

FORTESCUE METALS GROUP — YINDJIBARNDI LAND

Statement

HON SALLY TALBOT (South West) [5.20 pm]: I rise tonight to speak about a letter dated 5 November 2011 that is now on the public record. It was my intention today to raise it in question time but unfortunately I was not able to do that, for time reasons. This letter, as I say, is dated the beginning of November. It is from a company called Eureka Heritage History Archaeology. The claims in the letter are somewhat lengthy. If I have time, I will read the letter into the record. The claims are that Fortescue Metals Group has acted to remove sections of a heritage report containing information and analysis about the Yindjibarndi people's connection to country within and around FMG's Firetail mining lease. Very serious questions arise as a result of these claims, which have been made public in this letter. I think it is incumbent on the Minister for Indigenous Affairs to explain publicly what he intends to do to address these claims and allegations, what he has instructed his department to do and, indeed, what his instructions are to the registrar who has carriage of these matters.

The letter is from archaeologist Sue Singleton who has obviously been through a fairly difficult time in terms of her decision to write this letter and subsequently to agree to it being made public. Ms Singleton is the principal archaeologist for Eureka Heritage and is the co-author, with Rob Tickle—who works as the principal of Veritas Archaeology and History Service—of various reports, notices and applications relating to archaeological surveys conducted on the lease to which I just referred, the Firetail lease, being developed by Fortescue Metals Group Ltd. In her letter, Ms Singleton says the following —

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.

It is important that we are talking about two different versions of the same report here. That was December 2010. The letter continues —

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.

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 ... 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, —

Ms Singleton states she —

... 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.

This is important because members will remember that FMG's letter referred to a Mr Tickle not having any ethnographic training. Clearly, this part of the report was not prepared by Mr Tickle but was prepared by Ms Beech. Ms Singleton continues —

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” ... 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 ... 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 Wirlu-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.

I will skip to another part of the letter. Both Veritas and Eureka were very concerned with the request from FMG that certain information be deleted from the December 2010 report and at first refused to comply. Ms Singleton states —

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” ...

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.

This is a four-page letter. It goes into a great deal of detail. It was made public a couple of days ago. I would be extremely surprised if the Minister for Indigenous Affairs has not had it brought to his attention. I ask the minister to make a public response to this letter. It is the latest in a series of very serious incidents involving FMG exploration in the Pilbara, and the government really needs to step in and take a role in resolving some of these difficulties. I repeat in this place what I have already put on the public record. I have spoken to all the parties involved in this dispute, and I can tell this house that not one party to the dispute wants to prevent the mining going ahead. That is a basic understanding that everybody coming to this dispute must keep at the front of their minds. Everybody wants this project to go ahead. The Yindjibarndi want it to go ahead and the other traditional owners in the area want it to go ahead. Of course FMG wants it to go ahead. The government must want it to go ahead, because it is clearly in the interests of all Western Australians for such an important project to get the green light. But we are constantly tripping over ourselves as we try to get this right. It has clearly gone very, very wrong over the past few months. This letter, which is now on the public record, is proof that there is trouble behind the scenes. It is incumbent on the government to get in there and sort it out.