



NORTHERN TABLELANDS
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5 November 2011

Registrar of Aboriginal Sites
Department of Indigenous Affairs
Level 1, Governor Stirling Tower
196 St Georges Terrace
PERTH WA 6000

Attention: The Registrar

By email: kathryn.przywolnik@dia.wa.gov.au; ryan.crawford@dia.wa.gov.au;
cesar.rodriguez@dia.wa.gov.au

Dear Kathryn

Re: Veritas and Eureka Heritage Survey Reports - Firetail and Solomon Project Area

I am the principal archaeologist for Eureka Heritage (Eureka) and co-author with Rob Tickle, the principal of Veritas Archaeology and History Service (Veritas) of various reports, notices and applications which relate to Archaeological surveys conducted in the Firetail mining lease (M47/1413) and the surrounding area (the Study Area) for Fortescue Metals Group Limited (FMGL).

In October 2011, I became aware of correspondence forwarded from FMGL to the Registrar of Aboriginal Sites at the DIA, in relation to a s18 notice that Eureka and Veritas had prepared in December 2010. Eureka wishes to clarify some issues in relation to the information provided by FMGL in support of a revised version of the report dated March 2011.

Eureka considers that the following comments, excerpted from FMGL's letter to the Registrar of 15 March 2011, require clarification:

"Fortescue make it a policy not to interfere or dictate outcomes of reports prepared by consultants, however in this instance Fortescue can confirm that as Mr Tickle does not have any ethnographic training, he has been requested to remove these ethnographic assessments from the report as they easily mislead the reader to believe only minimal consultation and ethnographic assessment was undertaken for the purpose of these Notices.

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Fortescue is confident that the ethnographic significance of all areas has been adequately addressed and that no sites of significance have been identified on the Land due to the fact that there is no verified knowledge of any sites with ethnographic significance in this specific valley”.

Eureka was engaged by FMGL, independently of Veritas, to work collaboratively with Veritas to coordinate and conduct desktop research and field surveys. Information on the identification of Aboriginal cultural heritage sites was presented in reports for the purpose of notices made by FMGL for ministerial consent under section 18 and applications under section 16 of the Aboriginal Heritage Act 1972. The purpose of these reports was to provide sufficient information to assist the officers of the Department of Indigenous Affairs (DIA) and the Aboriginal Cultural Materials Committee (ACMC) in its task of assessing the cultural significance of the Study Area.

In July 2010, at the time of Eureka’s engagement by FMGL, , it was agreed that a team of appropriately qualified personnel would be assembled to carry out the tasks necessary for the preparation of anticipated s18 notices and s16 applications during 2011, and to collaborate with Veritas in report preparation.

To this end, I sub-contracted colleague Kath Beech to carry out background ethnographic research on the Study Area and to report on the ethnographic work that had been carried out for the purpose of the s18 notice preparation. Kath is a qualified anthropologist and holds a Masters degree in the field of anthropology and development. In addition, a number of other archaeologists offered to sub-contract to Eureka in order to fulfill s16 investigative excavation, on-going survey work and archaeological management during project works.

In December 2010, Veritas and Eureka produced a report entitled: “*Report of an Archaeological Assessment of 10 Aboriginal sites located within the proposed Firetail Priority Mine and Infrastructure Area*”. This was a “Final Report”, and was dated “December 2010” (the “December 2010 Report”). This report was submitted to the DIA in support of a s18 notice and underwent review by the Registrar. It is now our understanding that FMGL did not carry out an internal review of this version of the report prior to its submission to the DIA.

The December 2010 Report, Section 4.3 - Ethnographic Context, contained the results of background research into the historical and contemporary ethnographic evidence relevant to the Study Area, and an analysis of the ethnographic work undertaken by anthropologist David Raftery. This section was compiled and written by Kath Beech, and not Rob Tickle, as stated by FMGL in their letter of 15 March 2011, Point 10. The Raftery reports to which this section referred were made available by FMGL on request by Veritas/Eureka. It was our understanding, at the time of reporting, that there were no further ethnographic reports available or in planning.

The ethnographic research undertaken by Kath Beech found that sworn evidence given to the Native Title Tribunal clearly demonstrated that there are members of the Yindjibarndi People who belong to the YAC and who are connected to the Study Area. These YAC members claim to hold relevant ethnographic information that would be material in the assessment of cultural heritage significance. In contrast David Raftery’s reports on consultation with the members of Wiru-murra Yindjibarndi Aboriginal Corporation demonstrated that they held little, if any ethnographic knowledge about the Study Area. Pointing out the deficiencies in consultation was intended to assist the ACMC in determining any requirement for further ethnographic investigation.

In addition to the DIA guideline requirements for ethnographic enquiry, we considered it our professional responsibility to ensure that all relevant ethnographic information was documented

and available to the Registrar, and the APMC, in order that they were best equipped to make a fully informed decision on the level of significance attached to the Study Area. Part of this responsibility is to point out information gaps.

On 3 March 2011, Veritas informed Eureka that FMGL had terminated our services as they considered a 'local' archaeological firm could better provide the services (outcomes) required by them. On 4 March 2011, the Registrar wrote to FMGL regarding the December 2010 notice and report, expressing a number of issues and concerns to be addressed. I was subsequently advised by Rob Tickle that FMGL had contacted him and that he had received a request to edit the December 2010 Report. These requests included the deletion of Section 4.3 – Ethnographic Context. FMGL's primary concerns with this section were expressed in an email to Veritas as:

- the ethnographic context was not part of the brief to prepare a s18 notice (contrary to our understanding of the DIA guidelines);
- ethnographic context does not contribute to an understanding of the archaeology on the land;
- the section contained opinion and commentary, and this was considered prejudicial to FMGL; and
- it was not the role of Veritas/Eureka to report about, comment on or assess the ethnographic aspects of the study area.

Veritas and Eureka were both very concerned with the request; and at first refused to comply. However it soon became very clear that, if we did not comply, FMGL would withhold payment of our previous, outstanding and well overdue invoices on the basis that FMGL could not be expected to pay for a report that they could not use. At the time there were a number of invoices that were already overdue for payment, amounting, in Eureka's case to \$70,000.00.

Having already been dismissed from further work, Eureka considered there was little option other than to agree to the requested changes. We also considered that the remaining contents of the report still communicated (although not as explicitly) the issues with the ethnography. The amended report bore the same title as the December 2010 Report, but was dated "March 2011" (the "March 2011 Report").

In addition, FMGL specified that the FMGL Heritage Department would take responsibility for reporting all sites to the Registrar, as required under s 15 of the Act. However, I am very concerned that this may not have happened as site cards were requested by the Registrar on submission of both a s16 application and the December s18 notice.

A substantial body of detailed recording, carried out in preparation for s18 notices and s16 applications, was performed by Veritas and Eureka. Due to the discontinuation of our services, this information has not been reported. FMGL has now engaged other archaeologists to re-survey, re-record and re-asses areas we surveyed and as a result, I am concerned that the information we acquired about sites will not be reported, and that this may put Eureka in breach of s 15 of the Act.

As a result of misleading information provided by FMGL, I am also now very concerned that the deleted aspects of the December 2010 Report may have led the Committee into making a decision that does not accurately reflect the overall significance of the area.

It is Eureka's opinion that the information and analysis contained in the ethnographic section of the December 2010 Report is current. The ethnographic content was written by a qualified

anthropologist who was acknowledged in the authorship declaration of the report. At no stage did FMGL seek to clarify the author of the ethnographic content.

The details of FMGL's letter were not disclosed or known to Eureka until October 2011. Eureka is concerned that FMGL's justification for the change in the December 2010 Report is flawed and misleading.

I am also concerned that Eureka is bound by the terms and conditions relating to intellectual property and confidentiality clauses as set out in FMGL's Vendor Agreement.

In light of the above Eureka does not share FMGL's confidence "that the ethnographic significance of all areas has been adequately addressed". In fact, the case may well be that identified Aboriginal cultural heritage sites with significant ethnographic connections have been overlooked in the course of recent surveys in the Firetail area.

In the course of our consultancy, Veritas and Eureka expressed concerns to FMGL heritage personnel about the inadequacy of the ethnographic studies and the lack of consultation with YAC. The Study Area is a rare find; and, as we reported in the December 2010 Report, it has not yet been the subject of any substantive ethnographic survey; nor has it been the subject of a comprehensive archaeological report which takes into account all the information we compiled from our work in the area and which needs to be assessed as a whole.

It is quite ironic that a project that has facilitated the discovery of such an amazing resource into knowledge and discovery of the traditional life and practices of the Yindjibarndi will now also facilitate its destruction. In this light, I respectfully urge the DIA to inquire further into the levels of ethnographic enquiry carried out by FMGL and ensure that an appropriate and acceptable level of cultural heritage management is carried out before the opportunity is forever lost due to the total destruction of the resource.

Please note that this letter has been written in consultation and in collaboration with Kath Beech. As a side note, I would also like to explain that I feel so passionately about this issue that this letter has been composed on the eve of my wedding day.

Yours faithfully



Sue Singleton
ARCHAEOLOGIST

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cc Yindjibarndi Aboriginal Corporation