

Specific Responses to Assertions made by _____ Supporters of YAC regarding WMYAC

_____ we wish to _____
_____ respond to the assertions against our clients contained in the submissions in support of YAC which are published online on the Senate's website.

1. Assertion that WMYAC was set up and groomed by FMG to support their position.

The 31 July Submissions and the Submissions of Paul Marshall assert that WMYAC was specifically set up, groomed and financed by FMG to support its position. This is incorrect. _____ WMYAC was set up by members of the Yindjibarndi community who felt oppressed by a minority of members of YAC. The members of YAC who formed WMYAC were not being included or consulted in relation to decision making within YAC. They formed WMYAC to use it as an entity through which they could express their wishes, having been precluded from knowledge of, and input into how YAC was being used by a small, aggressive minority purportedly to speak for all Yindjibarndi people.

2. Assertion that FMG is financing WMYAC

Assertions are made in the submissions of Jem Edwards, Sandra Kelly, Jacob Hapeta, Catherine Menzies, Sally Willmot and Janette Anderson dated 31 July 2011 ("31 July Submission"), and the submissions of Paul Marshall, Susan Chalcroft, Kristen Tona, and Jaimia Shoemaker, that FMG are funding or financing WMYAC. It is also asserted in Kristen Tona's submissions that FMG transported a number of WMYAC people from Carnarvon and paid them to attend a meeting on 16 March 2011. This is a matter of confidentiality, however generally speaking; it is well known industry practice for mining companies to pay the legal fees and associated expenses of claimant groups who are negotiating agreements with the company. The payment of the claimants' legal fees and payments of costs associated with meetings is to be expected of mining companies given that prior to entering into commercial agreements providing for financial benefits, Aboriginal Corporations are usually impecunious.

3. Assertion that WMYAC are 'outsiders' who are not part of the community.

Marianne MacKay asserts in her submissions that the members of WMYAC are outsiders who are not part of the Yindjibarndi community. This is incorrect. The members of WMYAC are all Yindjibarndi people who also remain members of YAC or alternatively are entitled to membership of YAC, and are entitled to assert and benefit from Yindjibarndi native title rights and interests.

4. Assertion that the Meeting on 16 March 2011 was inappropriately run and invalid.

The 31 July Submissions and the submissions of Paul Marshall, Susan Chalcroft, Kristen Tona, and Marianne McKay refer to videos that were published online of a meeting of Yindjibarndi people on 16 March 2011. The writers express their outrage at the way the meeting was run, claiming that FMG was controlling the meeting, stifling debate and undermining community members.

These videos were published by YAC and are inaccurate, highly edited and misleading.

The meeting was called by the Yindjibarndi people who were officers and members of WMYAC. Ronald Bower, a solicitor for WMYAC and well experienced in running company and Indigenous meetings, managed the 16 March Meeting. A vote was also taken as to how the members of the meeting wanted to vote and it was decided by majority that the vote would be by a show of hands. FMG personnel were invited into the meeting part-way through after Mr Michael Woodley (CEO of YAC) said that he wanted FMG to speak to the Yindjibarndi people. FMG was in no way controlling the meeting.

The meeting was conducted in accordance with a published agenda, and motions were proposed and put to the vote in the proper manner. All attendees were given an opportunity to speak for or against each item on the agenda, before it was voted upon. Solicitors, Counsel and other consultants for YAC and for WMYAC were present at the meeting.

5. Assertion that WMYAC would be the recipients of benefits and compensation to the exclusion of YAC if an agreement is entered into between WMYAC and FMG.

The 31 July Submissions and the submissions of Paul Marshal, Susan Chalcroft and Kristen Tonastate assert that WMYAC would be the recipients of benefits and compensation for the land which belongs to the Yindjibarndi People to the exclusion of YAC. Mr Marshal submits that the deal with FMG would see WMYAC being placed in charge over YAC and the Native Title Claim, and the deal would be between WMYAC and FMG, with YAC being left out in the cold. YAC has in no way been excluded from the opportunity to benefit from the ILUA with FMG. YAC has been a party to negotiations with FMG for approximately 4 years, without resulting in any realisable benefit for the Yindjibarndi people. It is

YAC's own informed decision to remove themselves from any agreement with FMG and accordingly any benefit or compensation that they may be entitled too.

The paramount objective for WMYAC is to build a co-operative relationship with FMG to obtain financial and other benefits for the Yindjibarndi people as whole. The Yindjibarndi community based in Roebourne are in dire need of housing, employment, social, economic and other like assistance. To date, the actions of YAC have proven to be an impediment to achieving these objectives.

6. Assertion that WMYAC did not consult YAC before making a decision to enter into an agreement with FMG.

In the submissions dated 12 August 2011 by Julie Russel, Brad Bevis and Jessica Whelan (12 August Submissions), the writers assert that WMYAC did not consult the Yindjibarndi people and the community before accepting an agreement with FMG. We assume that the agreement referred to is the proposed ILUA with FMG. YAC has always been fully informed of all negotiations with FMG. YAC was party to negotiations with FMG for approximately 4 years prior to WMYAC being established. A Yindjibarndi claimants meeting was held on 21 December 2010 to consult the Yindjibarndi people, which include the members of YAC, about entering into an ILUA with FMG. The meeting was convened but agenda items were not addressed due to internal disputes. A second claimants meeting was arranged for 16 March 2011 which proceeded to deal with the notified agenda items. YAC and their solicitors were again consulted about the negotiations with FMG. As mentioned above, despite a majority of members voting in favour of entering the ILUA, the ILUA has not been finalised as four of the Applicants have refused to execute the relevant document/s.