26 June 2019	Pilbara Energy (Generation) Pty Ltd
	<i>L47/914</i>	15 November 2019	Pilbara Energy Company Pty Ltd
	<i>L47/919</i>	10 January 2020	FMG Pilbara Pty Ltd
	(c) Exploration Licences		
	Tenement #	Date Granted	Current Holder
	<i>E47/1319-I</i>	16 March 2012	FMG Pilbara Pty Ltd
	<i>E47/1333-I</i>	28 July 2007	FMG Pilbara Pty Ltd
	<i>E47/1334-I</i>	2 June 2007	FMG Pilbara Pty Ltd
	<i>E47/1398-I</i>	8 July 2011	FMG Pilbara Pty Ltd
	<i>E47/1399-I</i>	8 July 2011	FMG Pilbara Pty Ltd
	<i>E47/1447-I</i>	2 June 2007	FMG Pilbara Pty Ltd
	<i>E47/3205-I</i>	21 September 2016	FMG Pilbara Pty Ltd
	<i>E47/3464-I</i>	24 February 2017	FMG Pilbara Pty Ltd
	(d) Prospecting Licences		
	Tenement #	Date Granted	Grantee
	<i>P47/1945</i>	11 August 2021	FMG Pilbara Pty Ltd
	<i>P47/1946</i>	11 August 2021	FMG Pilbara Pty Ltd
	<i>P47/1947</i>	11 August 2021	FMG Pilbara Pty Ltd
10.	M47/1513-I is “dead” and no iron ore has been extracted or obtained from within this tenement.		
11.	No active mining is occurring, or has occurred, on M47/1473-I and M47/1570-I. No iron ore has been extracted or obtained from within these tenements.		

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
12.	The SHM is partly on Yindjibarndi <i>ngurra</i> (country), in the area of Yindjibarndi <i>ngurra</i> known as <i>Garlawinji</i> .
13.	<p>For the purposes of royalties received from iron ore extracted or obtained from M47/1409-I, M47/1411-I, M47/1413-I, M47/1431-I, M47/1453-I and M47/1475-I (Relevant Tenements), the mineral royalties from all iron ore from the SHM are <i>ad valorem</i> royalties and are calculated as a proportion (percentage) of the total “royalty value” of the mineral. The “royalty value” is broadly calculated as the quantity of the mineral in the form in which it is first sold, multiplied by the price in that form, minus any allowable deductions. Both of the following royalty rates apply to iron ore extracted from the SHM:</p> <p>(a) 7.5% of the royalty value if sold as crushed or screened iron ore (ie. subject to limited treatment); or</p> <p>(b) 5.0% of the royalty value if iron ore concentrate material (ie subject to substantial enrichment through a concentration plant) (beneficiated iron ore).</p>
14.	Although royalty payments are the result of a self-assessment process undertaken by the tenement holder, royalty returns and payments by FMG Pilbara Pty Ltd are assessed by DMIRS on a regular basis (approximately every 6 months). The Mining Act contains extensive provisions in relation to the verification of royalties, as set out in s 109A of that Act.
15.	SHM royalty value is ascertained in accordance with r 86AD of the <i>Mining Regulations 1981</i> (WA) (Mining Regulations).
16.	<p>With respect to the FMG Respondents’ mining operations at SHM, based on Mr Sharman’s experience in overseeing and reviewing royalty assessments of FMG Pilbara Pty Ltd:</p> <p>(a) the relevant mineral being extracted from the Relevant Tenements (and M47/1474-I (Non-Relevant Tenement)) is iron ore;</p> <p>(b) after extraction, the iron ore is crushed and screened, with the lower quality ore then taken for further processing at a beneficiation plant;</p> <p>(c) the crushed and screened ore is then blended with beneficiated iron ore so that a desirable grade and quality of iron ore is achieved; and</p> <p>(d) all iron ore produced or obtained from the Relevant Tenements (and the Non-Relevant Tenement) is then transported by rail to the port at Port Hedland for export.</p>
17.	<p>Given the circumstances as set out in fact 16 above:</p> <p>(a) the first <i>sale</i> point for royalty value occurs on the <i>shipment date</i> of the ore, being the day on which the ship transporting the ore first leaves Port Hedland;</p> <p>(b) the terms of the first sale are evidenced by a bill of lading and the invoices relating to the sale and export of the ore;</p> <p>(c) the <i>royalty value</i> of the iron ore obtained from the Relevant Tenements (and the Non-Relevant Tenement) is calculated in accordance with r 86AD(2)(a) of the Mining Regulations; that is, it is calculated on the <i>gross invoice value</i> of the iron ore, less <i>shipping costs</i> for the ore;</p> <p>(d) the alternative process for determining royalty value set out in r 86AD(2)(b) of the Mining Regulations has no relevant operation in calculating the royalty value of the iron ore in</p>

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
	<p>question (because the first sale of iron ore from the SHM is always effected by delivery onto a ship exporting the ore from Australia);</p> <p>(e) the royalty value of each sale is then divided by the total tonnes of each sale to achieve a royalty value per tonne. Each sale may have a portion of tonnes which attract a 7.5% royalty rate (crushed and screened) and a portion of tonnes which attract a 5% royalty rate (beneficiated); and</p> <p>(f) the royalties payable by FMG Pilbara Pty Ltd for a quarterly royalty period are therefore calculated as the aggregate of the royalty for each sale.</p>
18.	[REDACTED]
19.	[REDACTED]
20.	FMG has no fixed date for the SHM closure, but on current modelling is expected to have an operational life until 2045.
21.	The Hamersley Ranges, in which the SHM sits, are known in Yindjibarndi as <i>Gamburdayinha</i> .
22.	The Ganjingarringunha (<i>wundu</i>), being the Yindjibarndi name for Kangeenarina Creek, goes through part of the SHM.
23.	In 2000, Michael Woodley and Lorraine Coppin set up the Juluwarlu Aboriginal Corporation (JAC) for the purpose of preserving Yindjibarndi and Ngarluma cultural heritage.
24.	Between 6 and 17 July 2007, a survey with Eureka Archaeological Research and Consulting (Eureka) occurred. It was attended by Yindjibarndi people.
25.	Following the disturbance of a Yindjibarndi place (a <i>jinbi</i> [permanent spring]) by FMG during ground clearance work associated with the SHM, on 16 August 2007 a meeting was held involving representatives of FMG and the Yindjibarndi Council. A three-point document was signed by those present relating to the incident and regarding future involvement of Yindjibarndi people in heritage survey work with FMG.
26.	<p>YAC sent a letter to FMG on 15 November 2007 in which YAC advised FMG of the following:</p> <p>(a) that YAC agreed to FMG's desire to commence negotiations on a FMG Land Access Agreement (LAA);</p> <p>(b) that it was ceasing all heritage work with FMG until negotiations are finalised and a FMG LAA is signed;</p>

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
	<ul style="list-style-type: none"> (c) that YAC had established a negotiating team in relation to a LAA; (d) that YAC would only negotiate any agreement resulting from the process with Andrew Forrest, as the “prime decision maker” for FMG; and (e) that negotiations were to be conducted according to “Yindjibarndi Marrga Negotiation Protocols”, a copy of which was attached to the letter.
27.	In November 2007, YAC directors and FMG attempted to negotiate a Yindjibarndi Heritage Agreement. This was unsuccessful.
28.	From about 2007, YAC in its capacity as the agent for the Applicant in the Yindjibarndi #1 claim opposed the grant of mining tenements to FMG. At the same time, it was involved in negotiations with FMG for a LAA which would govern the terms on which mining operations would be conducted and the compensation which would be paid to the Yindjibarndi people for the impact of those operations on their native title rights and interests.
29.	The apparent intention was that once it was executed, such an agreement would be registered as an Indigenous Land Use Agreement (ILUA).
30.	FMG commenced mining at the SHM in October 2012.
31.	Michael Gallagher worked for FMG from, at least 2007 to November 2010.
32.	<p>A letter dated 10 January 2008 from Blair McGlew of FMG to Yindjibarndi people care of Michael Woodley stated that it was “extremely disappointing that Yindjibarndi will not carry out heritage surveys in the way in which was previously agreed”. It further stated that:</p> <ul style="list-style-type: none"> (a) FMG regarded the refusal to participate in surveys as an act of bad faith by the Yindjibarndi People and a repudiation of the heritage agreement entered into between YAC and FMG; (b) Andrew Forrest would negotiate the proposed LAA directly with the YAC Chair, Stanley Warrie, or otherwise delegate the task to his brother, provided heritage surveys recommenced immediately in January 2008; and (c) “If Yindjibarndi fails to re-commence heritage surveys immediately ... FMG reserves the right to accept [Yindjibarndi’s] termination of the [heritage agreement], terminate [the heritage agreement] and pursue other avenues” and that “Fortescue will exercise its legal rights if required to progress its projects”.
33.	On 7 February 2008, FMG employee, Blair McGlew, sent a letter to Stanley Warrie, Michael Woodley and Justin Edwards stating that FMG would take legal action against JAC and YAC for breach of contract for their failure to conduct heritage surveys.
34.	On 7 February 2008, Michael Woodley, Stanley Warrie and Phil Davies met with Andrew Forrest and Blair McGlew, during which Andrew Forrest requested a community meeting to gauge the level of support for YAC within the Yindjibarndi community. In a letter dated 8 February 2008 to FMG regarding the meeting, Stanley Warrie stated that activities such as heritage surveys would only be authorised by the YAC directors and that a LAA was required.

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
35.	<p>On 12 February 2008 a Yindjibarndi community group meeting was held at the Roebourne basketball courts at FMG’s request. The meeting was attended by FMG’s Blair McGlew and Alexa Morecombe and more than 70 members of the Yindjibarndi community including Aileen and Allery Sandy. The meeting unanimously resolved:</p> <p style="text-align: center;"><i>“That the Yindjibarndi people continue to hold their position with the Fortescue Metals Group (FMG) – that is that we will continue to suspend and not perform Yindjibarndi heritage surveys for FMG until the Yindjibarndi people, via their representatives, reach a signed Land Access Agreement with FMG on their three tenements – E47/1333, E47/1334 and E47/447.”</i></p>
36.	On 23 February 2008 the Yindjibarndi #1 Applicant filed a notice that it had appointed YAC to be its agent in relation to the claim.
37.	On 10 March 2008, some Yindjibarndi people met with Andrew Forrest and Blair McGlew. Andrew Forrest reiterated FMG’s desire for a whole of Yindjibarndi LAA. Michael Woodley told Andrew Forrest that the Yindjibarndi people wanted a 5% uncapped royalty. Andrew Forrest offered a \$325,000 signing fee, \$1.2 million capped for employment and training and an additional \$3.4 million per annum.
38.	Between 13 and 17 March 2008, some Yindjibarndi men attended a five-day survey with FMG.
39.	On 18 March 2008, YAC agreed to conduct heritage surveys with FMG.
40.	Between 15 and 22 April 2008, Yindjibarndi men participated in a heritage survey at Firetail and Valley of the Kings with Eureka.
41.	On 23 April 2008, a meeting occurred at the Fifty Cent Hall in Roebourne between YAC directors, some Yindjibarndi community members, Blair McGlew and four other FMG staff.
42.	On 26 May 2008, JAC received a letter from FMG in which it was claimed that JAC’s refusal to conduct heritage surveys was a breach of contract.
43.	On 10, 11 and 12 June 2008, YAC Directors met with FMG to negotiate a whole of claim area agreement for three of their tenements. YAC asked for 5% uncapped royalty. This was rejected by FMG.
44.	On 19 June 2008, a YAC directors meeting was held and a motion passed that YAC is the only entity that governs all Yindjibarndi affairs.
45.	On 20 October 2008, YAC wrote to FMG (both through their solicitors) offering that it would enter into a whole of claim area agreement for an uncapped 2.5% royalty.
46.	On 12 November 2008, FMG rejected YAC’s offer made on 20 October 2008.
47.	On 17 December 2008, a YAC directors’ meeting followed by a YAC AGM were held.
48.	<p>In April 2009, YAC directors agreed to recommence heritage surveys.</p> <p>In a letter to FMG dated 16 April 2009, YAC agreed to conduct a 10-day heritage survey.</p>

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
49.	From 1 to 7 May 2009, an FMG survey occurred with YAC members including Thomas Jacobs, Angus Mack, Bobby Willis, David Jerrold and Middleton Cheedy.
50.	<p>In a letter to FMG dated 17 June 2009 Michael Woodley expressed the view that despite YAC participating in the survey FMG did not “honour its commitment and recommence negotiations with Yindjibarndi”, and that;</p> <p style="text-align: center;"><i>“it is now very clear that FMG’s only intention was to obtain Heritage clearances so that FMG could continue its exploration activities on Yindjibarndi country. It is also very clear that FMG has no intention of treating the Yindjibarndi with the respect due to us as the Traditional Owners of the country which FMG seeks to mine.”</i></p> <p>The letter attached documents relating to human rights principles relating to Indigenous Peoples and the Australian mining and resource sector, and indicated that the Yindjibarndi remained committed to negotiating a LAA with FMG.</p> <p>The letter concluded:</p> <p style="text-align: center;"><i>“Please be advised: Yindjibarndi will not be meeting with you or any members of FMG’s team, either now or in the future, unless and until there is a clear commitment by FMG to obtaining the free prior and informed consent of the Yindjibarndi to the use of our country by FMG, for mining purposes.”</i></p> <p>On 25 June 2009, Blair McGlew sent a reply letter on behalf of FMG, which stated that “we are and have at all times been entirely respectful of Yindjibarndi people, their culture and their connection to country”. FMG further expressed its optimism that an agreement could be reached with the Yindjibarndi People.</p>
51.	Between 14 and 20 February 2010 Veritas Archaeology conducted a Heritage survey for FMG in relation to the Firetail “priority 2 area”. Members of the Yindjibarndi people were invited to participate in the survey but declined to do so.
52.	On 16 March 2010, a YAC community meeting was held.
53.	On 6 July 2010, there was a meeting at the Roebourne Diner on Roe Street, Roebourne at which FMG was present.
54.	On 8 July 2010, a meeting was held at the Marnda Mia Meeting Rooms in Roe Street, Roebourne called by YAC.
55.	By August 2010, negotiations between YAC and FMG had broken down and YAC ceased negotiations with FMG.
56.	On 10 August 2010, a meeting occurred with FMG and many Yindjibarndi people. The meeting was chaired by the President of the NNTT, Graeme Neate. During that meeting, Bruce Woodley stated “we want to go separately on our own” and Jill Tucker stated “we are going to separate from YAC”, both of whom later became members of WYAC.
57.	From August 2010, a number of Yindjibarndi people who were in favour of continued negotiations with FMG and who were dissatisfied with YAC’s unwillingness to continue to pursue negotiations, decided to establish their own corporation, which became WYAC.

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
58.	Since approximately 2008, members of YAC held concerns about how YAC was managed, about the management of YAC's finances and the finances of its subsidiaries, and about the role of Michael Woodley as its CEO.
59.	Those concerns contributed to the decision made by some YAC members to establish or join WYAC, and continue to contribute to the dispute between YAC and WYAC.
60.	On 10 November 2010, 23 members of the Yindjibarndi #1 claim group, some of whom later became members of WYAC, sent an email to the Minister for Regional Development and Lands. In that letter, the signatories stated that Michael Woodley "has no authority to speak or act independently of his six fellow applicants, despite the appearance that he frequently does so. It is a matter of great concern and regret to us that Mr Woodley appears to present himself as having authority to act as spokesperson for our claimant group, when that is not the case. The concern felt by our group as to Mr Woodley's independent actions is heightened by his failure to consult his fellow applicants or claim group members, and particularly those of the group who are, to him, elders with superior status, power and authority within the Yindjibarndi #1 native title determination applicant group."
61.	The dispute between YAC and WYAC was not confined to a dispute about the terms of any agreement with FMG, but was also a dispute about the management of YAC, including as to its financial management.
62.	From at least November 2010, persons who went on to become WYAC members engaged in negotiation with FMG in relation to the LAA.
63.	On 23 November 2010 WYAC was incorporated and registered with the Office of the Registrar of Indigenous Corporations
64.	FMG began conducting heritage surveys with WYAC, rather than YAC, in late 2010.
65.	WYAC members called for a Yindjibarndi community meeting on 21 December 2010. Michael Woodley spoke throughout the meeting and would not allow any other person to speak by interrupting and talking over questions by members. The meeting was abandoned after one hour after many people walked out.
66.	From late 2010 onwards, there were genuine and very strongly held opposing views within the Yindjibarndi community, and within YAC's membership, about whether the Yindjibarndi people (through YAC) should enter into a LAA with FMG, and in particular an LAA on the terms set out in the document entitled "FMG – Yindjibarndi People Land Access Agreement" (FMG Agreement).
67.	YAC was opposed to entry into the FMG Agreement: first, because YAC did not consider that the compensation payable under the FMG Agreement was adequate compensation; and second, because under the terms of the FMG Agreement any money paid would be paid to WYAC and YAC assumed that this meant that there was a non-negotiable position that WYAC would be paid and not YAC. There was no evidence to suggest that that assumption was well founded.

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
68.	On 16 March 2011, a Yindjibarndi #1 claim group meeting occurred at the Fifty Cent Hall in Roebourne to attempt to replace the Applicant and to enter into a LAA with FMG. It was attended by Andrew Forrest, Blair McGlew, Alexa Morecombe, Michael Gallagher and Ron Bower. Blair McGlew and Alexa Morecombe were employees of FMG at that time. The law firm where Mr Bower worked, Corser & Corser, were the legal representatives of WYAC whose members attended the meeting.
69.	By March 2011, FMG had reached an agreement with WYAC (being the FMG Agreement). The terms of the FMG Agreement contemplated that it would be signed by the persons who comprised the Applicant in the Yindjibarndi #1 claim and by YAC. YAC's agreement was necessary because it was the agent for the Applicant in the Yindjibarndi #1 claim and at that point, the FMG Agreement was only signed by 3 of the 8 persons who comprised the Applicant, all of whom were members of WYAC.
70.	On 31 March 2011, Corser & Corser (on behalf of WYAC) wrote to Slater & Gordon (on behalf of YAC) attaching a copy of the FMG Agreement signed by Mavis Pat, Aileen Sandy and Sylvia Allen.
71.	<p>If executed, the FMG Agreement was to continue for the life of all FMG's railway, port and mining operations within the Agreement Area (which included the area covered by the <i>Daniel</i> Determination as well as the area covered by the Yindjibarndi #1 claim).</p> <p>Under the FMG Agreement:</p> <ul style="list-style-type: none"> (a) Yindjibarndi people would also consent to the grant and renewal of FMG's railway, port and mining operations, but without relinquishing or surrendering any native title rights or interests in the Agreement Area or being taken to consent to extinguishment of any such rights; (b) FMG would not oppose the recognition of the Yindjibarndi people's claim to native title in the Yindjibarndi #1 claim area; and (c) FMG would take all reasonable and practical measures to ensure that its operations did not harm Aboriginal cultural heritage, would work with the Yindjibarndi to address any concerns they had in relation to such heritage, and would support the development of Aboriginal business opportunities.
72.	Between 11 and 13 May 2011, YAC conducted an inspection of the walled niche YIN10-004, which FMG had previously advised the Department of Indigenous Affairs as having been identified as a possible burial site by Ken Sandy and archaeologists engaged by FMG at SHM.
73.	<p>On 25 May 2011, FMG's Heritage Manager, Lisa Maher, wrote a letter to YAC in which it was stated:</p> <p style="padding-left: 40px;"><i>"We thank you for your offer to consider a heritage agreement, but YAC's offer seems misconceived. As you are aware Yindjibarndi People, including many YAC members, agreed to enter into the FMG - Yindjibarndi People Land Access Agreement at the Yindjibarndi community meeting on 16 March 2011. Yindjibarndi People are currently in the process of ratifying this agreement for both the Yindjibarndi determined and application areas."</i></p>
74.	In or around July 2011, the directors of YAC rejected 52 applications for membership to YAC on the basis that the applicant was a member or supporter of WYAC. This was held by Pritchard J to be an exercise of the directors' powers for an improper purpose.

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
75.	<p>At the YAC annual general meeting to be held on 30 November 2011, it was proposed to amend the “YAC Rule Book”. The proposed amendments were:</p> <ul style="list-style-type: none"> (a) a criterion for membership to YAC of knowledge, competence, and practice of Yindjibarndi language, law and culture (the “culture criterion”); (b) a criterion for membership to YAC of loyalty to YAC, and dissociation from any organisation which was seen to oppose YAC’s objectives in relation to the native title rights and interests of the Yindjibarndi people (the “loyalty criterion”); and (c) a basis for cancelling the membership of existing YAC members if they contravened any membership eligibility criterion, including the proposed new criteria (the “disqualification ground”). <p>The WYAC members to whom the proposed amendments were directed included persons who were members of YAC, or would be entitled to membership of YAC, by meeting YAC’s existing criteria. The purposes of the loyalty criterion and disqualification ground was to provide a basis to cancel the memberships of YAC members who were also members of WYAC.</p> <p>This conduct was held by Pritchard J to be oppressive.</p>
76.	On 27 March 2013, a YAC AGM was held at the Fifty Cent Hall in Roebourne.
77.	On 23 June 2015, some WYAC members called a meeting at the Fifty Cent Hall in Roebourne to replace the Yindjibarndi #1 Applicant and to pass resolutions regarding the Yindjibarndi #1 claim.
78.	The objective purpose of the 23 June 2015 authorisation meeting, was to pass resolutions, the effect of which, if adopted and acted upon, would be to bypass YAC so that it could no longer stand in the way of an agreement being entered into between FMG and the members of the Yindjibarndi #1 claim group and so that it would no longer have any role to play in the Yindjibarndi #1 claim.
79.	On 15 December 2015, the directors of YAC admitted 46 new members for an improper purpose as it was believed by the directors that the new members would support the incumbent directors, being oppressive conduct for the purposes of s 166-1 of the CATSI Act
80.	On 9 June 2016, the directors of YAC adopted new policies for dealing with membership applications, and the new policies were adopted in order to provide a basis for the directors of YAC to refuse an application for membership made by any person who was a member or supporter of WYAC, or any person who was thought to take a different view from that of the directors of YAC in relation to entry into an agreement with Fortescue.
81.	At the meeting of the directors of YAC held on 29 June 2016, the directors applied a different, but similar, policy to that adopted on 9 June 2016 when assessing applications for membership to YAC. In adopting this further policy at the meeting of the directors of YAC held on 29 June 2016, the objective of the directors was to provide a basis for them to refuse an application for membership made by any person who was a member or supporter of WYAC or who was thought to take a different view from the directors of YAC in relation to entering into an agreement with Fortescue.

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
82.	Of the 184 applications considered by the directors of YAC, the directors accepted 25 applications and rejected 146 applications for membership. Of the 25 applications that were accepted, 2 had been submitted through WYAC or their solicitors. Of the 146 applications that were rejected, 112 had been submitted through WYAC or their solicitors.
83.	In dealing with the membership applications on 29 June 2016, the motivation of the directors of YAC was to deny membership of YAC to those persons whom they identified as supporters of WYAC, and whom they regarded as supporting YAC entering into an agreement with Fortescue, so as to prevent supporters of WYAC from taking control of YAC.
84.	The refusal of membership to WYAC supporters was an exercise by the directors of YAC of their power for an improper purpose, were decisions of a kind that no board acting reasonably or rationally could have made and the directors of YAC did not act in good faith. The conduct of the directors was contrary to the interests of the members as a whole, and did not constitute a fair or reasonable approach to the position supported by a minority of its members (being support of WYAC and entry into an agreement with Fortescue). The conduct of the directors was found to be oppressive conduct by Pritchard J.
85.	At the heart of the action in Supreme Court proceedings, <i>Sandy</i> 2018, was a dispute between YAC and those of its members who are also members of WYAC. Some of the issues which led to the dispute included concerns about: <ul style="list-style-type: none"> (a) the management of YAC, including the management of its financial affairs and the role and conduct of Michael Woodley as its CEO; and (b) most significantly, whether the Yindjibarndi people (through YAC) should enter into a LAA with FMG for the payment of compensation for its mining activities on the land the subject of the Yindjibarndi #1 claim.
86.	On 22 March 2018 and 26 March 2018, archaeological and ethnographic surveys were conducted around the area of the SHM.
87.	From 21 to 29 March 2021 and 10 to 21 June 2021, YAC and WYAC members attended heritage surveys at SHM together.
88.	There were meetings in 2021, including on 1 June 2021, between Elizabeth Gaines, then CEO of FMG, WYAC and YAC to negotiate an ILUA.
89.	On 13 October 2021, YAC and WYAC directors met at the IBIS Styles Hotel in Karratha to speak about coming together again.
90.	In 2022, some Yindjibarndi people visited Bangkangarra with Kingsley Palmer. Individuals heard an explosion in the area of the mine and observed dust clouds.
91.	Neither the Yindjibarndi #1 registered native title claimant as representative of the native title claimants prior to the Determination in <i>Warrie (No. 2)</i> nor YNAC nor YAC have received any compensation, or have an entitlement to compensation under any agreement or award entered into with FMG, for the grant of the FMG tenements.

A. BACKGROUND AND CHRONOLOGY	
No.	Agreed Fact
92.	A hydraulic barrier wall, which is made of grout, is being constructed outside the compensation claim area to reduce the effect of FMG's dewatering operations from the Queens pit at SHM on the Wirlu-Murra <i>jinbi</i> and Wirlu-Murra <i>wundu</i> (creek). The Wirlu-Murra <i>jinbi</i> is outside of the compensation claim area however the Wirlu-murra <i>wundu</i> (creek) flows through the compensation claim area.

B. YINDJIBARNDI PEOPLE’S CONNECTION TO COUNTRY	
No.	Agreed Fact
93.	<p>Under traditional laws and customs, the Yindjibarndi People believe the following:</p> <p>(a) Yindjibarndi people, Yindjibarndi language and Yindjibarndi country and all that is within it are not different things but related parts of something called ‘Yindjibarndi’ which came into existence in the creating time (‘<i>Ngurra Nyujunggamu</i>’, which means “when the world was soft”);</p> <p>(b) Yindjibarndi people are not separate or different from Yindjibarndi country because they believe that their spirit comes from their country and is always connected to it. The Yindjibarndi people were commanded by the <i>Marrga</i> (creator beings) to look after Yindjibarndi country and are held accountable for everything anyone does in Yindjibarndi country; and</p> <p>(c) The spiritual obligation of the Yindjibarndi People, embedded in the traditional laws and customs, is to protect their country, including from the presence and activities on it of strangers (<i>manjangu</i>).</p>
94.	Even though most Yindjibarndi now live outside the application area, they have maintained a strong and deep sense of connection to the application area.
95.	Each family have their own <i>ngurra</i> . There are 13 <i>ngurra</i> in Yindjibarndi country. It is the family’s responsibility to care for their <i>ngurra</i> . Together, all Yindjibarndi people share the country.
96.	Yindjibarndi people believe that they are spiritually and physically connected to their country.
97.	Yindjibarndi people believe that the <i>wirrard</i> is a person’s soul and it is who they are as a person. Yindjibarndi people believe that they carry the <i>wirrard</i> of their ancestors and learn their ways to keep Yindjibarndi culture strong. Angus Mack says that a <i>wirrard</i> can leave a person’s body and when it does, the person will die shortly afterwards.
98.	Yindjibarndi people believe that their <i>wirrard</i> and their country go together since they both come from their parents. Yindjibarndi people go onto country for healing and the Yindjibarndi people believe that going back to <i>ngurra</i> revives their <i>wirrard</i> .

C. YINDJIBARNDI BELIEFS, LAWS AND CUSTOMS GOVERNING THEIR RELATIONSHIP TO COUNTRY	
No.	Agreed Fact
99.	<p>The Yindjibarndi People believe that when the Pilbara Aboriginal peoples were first created, they all spoke a common language (now preserved in the songs in the <i>Bundut</i>), were of one group and had no responsibility for any particular law or part of the country.</p> <p>The Yindjibarndi People believe that the <i>Marrga</i> (creation spirits) then divided them into different groups and put each group into a particular country; they gave each group its language and law and commanded each group to speak for their country in their particular language and to look after their country in accordance with the law. Yindjibarndi country is the country or territory that the <i>Marrga</i> created for the Yindjibarndi.</p>
100.	The Yindjibarndi People believe that <i>Marrga</i> are the creation spirits whose actions and songs made the country, and all things in the country.
101.	Yindjibarndi people believe that <i>Minkala</i> is the sky god and together <i>Minkala</i> and the <i>Marrga</i> gave Yindjibarndi people their laws.
102.	Yindjibarndi people believe that land and water have been given to the Yindjibarndi people by <i>Minkala</i> (God). The Yindjibarndi people believe that land is the inheritance of every Yindjibarndi person, whether they have passed away, are living, or are yet to be born.
103.	Yindjibarndi people believe that <i>Minkala</i> (God) gave the <i>Birdarra</i> law to the <i>Marrga</i> , whom <i>Minkala</i> sent to Earth to create the Pilbara and to bring law to the Pilbara Aborigines (<i>Ngaardangarli</i> or <i>Ngaarda</i>).
104.	Yindjibarndi people believe that <i>Marrga</i> travelled through the soft world singing the <i>Bundut</i> and they pulled out one song after another and the hills, rivers, plains, animals, birds, trees, bodies in the sky and fertility sites grew up in their tracks, taking shape through the songs of the <i>Bundut</i> .
105.	Yindjibarndi people believe that Yindjibarndi country is a sacred domain inhabited by the spirits of their ancestors and by <i>Marrga</i> , powerful creative spirit beings who gave form to everything that is Yindjibarndi in the creation times.
106.	Yindjibarndi people believe that the <i>Marrga</i> still live in Yindjibarndi country along with the spirits of the Yindjibarndi ancestors or old people, and they watch the Yindjibarndi always to make sure that they look after their country in the proper way, in accordance with the <i>Birdarra</i> law.
107.	The Yindjibarndi have continuously (since before sovereignty) acknowledged traditional laws and observed traditional customs relating to the presence, role and power of the <i>Marrga</i> and the old people in and over Yindjibarndi country.
108.	Yindjibarndi people believe that after creating other spirits and the birds and the world, towards the end of Creation, the <i>Marrga</i> created the <i>ngaarda</i> , the Aboriginal men and women. The Yindjibarndi people believe the <i>ngaarda</i> were given a great responsibility for what would come after the Creation time.
109.	Yindjibarndi people believe that <i>Minkala</i> tested the <i>ngaarda</i> people in the first initiations at <i>Bilin Bilin</i> , which is located in a part of Yindjibarndi country outside and to the north-west of the compensation application area. The Yindjibarndi people believe he divided them up into different languages that gave them their identity and created the languages from the first language, which

C. YINDJIBARNDI BELIEFS, LAWS AND CUSTOMS GOVERNING THEIR RELATIONSHIP TO COUNTRY	
No.	Agreed Fact
	was the <i>Bundut</i> . The Yindjibarndi people believe that they were given responsibility for carrying the <i>Bundut</i> and <i>Birdarra</i> law and the Yindjibarndi still carry them today.
110.	Yindjibarndi people believe that <i>Minkala</i> sent each of the <i>ngaarda</i> nations out into the lands created out of the <i>Bundut</i> and the <i>jirrijirri</i> (willy wagtail) was given Yindjibarndi <i>wangka</i> (language) and showed Yindjibarndi people the compass of their <i>ngurra</i> .
111.	Yindjibarndi people have different types of sacred song lines called the <i>Bundut</i> , <i>Yurna</i> , <i>Jalurra</i> and <i>Jawingarli</i> . These song lines are connected to the first Law ground on <i>Yandanyirra</i> (the Fortescue River) at a place called <i>Bilin Bilin</i> , which is located in a part of Yindjibarndi country outside and to the north-west of the compensation application area. Yindjibarndi people believe that the song lines are linked to <i>Minkala</i> , the <i>Marrga</i> , <i>thalu</i> sites, other spirits and to Yindjibarndi <i>ngurra</i> .
112.	Yindjibarndi people believe that at the first initiation ceremony at <i>Bilin Bilin</i> , <i>Marrga</i> called <i>Bulinyjinmarra</i> sat in the riverbed at <i>Bilin Bilin</i> and sang the <i>Bundut</i> for two <i>Marrga</i> , <i>Nayalyu</i> , brothers who had broken the <i>galharra</i> . They were troublemakers in the creation time. The <i>Nayalyu</i> brothers were taught proper respect for <i>galharra</i> relationships.
113.	Yindjibarndi people believe that at <i>Bilin Bilin</i> in the bedrock of the river the <i>Marrga</i> left signs of the events of creation, including: <i>Wilara</i> (moon), <i>Yurra</i> (sun), <i>Birndirri Barnduranha</i> (morning star); and the <i>bundut</i> ring, where the first <i>bundut</i> was sung and women danced.
114.	Rules associated with <i>Birdarra</i> law include that the only meat that initiates are allowed to eat is hill kangaroo (<i>mardiwarra</i>).
115.	Yindjibarndi people believe that <i>Barrimirndi</i> is the <i>Marrga</i> , in the form of a great <i>warlu</i> (serpent), who made all the <i>wundu</i> (watercourses) in Yindjibarndi country during the <i>Ngurra Nyujunggamu</i> .
116.	Yindjibarndi people believe that <i>Barrimirndi</i> travels underground and that he punishes those who break the law for water places.
117.	Yindjibarndi people believe that <i>Minkala</i> created <i>Nyingkarranha</i> : the stone man who, for the sins of abusing power and monstrous greed, was burned up and the shattered pieces of his body were flung far and wide over the country.
118.	Yindjibarndi people believe that other beings from the creation time have been left as the animals seen today, like <i>gurrumanthu</i> (goanna/lizard); <i>mujira</i> (dingo) and <i>bargunyji</i> (rock python), and all the different birds.
119.	Yindjibarndi people believe that at the conclusion of the <i>Ngurra Nyujunggamu</i> , the soft world became harder, as the world we see today, with its hills, rocks, ridges, gorges, plains, riverbeds, rock holes and more.
120.	When Yindjibarndi people enter or approach a part of their <i>ngurra</i> , they do <i>wuthurru</i> . This is a welcome to <i>ngurra</i> ritual. This involves placing water in one's mouth, blowing it out, and speaking to the <i>ngurra</i> in language, explaining that the person visiting is a Yindjibarndi person who belongs to the country.

C. YINDJIBARNDI BELIEFS, LAWS AND CUSTOMS GOVERNING THEIR RELATIONSHIP TO COUNTRY	
No.	Agreed Fact
121.	Michael Woodley sings songs when entering part of his country that connect him to the particular place. This is a way of thanking the country for taking care of him and his family by providing for them. This is saying to the country “ <i>gunum</i> ”, which means “you fulfil me”.
122.	Michael Woodley believes that the spirits will also sing back to him because the spirits are happy to see and hear Yindjibarndi people on their <i>ngurra</i> .
123.	Yindjibarndi people believe that all through Yindjibarndi country there are places that are loaded with power, such as <i>thalus</i> and <i>yinda</i> (pools and springs) that were charged with spirit in the Creation time. The Yindjibarndi people believe that <i>yinda</i> also have <i>galharra</i> , so when a mob approach a <i>yinda</i> , the man who is the same <i>galharra</i> as the <i>yinda</i> must go first and speak to the <i>manggarn</i> (spirits), then his family can follow. The Yindjibarndi people believe that if this is not done the right way, a child might drown or there may be sickness or an accident.
124.	Michael Woodley believes that each Yindjibarndi generation has the responsibility to teach the next generation the songlines and stories of the <i>ngurra</i> that connect Yindjibarndi people to the <i>ngurra</i> . Michael Woodley believes that if this doesn't happen then Yindjibarndi people become <i>yulu</i> (empty) and <i>yaluyalu</i> (hollow) and have no purpose, and that this is taught to Yindjibarndi people by their elders.
125.	<p>Yindjibarndi people believe that the <i>Birdarra</i> Law gave the Yindjibarndi people the <i>Galharra</i>, which sets down the rules for how Yindjibarndi people relate to each other and how they must behave with one another.</p> <p><i>Galharra</i> is a system of rules that is the most important part of the Yindjibarndi people's <i>Birdarra</i> law. It is used to divide all things Yindjibarndi, animate and inanimate, into 4 groups: <i>banaga</i>, <i>burungu</i>, <i>garimarra</i> and <i>balyirri</i>. A baby's <i>galharra</i> is made by the <i>galharra</i> of his or her parents. <i>Galharra</i> tells Yindjibarndi people who they can marry, whom they must avoid, for whom they must care or by whom they must be cared for; how to carry and fulfil their responsibilities; and their role in <i>Birdarra</i> ceremony.</p> <p>Not only do people have a <i>galharra</i>, (or 'skin'), but so do all things, including animals, plants and places where water is, as well as the sun, moon and stars, fire, wind and water. The Yindjibarndi people believe that they can be related to plants and animals through the <i>Galharra</i> system. If a Yindjibarndi person has a <i>galharra</i> connection with a plant or animal, then under Yindjibarndi law they are not permitted to eat or destroy it. For other plants and animals, the <i>galharra</i> requires that the Yindjibarndi person must show respect and give thanks when eating an animal or using a plant for medicine or wood.</p>
126.	Under Yindjibarndi Law, senior law men speak for the <i>Bundut</i> and the country. When Yindjibarndi people go on country, those men go first, before telling others it is safe to go further.
127.	There is a Dreaming story for Gamburdayinha (Hamersley Range). <i>Barganyji</i> (Olive Python) was a snake with sharp teeth who ate flesh. <i>Burlinyjirmarra</i> , a <i>Marrga</i> (creation spirit) who lived in Yindjibarndi country, was confronted by <i>Barganyji</i> . After being chased by the snake, the <i>Marrga</i> sang a special song which made the snake dizzy. The <i>Marrga</i> climbed a tree, which the snake bit, smashing his teeth and all his poison seeped into the tree. The <i>Barganyji</i> is now harmless to humans and lives in the gorges and rock holes along the Hamersley Range and around the Fortescue River, which is located approximately 25km north of the north-most point of the SHM.

C. YINDJIBARNDI BELIEFS, LAWS AND CUSTOMS GOVERNING THEIR RELATIONSHIP TO COUNTRY	
No.	Agreed Fact
128.	One Bundut song is about the clouds building up over the Hamersley Ranges and includes, among other places, the current location of the SHM. The song travels along the ranges to a hill called Mumiyanha, which is an important site from which the rules of the <i>Galharra</i> come and which is located outside of and to the north-west of the SHM. The song travels to the next hill – Billin-Billin – then to Barnkiwirnanha (Split Hill) , which is located outside of and to the south-west of the SHM, and is outside of the compensation application area. The line then travels down the Ganjingaringunha <i>wundu</i> to Bangkangarra. The song line then returns to Yindjibarndi country where the mine is now, then to the Fortescue River and all the way to the Burrup Peninsula.
129.	<i>Thalus</i> are increase sites which the Yindjibarndi people believe help grow the country and multiply food and other resources.
130.	<i>Yaandanyirra</i> (Fortescue River), which is located approximately 25km north of the north-most point of the SHM, is an important site for the Yindjibarndi people. The Yindjibarndi people believe the Rainbow Serpent went looking for two boys who had been going through initiation. They had broken the law by killing a Mulga Parrot, which keeps the Rainbow Serpent away. The Rainbow Serpent came from the sky and created Yaandanyirra. He sucked up the two boys with a tornado and drowned their families by making it rain, creating Nhankangunha (Deep Reach pool) near Jindawarranna, which is located to the north-west and outside the compensation application area. The Rainbow Serpent also travels below ground and so created a permanent pool there. Jindawarranna is a very important place because it gives the Yindjibarndi water.
131.	There are ‘mens’ business’ sites in the Garlawinji area. It is not agreed that any of those sites are located in or near the area which is the subject of the SHM.
132.	There are seven songs in the <i>Bundut</i> that relate to the Ganjingarringunha area.
133.	Michael Woodley sang a song called Warlu <i>jowi</i> about <i>Barrimirndi</i> creating watercourses on Yindjibarndi country, including <i>Ganjingarringunha</i> , when the Court was at the SHM site on 14 August 2023.
134.	The Fortescue River is located approximately 25km north of the north-most point of the SHM, and the Yindjibarndi people believe that the water from it is sacred.
135.	Every year, Yindjibarndi people go to Woodbrook, which is located outside and to the north-west of the compensation application area, to practice the <i>Birdarra</i> Law.
136.	Yindjibarndi Law is partly matriarchal in the sense that when the family decide to put boys through the Law, they go through the mother’s <i>Galharra</i> .
137.	A baby’s <i>galharra</i> is made by the <i>galharra</i> of his or her parents: (a) A <i>Banaga</i> man marries a <i>Burungu</i> woman and their children are <i>Balyirri</i> . (b) A <i>Burungu</i> man marries a <i>Banaga</i> woman and their children are <i>Garimarra</i> . On the other side, <i>Garimarra</i> men marry <i>Balyirri</i> women and their children are <i>Burungu</i> . <i>Balyirri</i> men marry <i>Garimarra</i> women and their children are <i>Banaga</i> .

C. YINDJIBARNDI BELIEFS, LAWS AND CUSTOMS GOVERNING THEIR RELATIONSHIP TO COUNTRY	
No.	Agreed Fact
138.	<i>Galharra</i> is seen in action in the relations between people and their roles in the <i>Birdarra</i> ceremony. At the ceremony the initiates are known as the <i>birduwangu</i> . Depending on a person's <i>galharra</i> that person may be either <i>garnggu</i> (in a mother and father relationship to the <i>birduwangu</i>) or <i>jirnjananggu</i> (brothers, sisters, cousins, grandparents, who serve the <i>garnggu</i> and do the work of the ceremony). It will also determine where they sit and their role in ceremony.
139.	Yindjibarndi people believe that men and women performing ceremony to “drive” a fertility or increase site (<i>Thalumagu</i>) must be the correct <i>Galharra</i> to do so and they must be in the correct <i>Galharra</i> relationship for the animal or plant that is associated with that site.
140.	<p>Yindjibarndi people believe that a fundamental aspect of <i>galharra</i> is the system of rules, called <i>nyinyaard</i>, for sharing resources in Yindjibarndi country. <i>Nyinyaard</i> has two aspects.</p> <ul style="list-style-type: none"> • First, under <i>nyinyaard</i>, Yindjibarndi people must look after their extended family. If people do not have something, under the <i>Nyinyaard</i>, Yindjibarndi people must share it with them. For example, if a Yindjibarndi person goes hunting and gets a kangaroo then, according to <i>nyinyaard</i>, that person must divide the kangaroo up among the families in the community. • Second, under <i>nyinyaard</i>, the Yindjibarndi people believe that the <i>ngurra</i> is obliged to produce and share its resources with the Yindjibarndi people, provided that the Yindjibarndi continue practising the Law by caring for the <i>ngurra</i> and people. <p>The Yindjibarndi people believe that if a Yindjibarndi person does not comply with, or will not acknowledge, <i>nyinyaard</i>, they become cursed by the country and it is a death warrant.</p>
141.	To illustrate the first part of <i>nyinyaard</i> , in a community like Ngurrawaana, if someone goes hunting and gets a kangaroo then, according to <i>nyinyaard</i> , that person divides the kangaroo up among the families there. If that person butchered the kangaroo in plain sight and put it all in his freezer, then he would be seen by others as <i>thathamarda</i> (greedy). The word has a stronger meaning in Yindjibarndi. It is greedy, selfish, bad person with no heart. He could be punished publicly for doing this. It is a strong rule.
142.	When approaching a rock shelter that remained intact within the mine area (YIN10-111) during the Court's visit on 14 August 2023, a group of Yindjibarndi people who were present spoke to the spirits in Yindjibarndi language. They were seeking to clear away bad spirits, trying to comfort the spirits who were there and to reassure them that Yindjibarndi people were present. The sounds of mining machinery could be heard while this was occurring and a constant audible rumble of vehicles passing above the location.
143.	Yindjibarndi people believe that they have a responsibility to protect the country, speak for the country and protect the spirits in the country.
144.	Yindjibarndi people believe that spirits have started visiting Yindjibarndi people and white mine workers, including at the accommodation camps, and that the spirits are telling people to stop destroying the <i>ngurra</i> . The accommodation camps at SMH are located on Eastern Guruma country and south of the compensation application area.

D. YINDJIBARNDI RIGHT TO CONTROL ACCESS TO AND ACTIVITIES ON YINDJIBARNDI COUNTRY	
No.	Agreed Fact
145.	<p>The Yindjibarndi have since before sovereignty continuously acknowledged their traditional laws and observed their traditional customs that required a <i>manjangu</i> to seek permission to enter or conduct activity on Yindjibarndi country.</p> <p>That normative requirement has existed and continues to exist in order that the Yindjibarndi can ensure that they protect their land and waters from <i>manjangu</i> and because of the belief of both the Yindjibarndi, and their indigenous neighbours, in the spiritual powers that can affect <i>manjangu</i> who enter Yindjibarndi (or other neighbouring peoples') land and waters without permission.</p> <p>While the right to kill or harm a trespasser is no longer exercised, the Yindjibarndi's belief in their role as spiritual gatekeepers has remained undiminished since before sovereignty. The Yindjibarndi people's belief in their role as spiritual gatekeepers, is an exercise of a right to control access to land and waters understood in a common law proprietary sense.</p>
146.	<p>According to Yindjibarndi traditional laws and customs:</p> <ul style="list-style-type: none"> (a) people who are not <i>ngurrara</i> are <i>manjangu</i> (strangers); (b) the Yindjibarndi have the exclusive right to control access to Yindjibarndi country; (c) the Yindjibarndi have a responsibility to care for and protect their country from unauthorised access to it by a <i>manjangu</i>; (d) <i>manjangu</i> need permission from Yindjibarndi elders to enter and carry out any activity on Yindjibarndi country; and (e) depending on the nature of the request, the elder or elders to whom the request for permission is made may consult a wider group of Yindjibarndi elders before deciding on the request. <p>For the avoidance of doubt, these traditional laws and customs give rise to a right of exclusive possession only to the extent set out in fact 4 above.</p>
147.	<p>Under Yindjibarndi traditional laws and customs, a stranger (<i>manjangu</i>) who enters Yindjibarndi country without permission could 'hurt' the country by violating the <i>Birdarra</i> law, even if unintentionally; for example, by entering a sacred or restricted place or taking something, such as a resource or animal, from the country.</p> <p>Accordingly, subject to the native title rights and interests in the Determination in <i>Warrie (No 1)</i>, Yindjibarndi traditional laws and customs require the Yindjibarndi to protect their country from a <i>manjangu</i> gaining access to it, its living or inanimate resources without permission of a Yindjibarndi elder.</p>
148.	<p>The requirement for a <i>manjangu</i> to seek permission to come onto or conduct activities on Yindjibarndi country has a normative importance as a fundamental element of the Yindjibarndi people's traditional laws and customs.</p>
149.	<p>Under the normative system that has existed and the Yindjibarndi and their neighbours have observed since before sovereignty, there is a very real fear that there would be supernatural consequences for breaking the normative system.</p>
150.	<p>Under Yindjibarndi traditional law customs, the <i>manjangu</i> must be accompanied by an Yindjibarndi person at some sites. The Yindjibarndi person will call out to the spirits to let them know they are there and, where appropriate, with a stranger, and that they mean no harm.</p>

D. YINDJIBARNDI RIGHT TO CONTROL ACCESS TO AND ACTIVITIES ON YINDJIBARNDI COUNTRY	
No.	Agreed Fact
151.	If Yindjibarndi people do not or cannot reach an agreement with a <i>manjangu</i> miner, then mining can still go ahead, subject to compliance with any statutory requirements (such as under the <i>Mining Act 1978</i> (WA) and the <i>Native Title Act 1993</i> (Cth)).
152.	Michael Woodley believes that a <i>manjangu</i> miner must acknowledge and respect that the country it wants to mine is Yindjibarndi <i>ngurra</i> and that Yindjibarndi people have an obligation to look after the <i>ngurra</i> . Michael Woodley believes that if this happens, the <i>ngurra</i> continues to look after Yindjibarndi and <i>manjangu</i> .

E. ACCESS TO YINDJIBARNDI COUNTRY AND THE SHM	
No.	Agreed Fact
153.	The past and current pastoral lessees of Mount Florance and Coolawanyah Stations have respected the Yindjibarndi’s continuing practice of their traditional laws and customs on the pastoral lessee’s land and waters. When on the pastoral lease areas, the Yindjibarndi in the past have, and now continue to, camp, hunt, fish, collect bush tucker, bush medicines and perform religious ceremonies.
154.	Because of their relationships with their country and its spirits, the Yindjibarndi attach genuine symbolic significance to their visits to their country. For them, each visit not only involves the exercise of the traditional rights but also the performance of their duty under their traditional law and customs to care for, and not forget, their country. They have a need to visit their country regularly. That need to visit, camp and carry out activities reflects their spiritual and emotional connection to their country and their duty to care for it under the <i>Birdarra</i> law.
155.	<p>Yindjibarndi activities on and visits to country within the application area inherently involves their observance of their traditional laws and customs by which they have a connection with the land and waters concerned.</p> <p>The Yindjibarndi have deep spiritual and emotional needs which motivates their visits and activities in their country. Their visits and activities are essential expressions of the Yindjibarndi people’s needs and duties to visit and care for their country. They derive deep spiritual satisfaction, indeed joy, from visiting and being on their country.</p>
156.	On two occasions in around 2011, a group of Yindjibarndi people travelled to the SHM area as they wished to do their own surveys of areas that were the subject of s18 applications by FMG. FMG did not grant them access to the area of the mining operations at the SHM.
157.	<p>In 2022 a group of Yindjibarndi people visited <i>Bangkangarra</i> and <i>Ganyjingarringunha</i> with the anthropologist Kingsley Palmer who was conducting fieldwork for his expert report. FMG were contacted by Phil Davies and told that the group were planning a trip to <i>Bangkangarra</i> and <i>Ganyjingarringunha</i>. FMG requested further information from Phil Davies as to where the Yindjibarndi people intended to go to ensure the safety and security of FMG personnel and the Yindjibarndi people if they intended to access the area of mining activities at the SHM.</p> <p>On this trip, while camping at <i>Bangkangarra</i>, individuals say they observed dust from the mine site in the air.</p>

F. ALLEGED SOCIAL DIVISION	
No.	Agreed Fact
158.	The Sandy family are family of Michael Woodley. Lila Sandy was the mother for the Sandy siblings Allery, John, Ken, Aileen and Ricky. Lila was the younger sister of Michael Woodley's <i>abigee</i> , Woodley King, and so the Sandy siblings are Michael's aunties and uncles.
159.	YAC's and JAC's relationship with FMG commenced in 2007. JAC was involved in early meetings with FMG because they were about heritage consultations.
160.	Those who began voicing a preference in early 2010 for FMG's offer included Allery Sandy, John Sandy, Jill Tucker, Aileen Sandy and Bruce Woodley, who all later went on to start WYAC.
161.	A meeting was held at the Juluwarlu Group Aboriginal Corporation on 16 March 2010. Michael Woodley stated "my uncle accused me of stealing" with reference to Bruce Woodley. The meeting minutes record that there was "lots of yelling" throughout the meeting.
162.	NNTT arranged a mediation meeting between YAC and FMG which was held on 10 August 2010. At the meeting, several men, questioned the YAC Board's decision to reject FMG's offer, such as Barry Pat who stated, "we should negotiate for a better deal". Allery Sandy said to Frank Rijavic "it is not FMG who is splitting this community – we are sick of being bullied".
163.	At a 16 March 2011 meeting at the Fifty Cent Hall in Roebourne, attended by Andrew Forrest, there was arguing between people from WYAC and YAC. At this meeting, Phil Davies and some Yindjibarndi people associated with YAC were stopped from using the microphone by Ron Bower, who was WYAC's lawyer.
164.	At the 16 March 2011 meeting, Ned Cheedy was shouted over when he tried to speak.
165.	On 18 March 2014, the directors of both YAC and WYAC had agreed on seven issues both parties wished to address as a means of reconciliation.
166.	On 11 April 2014, there was a Yindjibarndi community meeting to try to come back together.
167.	At the YAC AGM held on 10 September 2014, Jill Tucker and Charmaine Adams, both WYAC members, were elected as directors of YAC.

G. SITES AND YINDJIBARNDI HERITAGE ISSUES	
No.	Agreed Fact
168.	FMG disturbed a site, part of the Ganjingarringunha <i>jinbi</i> , in around July 2007 after a survey conducted by Yindjibarndi people who included Stanley Warrie. Stanley Warrie had asked a whitefella from FMG and the archaeologists involved to be careful to avoid the spring and not cut through it with their bulldozers. They had agreed to do so. The impact occurred during ground clearing activities in connection with the SHM. This caused some Yindjibarndi people to feel responsible for the disturbance, upset and angry.
169.	Following the disturbance of the Ganjingarringunha <i>jinbi</i> , Andrew Forest wrote a letter on 22 August 2007 expressing “regret” to JAC, addressed to “Yindjibarndi People”, for “disturbance”, and “an impact caused by FMG” to an area of significance, which he described as a mistake. In response to that disturbance, JAC and FMG reached an agreement on 16 August 2007 that FMG would pay a \$25,000 penalty for any Aboriginal heritage site that was significantly disturbed in the process of clearing land for drill lines.
170.	In 2011 Michael Woodley was notified that in a <i>yamarrara</i> (rock shelter) in the mine area a walled niche containing items that may have been human skeletal remains had been discovered. This site is registered as YIN10-004. On 1 June 2011, FMG employee Alexa Morcombe informed the ACMC that FMG had made a commitment to avoid the burial site. Subsequently in 2011 a group of Yindjibarndi men including Thomas Jacob, Angus Mack, Stanley Warrie and Michael Woodley visited the location. At the location Michael Woodley performed the ceremony for <i>thunggari</i> (burial places).
171.	The Court visited site number YIN10-111 at the mine site on 14 August 2023. At this site, Michael Woodley referred to a nearby site (YIN10-110) and said on that occasion that a walled niche is a place where sacred gear for law ceremonies could be kept and protected and that they sometimes also served as a chamber for a burial.
172.	FMG excavated samples from the rockshelter YIN10-014 pursuant to approval under s 16 of the AHA, and identified signs of occupation from 35,000 years ago. YIN10-014 is fully enclosed within a heritage restriction zone (HRZ-0802).

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
OPA 20H	
173.	<p>Oil Prospecting Area (OPA) 20H:</p> <p>(a) was a licence to prospect for mineral oil granted on 13 September 1921 pursuant to section 6 of the <i>Mining Act Amendment Act 1920</i> (WA); and</p> <p>(b) was granted over the entirety of the Compensation Application Area.</p>
M 47/1409	
174.	<p>M 47/1409-I:</p> <p>(a) was applied for on 3 October 2007 by the holder of E 47/1334-I (Fortescue Metals Group Ltd) in respect of part of the land the subject of that exploration licence pursuant to sections 67 and 74 of the <i>Mining Act</i>;</p> <p>(b) was transferred to FMG Pilbara Pty Ltd on 19 November 2007;</p> <p>(c) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 26 November 2010, with a current expiry date of 25 November 2031;</p> <p>(d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1409-I was granted for iron;</p> <p>(e) is currently held by FMG Pilbara Pty Ltd; and</p> <p>(f) was surveyed on or about 18 September 2011 as having an area of approximately 6,865 hectares (measurement agreed within a margin of error of +/- 3%).</p>
175.	M 47/1409-I is included as an ‘other interest’ at Schedule 5, item 4(a)(i) of the Yindjibarndi Determination.
176.	<p>M 47/1409-I is located:</p> <p>(a) partly within the Compensation Application Area (with a current encroachment of approximately 74%, being an area of approximately 5080 hectares) (measurement agreed within a margin of error of +/- 3%); and</p> <p>(b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 19.71%) and partly within the Exclusive Area (with a current encroachment of approximately 80.24%).</p>
177.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1409-I:</p> <p>(a) on or around 14 December 2007, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1409-I to FMG Pilbara Pty Ltd;</p> <p>(b) 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);</p> <p>(c) on 16 February 2009, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the First Respondent 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;</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>(d) on 23 June 2009, the NNTT determined that both the First Respondent and FMG Pilbara Pty Ltd had negotiated in good faith with the native title parties: see <i>FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation; Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2009] NNTTA 63;</p> <p>(e) on 27 August 2009, the NNTT determined that the grant of M 47/1409-I may be done, subject to the imposition of the following extra conditions:</p> <p>(i) Any right of the native title party (as defined in Sections 29 and 30 of the <i>Native Title Act 1993</i>) to access or use the land the subject of the mining lease is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations or for safety or security reasons relating to those activities.</p> <p>(ii) If the grantee party gives a notice to the Aboriginal Cultural Material Committee under section 18 of the <i>Aboriginal Heritage Act 1972</i> (WA) it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial and cultural data), on the native title parties.</p> <p>(iii) Where the grantee party submits to the State Mining Engineer a proposal to undertake developmental/productive mining or construction activity, the grantee party must give to the native title parties a copy of the proposal, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes.</p> <p>(iv) Upon assignment of the mining lease the assignee shall be bound by these conditions. see <i>FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2009] NNTTA 99 at [57] and [18];</p> <p>(f) 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);</p> <p>(g) on 2 July 2010, the Federal Court (constituted by McKerracher J) made orders in WAD 161 of 2009 and WAD 168 of 2009 dismissing the appeals: see <i>Cheedy on behalf of the Yindjibarndi People v State of Western Australia</i> [2010] FCA 690;</p> <p>(h) 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);</p> <p>(i) on 12 August 2011, the Full Court of the Federal Court (constituted by North, Mansfield and Gilmour JJ) made orders in WAD 192 of 2010 and WAD 193 of 2010 dismissing the appeals: see <i>Cheedy on behalf of the Yindjibarndi People v State of Western Australia</i> [2011] FCAFC 100;</p> <p>(j) on 16 September 2011, the Yindjibarndi #1 claimant applied to the High Court for special leave to appeal from the judgement of the Full Court of the Federal Court in WAD 193 of 2010 (P 40 of 2011); and</p> <p>(k) 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 <i>High Court Rules 2004</i>.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
M 47/1411-I	
178.	<p>M 47/1411-I:</p> <ul style="list-style-type: none"> (a) was applied for on 16 November 2007 by the holder of E 47/1333-I and E 47/1334-I (Fortescue Metals Group Ltd) in respect of part of the land the subject of those exploration licences pursuant to sections 67 and 74 of the <i>Mining Act</i>; (b) was transferred to FMG Pilbara Pty Ltd on 19 November 2007; (c) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 26 November 2010, with a current expiry date of 25 November 2031; (d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1411-I was granted for iron; (e) is currently held by FMG Pilbara Pty Ltd; and (f) was surveyed on or about 18 September 2011 as having an area of approximately 3,512 hectares (measurement agreed within a margin of error of +/- 3%).
179.	M 47/1411-I is included as an 'other interest' at Schedule 5, item 4(a)(i) of the Yindjibarndi Determination.
180.	<p>M 47/1411-I is located:</p> <ul style="list-style-type: none"> (a) partly within the Compensation Application Area (with a current encroachment of approximately 5%, being an area of approximately 177 hectares) (measurement agreed within a margin of error of +/- 3%); and (b) to the extent that it is within the Compensation Application Area, wholly within the Exclusive Area.
181.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1411-I:</p> <ul style="list-style-type: none"> (a) on or around 25 January 2008, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1411-I to FMG Pilbara Pty Ltd; (b) 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); (c) on 16 February 2009, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the First Respondent 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; (d) on 23 June 2009, the NNTT determined that both the First Respondent and FMG Pilbara Pty Ltd had negotiated in good faith with the native title parties: see <i>FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation; Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2009] NNTTA 63; (e) on 27 August 2009, the NNTT determined that the grant of M 47/1411-I may be done, subject to the imposition of the following extra conditions: <ul style="list-style-type: none"> (i) Any right of the native title party (as defined in Sections 29 and 30 of the <i>Native Title Act 1993</i>) to access or use the land the subject of the mining lease is not to be

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>restricted except in relation to those parts of the land which are used for exploration or mining operations or for safety or security reasons relating to those activities.</p> <p>(ii) If the grantee party gives a notice to the Aboriginal Cultural Material Committee under section 18 of the <i>Aboriginal Heritage Act 1972</i> (WA) it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial and cultural data), on the native title parties.</p> <p>(iii) Where the <i>grantee</i> party submits to the State Mining Engineer a proposal to undertake developmental/productive mining or construction activity, the grantee party must give to the native title parties a copy of the proposal, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes.</p> <p>(iv) Upon <i>assignment</i> of the mining lease the assignee shall be bound by these conditions. see <i>FMG Pilbara Pty Ltd/ Wintawari Guruma Aboriginal Corporation/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2009] NNTTA 99 at [57] and [18];</p> <p>(f) 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);</p> <p>(g) on 2 July 2010, the Federal Court (constituted by McKerracher J) made orders in WAD 161 of 2009 and WAD 168 of 2009 dismissing the appeals: see <i>Cheedy on behalf of the Yindjibarndi People v State of Western Australia</i> [2010] FCA 690;</p> <p>(h) 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);</p> <p>(i) on 12 August 2011, the Full Court of the Federal Court (constituted by North, Mansfield and Gilmour JJ) made orders in WAD 192 of 2010 and WAD 193 of 2010 dismissing the appeals: see <i>Cheedy on behalf of the Yindjibarndi People v State of Western Australia</i> [2011] FCAFC 100;</p> <p>(j) on 16 September 2011, the Yindjibarndi #1 claimant applied to the High Court for special leave to appeal from the judgement of the Full Court of the Federal Court in WAD 193 of 2010 (P 41 of 2011); and</p> <p>(k) 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.</p>
M 47/1413-I	
182.	<p>M 47/1413-I:</p> <p>(a) was applied for on 14 December 2007 by the holder of E 47/1447-I and E 47/1334-I (FMG Pilbara Pty Ltd) in respect of part of the land the subject of those exploration licences pursuant to sections 67 and 74 of the <i>Mining Act</i>;</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<ul style="list-style-type: none"> (b) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 26 November 2010, with a current expiry date of 25 November 2031; (c) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1413-I was granted for iron; (d) is currently held by FMG Pilbara Pty Ltd; and (e) was surveyed on or about 17 September 2011 as having an area of approximately 1,045 hectares (measurement agreed within a margin of error of +/- 3%).
183.	M 47/1413-I is included as an 'other interest' at Schedule 5, item 4(a)(i) of the Yindjibarndi Determination.
184.	<p>M 47/1413-I is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) wholly within the Exclusive Area.
185.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1413-I:</p> <ul style="list-style-type: none"> (a) on or around 18 April 2008, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1413-I to FMG Pilbara Pty Ltd; (b) 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); (c) on 15 December 2008, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the First Respondent 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; (d) on 24 April 2009, the NNTT determined that both the First Respondent and FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant: see <i>FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2009] NNTTA 38; (e) on 13 August 2009, the NNTT determined that the grant of M 47/1413-I may be done, subject to the imposition of the following extra conditions: <ul style="list-style-type: none"> (i) Any right of the native title party (as defined in Sections 29 and 30 of the <i>Native Title Act 1993</i>) to access or use the land the subject of the mining lease is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations or for safety or security reasons relating to those activities. (ii) If the grantee party gives a notice to the Aboriginal Cultural Material Committee under section 18 of the <i>Aboriginal Heritage Act 1972</i> (WA) it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial and cultural data), on the native title party. (iii) Where the grantee party submits to the State Mining Engineer a proposal to undertake developmental/productive mining or construction activity, the grantee party must give to the native title party a copy of the proposal, excluding sensitive commercial data,

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes.</p> <p>(iv) Upon assignment of the mining lease the assignee shall be bound by these conditions.’</p> <p>see <i>FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2009] NNTTA 91 at [91] and [32];</p> <p>(f) 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);</p> <p>(g) on 2 July 2010, the Federal Court (constituted by McKerracher J) made orders in WAD 161 of 2009 and WAD 168 of 2009 dismissing the appeals: see <i>Cheedy on behalf of the Yindjibarndi People v State of Western Australia</i> [2010] FCA 690;</p> <p>(h) 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);</p> <p>(i) on 12 August 2011, the Full Court of the Federal Court (constituted by North, Mansfield and Gilmour JJ) made orders in WAD 192 of 2010 and WAD 193 of 2010 dismissing the appeals: see <i>Cheedy on behalf of the Yindjibarndi People v State of Western Australia</i> [2011] FCAFC 100;</p> <p>(j) on 16 September 2001, the Yindjibarndi #1 claimant applied to the High Court for special leave to appeal from the judgement of the Full Court of the Federal Court in WAD 192 of 2010 (P 40 of 2011); and</p> <p>(k) 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.</p>
M 47/1431-I	
186.	<p>M 47/1431-I:</p> <p>(a) was applied for on 22 July 2009 by the holder of E 47/1447-I and E 47/1334-I (FMG Pilbara Pty Ltd) in respect of part of the land the subject of those exploration licences pursuant to sections 67 and 74 of the <i>Mining Act</i>;</p> <p>(b) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 8 July 2011, with a current expiry date of 7 July 2032;</p> <p>(c) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1431-I was granted for iron;</p> <p>(d) is currently held by FMG Pilbara Pty Ltd; and</p> <p>(e) was surveyed on or about 17 September 2011 as having an area of approximately 2,961 hectares (measurement agreed within a margin of error of +/- 3%).</p>
187.	M 47/1431-I is included as an ‘other interest’ at Schedule 5, item 4(a)(i) of the Yindjibarndi Determination.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
188.	<p>M 47/1431-I is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) partly within the Non-Exclusive Area with a current encroachment of approximately 26.94%) and partly within the Exclusive Area (with an current encroachment of approximately 73.06%).
189.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1431-I:</p> <ul style="list-style-type: none"> (a) on or around 21 August 2009, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1431-I to FMG Pilbara Pty Ltd; (b) 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); (c) 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 First Respondent 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; (d) 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 First Respondent; (e) 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; and (f) on 17 June 2011, the NNTT: <ul style="list-style-type: none"> (i) found that on the basis of the evidence before it, FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant; and (ii) determined the grant of M 47/1431-I may be done, subject to the imposition of the following extra conditions: <ul style="list-style-type: none"> (1) Any right of the native title party (as defined in ss 29 and 30 of the Native Title Act 1993) to access or use the lands the subject of the mining lease is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations, or for safety and security reasons relating to those activities. (2) If the grantee party gives a notice to the Aboriginal Cultural Material Committee, under s 18 of the Aboriginal Heritage Act 1972 (WA), it shall at all times serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial data), on the native title parties. (3) Where, prior to commencing any development or productive mining or construction activity, the grantee party submits a plan of proposed operations and measures to safeguard the environment or any addendums thereafter to the Director of Environment at the Department of Mines and Petroleum for his assessment and written approval; the grantee party must at the same time give to the native title party a copy of the proposal or addendums, excluding

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes.</p> <p>(4) Upon assignment of the mining lease, the assignee shall be bound by these conditions.</p> <p>see <i>FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2011] NNTTA 107.</p>
M 47/1453-I	
190.	<p>M 47/1453-I:</p> <p>(a) was applied for on 22 October 2010 by the holder of E 47/1334-I (FMG Pilbara Pty Ltd) in respect of part of the land the subject of that exploration licence pursuant to sections 67 and 74 of the <i>Mining Act</i>;</p> <p>(b) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 17 January 2013, with a current expiry date of 16 January 2034;</p> <p>(c) is currently held by FMG Pilbara Pty Ltd;</p> <p>(d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1453-I was granted for iron; and</p> <p>(e) was surveyed on or about 21 June 2014 as having an area of approximately 727 hectares (measurement agreed within a margin of error of +/- 3%).</p>
191.	M 47/1453-I is included as an ‘other interest’ at Schedule 5, item 4(a)(i) of the Yindjibarndi Determination.
192.	<p>M 47/1453-I is located:</p> <p>(a) wholly within the Compensation Application Area; and</p> <p>(b) wholly within the Exclusive Area.</p>
193.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1453-I:</p> <p>(a) on or around 7 January 2011, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1453-I to FMG Pilbara Pty Ltd;</p> <p>(b) 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); and</p> <p>(c) on 19 December 2012, the NNTT determined that the grant of M 47/1453-I may be done, subject to the imposition of the following extra conditions:</p> <p><i>Endorsements</i></p> <ol style="list-style-type: none"> 1. The Lessee’s attention is drawn to the provisions of the Aboriginal Heritage Act 1972 and any Regulations thereunder. 2. The Lessee’s attention is drawn to the Environmental Protection Act 1986 and the Environmental Protection (Clearing of Native Vegetation) Regulations 2004, which provides for the protection of all native vegetation from damage unless prior permission is obtained.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>3. The Lessee pursuant to the approval of the Minister responsible for the Mining Act 1978 under Section 111 of the Mining Act 1978 is authorised to work and mine for iron.</p> <p><i>Conditions</i></p> <ol style="list-style-type: none"> 1. Survey. 2. All surface holes drilled for the purpose of exploration are to be capped, filled or otherwise made safe immediately after completion. 3. All disturbances to the surface of the land made as a result of exploration, including costeans, drill pads, grid lines and access tracks, being backfilled and rehabilitated to the satisfaction of the Environmental Officer, Department of Mines and Petroleum (DMP). Backfilling and rehabilitation being required no later than 6 months after excavation unless otherwise approved in writing by the Environmental Officer, DMP. 4. All waste materials, rubbish, plastic sample bags, abandoned equipment and temporary buildings being removed from the mining tenement prior to or at the termination of exploration program. 5. Unless the written approval of the Environmental Officer, DMP is first obtained, the use of drilling rigs, scrapers, graders, bulldozers, backhoes or other mechanised equipment for surface disturbance or the excavation of costeans is prohibited. Following approval, all topsoil being removed ahead of mining operations and separately stockpiled for replacement after backfilling and/or completion of operations. 6. The lessee submitting a plan of proposed operations and measures to safeguard the environment to the Director, Environment, DMP for his assessment and written approval prior to commencing any developmental or productive mining or construction activity. 7. No activities being carried out within the proposed railway corridor (designated FNA) that interfere with or restrict any rail route investigation activities being undertaken by the rail line proponent. 8. Any right of the native title party (as defined in sections 29 and 30 of the Native Title Act 1993) to access or use the land the subject of the mining lease is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations or for safety or security reasons relating to those or related activities. 9. If the lessee gives a notice to the Aboriginal Cultural Material Committee (ACMC) under s 18 of the Aboriginal Heritage Act 1972 (WA) it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the lessee to the ACMC in support of the application (exclusive of sensitive commercial and cultural data), on the native title party. 10. Where the lessee submits to the Director of Environment a proposal to undertake developmental/productive mining or construction activity, the lessee must give to the native title party a copy of the proposal, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes. 11. Upon assignment of the mining lease the assignee shall be bound by Conditions 8, 9 and 10: <p><i>see FMG Pilbara Pty Ltd/NC (deceased) and Others on behalf of the Yindjibarndi People/ Western Australia [2012] NNTTA 142 at [21] and [64].</i></p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
M 47/1473-I	
194.	<p>M 47/1473-I:</p> <ul style="list-style-type: none"> (a) was applied for on 5 November 2011 by the holder of E 47/1447-I and E 47/1334-I (FMG Pilbara Pty Ltd) in respect of part of the land the subject of those exploration licences pursuant to sections 67 and 74 of the <i>Mining Act</i>; (b) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 29 August 2014, with a current expiry date of 28 August 2035; (c) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1473-I was granted for iron; (d) is currently held by FMG Pilbara Pty Ltd; and (e) was granted over an area of approximately 472 hectares (measurement agreed within a margin of error of +/- 3%).
195.	M 47/1473-I is included as an 'other interest' at Schedule 5, item 4(a)(i) of the Yindjibarndi Determination.
196.	<p>M 47/1473-I is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; (b) wholly within the Exclusive Area.
197.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1473-I:</p> <ul style="list-style-type: none"> (a) on or around 14 September 2012, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1473-I to FMG Pilbara Pty Ltd; (b) 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); (c) 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 First Respondent had not negotiated in good faith in accordance with section 31(1)(b) of the NTA; (d) on 6 March 2014, the Yindjibarndi #1 claimant requested the NNTT conduct the inquiry in an on country hearing. On 28 March 2014, the NNTT declined this request; and (e) on 31 July 2014, the NNTT determined that the grant of M 47/1473-I may be done, subject to the imposition of the following extra conditions: <ul style="list-style-type: none"> (i) Any right of the native title party (as defined in sections 29 and 30 of the <i>Native Title Act 1993</i> (Cth)) to access or use the land the subject of the mining lease is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations or for safety or security reasons relating to those activities. (ii) If the grantee party gives a notice to the Aboriginal Cultural Material Committee under section 18 of the <i>Aboriginal Heritage Act 1972</i> (WA) it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial data), on the native title party, through their authorised representative.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>(iii) Where, prior to commencing any development or productive mining or construction activity, the grantee party submits a plan of proposed operations and measures to safeguard the environment or any addendums thereafter to the Department of Mines and Petroleum for assessment and written approval; the grantee party must at the same time give to the native title party, through their authorised representative, a copy of the proposal or addendums, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes.</p> <p>(iv) The area to be granted as M47/1475 is the area specified in the Department of Mines and Petroleum’s diagram with associated coordinates and other data as set out at Attachment G to the National Native Title Tribunal’s decision in WF2013-0015-WF2013/0016, which is exclusive of ‘Satellite Springs’.</p> <p>(v) If a survey or clearance is required on the Tenement to meet the requirements of the <i>Aboriginal Heritage Act 1972</i> (WA) then the grantee party must give written notice to the native title party, through its authorised representative, of its intention to conduct a survey or clearance, and when giving notice must include a suitable topographical map showing the areas proposed to be surveyed or cleared.</p> <p>(vi) The Government party must forthwith upon receipt by the Minister of a notice and recommendation from the Aboriginal Cultural Material Committee in respect of a site on the Tenement, give a copy of the recommendation and any related report excluding any confidential information provided to the Committee by other than members of the native title party, to the native title party authorised representative.</p> <p>(vii) Where the Minister gives or declines to give consent under s 18 of the <i>Aboriginal Heritage Act 1972</i> (WA) to the proposed use of the land the subject of the notice and recommendation, the Government party must forthwith inform the native title party, through its authorised representative, of the decision.</p> <p>see <i>FMG Pilbara Pty Ltd and Another v Yindjibarndi #1</i> [2014] NNTTA 79.</p>
M 47/1475-I	
198.	<p>M 47/1475-I:</p> <p>(a) was applied for on 26 March 2012 by the holder of E 47/1334-I (FMG Pilbara Pty Ltd) in respect of part of the land the subject of that exploration licence pursuant to sections 67 and 74 of the <i>Mining Act</i>;</p> <p>(b) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 29 August 2014, with a current expiry date of 28 August 2035;</p> <p>(c) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1475-I was granted for iron;</p> <p>(d) is currently held by FMG Pilbara Pty Ltd; and</p> <p>(e) was granted over an area of approximately 525 hectares (measurement agreed within a margin of error of +/- 3%).</p>
199.	M 47/1475-I is included as an ‘other interest’ at Schedule 5, item 4(a)(i) of the Yindjibarndi Determination.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
200.	<p>M 47/1475-I is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) wholly within the Exclusive Area.
201.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1475-I:</p> <ul style="list-style-type: none"> (a) on or around 6 July 2012, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1475-I to FMG Pilbara Pty Ltd; (b) 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); (c) 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 First Respondent had not negotiated in good faith in accordance with section 31(1)(b) of the NTA; (d) on 6 March 2014, the Yindjibarndi #1 claimant requested the NNTT conduct the hearing on country. On 28 March 2014, the NNTT declined this request; and (e) on 31 July 2014, the NNTT determined that the grant of M 47/1475-I may be done, subject to the following extra conditions: <ul style="list-style-type: none"> (i) Any right of the native title party (as defined in sections 29 and 30 of the <i>Native Title Act 1993</i> (Cth)) to access or use the land the subject of the mining lease is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations or for safety or security reasons relating to those activities. (ii) If the grantee party gives a notice to the Aboriginal Cultural Material Committee under section 18 of the <i>Aboriginal Heritage Act 1972</i> (WA) it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial data), on the native title party, through their authorised representative. (iii) Where, prior to commencing any development or productive mining or construction activity, the grantee party submits a plan of proposed operations and measures to safeguard the environment or any addendums thereafter to the Department of Mines and Petroleum for assessment and written approval; the grantee party must at the same time give to the native title party, through their authorised representative, a copy of the proposal or addendums, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes. (iv) The area to be granted as M47/1475 is the area specified in the Department of Mines and Petroleum's diagram with associated coordinates and other data as set out at Attachment G to the National Native Title Tribunal's decision in WF2013-0015-WF2013/0016, which is exclusive of 'Satellite Springs'. (v) If a survey or clearance is required on the Tenement to meet the requirements of the <i>Aboriginal Heritage Act 1972</i> (WA) then the grantee party must give written notice to the native title party, through its authorised representative, of its intention to conduct a survey or clearance, and when giving notice must include a suitable topographical map showing the areas proposed to be surveyed or cleared.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>(vi) The Government party must forthwith upon receipt by the Minister of a notice and recommendation from the Aboriginal Cultural Material Committee in respect of a site on the Tenement, give a copy of the recommendation and any related report excluding any confidential information provided to the Committee by other than members of the native title party, to the native title party authorised representative.</p> <p>(vii) Where the Minister gives or declines to give consent under s 18 of the <i>Aboriginal Heritage Act 1972</i> (WA) to the proposed use of the land the subject of the notice and recommendation, the Government party must forthwith inform the native title party, through its authorised representative, of the decision.</p> <p>see <i>FMG Pilbara Pty Ltd and Another v Yindjibarndi #1</i> [2014] NNTTA 79.</p>
M 47/1513-I	
202.	<p>M 47/1513-I:</p> <p>(a) was applied for on 13 June 2016 by the holder of E 47/1334-I (FMG Pilbara Pty Ltd) in respect of part of the land the subject of that exploration licence pursuant to sections 67 and 74 of the <i>Mining Act</i>;</p> <p>(b) was a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 3 December 2018;</p> <p>(c) was endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to work and mine the land in respect of which M 47/1513-I was granted for iron;</p> <p>(d) was surveyed on or about 12 March 2019 as having an area of approximately 700 hectares (measurement agreed within a margin of error of +/- 3%);</p> <p>(e) was the subject of an application to surrender, conditional upon the application for M 47/1570 being granted, on 5 March 2020;</p> <p>(f) was surrendered on 31 March 2020 in favour of the grant of M 47/1570; and</p> <p>(g) was held by FMG Pilbara Pty Ltd immediately prior to its surrender.</p>
203.	M 47/1513-I was granted after the making of the Yindjibarndi Determination.
204.	<p>M 47/1513-I was located:</p> <p>(a) wholly within the Compensation Application Area;</p> <p>(b) partly within the Non-Exclusive Area (with a current encroachment of approximately 63.76%) and partly within the Exclusive Area (with a current encroachment of approximately 36.24%).</p>
205.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1513-I:</p> <p>(a) on or around 5 August 2016, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1513-I to FMG Pilbara Pty Ltd;</p> <p>(b) 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 (as defined in section 30A of the NTA) had not been able to reach agreement within six months of the First Respondent giving notice of its intention to grant M 47/1513-I;</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>(c) on 25 October 2017, the Yindjibarndi #1 claimant advised the NNTT that it intended to allege that FMG Pilbara Pty Ltd and the First Respondent 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;</p> <p>(d) on 30 November 2017, the Applicant withdrew its assertion of a failure to negotiate in good faith against FMG Pilbara Pty Ltd and the First Respondent;</p> <p>(e) on 30 January 2018, the Applicant filed a Judicial Review Application in the Supreme Court seeking to impeach the validity of the application for M 47/1513 and on that same day sought a stay of the NNTT's hearing of Application WF17/18;</p> <p>(f) on 30 July 2018 the Supreme Court of Western Australia dismissed the Applicant's Judicial Review Application;</p> <p>(g) on 9 August 2018 the NNTT dismissed the Applicant's stay application; and</p> <p>(h) on 25 October 2018, the NNTT determined that the grant of M 47/1513-I may be done, subject to the following extra conditions:</p> <p style="padding-left: 20px;">(i) If the grantee party gives a notice to the Aboriginal Cultural Material Committee under s18 of the <i>Aboriginal Heritage Act 1972 (WA)</i> it shall at the same time serve a copy of that notice on the native title party.</p> <p style="padding-left: 20px;">(ii) Within 14 days of receipt of a copy of any notice given to the Aboriginal Cultural Material Committee under s18 of the <i>Aboriginal Heritage Act 1972 (WA)</i>, the native title party will inform the grantee party in writing if they wish to engage in consultation concerning the proposed use of the land. If so informed, the grantee party will promptly supply details of the proposed use and meet with the native title party to explain it.</p> <p style="padding-left: 20px;"><i>see FMG Pilbara Pty Ltd v Yindjibarndi Ngurra Aboriginal Corporation RNTBC and Another</i> [2018] NNTTA 64.</p>
M 47/1570	
206.	<p>M 47/1570</p> <p>(a) was applied for on 29 March 2018 by the holder of E 47/1334-I and E 47/1398-I (FMG Pilbara Pty Ltd) in respect of part of the land the subject of those exploration licences pursuant to sections 67 and 74 of the <i>Mining Act</i>;</p> <p>(b) was applied for over an area that wholly included the area of M 47/1513-I (such that M 47/1513-I was surrendered in favour of the grant of M 47/1570);</p> <p>(c) is a mining lease granted pursuant to Part IV, Division 3 of the <i>Mining Act</i> for a term of 21 years commencing on 31 March 2020, with a current expiry date of 30 March 2041;</p> <p>(d) is currently held by FMG Pilbara Pty Ltd; and</p> <p>(e) was surveyed on or about 18 June 2020 as having an area of approximately 1,033 hectares (measurement agreed within a margin of error of +/- 3%).</p>
207.	M 47/1570 was granted after the making of the Yindjibarndi Determination.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
208.	<p>M 47/1570 is located:</p> <ul style="list-style-type: none"> (a) wholly within the Application Area; and (b) partly within the Non-Exclusive Area (with a current encroachment of approximately 75.42%) and partly within the Exclusive Area (with an encroachment of approximately 24.58%).
209.	No iron ore has been extracted or obtained from M 47/1570.
210.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of M 47/1570:</p> <ul style="list-style-type: none"> (a) on or around 18 January 2019, the First Respondent issued a notice under section 29 of the NTA of its intention to grant M 47/1570 to FMG Pilbara Pty Ltd; (b) 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); (c) the Applicant subsequently advised the NNTT that it did not intend to submit that FMG Pilbara Pty Ltd or the First Respondent had not negotiated in good faith in accordance with section 31(1)(b) of the NTA; and (d) on 5 February 2020, the NNTT determined that the grant of M 47/1570 may be done, subject to the following extra conditions: <ul style="list-style-type: none"> (i) If the grantee party gives a notice to the Aboriginal Cultural Material Committee under s18 of the <i>Aboriginal Heritage Act 1972</i> (WA) it shall at the same time serve a copy of that notice on the native title party. (ii) Within 14 days of receipt of a copy of any notice given to the Aboriginal Cultural Material Committee under s18 of the <i>Aboriginal Heritage Act 1972</i> (WA), the native title party will inform the grantee party in writing if they wish to engage in consultation concerning the proposed use of the land. If so informed, the grantee party will promptly supply details of the proposed use and meet with the native title party to explain it. <p style="text-align: center;"><i>see FMG Pilbara Pty Ltd v Yindjibarndi Ngurra Aboriginal Corporation RNTBC and Another</i> [2020] NNTTA 8.</p>
L 1SA	
211.	On a date prior to 22 September 2006, Pilbara Infrastructure Pty Ltd applied to the First Respondent for the “ <i>Special Railway Licence</i> ” as defined in clause 1 of the agreement scheduled to, and ratified by, the 2 (the Pilbara Infrastructure Agreement). The area the subject of the proposed Special Railway Licence was given the designation FNA 7330.
212.	On 29 November 2006, in accordance with clause 14(1)(a) of the Pilbara Infrastructure Agreement, the First Respondent granted a miscellaneous licence in respect of the area covered by FNA 7330. That miscellaneous licence was given the tenement identification “AL700001 (L 1SA)”.
213.	As granted, and prior to 10 August 2011, L 1SA did not include any land or waters within the Compensation Application Area.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
214.	On a date prior to 15 April 2011, 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. The area the subject of the proposed Solomon spur line was given the designation FNA 8923 by the First Respondent. Part of the area of FNA 8923 included a portion of the Compensation Application Area.
215.	On 10 August 2011, 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.
216.	L 1SA is currently held by Pilbara Infrastructure Pty Ltd.
217.	L 1SA is included as an 'other interest' at Schedule 5, item 4(c) of the Yindjibarndi Determination.
218.	L 1SA is located: (a) partly within the Compensation Application Area (with a current encroachment of approximately 5.28%, being an area of overlap of approximately 2310 hectares); and (b) to the extent that it is located in the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 81.93%) and partly over the Exclusive Area (with a current encroachment of approximately 14.79%).
219.	In respect of the application of Part 2, Division 3 of the NTA to that part of L 1SA within the Compensation Application Area: (a) on or about 28 February 2011, the First Respondent gave 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; and (b) 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.
L 47/302	
220.	L 47/302 was: (a) applied for on 11 July 2008 by FMG Pilbara Pty Ltd; (b) a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 5 June 2009; (c) granted for the purposes of road, power line, pipeline, taking water and a conveyor system, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i> ; (d) granted over an area of approximately 247 hectares (measurement agreed within a margin of error of +/- 3%); (e) surrendered on 7 January 2013; and (f) held by FMG Pilbara Pty Ltd immediately prior to its surrender.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
221.	L 47/302 was surrendered prior to the making of the Yindjibarndi Determination.
222.	L 47/302 was located: (a) wholly within the Compensation Application Area; and (b) wholly within the Exclusive Area.
223.	In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/302: (a) on or around 28 July 2008, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/302 to FMG Pilbara Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 4 October 2008; and (b) no objection was made by the Yindjibarndi #1 claimant with respect to the grant of L 47/302 pursuant to section 24MD(6B)(d) of the NTA.
L 47/361	
224.	L 47/361: (a) was applied for on 10 March 2010 by FMG Pilbara Pty Ltd; (b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 11 October 2011, with a current expiry of 10 October 2032; (c) was granted for the purposes of pipeline, power line, road, taking water, communication facility, bore field, aerial rope way, aerodrome, conveyor system, power generation, transmission facility and storage or transportation facility for minerals or mineral concentrate, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i> ; (d) is currently held by FMG Pilbara Pty Ltd; and (e) was granted over an area of approximately 4,447 hectares (measurement agreed within a margin of error of +/- 3%).
225.	L 47/361 is included as an 'other interest' at Schedule 5, item 4(a)(ii) of the Yindjibarndi Determination.
226.	L 47/361 is located: (a) partly within the Compensation Application Area (with a current encroachment of approximately 96.8%, being an area of approximately 4292 hectares); and (b) partly within the Non-Exclusive Area (with a current encroachment of approximately 92.2%) and partly over the Exclusive Area (with a current encroachment of approximately 7.47%).
227.	In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/361: (a) on or around 20 March 2010, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/361 to FMG Pilbara Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 25 May 2010;

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>(b) on 25 May 2010, the First Respondent received an objection made by the Yindjibarndi #1 claimant with respect to the grant of L 47/361 pursuant to section 24MD(6B)(d) of the NTA;</p> <p>(c) on 12 November 2010, the First Respondent wrote to the Yindjibarndi #1 claimant indicating that FMG Pilbara Pty Ltd had advised the First Respondent that it considered it had consulted with the Yindjibarndi #1 claimant as required by 24MD(6B)(e) of the NTA and was requesting that L 47/361 be granted. The letter asked that the Yindjibarndi #1 claimant indicate, within 30 days, whether it wanted the objection to the grant of L 47/361 referred to the Independent Person pursuant to section 24MD(6B)(f) of the NTA;</p> <p>(d) on 9 December 2010, the Yindjibarndi #1 claimant requested that the objection to the grant of L 47/361 be heard by the Independent Person. The objection (together with objections to associated applications L 47/362 and L 47/363) was referred to the Independent Person on 18 January 2011 (IND 1/11); and</p> <p>(e) on 15 April 2011, the Independent Person made orders dismissing the objection on the basis that the Yindjibarndi #1 claimant had failed to:</p> <p style="padding-left: 20px;">(i) file and serve certain documents required by directions made on 4 February 2011; and</p> <p style="padding-left: 20px;">(ii) appear on 15 April 2011 to respond to FMG Pilbara Pty Ltd's application for dismissal of the objection.</p>
L 47/362	
228.	<p>L 47/362:</p> <p>(a) was applied for on 10 March 2010 by FMG Pilbara Pty Ltd;</p> <p>(b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 3 May 2011, with a current expiry of 2 May 2032;</p> <p>(c) was granted for the purposes of pipeline, power line, road, taking water, communication facility, bore field, aerial rope way, aerodrome, conveyor system, power generation, transmission facility and storage or transportation facility for minerals or mineral concentrate, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>;</p> <p>(d) is currently held by FMG Pilbara Pty Ltd; and</p> <p>(e) was granted over an area of approximately 3,494 hectares (measurement agreed within a margin of error of +/- 3%).</p>
229.	L 47/362 is included as an 'other interest' at Schedule 5, item 4(a)(ii) of the Yindjibarndi Determination.
230.	<p>L 47/362 is located:</p> <p>(a) wholly within the Compensation Application Area; and</p> <p>(b) wholly within the Exclusive Area.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
231.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/362:</p> <ul style="list-style-type: none"> (a) on or around 20 March 2010, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/362 to FMG Pilbara Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 25 May 2010; (b) on 25 May 2010, the First Respondent received an objection made by the Yindjibarndi #1 claimant with respect to the grant of L 47/362 pursuant to section 24MD(6B)(d) of the NTA; (c) on 12 November 2010, the First Respondent wrote to the Yindjibarndi #1 claimant indicating that FMG Pilbara Pty Ltd had advised the First Respondent that it considered it had consulted with the Yindjibarndi #1 claimant as required by 24MD(6B)(e) of the NTA and was requesting that L 47/362 be granted. The letter asked that the Yindjibarndi #1 claimant indicate, within 30 days, whether it wanted the objection to the grant of L 47/362 referred to the Independent Person pursuant to section 24MD(6B)(f) of the NTA; (d) on 9 December 2010, the Yindjibarndi #1 claimant requested that the objection to the grant of L 47/362 be heard by the Independent Person. The objection (together with objections to associated applications L 47/361 and L 47/363) was referred to the Independent Person on 18 January 2011 (IND 1/11); and (e) on 15 April 2011, the Independent Person made orders dismissing the objection on the basis that the Yindjibarndi #1 claimant had failed to: <ul style="list-style-type: none"> (i) file and serve certain documents required by directions made on 4 February 2011; and (ii) appear on 15 April 2011 to respond to FMG Pilbara Pty Ltd's application for dismissal of the objection.
L 47/363	
232.	<p>L 47/363:</p> <ul style="list-style-type: none"> (a) was applied for on 10 March 2010 by FMG Pilbara Pty Ltd; (b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 3 May 2011, with a current expiry of 2 May 2032; (c) was granted for the purposes of pipeline, power line, road, taking water, communication facility, water management facility, bore field, aerial rope way, conveyor system and storage or transportation facility for minerals or mineral concentrate, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>; (d) is currently held by FMG Pilbara Pty Ltd; and (e) was granted over an area of approximately 721 hectares (measurement agreed within a margin of error of +/- 3%).
233.	<p>L 47/363 is included as an 'other interest' at Schedule 5, item 4(a)(ii) of the Yindjibarndi Determination.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
234.	<p>L 47/363 is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) wholly within the Exclusive Area.
235.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/363:</p> <ul style="list-style-type: none"> (a) on or around 20 March 2010, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/363 to FMG Pilbara Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 25 May 2010; (b) on 25 May 2010, the First Respondent received an objection made by the Yindjibarndi #1 claimant with respect to the grant of L 47/363 pursuant to section 24MD(6B)(d) of the NTA; (c) on 12 November 2010, the First Respondent wrote to the Yindjibarndi #1 claimant indicating that FMG Pilbara Pty Ltd had advised the First Respondent that it considered it had consulted with the Yindjibarndi #1 claimant as required by 24MD(6B)(e) of the NTA and was requesting that L 47/363 be granted. The letter asked that the Yindjibarndi #1 claimant indicate, within 30 days, whether it wanted the objection to the grant of L 47/363 referred to the Independent Person pursuant to section 24MD(6B)(f) of the NTA; (d) on 9 December 2010, the Yindjibarndi #1 claimant requested that the objection to the grant of L 47/363 be heard by the Independent Person. The objection (together with objections to associated applications L 47/361 and L 47/362) was referred to the Independent Person on 18 January 2011 (IND 1/11); and (e) on 15 April 2011, the Independent Person made orders dismissing the objection on the basis that Yindjibarndi #1 claimant had failed to: <ul style="list-style-type: none"> (i) file and serve certain documents required by directions made on 4 February 2011; and (ii) appear on 15 April 2011 to respond to FMG Pilbara Pty Ltd's application for dismissal of the objection.
L 47/367	
236.	<p>L 47/367:</p> <ul style="list-style-type: none"> (a) was applied for on 28 April 2010 by FMG Pilbara Pty Ltd; (b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 2 March 2012, with a current expiry of 1 March 2033; (c) was granted for the purposes of road, power line, pipeline, taking water, communication facility, water management facility, aerial rope way, conveyor system, and storage or transportation facility for minerals or mineral concentrate, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>; (d) is currently held by FMG Pilbara Pty Ltd; and (e) was granted over an area of approximately 1,229 hectares (measurement agreed within a margin of error of +/- 3%).

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
237.	L 47/367 is included as an ‘other interest’ at Schedule 5, item 4(a)(ii) of the Yindjibarndi Determination.
238.	L 47/367 is located: <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) partly within the Non-Exclusive Area (with a current encroachment of approximately 79.15%) and partly over the Exclusive Area (with a current encroachment of approximately 20.85%).
239.	In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/367: <ul style="list-style-type: none"> (a) on or around 14 May 2010, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/367 to FMG Pilbara Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 19 July 2010; (b) no objection was made by the Yindjibarndi #1 claimant with respect to the grant of L 47/367 pursuant to section 24MD(6B)(d) of the NTA on or before 19 July 2010; and (c) on 23 July 2010, the First Respondent received an objection to the grant of L 47/367 made by the Yindjibarndi #1 claimant pursuant to section 24MD(6B)(d) of the NTA. The objection was received after the notification period for L 47/367 expired and was not considered.
L 47/396	
240.	L 47/396 was: <ul style="list-style-type: none"> (a) applied for on 18 October 2010 by FMG Pilbara Pty Ltd; (b) a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 23 May 2012; (c) granted for the purposes of road, pipeline, power line, taking water, communication facility, water management facility, bore field and bore, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>; (d) surrendered on 7 January 2013; (e) held by FMG Pilbara Pty Ltd immediately prior to its surrender; and (f) granted over an area of approximately 216 hectares (measurement agreed within a margin of error of +/- 3%).
241.	L 47/396 was surrendered prior to the making of the Yindjibarndi Determination.
242.	L 47/396 was located: <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) wholly within the Exclusive Area.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
243.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/396:</p> <p>(a) on or around 18 November 2010, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/396 to FMG Pilbara Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 25 January 2011;</p> <p>(b) on 24 January 2011, the First Respondent received an objection made by the Yindjibarndi #1 claimant with respect to the grant of L 47/396 pursuant to section 24MD(6B)(d) of the NTA;</p> <p>(c) on 12 March 2012, the First Respondent wrote to the Yindjibarndi #1 claimant indicating that FMG Pilbara Pty Ltd had advised the First Respondent that it considered it had consulted with the Yindjibarndi #1 claimant as required by 24MD(6B)(e) of the NTA and was requesting that L 47/396 be granted. The letter asked that the Yindjibarndi #1 claimant indicate, within 30 days, whether it wanted the objection to the grant of L 47/396 referred to the Independent Person pursuant to section 24MD(6B)(f) of the NTA; and</p> <p>(d) the Yindjibarndi #1 claimant did not respond to the First Respondent's letter of 12 March 2012 and L 47/396 proceeded to grant.</p>
L 47/472	
244.	<p>L 47/472:</p> <p>(a) was applied for on 20 April 2011 by FMG Pilbara Pty Ltd;</p> <p>(b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 18 July 2014, with a current expiry of 17 July 2035;</p> <p>(c) was granted for the purposes of a road, a bore field, a power line, a pipeline, taking water, a communications facility, a water management facility and a minesite accommodation facility, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>;</p> <p>(d) is currently held by FMG Pilbara Pty Ltd; and</p> <p>(e) was granted over an area of approximately 965 hectares (measurement agreed within a margin of error of +/- 3%).</p>
245.	L 47/472 is included as an 'other interest' at Schedule 5, item 4(a)(ii) of the Yindjibarndi Determination.
246.	<p>L 47/472 is located:</p> <p>(a) wholly within the Compensation Application Area; and</p> <p>(b) wholly within the Non-Exclusive Area.</p>
247.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/472:</p> <p>(a) on or around 9 May 2014, the First Respondent issued a notice of its intention to grant L 47/472 to FMG Pilbara Pty Ltd pursuant to section 24MD(6B)(c) of the NTA with respect to the purposes of "<i>borefield, pipeline, powerline, road, water management facility.</i>" The notice indicated that the notification period for L 47/472 expired on 16 July 2014;</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>(b) on 9 May 2014, the First Respondent also gave notice to the Yindjibarndi #1 Applicant of its intention to grant L 47/472 to FMG Pilbara Pty Ltd pursuant to section 24HA(7) of the NTA with respect to the purposes of “<i>taking water</i>” and invited comments by 20 June 2014; and</p> <p>(c) no objection was made by the Yindjibarndi #1 claimant with respect to the grant of L 47/472 pursuant to section 24MD(6B)(d) of the NTA.</p>
L 47/697	
248.	<p>L 47/697:</p> <p>(a) was applied for on 7 May 2013 by Pilbara Gas Pipeline Pty Ltd;</p> <p>(b) is a miscellaneous licence granted pursuant Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 2 December 2013, with a current expiry of 1 December 2034;</p> <p>(c) was granted for the purposes of a bore, a bore field, a communications facility, a pipeline, a pump station, a road, a tunnel, a workshop and storage facility and taking water, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>;</p> <p>(d) is currently held by Pilbara Gas Pipeline Pty Ltd; and</p> <p>(e) was granted over an area of approximately 96 hectares (measurement agreed within a margin of error of +/- 3%).</p>
249.	L 47/697 is included as an ‘other interest’ at Schedule 5, item 4(a)(ii) of the Yindjibarndi Determination.
250.	<p>L 47/697 is located:</p> <p>(a) partly within the Compensation Application Area (with a current encroachment of approximately 98.9%, being an area of approximately 95 hectares); and</p> <p>(b) to the extent that it is within the Compensation Application Area, wholly within the Non-Exclusive Area.</p>
251.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/697:</p> <p>(a) on or around 24 May 2013, the First Respondent issued a notice of its intention to grant L 47/697 to Pilbara Gas Pipeline Pty Ltd pursuant to section 24MD(6B)(c) of the NTA with respect to the purposes of “<i>a bore, a bore field, a communications facility, a pipeline, a pump station, a road, a tunnel, a workshop and storage facility.</i>” The notice indicated that the notification period for L 47/697 expired on 31 July 2013;</p> <p>(b) on 24 May 2013, the First Respondent also issued a notice of its intention to grant L 47/697 to Pilbara Gas Pipeline Pty Ltd pursuant to section 24HA(7) of the NTA with respect to the purposes of “<i>taking water</i>” and invited comments by 5 July 2013;</p> <p>(c) on 31 July 2013, the First Respondent received an objection made by the Yindjibarndi #1 claimant with respect to the grant of L 47/697 pursuant to section 24MD(6B)(d) of the NTA;</p> <p>(d) on 17 October 2013, the First Respondent wrote to the Yindjibarndi #1 claimant indicating that Pilbara Gas Pipeline Pty Ltd had advised the First Respondent that it considered it had consulted with the Yindjibarndi #1 claimant as required by 24MD(6B)(e) of the NTA and was requesting that L 47/697 be granted. The letter asked that the Yindjibarndi #1 claimant</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>indicate, within 30 days, whether it wanted the objection to the grant of L 47/697 referred to the Independent Person pursuant to section 24MD(6B)(f) of the NTA; and</p> <p>(e) the Yindjibarndi #1 claimant did not respond to the First Respondent's letter of 17 October 2013 and L 47/697 proceeded to grant.</p>
L 47/801	
252.	<p>L 47/801:</p> <p>(a) was applied for on 25 May 2017 by Pilbara Infrastructure Pty Ltd;</p> <p>(b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 24 May 2019, with a current expiry of 23 May 2040;</p> <p>(c) was granted for the purposes of a bore, a bore field, a communications facility, a pipeline, a power line, a pump station, a road, a workshop and storage facility, taking water and a water management facility, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>;</p> <p>(d) is currently held by Pilbara Infrastructure Pty Ltd; and</p> <p>(e) was granted over an area of approximately 652 hectares (measurement agreed within a margin of error of +/- 3%).</p>
253.	L 47/801 was granted after the making of the Yindjibarndi Determination.
254.	<p>L 47/801 is located:</p> <p>(a) partly within the Compensation Application Area (with a current encroachment of approximately 87.54%, being an area of approximately 570 hectares) (measurement agreed within a margin of error of +/- 3%); and</p> <p>(b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 96.61%) and partly over the Exclusive Area (with a current encroachment of approximately 1.84%).</p>
255.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/801:</p> <p>(a) on or around 16 June 2017, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/801 to Pilbara Infrastructure Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 23 August 2017; and</p> <p>(b) no objection was made by the Yindjibarndi #1 claimant with respect to the grant of L 47/801 pursuant to section 24MD(6B)(d) of the NTA.</p>
L 47/813	
256.	<p>L 47/813:</p> <p>(a) was applied for on 15 November 2017 by Pilbara Infrastructure Pty Ltd;</p> <p>(b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 6 April 2018, with a current expiry of 5 April 2039;</p> <p>(c) was granted for the purposes of a bore, a bore field, a communications facility, a pipeline, a power line, a pump station, a road, a water management facility, a workshop and storage</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>facility and taking water, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>;</p> <p>(d) is currently held by Pilbara Infrastructure Pty Ltd; and</p> <p>(e) was granted over an area of approximately 578 hectares (measurement agreed within a margin of error of +/- 3%).</p>
257.	L 47/813 was granted after the making of the Yindjibarndi Determination.
258.	<p>L 47/813 is located:</p> <p>(a) partly within the Compensation Application Area (with a current encroachment of approximately 74.23%, being an area of approximately 428 hectares) (measurement agreed within a margin of error of +/- 3%); and</p> <p>(b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 33.88%) and partly over the Exclusive Area (with a current encroachment of approximately 66.12%).</p>
259.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/813:</p> <p>(a) on or around 12 January 2018, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/813 to Pilbara Infrastructure Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 19 March 2018; and</p> <p>(b) no objection was made by the Applicant with respect to the grant of L 47/813 pursuant to section 24MD(6B)(d) of the NTA.</p>
L 47/814	
260.	<p>L 47/814:</p> <p>(a) was applied for on 15 November 2017 by Pilbara Infrastructure Pty Ltd;</p> <p>(b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 6 April 2018, with a current expiry of 5 April 2039;</p> <p>(c) was granted for the purposes of a bore, a bore field, a communications facility, a pipeline, a power line, a pump station, a road, a water management facility, a workshop and storage facility and taking water, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>;</p> <p>(d) is currently held by Pilbara Infrastructure Pty Ltd; and</p> <p>(e) was granted over an area of approximately 932 hectares (measurement agreed within a margin of error of +/- 3%).</p>
261.	L 47/814 was granted after the making of the Yindjibarndi Determination.
262.	<p>L 47/814 is located:</p> <p>(a) partly within the Compensation Application Area (with a current encroachment of approximately 94.07%, being an area of approximately 875 hectares) (measurement agreed within a margin of error of +/- 3%); and</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	(b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with an encroachment of approximately 54.39%) and partly over the Exclusive Area (with an encroachment of approximately 45.61%).
263.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/814:</p> <p>(a) on or around 12 January 2018, the First Respondent issued a notice under section 24MD(6B)(c) of the NTA of its intention to grant L 47/814 to Pilbara Infrastructure Pty Ltd. The notice indicated that the notification period for the purpose of section 24MD(6B)(d) of the NTA expired on 19 March 2018; and</p> <p>(b) no objection was made by the Applicant with respect to the grant of L 47/814 pursuant to section 24MD(6B)(d) of the NTA.</p>
L 47/859	
264.	<p>L 47/859:</p> <p>(a) was applied for on 30 October 2018 by Pilbara Energy Company Pty Ltd;</p> <p>(b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 6 February 2019, with a current expiry of 5 February 2040;</p> <p>(c) was granted for the purposes of a power generation and transmission facility, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>;</p> <p>(d) is currently held by Pilbara Energy Company Pty Ltd; and</p> <p>(e) was granted over an area of approximately 6 hectares (measurement agreed within a margin of error of +/- 3%).</p>
265.	L 47/859 was granted after the making of the Yindjibarndi Determination.
266.	<p>L 47/859 is located:</p> <p>(a) wholly within the Compensation Application Area; and</p> <p>(b) wholly within the Non-Exclusive Area.</p>
267.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/859:</p> <p>(a) on or around 16 November 2018, the First Respondent issued a notice under section 24MD(6B)(c) 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; and</p> <p>(b) no objection was made by the Applicant with respect to the grant of L 47/859 pursuant to section 24MD(6B)(d) of the NTA.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
L 47/901	
268.	<p>L 47/901:</p> <ul style="list-style-type: none"> (a) was applied for on 13 March 2019 by Pilbara Energy (Generation) Pty Ltd; (b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 26 June 2019, with a current expiry of 25 June 2040; (c) was granted for the purposes of a power generation and transmission facility, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>; (d) is currently held by Pilbara Energy (Generation) Pty Ltd; and (e) was granted over an area of approximately 11 hectares (measurement agreed within a margin of error of +/- 3%).
269.	L 47/901 was granted after the making of the Yindjibarndi Determination.
270.	<p>L 47/901 is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) wholly within the Non-Exclusive Area.
271.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/901:</p> <ul style="list-style-type: none"> (a) on or around 29 March 2019, the First Respondent issued a notice under section 24MD(6B)(c) 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; and (b) no objection was made by the Applicant with respect to the grant of L 47/901 pursuant to section 24MD(6B)(d) of the NTA.
L 47/914	
272.	<p>L 47/914:</p> <ul style="list-style-type: none"> (a) was applied for on 20 August 2019 by Pilbara Energy Company Pty Ltd; (b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 15 November 2019, with a current expiry of 14 November 2040; (c) was granted for the purposes of a bore, a bore field, a communications facility, a pipeline, a power line, a road, a search for groundwater and taking water, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>; (d) is currently held by Pilbara Energy Company Pty Ltd; and (e) was granted over an area of approximately 295 hectares (measurement agreed within a margin of error of +/- 3%).
273.	L 47/914 was granted after the making of the Yindjibarndi Determination.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
274.	<p>L 47/914 is located:</p> <ul style="list-style-type: none"> (a) partly within the Compensation Application Area (with a current encroachment of approximately 71.01%, being an area of approximately 209 hectares) (measurement agreed within a margin of error of +/- 3%); and (b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 94.29%) and partly over the Exclusive Area (with a current encroachment of approximately 5.08%).
275.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/914:</p> <ul style="list-style-type: none"> (a) on or around 30 August 2019, the First Respondent issued a notice of its intention to grant L 47/914 to Pilbara Energy Company Pty Ltd pursuant to section 24MD(6B)(c) of the NTA with respect to the purposes of “<i>a bore, a bore field, a communications facility, a pipeline, a power line, a road.</i>” The notice indicated that the notification period for L 47/914 expired on 6 November 2019; (b) on or around 30 August 2019, the First Respondent also issued a notice of its intention to grant L 47/914 to Pilbara Energy Company Pty Ltd pursuant to section 24HA(7) of the NTA with respect to the purposes of “<i>taking water and search for ground water</i>” and invited comments by 11 October 2019; and (c) no objection was made by the Applicant with respect to the grant of L 47/914 pursuant to section 24MD(6B)(d) of the NTA.
L 47/919	
276.	<p>L 47/919:</p> <ul style="list-style-type: none"> (a) was applied for on 18 October 2019 by FMG Pilbara Pty Ltd; (b) is a miscellaneous licence granted pursuant to Part IV, Division 5 of the <i>Mining Act</i> for a term of 21 years commencing on 10 January 2020, with a current expiry of 9 January 2041; (c) was granted for the purposes of a bore, a bore field, a communications facility, a pipeline, a power line, a pump station, a road, a search for groundwater, a water management facility, a workshop and storage facility and taking water, being purposes prescribed in regulation 42B of the <i>Mining Regulations</i>; (d) is currently held by FMG Pilbara Pty Ltd; and (e) was granted over an area of approximately 931 hectares (measurement agreed within a margin of error of +/- 3%).
277.	L 47/919 was granted after the making of the Yindjibarndi Determination.
278.	<p>L 47/919 is located:</p> <ul style="list-style-type: none"> (a) partly within the Compensation Application Area (with a current encroachment of approximately 94.07%, being an area of approximately 875 hectares) (measurement agreed within a margin of error of +/- 3%); and (b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 54.39%) and partly over the Exclusive Area (with a current encroachment of approximately 45.61%).

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
279.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of L 47/919:</p> <p>(a) on or around 25 October 2019, the First Respondent issued a notice of its intention to grant L 47/919 to FMG Pilbara Pty Ltd pursuant to section 24MD(6B)(c) of the NTA with respect to the purposes of “a bore, a bore field, a communications facility, a pipeline, a power line, a pump station, a road, a water management facility, a workshop and storage facility.” The notice indicated that the notification period for L 47/919 expired on 1 January 2020;</p> <p>(b) on or around 8 November 2019, the First Respondent also issued a notice of its intention to grant L 47/919 to FMG Pilbara Pty Ltd pursuant to section 24HA(7) of the NTA with respect to the purposes of “taking water, search for ground water” and invited comments by 20 December 2019; and</p> <p>(c) no objection was made by the Applicant with respect to the grant of L 47/919 pursuant to section 24MD(6B)(d) of the NTA.</p>
E 47/1319-I	
280.	<p>E 47/1319-I:</p> <p>(a) was applied for on 16 October 2003 by Fortescue Metals Group Ltd. On 19 July 2012 E 47/1319-I was transferred to FMG Pilbara Pty Ltd;</p> <p>(b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 16 March 2012;</p> <p>(c) was extended for a further term:</p> <p>(i) on 8 June 2017 for 2 years, ending on 15 March 2019;</p> <p>(ii) on 15 May 2019 for 2 years, ending on 15 March 2021;</p> <p>(iii) on 14 May 2021 for 1 year, ending on 15 March 2022;</p> <p>(iv) on 3 May 2022 for 1 year, ending on 15 March 2023; and</p> <p>(v) on 18 May 2023 for 1 year, ending on 15 March 2024;</p> <p>(d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/1319-I;</p> <p>(e) is currently held by FMG Pilbara Pty Ltd;</p> <p>(f) was and is currently granted over 21 blocks², not including the areas affected by E 47/475 and E 47/585;</p> <p>(g) is currently the subject of Conversion 621412, being an application for M 47/1617 which was made on 21 April 2021; and</p> <p>(h) sits over the place known as Bangkangarra.</p>
281.	<p>E 47/1319-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.</p>

² As described in section 56C of the *Mining Act*. A block is approximately 3 square kilometres

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
282.	<p>E 47/1319-I is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; (b) wholly within the Exclusive Area.
283.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/1319-I:</p> <ul style="list-style-type: none"> (a) on 23 April 2008, the First Respondent gave notice under section 29 of the NTA of its intention to grant E 47/1319-I to Fortescue Metals Group Ltd. That notice did not include a statement indicating that the First Respondent considered the expedited procedure applied to the grant of E 47/1319-I; (b) 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); (c) between 25 May 2010 and 5 April 2011, seven mediation conferences were convened by the NNTT between the First Respondent, Fortescue Metals Group Ltd and the Yindjibarndi #1 claimant. On 15 April 2011 the mediation was terminated by the NNTT for non-participation of the Yindjibarndi #1 claimant; (d) 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); and (e) on 7 February 2012, the NNTT determined that the grant of E 47/1319-I may be done, subject to the imposition of the following extra conditions: <ul style="list-style-type: none"> (i) Any right of the native title party (as defined in ss 29 and 30 of the <i>Native Title Act 1993</i> (Cth)) to access or use the land the subject of the exploration licence is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations, or for safety and security reasons relating to those activities. (ii) If the grantee party gives a notice to the Aboriginal Culture Material Committee, under s 18 of the <i>Aboriginal Heritage Act 1972</i> (WA), it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial data), on the native title parties. (iii) Where, prior to commencing any development or productive mining or construction activity, the grantee party submits a plan of proposed operations and measures to safeguard the environment or any addendums thereafter to the Director of Environment at the Department of Mines and Petroleum for their assessment and written approval; the grantee party must at the same time give to the native title party a copy of the proposal or addendums, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes. (iv) Upon assignment of the exploration licence, the assignees shall be bound by these conditions. <p>see <i>FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2012] NNTTA 11.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
E 47/1333-I	
284.	<p>E 47/1333-I:</p> <ul style="list-style-type: none"> (a) was applied for on 18 November 2003 by Fortescue Metals Group Ltd. On 19 November 2007 E 47/1333-I was transferred to FMG Pilbara Pty Ltd; (b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 28 July 2007; (c) was extended for a further term: <ul style="list-style-type: none"> (i) on 21 August 2012 for 2 years, ending on 27 July 2014; (ii) on 17 July 2014 for 2 years, ending on 27 July 2016; (iii) on 3 October 2016 for 1 year, ending on 27 July 2017; (iv) on 12 October 2017 for 1 year, ending on 27 July 2018; (v) on 28 September 2018 for 1 year, ending on 27 July 2019; (vi) on 2 August 2019 for 1 year, ending on 27 July 2020; (vii) on 27 July 2020 for 1 years, ending on 27 July 2021; (viii) on 27 August 2021 for 1 year, ending on 27 July 2022; (ix) on 24 August 2022 for 1 year, ending on 27 July 2023; and (x) on 11 October 2023 for 1 year, ending on 27 July 2024; (d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/1333-I; (e) is currently held by FMG Pilbara Pty Ltd; (f) was granted over 58 blocks, not including the areas affected by Mineral Lease 4SA, Special Lease 3116/4011, General Lease I195323, E 47/475, E 47/536, E 47/731, 47/1011 and Hamersley Range blocks 1916p, 1917w, 1917x and 1918t; and (g) currently comprises approximately 50 blocks, not including the areas affected by Mineral Lease 4SA, Special Lease 3116/4011, General Lease I195323, E 47/475, E 47/536, E 47/731, 47/1011 and Hamersley Range blocks 1916p, 1917w, 1917x and 1918t.
285.	E 47/1333-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.
286.	<p>E 47/1333-I is located:</p> <ul style="list-style-type: none"> (a) partly within the Compensation Application Area(with a current encroachment of approximately 9.83%; and (b) to the extent that it is within the Compensation Application Area, wholly within the Exclusive Area.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
287.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/1333-I:</p> <p>(a) on or about 20 December 2006, the First Respondent gave notice under section 29 of the NTA of its intention to grant E 47/1333-I to Fortescue Metals Group Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent considered that the grant of E 47/1333-I was an act attracting the expedited procedure (expedited procedure statement). 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; and</p> <p>(b) 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).</p>
E 47/1334-I	
288.	<p>E 47/1334-I:</p> <p>(a) was applied for on 18 November 2003 by Fortescue Metals Group Ltd. On 19 November 2007 E 47/1334-I was transferred to FMG Pilbara Pty Ltd;</p> <p>(b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 2 June 2007;</p> <p>(c) was extended for a further term:</p> <p>(i) on 28 May 2012 for 2 years, ending on 1 June 2014;</p> <p>(ii) on 3 June 2014 for 2 years, ending on 1 June 2016;</p> <p>(iii) on 9 September 2016 for 1 year, ending on 1 June 2017;</p> <p>(iv) on 25 August 2017 for 1 year, ending on 1 June 2018;</p> <p>(v) on 30 July 2018 for 1 year, ending on 1 June 2019;</p> <p>(vi) on 30 July 2019 for 1 year, ending on 1 June 2020;</p> <p>(vii) on 2 June 2020 for 1 year, ending on 1 June 2021;</p> <p>(viii) on 1 June 2021 for 1 year, ending on 1 June 2022;</p> <p>(ix) on 31 May 2022 for 1 year, ending on 1 June 2023; and</p> <p>(x) on 5 September 2023 for 1 year, ending on 1 June 2024;</p> <p>(d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/1334-I;</p> <p>(e) is currently held by FMG Pilbara Pty Ltd;</p> <p>(f) was granted over 61 blocks, not including the areas affected by Mineral Lease 4SA, E 47/475, E 47/731, E 47/1011; and</p> <p>(g) currently comprises approximately 27 blocks, not including the areas affected by Mineral Lease 4SA, E 47/475, E 47/731, E 47/1011 and Hamersley Range blocks 1919l and 1919q.</p>
289.	<p>E 47/1334-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
290.	<p>E 47/1334-I is located:</p> <ul style="list-style-type: none"> (a) partly within the Compensation Application Area (with a current encroachment of approximately 37.42%); and (b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 50.92%) and partly over the Exclusive Area (with a current encroachment of approximately 48.78%).
291.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/1334-I:</p> <ul style="list-style-type: none"> (a) on or about 8 November 2006, the First Respondent gave notice under section 29 of the NTA of its intention to grant E 47/1334-I to Fortescue Metals Group Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent 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; and (b) 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)
E 47/1398-I	
292.	<p>E 47/1398-I:</p> <ul style="list-style-type: none"> (a) was applied for on 8 April 2004 by FMG Pilbara Pty Ltd; (b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 8 July 2011; (c) was extended for a further term: <ul style="list-style-type: none"> (i) on 14 September 2016 for 2 years, ending on 7 July 2018; (ii) on 14 September 2018 for 2 years, ending on 7 July 2020; (iii) on 31 August 2020 for 1 year, ending on 7 July 2021; (iv) on 10 September 2021 for 1 year, ending on 7 July 2022; (v) on 7 September 2022 for 1 year, ending on 7 July 2023; (vi) on 14 September 2023 for 1 year, ending on 7 July 2024; (d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/1398-I; (e) is currently held by FMG Pilbara Pty Ltd; and (f) was and is currently granted over approximately 69 blocks, not including the areas affected by M 47/1431.
293.	<p>E 47/1398-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
294.	<p>E 47/1398-I is located:</p> <ul style="list-style-type: none"> (a) partly within the Compensation Application Area (with a current encroachment of approximately 99.5%); and (b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 91.01%) and partly over the Exclusive Area (with a current encroachment of approximately 8.92%).
295.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/1398-I:</p> <ul style="list-style-type: none"> (a) on or around 7 January 2005, the First Respondent issued a notice under section 29 of the NTA of its intention to grant E 47/1398-I to FMG Pilbara Pty Ltd. That notice did not include a statement that the First Respondent considered the expedited procedure applied to the grant of E 47/1398-I; (b) 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); (c) 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 First Respondent 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; (d) 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 First Respondent; (e) 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; and (f) on 17 June 2011 (as varied on 11 July 2011), the NNTT: <ul style="list-style-type: none"> (i) found that FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant; and (ii) determined that the grant of E 47/1398-I may be done, subject to the imposition of the following extra conditions: <ul style="list-style-type: none"> (1) Any right of the native title party (as defined in ss 29 and 30 of the Native Title Act 1993) to access or use the land the subject of the exploration licence is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations, or for safety and security reasons relating to those activities. (2) If the grantee party gives a notice to the Aboriginal Culture Material Committee, under s 18 of the Aboriginal Heritage Act 1972 (WA), it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial data), on the native title parties. (3) Where, prior to commencing any development or productive mining or construction activity, the grantee party submits a plan of proposed operations and measures to safe guard the environment or any addendums thereafter to the

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>Director of Environment at the Department of Mines and Petroleum for his assessment and written approval; the grantee party must at the same time give to the native title party a copy of the proposal or addendums, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes.</p> <p>(4) Upon assignment of the mining lease, the assignees shall be bound by these conditions.</p> <p><i>see FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia [2011] NNTTA 107.</i></p>
E 47/1399-I	
296.	<p>E 47/1399-I:</p> <p>(a) was applied for on 8 April 2004 by FMG Pilbara Pty Ltd;</p> <p>(b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 8 July 2011;</p> <p>(c) was extended for a further term:</p> <p>(i) on 14 September 2016 for 2 years, ending on 7 July 2018;</p> <p>(ii) on 14 September 2018 for 2 years, ending on 7 July 2020;</p> <p>(iii) on 31 August 2020 for 1 year, ending on 7 July 2021;</p> <p>(iv) on 9 September 2021 for 1 year, ending on 7 July 2022;</p> <p>(v) on 7 September 2022 for 1 year, ending on 7 July 2023; and</p> <p>(vi) on 14 September 2023 for 1 year, ending on 7 July 2024;</p> <p>(d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/1399-I;</p> <p>(e) is currently held by FMG Pilbara Pty Ltd;</p> <p>(f) was granted over 68 blocks; and</p> <p>(g) currently comprises 64 blocks.</p>
297.	E 47/1399-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.
298.	<p>E 47/1399-I is located:</p> <p>(a) partly within the Compensation Application Area (with a current encroachment of approximately 31.49% (measurement agreed within a margin of error of +/- 3%); and</p> <p>(b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 94.06%) and partly over the Exclusive Area (with a current encroachment of approximately 5.94%).</p>

299.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/1399-I:</p> <ul style="list-style-type: none">(a) on or around 13 January 2006, the First Respondent issued a notice under section 29 of the NTA of its intention to grant E 47/1399-I to FMG Pilbara Pty Ltd. That notice did not include a statement that the First Respondent considered grant of the tenement was an act to which the expedited procedure applies;(b) 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);(c) 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 First Respondent 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;(d) 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 First Respondent;(e) 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; and(f) on 17 June 2011 (as varied on 11 July 2011), the NNTT:<ul style="list-style-type: none">(i) found that FMG Pilbara Pty Ltd had negotiated in good faith with the Yindjibarndi #1 claimant; and(ii) determined that the grant of E 47/1399-I may be done, subject to the imposition of the following extra conditions:<ul style="list-style-type: none">(1) Any right of the native title party (as defined in ss 29 and 30 of the <i>Native Title Act 1993</i>) to access or use the land the subject of the exploration licence is not to be restricted except in relation to those parts of the land which are used for exploration or mining operations, or for safety and security reasons relating to those activities.(2) If the grantee party gives a notice to the Aboriginal Culture Material Committee, under s 18 of the <i>Aboriginal Heritage Act 1972</i> (WA), it shall at the same time serve a copy of that notice, together with copies of all documents submitted by the grantee party to the Aboriginal Cultural Material Committee in support of the application (exclusive of sensitive commercial data), on the native title parties.(3) Where, prior to commencing any development or productive mining or construction activity, the grantee party submits a plan of proposed operations and measures to safe guard the environment or any addendums thereafter to the Director of Environment at the Department of Mines and Petroleum for his assessment and written approval; the grantee party must at the same time give to the native title party a copy of the proposal or addendums, excluding sensitive commercial data, and a plan showing the location of the proposed mining operations and related infrastructure, including proposed access routes.(4) Upon assignment of the mining lease, the assignees shall be bound by these conditions. <p>see <i>FMG Pilbara Pty Ltd/ Ned Cheedy and Others on behalf of the Yindjibarndi People/ Western Australia</i> [2011] NNTTA 107.</p>
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H. MINING TENURE OF THE SMH	
No.	Agreed Fact
E 47/1447-I	
300.	<p>E 47/1447-I:</p> <ul style="list-style-type: none"> (a) was applied for on 10 August 2004 by FMG Pilbara Pty Ltd; (b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 2 June 2007; (c) was extended for a further term: <ul style="list-style-type: none"> (i) on 28 May 2012 for 2 years, ending on 1 June 2014; (ii) on 29 May 2014 for 2 years, ending on 1 June 2016; (iii) on 9 September 2016 for 1 year, ending on 1 June 2017; (iv) on 25 August 2017 for 1 year, ending on 1 June 2018; (v) on 30 July 2018 for 1 year, ending on 1 June 2019; (vi) on 23 July 2019 for 1 year, ending on 1 June 2020; (vii) on 1 July 2020 for 1 year, ending on 1 June 2021; (viii) on 1 July 2021 for 1 year, ending on 1 June 2022; (ix) on 3 August 2022 for 1 year, ending on 1 June 2023; and (x) on 5 September for 1 year, ending on 1 June 2024; (d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/1447-I; (e) is currently held by FMG Pilbara Pty Ltd; (f) was granted over 32 blocks, not including the area affected by E 47/585; and (g) currently comprises approximately 28 blocks, not including the area affected by E 47/585.
301.	E 47/1447-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.
302.	<p>E 47/1447-I is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) partly within the Non-Exclusive Area (with a current encroachment of approximately 31.54%) and partly over the Exclusive Area (with a current encroachment of approximately 68.46%).
303.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/1447-I:</p> <ul style="list-style-type: none"> (a) on or around 22 September 2006, the First Respondent issued a notice under section 29 of the NTA of its intention to grant E 47/1447-I to FMG Pilbara Pty Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent 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; and

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	(b) on or around 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).
E 47/3205-I	
304.	<p>E 47/3205-I:</p> <ul style="list-style-type: none"> (a) was applied for on 15 September 2014 by FMG Pilbara Pty Ltd; (b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 21 September 2016; (c) was extended for a further term on 19 November 2021 for 5 years, ending on 20 September 2026; (d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/3205-I; (e) is currently held by FMG Pilbara Pty Ltd; (f) was granted over 20 blocks, not including the areas affected by L 47/47, general lease I195323 and general lease H954583; and (g) currently comprises approximately 5 blocks, not including the areas affected by L 47/47, general lease I195323 and general lease H954583.
305.	E 47/3205-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.
306.	<p>E 47/3205-I is located:</p> <ul style="list-style-type: none"> (a) wholly within the Compensation Application Area; and (b) partly within the Non-Exclusive Area (with a current encroachment of approximately 93.67%) and partly over the Exclusive Area (with a current encroachment of approximately 6.27%).
307.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/3205-I:</p> <ul style="list-style-type: none"> (a) on or around 29 April 2016, the First Respondent issued a notice under section 29 of the NTA of its intention to grant E 47/3205-I to FMG Pilbara Pty Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent 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; and (b) 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.

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
E 47/3464-I	
308.	<p>E 47/3464-I:</p> <ul style="list-style-type: none"> (a) was applied for on 1 March 2016 by FMG Pilbara Pty Ltd; (b) is an exploration licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 5 years commencing on 24 February 2017; (c) was extended for a further term on 27 April 2022 for 5 years, ending 23 February 2027; (d) is endorsed with an authority given by the Minister for Mines under section 111 of the <i>Mining Act</i> to explore for iron on the land the subject of E 47/3464-I; (e) is currently held by FMG Pilbara Pty Ltd; and (f) was granted over and currently comprises approximately 10 blocks, not including the areas affected by L 1SA, mineral lease 4SA and that portion of land designated “S19/230” in TENGRAPH which was declared exempt from occupation as a mining tenement on 7 December 2005 and published in the Government Gazette dated 15 November 2013.
309.	E 47/3464-I is included as an ‘other interest’ at Schedule 5, item 4(a)(iii) of the Yindjibarndi Determination.
310.	<p>E 47/3464-I is located:</p> <ul style="list-style-type: none"> (a) partly within the Compensation Application Area (with a current encroachment of approximately 42.33%,(measurement agreed within a margin of error of +/- 3%); and (b) to the extent that it is within the Compensation Application Area, partly within the Non-Exclusive Area (with a current encroachment of approximately 43.63%) and partly over the Exclusive Area (with a current encroachment of approximately 55.53%).
311.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of E 47/3464-I:</p> <ul style="list-style-type: none"> (a) on or around 30 September 2016, the First Respondent issued a notice under section 29 of the NTA of its intention to grant E 47/3464-I to FMG Pilbara Pty Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent 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; and (b) 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.
P 47/1945	
312.	<p>P 47/1945:</p> <ul style="list-style-type: none"> (a) was applied for by FMG Pilbara Pty Ltd on 16 June 2020; (b) is a prospecting licence granted pursuant to Part IV, Division 1 of the <i>Mining Act</i> for a term of 4 years commencing on 11 August 2021, with a current expiry date of 10 August 2025; (c) was granted over an area of approximately 166 hectares (measurement agreed within a margin of error of +/- 3%);

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
	<p>(d) was partly amalgamated into E 47/1334-I pursuant to section 67A of the <i>Mining Act</i> on 14 March 2022;</p> <p>(e) is currently held by FMG Pilbara Pty Ltd; and</p> <p>(f) currently comprises an area of approximately 4.5 hectares (measurement agreed within a margin of error of +/- 3%).</p>
313.	P 47/1945 was granted after the making of the Yindjibarndi Determination.
314.	<p>P 47/1945:</p> <p>(a) is located partly within the Compensation Application Area (with a current encroachment of approximately 37.13%, being an area of approximately 1.7 hectares) (measurement agreed within a margin of error of +/- 3%); and</p> <p>(b) was and is located, to the extent that it is within the Compensation Application Area, wholly within the Non-Exclusive Area.</p>
315.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of P 47/1945:</p> <p>(a) on or around 29 January 2021, the First Respondent issued a notice under section 29 of the NTA of its intention to grant P 47/1945 to FMG Pilbara Pty Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent 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 5 June 2021; and</p> <p>(b) no objection was made by the Applicant with respect to the grant of P 47/1945 pursuant to section 32(3) of the NTA.</p>
P 47/1946	
316.	<p>P 47/1946 was:</p> <p>(a) applied for by FMG Pilbara Pty Ltd on 16 June 2020;</p> <p>(b) a prospecting licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 4 years commencing on 11 August 2021;</p> <p>(c) granted over an area of approximately 166 hectares (measurement agreed within a margin of error of +/- 3%);</p> <p>(d) wholly amalgamated into E 47/1334-I and E 47/3464-I pursuant to section 67A of the <i>Mining Act</i> on 14 March 2022 and, accordingly, expired on that date; and</p> <p>(e) held by FMG Pilbara Pty Ltd immediately prior to its expiry.</p>
317.	P 47/1946 was granted after the making of the Yindjibarndi Determination.
318.	<p>P 47/1946 was located:</p> <p>(a) partly within the Compensation Application Area (with an encroachment at grant of approximately 98.51% (measurement agreed within a margin of error of +/- 3%)); and</p> <p>(b) to the extent that it was within the Compensation Application Area, wholly within the Non-Exclusive Area.</p>

H. MINING TENURE OF THE SMH	
No.	Agreed Fact
319.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of P 47/1946:</p> <p>(a) on or around 29 January 2021, the First Respondent issued a notice under section 29 of the NTA of its intention to grant P 47/1946 to FMG Pilbara Pty Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent 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 5 June 2021; and</p> <p>(b) no objection was made by the Applicant with respect to the grant of P 47/1946 pursuant to section 32(3) of the NTA.</p>
P 47/1947	
320.	<p>P 47/1947 was:</p> <p>(a) applied for by FMG Pilbara Pty Ltd on 16 June 2020;</p> <p>(b) a prospecting licence granted pursuant to Part IV, Division 2 of the <i>Mining Act</i> for a term of 4 years commencing on 11 August 2021;</p> <p>(c) granted over an area of approximately 149 hectares (measurement agreed within a margin of error of +/- 3%);</p> <p>(d) wholly amalgamated into E 47/1334-I and E 47/3464-I pursuant to section 67A of the <i>Mining Act</i> on 14 March 2022 and, accordingly, expired on that date; and</p> <p>(e) held by FMG Pilbara Pty Ltd immediately prior to its expiry.</p>
321.	P 47/1947 was granted after the making of the Yindjibarndi Determination.
322.	<p>P 47/1947 was located:</p> <p>(a) partly within the Compensation Application Area (with an encroachment at grant of approximately 97.38%, being an area of approximately 145 hectares) (measurement agreed within a margin of error of +/- 3%); and</p> <p>(b) to the extent that it was within the Compensation Application Area, wholly within the Non-Exclusive Area.</p>
323.	<p>In respect of the application of Part 2, Division 3 of the NTA to the grant of P 47/1947:</p> <p>(a) on or around 29 January 2021, the First Respondent issued a notice under section 29 of the NTA of its intention to grant P 47/1947 to FMG Pilbara Pty Ltd. That notice included a statement pursuant to section 29(7) of the NTA that the First Respondent 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 5 June 2021; and</p> <p>(b) no objection was made by the Applicant with respect to the grant of P 47/1947 pursuant to section 32(3) of the NTA.</p>

NOTICE OF FILING

Details of Filing

Document Lodged: Statement of Agreed Facts
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 12/02/2024 5:30:04 PM AWST
Date Accepted for Filing: 12/02/2024 5:30:08 PM AWST
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8721 AND STATE OF WESTERN AUSTRALIA & ORS
Registry: WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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

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