

7 October 2013

The Companies Officer  
Australian Securities Exchange Ltd  
2 The Esplanade  
Perth WA 6000



Dear Sir/Madam

### **TPI challenges rail access proposal and cost determination**

Fortescue Metals Group (ASX: FMG, Fortescue), through its subsidiary The Pilbara Infrastructure Pty Ltd (TPI), has lodged its Application with the WA Supreme Court for Judicial Review of the Economic Regulation Authority's (ERA) determination of TPI's Floor and Ceiling costs and its decision to approve negotiations under section 10 of the Code in relation to the proposal for rail access made by Brockman Iron Pty Ltd (Brockman).

The Supreme Court Application was lodged by TPI pursuant to its assertion that the ERA made errors of law in its decision and failed to accord TPI procedural fairness in making its determination.

"We believe the ERA has made errors in its determination of the Floor and Ceiling Costs. TPI is entirely within its rights to challenge the outcome, and has a duty to shareholders to pursue a fair and reasonable return on its world class infrastructure," Fortescue Chief Executive Officer Nev Power said.

TPI has also commenced Proceedings in the WA Supreme Court for Declarations that Brockman's proposal for access to TPI's railway is invalid and does not enliven the operation of the Code. It is TPI's view that Brockman is merely seeking an option to access TPI's railway at some future time and is not capable of entering into a binding agreement to use and pay for use of TPI's railway at this time.

"TPI cannot be expected to subsidise third party projects that are uneconomic. The object of the Code is not to provide an "option" on infrastructure," Mr Power said.

Fortescue is a strong proponent of third party access to infrastructure and is actively negotiating outside the Code with other potential third parties that have commercially viable projects.

Yours sincerely  
**Fortescue Metals Group Ltd**

**Mark Thomas**  
Company Secretary

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