

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

**Witness statement of Middleton Cheedy**

<b>(Paragraph / Part of Paragraph)</b>	<b>Objection</b>	<b>Applicant’s response</b>	<b>Resolution/ Ruling required</b>
[14]-[18], [32] (1st sentence) [35] (2nd sentence: “It has divided us.”); [43]-[45]; [52]-[53]; [54] (11 <sup>th</sup> sentence); [55].	Relevance (social disharmony)		Resolution: the parties have agreed that the ruling on this objection is appropriately dealt with when judgment is delivered because whether social disharmony is compensable under Part 2, Division 5 of the NTA is a matter in issue between the parties.
[27] (5 <sup>th</sup> sentence)	Relevance Opinion	<p>Relevant to social disruption and division of the Yindjibarndi People, and to the depth of pain felt by MC because of events that have occurred.</p> <p>Opinion – not pressed to establish the truth of the assertion. Rather, it is pressed under s 78A of the EA as an application of the existence of traditional laws and customs of the Yindjibarndi People</p>	EA 136: The statements are admitted as evidence of the witness’s belief only.

<b>(Paragraph / Part of Paragraph)</b>	<b>Objection</b>	<b>Applicant's response</b>	<b>Resolution/ Ruling required</b>
[36]	Relevance	<p>Evidence relates to the expression of deep seated feelings that the building of the Mine without appropriate permissions has caused MC.</p> <p>MC's reaction to statements from AF demonstrates depth of feeling and hurt caused by the mine.</p>	EA 136: The statements are admitted as evidence of the witness's belief only.



## WITNESS STATEMENT OF MIDDLETON CHEEDY

Federal Court of Australia

No: WAD 37/2022

District Registry: Western Australia

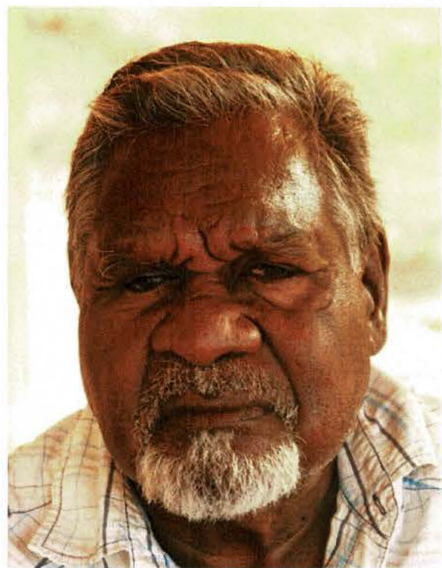
Division: General

**YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC (ICN 8721)**

Applicant

**STATE OF WESTERN AUSTRALIA and others**

Respondents



### **Background**

1. I am a common law native title holder as recognised by the Determination of the Federal Court in *Daniel v State of Western Australia* [2005] FCA 536 and upheld by the Full Court in *Moses v State of Western Australia* [2007] FCAFC 78 (**Ngarluma Yindjibarndi claim**) and in *Warrie on behalf of the Yindjibarndi People v State of*

*Western Australia (No 2)* [2017] FCA 1299 (**Yindjibarndi #1**). I am a member of the Yindjibarndi Aboriginal Corporation (**YAC**). I am a Director of YAC.

2. My name is Boonjah (Middleton) Cheedy. I was born on 6 June (made up day) 1954 on Coolawanyah Station. I live in Cheeditha Community.
3. I was a care worker for Pilbara and Kimberley Care in 1990 for 12 years. I worked for Juluwarlu from 2009 until 2021. I am now retired.

### **My personal Details and family history**

4. I am an Yindjibarndi man. I am *Banaga* skin. and my wife (deceased) was *Burungu*. She was from Marble Bar. She is straight *nhuwba* for me (appropriate skin).
5. My *bibi* (mother) was Cherry Cheedy (nee Gilbie). She was *Garimarra* skin and was born at Tambrey Station. My mum was sick when she ate kangaroo and she found out she was pregnant with me. Yandicoogina (David Stock), who is a Nyiyiparli man, is my *gudjeru* (godfather) because he brought the kangaroo meat into the camp to eat. That means that Yandicoogina and me have a special relationship because that man was the one who was the hunter for the meat that made my Mum know she was having me. When an expecting mother gets sick after eating something the old people will say, "an addition to the family is on the way and we are expecting a little one."
6. My *babu* (father) was Cheedy Ned. His *yirrgarn* (birthplace) is *Jiirdi Yinda* (pool) which is also called Cheedy Well on Hooley Station. It is in the Yindjibarndi #1 determination area, north of the Solomon Hub Project mine (the **Mine**) at Ganjigurrangurra. Dad was an Yindjibarndi man of *Balyirri* skin. My parents had an arranged traditional marriage and were straight *nhuwbas*. They stayed on Coolawanyah Station because they were employed there. They worked on other stations on Yindjibarndi country too, including Tambrey Station and Hooley Station.
7. My *maali* (father's father) was an Yindjibarndi man, named Nyindinbungu (Ned Brumby King). His wife was my *gawali* (father's mother) named Mapi (Daisy). Mapi was born at Buminjinha (on Tambrey Station) and belonged to that country. Many people were born at Buminji as it was a big meeting place, a ration camp, and a

Police Station. My *maali* and *gawali* were shepherds at Hooley Station. Cheedy Station was part of what is now Hooley Station.

8. I have brothers and sisters, they are: Rosie (deceased), Pansy, Jane, Robert, Marion, Allum (deceased), Lyn and Shane. I have 2 daughters named Shandel and Chantelle. My daughters are *Balyarri Galharra*.

### **Yindjibarndi country**

9. Yindjibarndi sites are all connected and are inseparable from the whole of Yindjibarndi country. It is similar to the human body, all parts of the body are linked and interdependent. It is impossible to travel from one place to another on Yindjibarndi country, or to survive, without each feature playing its part. Every element and site fulfils a vital role. It is my inheritance. I was taught by my Mum and Dad that our land is alive. If one part of the body is cut, or hurt or disturbed in some way, then the whole body feels that pain. So, if one site is altered, then that affects the overall history, sustainability, biodiversity and knowledge within all Yindjibarndi country. That is particularly so for the water in the *wundus* (creeks) and the *jinbis* (springs). Without the water the Yindjibarndi and the country have nothing. It is all dead.
10. The sites are all linked as we are physically and spiritually connected to our country. We don't see one site or area as more important than another, because one cannot survive without the other, and we cannot think about country in any other way because that is how it has been handed down to us. Land and water have been given to the Yindjibarndi people by *Minkala* (God). The land is the inheritance of every Yindjibarndi person; whether they have passed away, if they are living, or if they are yet to be born.
11. I believe that FMG have stolen our country under Yindjibarndi law. I can tell that the spirits that were once at the Mine are gone. Revegetation of the Mine site will not restore the spirits of the countryside. I feel the loss in my *wirrard* (soul) because the countryside is lost. It makes me feel hopeless.

12. To illustrate what I mean by the connection between Yindjibarndi People and country, I was taught by my Mum and Dad that *Wardun* is the word that means both lungs and leaves. Yindjibarndi People breath out of our lungs and the leaves on the tree breath in for us, it is our fitness. Nature cleans the air for us, by the trees breathing in fresh air after Yindjibarndi People breathe out exhaust. One does not work without the other.

13. I have a responsibility to look after it and protect it as it protects me. My responsibilities for protecting my country were taken from me when the State government granted the mining leases to FMG and then FMG built the Mine without the Yindjibarndi's permission. When that happened my *wirrard* was broken.

### **16 March 2011 meeting**

14. I went to a meeting on 16 March 2011 at the 50 Cent Hall where Andrew Forrest addressed the meeting with his arm in a sling. That was my first Yindjibarndi #1 meeting. There were lots of arguments between Andrew Forrest and Yindjibarndi people at that meeting. The Wirlu-Murra Yindjibarndi Aboriginal Corporation (**WYAC**) lawyer, Ron Bower, was there too running the meeting. It was a shouting match. I sat back and was shocked. The WYAC mob were there and were shouting at Yindjibarndi people at 50 Cent Hall (about 180 people attended). There were two factions in the 50 Cent Hall. The WYAC mob sat near the door and my family, and the rest of the YAC group, were away from the door. I sat near to the front with my sisters and father.

15. A bloke named Blair McGlew from FMG stood up and made an offer of a signing fee of \$500,000, \$3 million every year for all Yindjibarndi People and \$1 million every year for an Elder's fund. Those offers I thought were *yallo yallo* (the trunk of an old tree that is empty and full of sand) and no good. Annexed to the affidavit of Simon Charles Blackshield dated 1 May 2023 (**First SCB Affidavit**) and marked "**SCB-27**" is a copy of the transcript of the 16 March 2011 meeting.

16. I have recently watched the recording of the 16 March 2011 meeting. I look back now and consider how the community has been shattered since about 2010. The WYAC members took YAC to court all the time and we didn't have much money. It felt like

we were not getting anywhere. I had confidence in what YAC and the legal team were doing.

17. My Dad, Cheedy Ned, was a calm man who didn't lose his temper. But he got angry at the 16 March 2011 meeting and said, "*goondang wandanah nyaidari*" (respect has left us). In Yindjibarndi law and custom, my father taught me that senior men are the *Tharngungarli* – the mouthpiece (boss)– for country. Women look after other things. Our old people understood this. Allery Sandy and her family broke the Yindjibarndi law by screaming at my father and not being respectful. He was the senior Elder who knew the country better than anyone. It is the Yindjibarndi law to listen to him and our other Elders about the FMG mine.

18. After the March 2011 meeting, I went to other meetings. Each meeting got worse with shouting from the WYAC members every time. To this day if it is a general YAC meeting, I have seen the WYAC mob turning up and disrupting the meeting. They always argue and shout. I find it sad to see my family fighting with each other. My grandfather Ned Brumby King and Wimiya King were brothers. Wimiya King had a daughter who is Allery, John and Ken Sandy's mother. That is how we are related.

[REDACTED]

## Driven off our land

20. I have watched me and my Elders fighting for our land for a long time. I had nothing to do with the Ngarluma Yindjibarndi claim but my Mum and Dad gave evidence. I was too busy then. We have come a long way through two native title claims. Our Elders had to deal with the pastoral stations being set up on Yindjibarndi land with fences and gates being erected. Those old people worked on Yindjibarndi country and then they were moved into town because the pastoralists didn't want to pay Yindjibarndi People equal wages.
21. Then my old Yindjibarndi people tried to stop the State Government building the Harding River Dam. Now the Mine has brought more frustrations to me and my Elders. My Dad, Kenny Jerrold, Long Mack, Woodley King and Alec Ned were Christians in the Roebourne Church, and at the same time kept their Yindjibarndi culture alive. My Mum and Dad told me not to break anything in the land and to be quiet and respectful on country. My father was always calm with everyone except if people were disrespecting the Elders.

## Bidarra Law

22. The senior Law men are the *tharnganulli* (mouth) who are the gatekeepers for the country. Bidarra law is a free law and is different from desert Men's Law. In the *Bundut* the ladies dance in a circle. The songs are about plants, birds and animals. The songs involve teaching the younger ones about what foods they can find in the country. The men then move into the bush and sing their own secret songs that they sing about country like it is a map and is about rivers, creeks, rock holes, springs, pathways, hills and other features. These songs are for men only and that is why we need to speak up for country instead of the women. The men learn the sacred and secret songs and the dreaming stories for country in the Men's Law. My dad and Woodley King told me that they wanted to open the Law ground at Mt Florance Station so I could go through Law on country at Clowbar. We went up to Nullagine to gather Law men and old law men came back with me. Paddy Long was one of the men that came from Nullagine. They wanted to open Clowbar because of the alcohol that had been brought into Roebourne at the time by the mining boom.



23. I think we would have done a lot better negotiating with FMG if we had better whitefella education. I was given the basics at school, reading, writing and arithmetic, then I was booted out of school at 15 or 16 years old. My teachers told me that I was not allowed to get a higher education. I wanted to be a welder in 1968 when I had almost finished school. The welfare man tried to get me an apprenticeship as a welder, but I was told that I couldn't get an apprenticeship because I was Aboriginal. That set me back and I became depressed, and I started drinking.
24. The rooms of each *ngurras* are important for Yindjibarndi People and so are the *Thalus* that are the increase sites. As an Yindjibarndi person I have to perform a ceremony to bring back the natural balance if something is missing. We have increase sites for just about everything. For example, when something goes missing like grasshoppers that are food for emus. It means that something in nature is missing. For example, if emus are not around you have to do a *thalu* ceremony for the emu. We cannot do ceremonies where the Mine is located because the sites to increase the food have been destroyed by the Mine. There are very few emus or kangaroos in Yindjibarndi country since the Mine started. I have noticed that since around 2015 there is also less water in the *wundu* and *jinbi* in Yindjibarndi country.

### **Spirits**

25. My responsibilities for protecting my country come from my family and from the spirits. When the spirits are disturbed, they will become dangerous if not dealt with in the proper way. When we go onto country we must let the spirits know who we are by doing the *wuthuru*. I was taught by my parents and others that the *wuthuru* involves spitting water from a *yinda* out of my mouth or I can call out to the spirits and say "*ngurrurra*" (I am from this country, I belong to this place).
26. Some of my family have worked at the Mine. Ashton Cheedy, has told me there are some workers at the Mine who are experiencing 'mental problems' as a result of the *nguga nulli* (little spirits that must be respected but if they are not respected they can punish people) tormenting them. One of the workers was a Noongar and fell into a hole and passed away at the Mine. I believe the spirits could be punishing people for doing the wrong thing at the Mine site. I was taught by my Mum and Dad that there

are also *mowan* spirits on country that can be used by *Marban* men to kill people. These spiritual punishments can happen to *majangu* if they have not got permission.

27. The *Warrubunyinna* or *Baari* (night stalker) spirits can harm people too and they work with the *Joonha*. You can be laying down, the *Warrubunyinna* or *Baari* makes you feel numb and you can't call out and you can't move. Then the real killer comes in is a *Marban* man who turns into a *Joonha*. He has dark evil plans and comes to steal, kill and destroy. I think Michael Gallagher was the *Warrubunyinna* who came in before the *Joonha*, and the *Joonha* is Andrew Forrest.

### Permission

28. Under Yindjibarndi Law if you plan to go onto other person's property no one can just come in without the owner's permission. *Manjangu* (strangers to country) must ask permission. They cannot just come and build a mine on Yindjibarndi country. My Dad told me that when the pastoralists first came in the old people were worried and jittery about what was going on. They were right to be worried because their land was taken from them.

29. Our old people like my Dad did not want the Mine. Old people would not destroy anything on country. They also saw that their land was being taken again. Sites destroyed like the Harding River Dam. It was the same nightmare happening over and over again.

30. Yindjibarndi country is divided into 13 rooms. Different families sleep in different rooms that are their *ngurras* where their old people came from. But together we all share the country. My Dad came from the east and my Mum came from the middle. The boundaries around the outside of the 13 rooms, we call them *yirra*. We identify the boundaries by landmarks, names and our *wirrard* – our soul or spirit. If you step out of Yindjibarndi country, straight away you feel it in your *wirrard* – you feel uncomfortable. If I want to go into someone else's 'room', of course, I will let them know out of respect and see if it is all right. But if someone wants to come into my house, they have to 'knock first' and talk to me about my area and then the Yindjibarndi Elders will discuss things. We will try to accommodate them because of *nyinyaard* (system of reciprocity), so if they want to travel along a particular path

through our 'room', we will help them find the right path. But we have the right to say 'no' to *Ngaarda* (Aboriginal people) and whitefellas if they are doing things that we consider will harm the country and not protect it like the old people spirits would want us to. Annexed hereto and marked "MC-1" is a copy of a map that shows the 13 rooms in Yindjibarndi country.

31. Under Yindjibarndi laws, when I am travelling to other people's country, I am the guest. I bite my lip. This means I do not talk – I ask permission to go on that country and I do not tell the people from that country what to do or where they can go. I do not steal. I do not take a kangaroo – unless they tell me I can. That same rule applies on Yindjibarndi for *manjangu* – strangers – to Yindjibarndi country. This includes FMG. FMG cannot come onto my country without permission. FMG has come onto Yindjibarndi country without Yindjibarndi People's permission, and I feel disrespected. It is as if we do not exist.

### ***Nyinyaard***

32. WYAC are breaking *nyinyaard* and not sharing what money they get from FMG with the rest of the Yindjibarndi People. When someone is in need even if you do not have much then you have to share. You should not hoard when others have less. It is a system so no one goes without, and everyone has the same. Right now we are being shown up to have very little and what little we have FMG is taking even more from us. We have been thrown out of our house and while we are out of our house FMG want to take more.

### **Effect of the Mine**

33. When I wait at a railway crossing I see the trains carrying ore to the ports. They are up to 2.4 km long and carry up to 30,000 tonnes at a time. To me that is 30,000 tonnes of *ngurra* blasted up and taken off and moved to another country, like China, to be transformed into steel. It is a very distressing experience for me because it happens all the time when I travel about the Pilbara. I know which trains have my *ngurra* in them because the FMG trains are labelled so I know the dirt has come from my *ngurra*. The *ngurra* cannot be rehabilitated at the end of the life of the Mine. I

cannot see how it can. Non-Aboriginal people must think that you plant seeds and then it will all be fine. I have been taught that my *ngurra* is precious and should not be defiled by a Mine. The Mine has taken everything, *ngurra* is gone, the spirits are gone, the water is gone, the caves are gone, the *munda* has gone, the *wundu* has gone, and our ancestor's remains have been put through the crushers on the Mine site. I have been traumatised throughout my life by racism, deaths in my family, alcohol coming into our community, watching the old people trying to save the Harding River, but the Mine is like a death for me. It has killed all the things that are important to Yindjibarndi People.

34. I find it really hard to sit here and talk with my lawyers about this for this statement. I feel like my *wirrard* is breaking over and over again for this court case. I want it to be over but it is never over. I feel like FMG wants to destroy my *ngurra*, my *wirrard*, my family and YAC so it can take everything.

35. The FMG mine has changed Yindjibarndi People. It has divided us. The mine sits on Ganyijingarringunha *ngurra*. It is a sacred area to Yindjibarndi people and is part of the *Bundut*. If there had not been the *Bundut* there would be no landscape. You know what your country is by the names of places and the places but the Mine has destroyed those sites. They are gone.

36. I find it difficult to hear Andrew Forrest say that he knows Aboriginal people. I know that he doesn't know Aboriginal people, and especially Yindjibarndi people because he has shown us no respect. If he really knew us, he would know our laws. He would know that he has to listen to and respect the Elders' decisions. He has not done this by going ahead and building the Mine without Yindjibarndi permission.

37. I find it very upsetting to look at photos of and travel over the Mine in 2021. When I went there I saw them using all the water to keep the roads wet. I found that very upsetting. That's our precious water. It can't be wasted like that. FMG did not get our permission or agreement to take and use the water like that. The more I see these things the more numb I become. This is my *wirrard* being damaged.

## Speaking for Country and behaviour of WYAC

38. The *Goudy Goudy* (Pebble Mouse Mounds, the homes of Pebble Mice) are sung in the *Bundut*. So if I go on a survey I check any Pebble Mouse Mound to see if it is still occupied. If it is I leave it alone and tell the archaeologist to record and protect it. I am disappointed and upset that the WYAC men have agreed to the Pebble Mouse Mounds being destroyed. I would have told the archaeologist everything about it and stopped it from being destroyed.

### Trip to area of the mine before it was built

39. From 28 April to 7 May 2009 I went to a camp called The Castle for an FMG survey with Thomas Jacobs, Angus Mack, Bobby Willis, David (Henry) Jerrold, and Phil Davies before the mine was built. That was the only time I did a survey before 2021 because I couldn't get time off from work at disabilities. I saw beautiful country not marred by mining but now I go there it is completely different. It is heart-breaking to think back about that country now being a big pit.

40. Caves were used as storehouse for old people's things for the next time they returned to a site. Our Yindjibarndi People moved around with the seasons like a circuit. Our two seasons are *gurlawan* (summer) and *moothurr* (winter). They would stay in the caves. They loved to travel light, leaving things in a place for when they returned. Some of the caves at the Mine site had artifacts left in them like *baarru* (grinding stones), *gooriarda* (hunting spears), *mowandu* (punishment spear) *juna* (stick), *boorgaar* (spinifex wax) and tools. I know that people were buried in some of the caves too. I am worried they have now been destroyed by the Mine. I have lost all my feelings because of what has happened to my *ngurra*. I am just numb, and I find it hard to talk about these important things in my country having been destroyed.

41. I was taught by my Dad and other senior men, that when there are artefacts on *ngurra* that are men's only, only the men can speak about them. I follow the Yindjibarndi rule that whenever we do surveys the men must go out first. They have the responsibility to look and then the women can follow. The men always go first because there could be things that women can't see or sites that women can't go to. Men check the area and then the women can come after if it is okay to do so.

42. I was taught by my Dad and other senior men, *Mowandargu* is a site where you can get *mowan* (sorcery) power. Either men or women can get *mowan* power. There are caves on country. When you approach a cave or a shelter you have to be careful as they were often used for burials too. Some caves are used for men's purposes only. I was taught by my Dad and other senior men, that the Yindjibarndi men know where these caves are and have to protect them.

### **May 2021 meetings**

43. I attended meetings in Roebourne with the WYAC in May 2021. I attended those meetings as part of a joint Yindjibarndi working group heritage team that included Rodney Adams, me, John Sandy, Michael Woodley, Paul Aubrey and Stanley Warrie. Meetings on 4 May and 18 May 2021 were community meetings and at least 150 and 122 attended respectively. I saw those meetings as an opportunity to sort things out with WYAC and come back together. I wanted to end all the court cases with WYAC and FMG.

44. At each meeting in May 2021 I heard Michael Woodley ask the WYAC members to drop the Supreme Court cases against YAC. They could not agree to do so and recently YAC paid over \$670,000 in legal costs to WYAC. Annexed and marked "**SCB-45**" and "**SCB-46**" to the First SCB Affidavit are copies of the meeting minutes dated 4 May 2021 and 18 May 2021 respectively. A copy of the meeting minutes dated 13 May 2021 is annexure "**SCB-50**" to the affidavit of Simon Charles Blackshield to be affirmed on or before 5 May 2023.

45. On 1 June 2021 me, and other Yindjibarndi People met with Elizabeth Gaines, CEO of FMG and Tom Weaver to discuss an indigenous land use agreement. I was disappointed when the 2021 meetings between FMG, WYAC and YAC failed. Annexed and marked "**SCB-47**" to the First SCB Affidavit is a copy of the Truth and Reconciliation document put forward by YAC to FMG at the meeting on 1 June 2021. Annexed and marked "**SCB-48**" to the First SCB Affidavit is a copy of an email dated 3 June 2021 from Michael Woodley to Phillip Davies with a summary of points about

the meeting held on 1 June 2021. By that time I gave up hope and just could not believe anything any staff of FMG said about an agreement.

### **Trip to the Mine in 2021**

46. I went to the Mine on heritage surveys with YAC and WYAC members from 21 to 29 March 2021 and 15 and 16 October 2021. From 21 to 29 March 2021 I went with Charlie Cheedy, Stanley Warrie, Devon Woodley, Kevin Guinness, Phil Davies and Erin Flynn from FMG. We did a survey, with WYAC men. Everything went well on that survey and we all got along well.
47. As we drove through the Mine, I could see the pits all around and I could see that Yindjibarndi country was disappearing. My heart was breaking. On the first day, Kevin Guinness and others went up in a helicopter. Me, Stanley and Devon went in a car with Erin Flynn. Stanley wanted to go to where he and his Dad used to get red ochre near the Nanutarra Wittenoom Road (I remember him and his father usually went to get the ochre just before the Men's Law meetings started each year). Stanley wanted to see the loading circle at the railway loop to see how far the mining went and see The Castle, but it wasn't there anymore. When we got to the loop we got out of the car. Then I saw Stanley Warrie was crying. I had seen The Castle before the Mine was built when I stayed there when it was a little mining camp and at that time it was surrounded by beautiful country but now there were big pits everywhere.
48. During the trip from 5 to 6 October 2021 I went to the Mine with Curtis Lockyer, Michael Woodley Jnr, Kendall Nannup, Ricky Sandy, Ethan Sandy, Max Coppin, Steven Adams, Declan Bailey and Ross Williams. We talked to FMG about a heritage agreement. Things looked like they were moving forward in a good way but I just could not trust the process because anytime I see someone from FMG trying to settle things they then disappear. I don't know where Elizabeth Gaines is now, but she disappeared too.
49. I have been to Bangkangarra and along the *Ganjingaringunha* (Kangeenarina) *Wundu* (Creek) many times. I went there for a survey in 2009 but I do not remember much about it. I gave men's restricted evidence at Bangkangarra on 8 September 2015 for the Yindjibarndi #1 native title hearing with Justice Rares. Recently, I also

visited Bangkangarra with Kingsley Palmer on 4 and 5 May 2022. I also went to Bangkangarra on 16 to 18 March 2023 with archaeologist Dr Peter Veth for the Desert People Project with the University of Western Australia. I enjoy going to Bangkangarra but I feel sad and depressed when I see the Mine and my *ngurra* disappearing.

50. After going on the survey to the Mine in March 2021 I felt devastated. It adds to the grief I have of losing people in my family who are part of WYAC. I feel like I have lost my family and now I have lost my house and I am a homeless person. I am living in another man's house. I do not have a sense of belonging. I don't feel at home because it is not my country.

### **Family and Land**

51. When I first heard of FMG in about 2007 I didn't have a clue about mining. Our Elders taught us to stand up for country and protect it and do it together as a community. Yindjibarndi Elders had been strong during the Harding River Dam fight against the government damming our country. They didn't stop the dam, but they led a strong and united community.

52. I saw Michael Gallagher around a bit when he was working for FMG. I saw him at the shops and driving people around who later became the WYAC crew, people like sister May Adams and Allery Sandy. Then, I heard from my sister Pansy that Michael Gallagher was working for WYAC. I thought Michael Gallagher was being kind to the old ladies like Allery Sandy, Aileen Sandy, Maudie Jerrold, Sylvia Allen, May Adams and old men like Bruce Monadee. Looking back now, I believe that FMG wanted to divide us from the beginning so it could build the Mine and pay the cheapest price for Yindjibarndi *ngurra*. I think about it now because we all voted together for more money before Michael Gallagher was working for WYAC and everyone was family and friends.



53. Back in 2010, FMG offered \$4 million, but we had 15 families to share it amongst. It was not very much money for taking our country. FMG organised survey trips for the Mine with WYAC members. WYAC started shutting out the rest of the Yindjibarndi People and I did not feel included, consulted or considered. I felt like I was not being recognised as an Yindjibarndi person.

### **Galharra**

54. There are 4 Galharra; Garimarra, Balyirri, Banaga and Burungu. White fellas call them 'skin groups'. We have strict rules about the way people marry each other. The women of the family keep track of the way people are looking at each other in order to make sure they are marrying the right way. The kids are taught this from a young age. Everyone knows who is related to who. They will check with the Elders too. The Galharra is important for Law business as well. There are obligations between each Galharra. At Law times different skins do different jobs for the ceremony depending on the Galharra of the boy who is going through the Law and his parents. Now that the WYAC members are not joining with YAC members to do Law business together they are not following through with their Galharra obligations.

### **Birdarra Law**

55. Birdarra Law at Woodbrook has been broken in two. Birdarra Law is suppose to be a time for people to come together to celebrate a coming of age. The Law is not being run the way it was before because of the fighting and the split in the group. Since 2010, I can see that there are less and less people going to Woodbrook and people do not want to go to Law anymore. This means that at Law time the obligations of people within the Galharra system are not being followed.

### **Yindjibarndi parables**

#### ***Tjiti Tjiti Story***

56. There is a story about the *Tjiti Tjiti* (Willy Wagtail) and the *Jerinya* (Pelicans). A group of *Jerinya* wanted to go fishing but they were too lazy to fish and do the work. They thought they would make the small man the *Tjiti Tjiti* work all day to catch the fish for



## **Nyingara**

60. The story of the *Nyingara* (Stone Man), is the story about an oppressor that reminds me of how Andrew Forrest has been treating the Yindjibarndi. He demanded things and took from people. He enslaved them, everyone had to serve him and he was very demanding. The power and the greed went to his head. The *ngaarda* (Aboriginal people) were treated like dirt and he would kill them if they did not do what he asked. The *Nyingara* had little regard for other people, he had no respect, he was a hoarder and kept things only for himself. In the end the *ngaarda* took advantage of his greed, set a trap for him and killed him.
61. FMG's broke our Law. When *manjangu* do something illegal Yindjibarndi People call it *munda munda*. FMG have *muyagu* (stolen) Ganjigurrangurra (where the Mine is). FMG have also broken the *nyinyaard* rule. The land belongs to all Yindjibarndi. FMG took our land without our consent, and they have taken all the money and given us nothing.

## **Compensation Claim Meeting**

62. I attended a YNAC and Yindjibarndi People's meeting on 11 December 2021 at the 50 Cent Hall. At the meeting, YNAC consulted with the native title holders in attendance as to whether or not YNAC should make a compensation claim. Annexed and marked "SCB-37" to the First SCB Affidavit is a copy of the Certificate in Relation to Consultation and Consent dated 15 February 2022, which includes the details of the meeting of 11 December 2021.

Signed:



**Middleton Cheedy**

Date: 3 May 2023

# “MC-1”

No: WAD 37 of 2022

Federal Court of Australia

District Registry: Western Australia

Division: General

**YINDJIBARNDI NGURRA ABORIGINAL  
CORPORATION RNTBC (ICN 8721)**

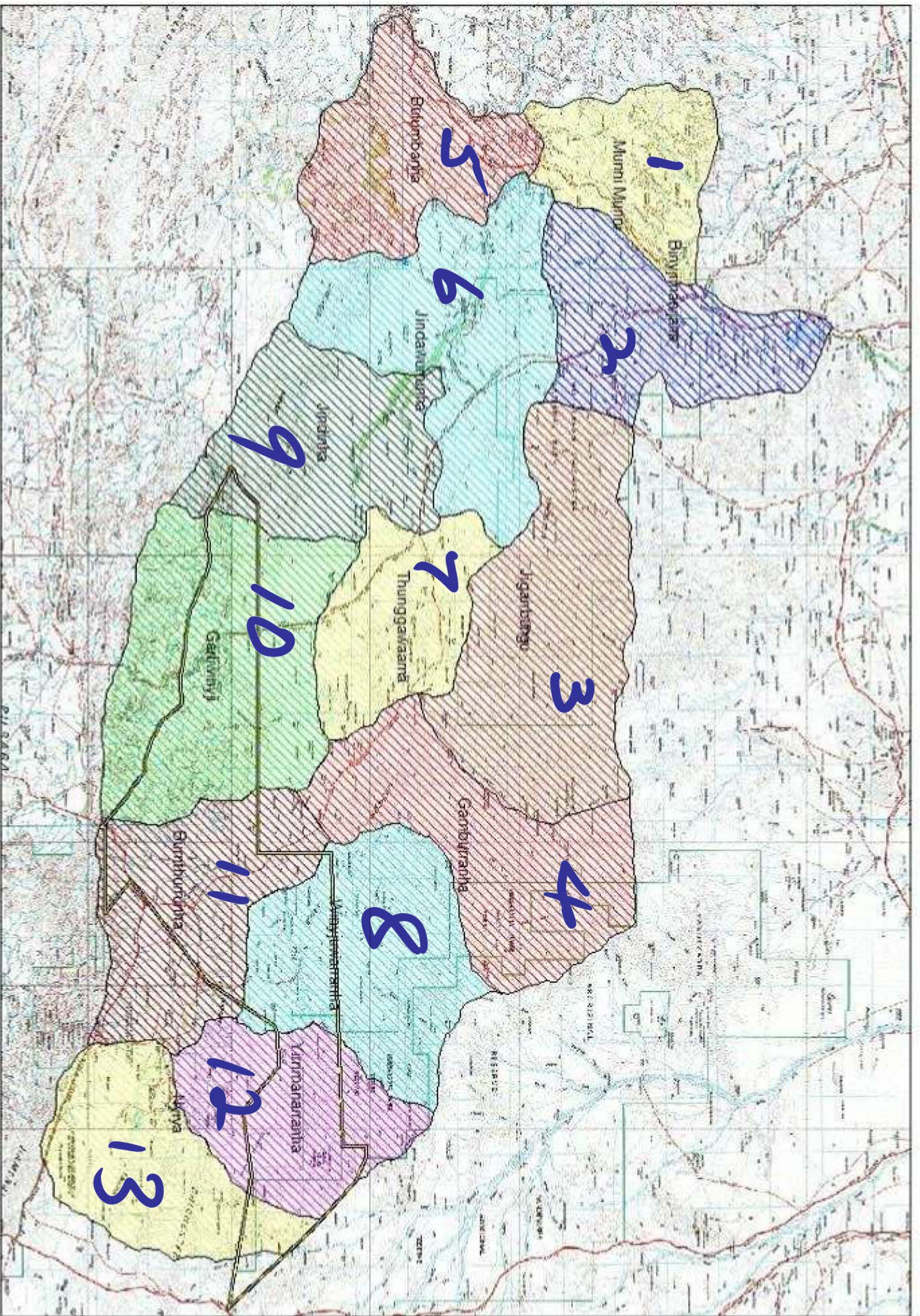
Applicant

**STATE OF WESTERN AUSTRALIA & ORS**

Respondents

This and the following page is the annexure marked “MC-1” referred to in the statement of Middleton Cheedy made this 3<sup>rd</sup> day of May 2023 before me:





## NOTICE OF FILING

### Details of Filing

Document Lodged:	Witness Statement
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	3/05/2023 6:56:59 PM AWST
Date Accepted for Filing:	3/05/2023 6:57:03 PM AWST
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File Title:	YINDJIBARNDI NGURRA ABORIGINAL CORPORATION RNTBC (ICN 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.