



## **STATE BACK FLIPS ON FMG CONDITIONS – WAY NOW CLEAR FOR FINAL OBLITERATION OF YINDJIBARNDI HERITAGE**

Last Tuesday, the Minister for Indigenous Affairs, Peter Collier, reneged on an earlier commitment to hold Fortescue Metals Group (FMG) accountable for identification and protection of Yindjibarndi heritage in the path of its Solomon Project mine. After FMG demanded that critical conditions of his consent be deleted, Minister Collier complied, clearing the way for wholesale destruction of rare and ancient Yindjibarndi heritage.

Yindjibarndi CEO, Michael Woodley, said “This is a Christmas from hell for us. It is a weak and morally wrong decision from Mr Collier. The Minister had a choice – to ensure Yindjibarndi people could properly record their sites before FMG wipes them off the face of the earth, and use this knowledge to make safe and fair decisions; or kick us in the guts and cheer on FMG’s destruction of our culture places before anyone has the chance to understand, care or know they ever existed. Mr Collier took the second option. So while FMG mining grinds on round the clock over Christmas, there will be no peace for Yindjibarndi.”

In June 2011 Minister Collier gave FMG consent to commence mining in Yindjibarndi country at the Solomon Project, but attached two fundamental conditions, recommended to him by the Aboriginal Cultural Materials Committee (ACMC), which gave some assurance Yindjibarndi heritage would be kept safe.

These conditions obliged FMG to work with Yindjibarndi custodians, represented by the Yindjibarndi Aboriginal Corporation (YAC), to carry out comprehensive ethnographic and archaeological surveys – before commencing massive ground disturbance. Most importantly, these conditions required FMG to “provide the Registrar with information on the location and archaeological and ethnographic assessments of all rockshelters and caves located on the land.”

LINK Original conditions <http://tiny.cc/qzkkxj>

LINK Revised conditions <http://tiny.cc/r77cj>

FMG did not want to comply with these conditions and so applied to the State Administrative Tribunal (SAT) seeking an order to have them deleted.

After YAC learned that FMG had requested deletion of key conditions, they mobilised a team of volunteer archaeologists and anthropologists to assist the Yindjibarndi people in an urgent program of ethnographic and archaeological surveys, as originally required by the Minister.

The first of those surveys commenced on 7 December, and FMG was given plenty of notice. Upon arrival at the threshold of the survey area, the YAC team was blocked – first by a demand that Yindjibarndi people apply to FMG ‘managers’ for written permission to enter; second by an order that they not bring with them or use video and photographic equipment (essential for recording landscapes, sites, testimonies and ceremonies); third by threatening to personally sue individual volunteers and other Yindjibarndi not-for-profit organisations for the cost of any mining delays; and fourth by physical obstruction from security guards, barricades and truckloads of soil dumped in the path of YAC vehicles.

LINK photographs <http://tiny.cc/52nj2>

This obstruction of Yindjibarndi people and their staff is in breach of a condition attached to each of FMG's mining leases that states access to and use of the land by Yindjibarndi people “is not to be restricted” by FMG, except in relation to any parts that are being used for mining operations, or for safety or security reasons relating to those operations.

FMG has fraudulently cited this “safety and security” stipulation by declaring areas YAC needs access to as 'controlled areas'. FMG’s invocation of “safety and security” is false because no mining operations were being conducted on the land where the YAC sought to undertake surveys at the time of YAC’s visit, nor



could there be for as long as the Minister's section 18 conditions for comprehensive surveys remained unfulfilled.

Barred from entering country under most immediate threat, the YAC survey team proceeded to survey an adjacent area of unallocated Crown land where FMG has applied for a new exploration licence. However, during the course of Friday 9<sup>th</sup> and Saturday 10<sup>th</sup> FMG pursued and intruded upon the YAC team with spotter planes and helicopters. The intimidation and din of the helicopter prevented senior lawmen from singing the songs and performing the religious ceremonies that have been performed each year in that area since time immemorial.

FMG's obstruction and harassment of YAC ethnographic and archaeological surveys has made it impossible for YAC to accurately document and register all Yindjibarndi cultural heritage values in the path of FMG's Solomon mine – a record that was to be provided to the ACMC to inform all future recommendations to the Minister.

The grave consequence of this for Yindjibarndi, and the advantage sought by FMG, is that after FMG mining operations have razed the country and destroyed physical evidence of Yindjibarndi heritage, there will be no certified and authentic documentary record upon which their prosecution can be based.

Mr Woodley said, "When the Minister originally made conditions that gave us a chance to properly record our heritage, we thought that, for once, someone actually understood what was at stake. Now his back flip says loud and clear that, in WA, 'business is business' and damn the rest."

YAC is currently seeking legal advice as to the validity of the Minister's decision to delete the conditions originally attached to his consent, including the condition which required FMG not to interfere with Yindjibarndi Burial Chambers. YAC argues that it is unreasonable and unfair to remove protective conditions for Yindjibarndi heritage places while –

- the Commonwealth Minister for the Environment, the Hon. Tony Burke, is considering a section 9 application for the protection of the area;
- FMG continues to illegally block YAC from entering their country to record their culture and heritage;
- FMG operates without the free and informed consent of, or a legitimate Indigenous Land Use Agreement (ILUA) with, the Yindjibarndi people;
- and before the conclusion of a DIA inquiry into FMG's coercion of consultants to change a report pointing to gross deficiencies in ethnographic data within their Solomon Project.

Mr Woodley said, "We are deeply angered that fundamental human rights standards spelled out in United Nations covenants are being blatantly violated in this state. The Minister's decision steals from our people what is at the centre of our world, the cultural heritage that lies at the heart of our identity, our confidence, our right to exist as Yindjibarndi."

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