

# Yindjibarndi questions and answers about the Federal Court determination

**Friday 15 May 2026**

Following the Federal Court decision on Tuesday 12 May 2026, which found Yindjibarndi native title holders were found to be owed \$150.1 million in compensation, an information session for Yindjibarndi Members was held with our lawyers. Here are questions and answers from that session, plus other questions Members have asked.

## **1. Why is the amount of compensation awarded (\$150.1 million) so low compared to the \$1.8 billion that the Yindjibarndi asked for?**

The Federal Court determined that the amount payable by Fortescue (FMG) is around \$100,000 for economic losses, plus \$150 million for cultural losses

Regarding the \$100,000 for economic losses, the Court did not accept our argument that the economic losses should be assessed based on the usual royalty rate paid by miners in the Pilbara for native title agreements, i.e. around 0.5% of FOB (free on board) revenue generated by the mine. Instead, the Court followed the precedent set by the 2018 High Court case at Timber Creek in the Northern Territory, for which economic losses were assessed based on freehold land value.

Regarding the \$150 million awarded for cultural losses, the Court accepted the Yindjibarndi evidence about their deep spiritual connection to country and the physical and emotional impact on the mine suffered by Yindjibarndi witnesses. However, the Court ruled against compensation from FMG for social impacts on Yindjibarndi people arising from the split in the community that occurred from around 2010. The Court based the figure of \$150 million on what, in the judge's opinion, was the amount the broader Australian community would rightly regard as appropriate.

## **2. Will this decision mean that the Fortescue mine and damage to ngurra is stopped?**

No, it does not stop FMG's current mine operations on Yindjibarndi ngurra.

## **3. What does this decision mean for the protection of Bangkangarra (Satellite Springs)?**

The decision does not affect the protection of Bangkangarra. Yindjibarndi can oppose mining in that area of ngurra if FMG apply for a mining lease.

## **4. Is the \$150.1 million in compensation a once-off payment or ongoing?**

Once-off.

## **5. Does this judgment require Fortescue to come back to the table and negotiate with Yindjibarndi people?**

No, there is no requirement in the Court's determination to make the parties form an agreement about the current mines on Yindjibarndi country. FMG and Yindjibarndi can choose to come to an agreement over the existing operations, but there is no requirement to do so.

## **6. What protections will there be if FMG wants to expand its mines on Yindjibarndi country?**

If FMG ever applies for a mining lease in the future, there is an opportunity for Yindjibarndi to negotiate or object, via the National Native Title Tribunal. This could lead to wider negotiations including about the current mining operations.

## **7. Would we have been better off financially, if we had just accepted FMG's original offer in 2012, which was capped at \$4 million-a-year for the life of the mine?**

No. If we had accepted FMG's 2012 offer, we would have received \$60 million by today. We have spent approximately \$4 million for our legal costs on this case and FMG wanted to pay us about \$8 million in compensation before the judgment. In comparison, yesterday, the Court awarded us \$150.1 million.

## **8. Are we going to appeal this week's determination?**

If the Yindjibarndi decided to appeal the determination, our lawyers would need to identify grounds for an appeal first. They would look at the details of the reasoning behind the amount awarded for



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Ganalili Centre, 38 Roe Street, Roebourne WA 6718  
PO Box 111, Roebourne WA 6718

economic losses as well as for the amount awarded for cultural losses, and then the Yindjibarndi People would need to decide if they want to go ahead with the appeal.

If an appeal goes ahead, it could be decided by the full bench of the Federal Court (involving either three or five Federal Court judges), or it might go straight to the High Court.

However, the first step is to do a detailed, legal analysis of this week's judgment, which is in total more than 350 pages long, so this will take some time.

### **9. How much time do we have to decide if we are going to appeal?**

The Court did not make final orders this week for FMG to pay the \$150.1 million because the parties need to provide some details first regarding the exact amount to be paid for economic losses (which will be in the vicinity of \$100,000).

Once the Court makes these orders, then all parties have four weeks in which to lodge an appeal.

### **10. If it goes to an appeal, how long would it take to be resolved?**

An appeal takes much less time than a trial, so if we were to appeal, it could be resolved by late 2027.

### **11. How much would it cost Yindjibarndi to appeal?**

An appeal is a much cheaper process than a trial because it involves mainly written submissions, rather than large numbers of witnesses and production of evidence, and fewer hearings.

### **12. What is the lifespan of FMG's Solomon Hub?**

FMG gave evidence in this case that its mine on Yindjibarndi country will operate until 2045.

### **13. Why does the compensation amount for economic losses in our case need to be compared to the Timber Creek High Court case?**

As a Federal Court trial judge, the judge in this case needed to examine our case in the light of other decisions including those by a 'higher' court, such as the High Court. In the Timber Creek case, the judge determined that compensation for economic losses should be based on the freehold value of the land, and this is what the judge followed in our case. The High Court could decide that the

Yindjibarndi case is too different from the Timber Creek case and decide that compensation should be awarded on the more favourable basis argued by Yindjibarndi at trial.

#### **14. When will the compensation money be paid and where will it go?**

The money must be paid after the Court makes its final orders in a few weeks. FMG might ask for a few days after that to process the payment given its size. If there is an appeal, FMG could apply to the court to delay payment until after the appeals are decided.

The money will first be paid to Yindjibarndi Ngurra Aboriginal Corporation (YNAC). It will then be necessary to create a trust to look after the money. The Yindjibarndi People will be able to control how the money is invested and distributed by the new trust.

#### **15. Will Yindjibarndi Aboriginal Corporation (YAC) Members become Yindjibarndi Ngurra Aboriginal Corporation (YNAC) Members?**

Yes. The 2025 YAC and YNAC annual general meetings (AGMs) resolved to amend the YAC and YNAC Rulebooks to enable a simple process for YAC Members to become YNAC Members. We are currently waiting for the Office of the Registrar of Indigenous Corporations (ORIC) to approve the changes to both Rulebooks. In the meantime, YAC Members can still apply to be YNAC Members by completing an application form, available by emailing [secretariat@yindjibarndi.org.au](mailto:secretariat@yindjibarndi.org.au), calling 1300 051 400, or in person from the Ganalili Centre, 38 Roe Street, Roebourne (office hours only).

