



# Fifth Affidavit of Sean Nelson Costello

WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

Division: General

**YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC**

Applicant

**STATE OF WESTERN AUSTRALIA & ORS**

Respondents

Affidavit of: **Sean Nelson Costello**

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

Occupation: Geospatial Analyst

Date: 2 April 2024

A handwritten signature in blue ink, appearing to read 'Sean Nelson Costello'.

A handwritten signature in blue ink, appearing to read 'Sean Nelson Costello'.

I, Sean Nelson Costello, c/- Fortescue Metals Group, Level 2, 87 Adelaide Terrace, East Perth WA 6004, geospatial analyst, make oath and say as follows:

1. I am currently employed by Fortescue Metals Group Ltd (**FMGL**) as Lead Geospatial Analyst. FMGL is the holding company of a number of related companies including the 2<sup>nd</sup> to 6<sup>th</sup> respondents (**FMG Respondents**) in this case (together **FMG**).
2. I am authorised to make this affidavit on behalf of the FMG Respondents.
3. Unless otherwise stated, the facts contained in this affidavit are within my own knowledge and are true.
4. This is my fifth affidavit in these proceedings. The purpose of this affidavit is to clarify matters that were set out in my affidavit dated 16 February 2024 (**Fourth Affidavit**).

#### **Information regarding FMG Tenements**

5. In my Fourth Affidavit, I identified that the purpose of that affidavit was to outline the source of data which was prepared by FMG for provision to FMG's expert witnesses in the proceedings. That data was contained in a spreadsheet, which was attached to my Fourth Affidavit and marked "SNC-17".
6. I am informed by Simon Bourke, a lawyer at Allen & Overy, and believe that "SNC-17" was provided to Gregory Preston, an expert valuer engaged by the FMG Respondents, for the purpose of informing Mr Preston as to the size of each of FMG's tenements as at the date of grant of each tenement.
7. In my Fourth Affidavit at paragraph [7], I stated that I was asked to review "SNC-17" for the purpose of confirming that the data contained within that spreadsheet was correct.
8. I conducted that review during August and September 2023, in the course of preparing the spreadsheets referred to in my third affidavit sworn on 30 October 2023, and conducted a further review in December 2023. To conduct those reviews, I cross-checked the data contained in "SNC-17" against mining tenement spatial data contained in FMG's databases. The data contained in FMG's databases was the same data I used to prepare the spreadsheets referred to in my third affidavit sworn on 30 October 2023.



9. Through that cross-check, I confirmed that the areas and grant dates of FMG's tenements as recorded in "SNC-17" were consistent with what was recorded in FMG's databases, save for the three errors identified in my Fourth Affidavit at paragraph [10].
10. I am informed by Simon Bourke and believe that the existence of those three errors was communicated to Mr Preston, and that the correct grant dates and areas are recorded in Mr Preston's report.

**Groundwater Map**

11. In my Fourth Affidavit, I stated that I prepared a map titled "Regional Groundwater Level Monitoring", in accordance with a request from Mr Michael Carroll, and that I was informed that the map would be produced by FMG as an annexure to an affidavit in these proceedings.
12. Now shown to me is a map marked "JAB-4", being the fourth annexure to the affidavit of Jordin Alexander Barclay sworn on 22 February 2024. That map is titled, in the bottom right corner, "Regional Groundwater Level Monitoring". I confirm that the map marked "JAB-4" is the same map that I refer to in my Fourth Affidavit.

Sworn by Sean Nelson Costello  
 At East Perth  
 in the State of Western Australia  
 on 2 April 2024

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Signature of deponent

Before me: MILA BANOVIC

Signature of witness

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

## NOTICE OF FILING

### Details of Filing

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*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.

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