



## *Why we're still fighting Goliath; Talking point*

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### **Body**

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For the past 15 years, my community in the resource-rich Pilbara region has been engaged in a David and Goliath battle against **Fortescue**, which has mined without our free, prior and informed consent and without a native title land use agreement, despite having our rights affirmed by the High Court of Australia.

We are often asked why the Yindjibarndi are so determined to battle a mining giant that can engage in limitless lawfare against Aboriginal people with meagre resources.

We fight because we owe it to our ancestors and future generations to ensure that Yindjibarndi people's long, hard journey to prove our legal rights under the Native Title Act is seen and respected, and because the law must lead to consequences if a proponent chooses to disrespect First Australians.

We are proud of what we have accomplished over the past 10 years without having an agreement with **Fortescue**. Any visitor to the bustling mining town of Karratha can't help but notice the dozens of vehicles owned by our contracting business, Yurra. This business, founded in 2013, has grown to employ more than 430 people working in diversified sectors, including contracts with Rio Tinto, Woodside and the City of Karratha. We have also established cultural organisations that promote and preserve our traditions for the benefit of our young and to share with non-Indigenous Australians.

The Yindjibarndi have achieved all this despite the absence of a native title agreement with **Fortescue** for its Solomon Hub mine - which operates on our land and has generated more than \$80 billion in revenue since 2013.

Our main source of income is a rail tariff paid by Rio Tinto from a modernised agreement signed in 2022. This is the result of a positive relationship with Rio Tinto Iron Ore on an Indigenous Land Use Agreement that was executed in good faith.

Our renewable energy business, Yindjibarndi Energy Corporation, has breathtaking plans to drive the decarbonisation of the Pilbara through projects that could generate up to three gigawatts of green energy in coming decades. YEC's projects are some of the most advanced Indigenous-led developments in Australia.

## Why we're still fighting Goliath Talking point

YEC is the result of a joint venture with the global green energy player ACEN, and our agreement allows the Yindjibarndi people to take an equity share of up to 50 per cent in projects. Our people have already benefited directly by taking part in heritage and environmental surveys that are required for all government approvals.

We also want to invest in our majority-owned Yindjibarndi Water, which is looking at alternative groundwater supplies to the Millstream aquifer, water treatment initiatives for YEC and support for carbon farming and agricultural pursuits.

With fair compensation for the impact of mining on our Ngurra (country), the Yindjibarndi people will be in a strong position to achieve even greater results in the decades to come.

Next week, the Federal Court will hear final submissions in a case that the Yindjibarndi people initiated. This flowed on from our 2020 win in the High Court, which affirmed our exclusive native title possession over the land where Solomon Hub operates.

The respondents in this case, the state of Western Australia and **Fortescue**, both agree that we are entitled to compensation, though we disagree on how much.

At the heart of the case is whether the courts should take a real-world view and award compensation based on the types of agreements that fair-minded corporations have reached with traditional owners. We certainly think this should be the case.

Economic compensation based on this approach, plus reparations for the damage to heritage, spiritual values, environment and social disruption, are before the courts and perhaps that will set the bar on native title agreements. This is why our legal team believes our Federal Court case is arguably the most significant litigation brought by an Indigenous community since Eddie Mabo's case in 1993.

Michael Woodley is the CEO of the Yindjibarndi Ngurra Aboriginal Corporation, the plaintiff in the Federal Court case.

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