

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

INDEPENDENT PERSON 2/17

**LAKE AUSTIN MINING PTY LTD
APPLICANT**

AND

**WUTHA NATIVE TITLE CLAIMANTS
OBJECTOR**

AND

**THE STATE OF WESTERN AUSTRALIA
GOVERNMENT PARTY**

DECISION

1. The Applicant has applied for a Miscellaneous Licence L 20/73 under Section 91 of the *Mining Act 1978 (Western Australia)* for the purposes of a road and pipe line.
2. The Miscellaneous Licence applied for is completely within the boundaries of the claim area of the Objector's claim pursuant to the *Native Title Act 1993 (Commonwealth)*.
3. The Objector objected to the grant of the Miscellaneous Licence and the objection was referred to me.
4. On 16 June 2017 I made an order that within 2 weeks of that date the Objector provide to me and each of the other parties a Statement of Contentions in support of its objection together with a copy of each document relied upon in its contentions.

5. On that occasion the Applicant sought springing orders but I indicated that I was not prepared to make orders in those terms. All parties were warned by me that there was a need to comply with the time limits and any failure to comply may lead to an application by the other parties.
6. On 3 July 2017 the Applicant requested the immediate dismissal of the objection as there had been a failure by the Objector to file and serve any documents by 30 June 2017 as required by my order of 16 June 2017.
7. On 5 July 2017 I advised all parties that the application for dismissal of the objection would be heard on 14 July 2017 and that all parties should be represented in person at the hearing.
8. On 14 July 2017 representatives for the Applicant and the Government Party appeared but there was no appearance on behalf of the Objector. Five minutes prior to the scheduled hearing I received an email on behalf of the Objector forwarding a copy of an email to the Government Party's representative indicating their representative could not appear at the hearing in person but was available by telephone link. Attached to that email was a medical certificate indicating that the Objector's representative was not able to attend Perth on 4 August 2017 due to being unable to travel but providing no further details. That certificate was dated 12 July 2017.
9. In light of my direction that parties should be represented in person and that the Objector had been in a position to arrange alternate representation for at least two days, if the certificate was intended to relate to 14 July 2017 rather than 4 August 2017, I was not prepared to allow the Objector to appear by telephone link.
10. The Applicant and the State Government Party each indicated that they had received some documentation from the Objector on 3 July 2017. The Applicant submitted the documentation did not comply with the order made at the direction hearing.
11. The Government Party did not wish to be heard.
12. The Objector failed to serve any documents on me and in the absence of any contrary argument I accept the Applicant's submission that the order has not been complied with.

13. In the absence of any evidence to support the objection, the objection is dismissed.

A handwritten signature in black ink, appearing to read 'Steven Heath', with a stylized flourish at the end.

Steven Heath
Independent Person

14 July 2017