

# Rock art versus an iron will

A stoush over native title is the latest challenge to Fortescue Metal's Pilbara mining plans, writes

**Marcus Priest.**

**B**illionaire West Australian miner Andrew Forrest is used to a fight. He has fallen out with some of his Chinese investors. He is also fighting the corporate regulator. Now he faces a fight with an Aboriginal community that could threaten his grand vision to create a third force in iron ore mining in the Pilbara.

A group led by renowned Aboriginal author and academic Sally Morgan is seeking to block his plans to build a railway close to sensitive rock art in the Woodstock-Abydos area of the Pilbara.

Forrest complained to the federal government that the Pilbara Native Title Service was not properly representing Aborigines in the region and was breaching the terms of an agreement reached last year to facilitate his project by assisting Aboriginal opposition to the railway line.

"Having grown up with Aboriginal people, I felt they were being abused, I felt they were being manipulated and exploited by the very body who claimed to act for them," Forrest says.

"The philosophy of the PNTS is to prise money from mining companies and then control the money through what they call charitable trusts and boards that they happen to sit on and then dole it out to people who... don't actually get the incentive to improve our situation."

**"The philosophy is to prise money from mining companies."**

But a copy of a government report obtained by *The Australian Financial Review* reveals that many of his concerns about the PNTS have been dismissed.

"Despite Fortescue Metals Group's objections and unresolved and ongoing disputes, [PNTS] has still managed to provide significant assistance to the native title claims group," the report's author, Philip Hunter, of law firm Ebsworth & Ebsworth, finds.

The Hunter report, handed to Indigenous Affairs Minister Mal Brough in June, has shed light on the way in which some rogue native title claimants and third parties are hampering the speedy resolution of negotiations between miners and native title claimants.

Hunter found that the PNTS was being seriously undermined by a small number of Aboriginal people, one non-Aboriginal person and their private lawyers.

Hunter said PNTS failed to follow proper procurement or competitive tendering policies in relation to heritage surveys and also seemed to have been over-charging mining companies for lawyers' and consultants' work — up to \$400 an hour.

But he also found double-dipping by an FMG employee. And he expressed concern that the company might seek in the future to avoid making payments to Aboriginal people because it argued that PNTS breached the terms of a multibillion-dollar native title deal it had reached with FMG.

Forrest faces allegations from Aborigines in the Goldfields region that he failed to honour a deal struck in 1998 in relation to his former project, the Murrin Murrin Nickel

mine, to pay them a million dollars a year.

The claimants, represented by the NEIB Aboriginal Corporation, are suing the operator of Murrin Murrin, Minara Resources.

They have also appealed to former Olympian Cathy Freeman for assistance. Earlier this year, Freeman became the patron of the company's Vocational Training and Employment Centre.

Duncan Bilson, a Goolburthunoo elder, said in his letter to Freeman that since Murrin Murrin opened in July 1999, including while Forrest was at the company, no payments had been made to his people.

Internal FMG email correspondence provided to Hunter by the company and obtained by the *AFR* shows that during 2005 FMG unsuccessfully tried to cut PNTS out of negotiations with native title claimants amid an ongoing dispute between the company and the land council over unpaid bills.

Forrest says Bilson's letter was sent some time ago to Freeman, who has "distanced herself from the allegations" after she raised the matter with him. "I am no longer with Minara and am unable to influence their policy in the slightest but somehow he blames me for their actions," he says.

But in a previous interview, Forrest said Minara should "see beyond the selfish behaviour of one group and stick to the original offer made".

A Minara spokesman says a condition in the 1997 agreement — that all 28 native title claimant groups come together — had not been met because one sub-group had not signed up.