

NATIONAL NATIVE TITLE TRIBUNAL

Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) v FMG Resources Pty Ltd [2014] NNTTA 94 (24 September 2014)

Application No: WO2014/0223

IN THE MATTER of the *Native Title Act 1993* (Cth)

- and -

IN THE MATTER of an inquiry into an expedited procedure objection applications

Mungarlu Ngurrarankatja Rirraunkaja (native title party)
(*Aboriginal Corporation*)

- and -

The State of Western Australia (Government party)

- and -

FMG Resources Pty Ltd (grantee party)

DECISION TO DISMISS EXPEDITED PROCEDURE OBJECTION APPLICATION

Tribunal: Member Helen Shurven

Place: Perth

Date of dismissal: 24 September 2014

Date of reasons: 24 September 2014

Catchwords: Native title – future act – proposed grant of exploration license – expedited procedure objection application – excision of proposed tenement from native title claim – tenement granted – Tribunal has no jurisdiction – objection application dismissed

Legislation: *Native Title Act 1993* (Cth) ss. 29, 148(a)

Cases: *David Daniel & Ors/Western Australia/Raymond J T Butler and Stanley A MacDonald*, NNTT WO99/197, [2000] NNTTA 294 (*‘Daniel v Western Australia’*)
Gregory and Kelvin Garlett/Western Australia/Sipa Exploration NL, NNTT WO97/220, [1997] NNTTA 167 (*‘Garlett v Sipa Exploration’*)

Representatives: Ms Irene Assumpter Akumu, Central Desert Native Title Services Ltd

Government party: Ms Bethany Conway, Department of Mines and Petroleum

Grantee party: Ms Nerolie Nikolic, Fortescue Metals Group Ltd

REASONS FOR DECISION TO DISMISS EXPEDITED PROCEDURE OBJECTION APPLICATIONS

Background

- [1] On 29 November 2013, the State of Western Australia ('the Government party') gave notice under s 29 of the *Native Title Act 1993* (Cth) of its intention to grant exploration licence E69/3214 to FMG Resources Pty Ltd ('the grantee party') and included in the notice a statement that it considered that the grants attracted the expedited procedure.
- [2] On 28 March 2014, the Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) on behalf of its members ('the native title party') lodged an expedited procedure objection application with the Tribunal in relation to the proposed licence E69/3214 (WO2014/0223). The area covered by the proposed licence included part of the area covered by the native title party Determination WCD2008/002, which was determined on 20 June 2008.
- [3] On 15 September 2014, the State of Western Australia ('the Government party') advised the Tribunal in writing that the proposed exploration licence E69/3214 would be granted on or after 25 September 2014, with the exclusion of all land which was subject to Native Title Determination WCD2008/002.

Relevant facts

- [4] The Tribunal does not have jurisdiction to conduct an inquiry once a tenement has been granted (see '*Daniel v Western Australia*'). Further, in this case, the grant was not a future act as native title was not affected (see '*Garlett v Sipa Exploration*').

Decision

- [5] Expedited procedure objection application WO2014/0223 is dismissed pursuant to s 148(a) of the *Native Title Act 1993* (Cth).

Helen Shurven
Member
24 September 2014