

YINDJIBARNDI ABORIGINAL CORPORATION–FORTESCUE METALS GROUP — DISPUTE

4504. Hon Robin Chapple to the Parliamentary Secretary representing the Attorney General

With reference to ongoing dispute between the Yindjibarndi Aboriginal Corporation (YAC) and the Fortescue Metals Group (FMG), and public statements by YAC representatives to the effect that YAC seeks to negotiate a fair and reasonable agreement with FMG to allow for the Solomon Hub mine to proceed, I ask —

- (1) Is the Attorney General aware of the calls from YAC for the State Government to assist the parties to come to a fair and reasonable agreement by facilitating an independently mediated process?
- (2) Has the State Government considered this request?
- (3) Will the State Government assist in this way?
- (4) Is the State government considering assisting the negotiations in other ways?
- (5) If yes to (4), what options is the State Government pursuing?
- (6) If the State Government is not considering assisting negotiations in any way, why not?

Hon MICHAEL MISCHIN replied:

- (1) In a YAC media release dated 18 July 2011, YAC called upon the Western Australian Government to appoint a mediator in their dispute with FMG. Until the media release was brought to the Minister's attention, the Minister was unaware of this request.
- (2) Yes
- (3) Negotiations between mining companies and native title claimants are considered to be confidential commercial matters in which the State Government has no authority to intervene. The parties should avail themselves of their rights as provided under the Native Title Act 1993 (Cth) (NTA).

It is noted that following a recent Full Federal Court appeal by YAC on the Federal Court's decision to uphold the National Native Title Tribunal's determination that the mining leases could be granted, the parties engaged in mediation with the Registrars of the Court. This ended on 3 March 2011 without any resolution.

It is unclear whether YAC is still requiring mediation at this time.

- (4)–(5) Not applicable
- (6) The ability of the State Government to participate in native title negotiations is limited by the NTA. There are mechanisms under the NTA which a party could use if they wished to have the matter mediated.