

**Independent Person under S24 MD (6B)  
Native Title Act (Commonwealth)  
Western Australia**

INDEPENDENT PERSON 3/16

**VANDELEUR SUPERANNUATION PTY LTD**

**APPLICANT**

AND

**GNULI NATIVE TITLE CLAIMANTS**

**OBJECTOR**

AND

**STATE OF WESTERN AUSTRALIA**

**GOVERNMENT PARTY**

**DECISION**

1. The Objectors are the registered native title claimants of an area in the Carnarvon Shire.
2. The Applicant is the current holder of Mining Lease M09/90 and has applied for three Miscellaneous Licences which are within the area of the Objector's claim. Each of the Miscellaneous Licences covers an existing road or track between gazetted roads and the Mining Lease
3. The Objector objected to the grant of the Miscellaneous Licences and as a result the objection has been referred to me by the Government Party pursuant to Section 24MD(6B)(f) of the *Native Title Act (CTH)*.
4. Section 24MD(6B) provides that where a State intends to grant a right to mine for the sole purpose of the construction of an infrastructure facility associated with mining, if a registered native title claimant objects to the grant and so requests, the State must ensure the objection is heard by an independent person or body.
5. The relevant criteria to be considered by an independent person in assessing any objection includes those matters about which Section 24MD(6B) requires consultation namely:
  - a. Ways of minimising the act's impact on the registered native title rights and interests;

- b. Any access to the land; and
- c. The way in which anything authorised by the act may be done.

*[Gobawarra Minduarra Yinhawanga People and Innawonga People v Hamersley Iron Pty Ltd (IND3/2004)]*

- 6. The basis of the Objector's objection is that Mining Lease M09/90 may have been transferred to the Applicant in breach of conditions contained in an agreement entered between a prior holder of the Mining Lease and the Objector.
- 7. Although the Miscellaneous Licences are for the sole purpose of the construction of an infrastructure facility associated with mining on the Mining Lease, any concerns in relation to the Mining Lease or any agreement in relation to it need to be resolved in an appropriate forum and are irrelevant to the consideration of the objection.
- 8. The Objector has provided no evidence as to what, if any, impact would arise from the grant of the Miscellaneous Licences.
- 9. Although the Objector refers to negotiations concerning the completion of a heritage agreement, there is nothing before me which identifies the impact of the existing roads or tracks, how the grant of the Miscellaneous Licences would further contribute to these impacts or suggesting in ways in which any impact could be minimised.
- 10. In the absence of any evidence relevant to the matters to be considered when determining an objection, the objection is dismissed.



Steven Heath  
**Independent Person**