

**Executive Meeting No. 5 of 2009/2010  
11 November 2009 at Umuwa  
Minutes**

<b>Present:</b>	Chairperson	Bernard Singer
	Amata	Leonard Burton – telephone from Adelaide
	Anilayla	Kawaki Thompson
	Indulkana	Ronnie Brumby
	Kaltjiti	Murray George – telephone from Pt Augusta
	Mimili	
	Murputja	Anton Baker
	Pukatja	Jamie Nyangu – telephone from Alice Springs
	Kalka/Pipalyatjara	
	Watarru	Charlie Anytjipalya
	APY	Rex Tjami, Ken Newman, Peter Huntington, Rodney Edwards

**Visitors from Communities representing Chairpersons**

Gary Lewis (Pukatja), Roger Kayipipi (Kaltjiti), Donald Fraser (Yunyarinyi), Jason Baker (Kanpi), David Pearson (Indulkana), Gordon Inkatji (Anilalya), Teddy Edwards (Mimili)

**Visitors:** Ron Merkel, QC

**1. Welcome**

The meeting commenced at 11:45 with a Telstra recorded telephone conference phone call with Adelaide, Port Augusta and later Alice Springs. Bernard Singer advised those on the phone who were present in the room for the meeting. An agenda was faxed to the phone participants.

Kawaki Thompson gave an opening prayer.

**New Business**

**2. Anangu Rights Legal Briefing – R Merkel, QC**

In light of repeated personal attacks on the General Manager and Principal Legal Officer, by, or generated by, non-Anangu with a conflict of interest, they recommended that independent legal advice be provided by the QC in their absence. The Chairperson excused the GM and Legal Officer from the meeting for this portion and the Minutes were recorded by Rodney Edwards, LM Coordinator.

Bernard Singer welcomed Ron back to the Lands and Ron said it was a privilege to be back. He said the Government is challenging Anangu in several ways. The government is saying APY cannot control the use of the Lands and the government has the power to decide on services and activities. The government wishes to change the permit system to enable this. Ron said he met with the Minister (with Bernard Singer, Rex Tjami and others in Adelaide) recently. Ron said he advised the Minister in August that APY had extensive powers under the Act and would provide him with legal advice. He provided this written advice to APY and the Minister.

As the land owner, APY has complete control over the Lands and the right for APY to control who comes onto the Lands, what they do, and under what conditions. The Act is the strongest in Australia, even better than Native Title. He also advised APY that if the Minister tries to change the permit system, that reduces the rights in the Act. This would take away rights of the owner.

SA is different to the NT because the NT was a federal government bill in relation to federal government land. In SA, it doesn't have the same power without breaching the *Racial Discrimination Act*. If the State wants to reduce powers of permits, it may be discriminating against APY.

Ron Merkel told the Minister that Anangu need to stop fighting. There are two important provisions under the Act:

1. That APY must consult with Traditional Owners (TO) and try to give effect to TO wishes for that land. If the TOs are fighting and don't have a common view, that will give the State and federal governments an excuse to proceed and take away some rights;
2. Where the Executive Board has a proposal for part of the Lands, it must consult with TOs. It cannot proceed with a proposal without giving effect to those wishes.

The owner of the Land is APY Corporation established under the Act. All members own it together. The Act is for all Anangu, not for separate groups. If some rights/interests are granted to some Anangu or others, it must comply with the two provisions or it is not valid (Section 6).

Ron said he told the Minister in August that APY would try to get unity to avoid the Minister taking action. In August, at the Executive Board meeting, a resolution was passed to develop an MOU with the State Government.

After that meeting (Aug), the Minister presented to Parliament a draft law that would take away Anangu rights. Ron advised the Minister that the amendments are so broad they could be challenged under the *Racial Discrimination Act*. Amendments were a first step and covered journalists and contractors.

Ron's advice to the Executive Board is that once government starts to take away Anangu rights, they will continue through incremental changes. He advised the Executive Board to be firm and reject the amendments. He also advised the Minister that APY will go to Court to challenge the APY rights but the Minister said he wants a compromise.

The recent meeting (29/10/09) with the Minister outlined the boundaries of the MOU between APY and the State.

Charlie Anytjipalya (Watarru) commented that the permit system is not supporting the TO. We need the permit system but it needs to be managed and listen to TO when they want permits issued. 3-4 communities want to run projects but cannot get permits. The staff are not listening to Anangu and the staff are running the permit system.

Bernard Singer said it is the wishes of Anangu to look into these things. A meeting with DEH will be held next month to resolve the Watarru issue.

Kawaki Thompson thanked the QC. He said we must look after the *APY Land Rights Act* and the permits. We must be strong. He said "I fought for this. The government should be helping us."

Murray George said we should work together and be strong. Everyone needs to be together, Anangu tjukurpa is coming down so we have to work together or one day we will be finished. All Executive Board members need to work together.

Leonard Burton spoke at length in language and said that any regional authority for the Lands should be Anangu controlled. Bernard Singer responded and said the Minister wants to be able to send in anyone.

Kawaki Thompson said we have the land. We have the lore. We have the law.

Ron Merkel explained precisely what the Minister wants to do.

1. Any government officer/employee can come without a permit
2. Anyone who is carrying out any function of the State/Commonwealth government can come on without a permit
3. Anyone authorized by the Minister for work on electricity, water, airfields, etc. can come on the lands without a permit (private or public employee)

4. Any journalist can come on the lands to report on any matter of public interest
5. The Minister can revoke the permits, not APY.

Under the current system, APY can put in conditions. This proposed change is significant as it would give the Minister control.

Donald Fraser (Yunyarinyi) spoke at length in language.

Ron Merkel continued that Anangu are at risk of government taking over the rights. This is a precedent and should be resisted or otherwise the APY Lands will go like the Northern Territory. Donald Fraser said this is a risk.

Ron continued that Anangu must be united in what their rights are or the government will come in and impose changes. Everyone will lose.

He said the purpose of the last meeting with the Minister (29/10/09) was to commit to APY unity and so that:

- a. the Minister agreed not to go further with permit amendments and would support a by-law;
- b. a by-law for permits that would enable APY to control conditions, contractors and work. APY would control the permits.

The Minister also talked about a Regional Council. He told Ron that APY has the best Executive Board, governance and leadership. The Minister agreed to set up an MOU to look at APY being the Regional body to provide municipal services, not through a competing body.

Gary Lewis (Pukatja) questioned who is asking? Is APY asking the Minister or is the Minister asking APY to be a Regional body.

Ron said the Minister is prepared to negotiate with APY as APY is responsible for allowing access to the Lands.

Gary Lewis said we need to plan together to create unity. There are alternatives such as a Regional Authority to work with government and APY can do the planning decisions. He discussed the differences between traditional owners and residents of communities, such as discussions for houses.

Ron Merkel stated the principle is in the Act. APY owns, controls, administers the Lands.

- a. It can set by-laws. Under the existing Act, it has all the powers of a regional authority and Ron questioned the Minister on why he would want to set up a competing authority. The Minister had no answer, so agreed he will work with APY. Since APY controls access for services, but might not have expertise, the Minister agreed he could build capacity in APY to provide the services by providing advisors.
- b. The Minister is happy to negotiate for a by-law for community stores. Previously the Minister said no to the by-law but now is prepared to negotiate
- c. Some government Officers are creating division in communities. The Minister agreed this has to stop and develop a cooperative approach.
- d. The Minister suggested that all State government departments operating on the Lands meet with APY to develop this cooperative approach.

Gary Lewis talked about the distinction between State and Federal money. There is an agreement between the State and Commonwealth. They have stopped fighting. So APY must stop fighting. How do we make this work?

Ron Merkel said there are big differences between APY and other parts of Australia. Nowhere else is the land owned like under the *APY Land Rights Act*. Torres Strait has a different tenure and Act. In the NT, they don't have the same as APY. The NT has the Central and Northern Land Councils.

Under the APY Act, APY is the controller of their Land and once this is recognised by both the State and Commonwealth governments, they can stop fighting with APY.

John Kite (Watarru) said there are problems with Land Management. There are permit problems for people to do the projects. The TOs should be granting the permits. Now the Executive Board/management are saying they will solve the problems. It should be TOs who control the permits. Land Management language is threatening. The problem is Land Management can't work with TOs.

Ron Merkel said under the *APY Land Rights Act*, only APY can give permits. APY must consult. APY cannot proceed with permits against the wishes of the TOs.

Rex Tjami said that permits must come through APY. All projects must come through APY.

Murray George said everything is understood clearly. The focus should be through one voice.

Rex Tjami said APY is already a regional authority under the Land Rights Act. We don't want another body. Communities need to be represented to ensure they get their services. If another body is formed, it should come under the umbrella of APY.

Donald Fraser said we should have formed a Regional Authority under the APY umbrella years ago. It doesn't matter about family fighting that is internal. But we need a strong and tough Executive Board.

Charlie Anytjipalya said he will continue to talk about permits.

Leonard Burton said all MSOs are unfunded but is happy with the resolution.

Bernard Singer said the government can move all the services just like it has been doing but now there are no services.

Kawaki Thompson said we need to be able to control who is coming in and who are the MSOs. It must be under Anangu control. The powers and functions must be through APY.

Rex Tjami said the government can play games, just like in the Constitution of AP Services where 3 non-Anangu Directors can control decisions and there is no Anangu control. There is a need to set up under the APY umbrella. It is already possible. John Kite said the 3 non-Anangu have to be invited on to the AP Services Committee. It is not automatic.

Rex Tjami said this is to try and unite Anangu. This resolution is to ask the State and Commonwealth governments to have it under the APY umbrella.

#### **Resolution**

*That APY, rather than any competing body or authority, be accepted by State and Commonwealth governments as the appropriate body for the delivery of municipal services on a regional basis on the APY Lands.*

Moved: Kawaki Thompson  
Second: Anton Baker  
Carried: All

### **3. FaHCSIA**

Adrienne Gillam attended with a Regional Operations Centre (ROC) team comprising Marie McComb, Mark Weaver (new Government Business Manager (GBM), Mimili), Rhoda ... of STF Consulting (governance trainer), Mark Jackman and Bob Smith (Service Coordinators).

Adrienne provided a handout to all members and a flyer introducing Mark Weaver and the rest of the team. David Bernard will be the new GBM at Amata. They will work with the two Service Coordinators to continue work across the Lands. Marie McComb works in Adelaide and Rhoda is doing the governance work at Indulkana, Mimili and Pukatja. Four Indigenous Engagement Officers are still to be recruited.

Marie is also managing the Pukatja Army project and re-building the church project.

The GBM is to make all government services work. They work in the communities but get backup from Adelaide. There were questions about the Army project at Pukatja and Marie provided a briefing on the projects.

Mark Weaver explained there are 7 key issues to be addressed including housing, employment, early childhood, and home safety.

Kawaki Thompson asked if there was a hidden agenda for the Government. Adrienne said the way it has been happening has not worked. They are going to have GBMN? coordinate the way government services do business in communities.

Adrienne talked about the municipal services and advised they have given funds for 9 communities to have community support people. They will also be part of a new contract when funded next year. She also said the ROC was run from Adelaide, not Port Augusta so this is the team we will work with. It also includes James Armitage and Nicki Ross and Kim Petersen and Nerida Saunders all in Adelaide.

Peter Huntington reported that members of APY had met with Brian Gleeson, Coordinator General and have seen his considerable credentials. Pauline Peel, the State equivalent to the Coordinator General also comes with strong credentials.

Donald Fraser wanted to know when the project finished. Mark Jackman said there were 29 sites in Australia and if it works, can be expanded, but is currently a 5 year plan.

#### **4. Legal Matters**

##### **a. Rio Tinto**

###### **Resolution**

*That APY execute a Deed of Assignment, Assumption and Release between Rio Tinto and Metals X in respect of EL3932 on such terms as are acceptable to the Director, Chairperson and General Manager, including that the parties pay APY's costs.*

Moved: Jamie Nyangu  
Second: Anton Baker  
Carried: All

##### **b. Ahava Energy**

###### **Draft Resolution**

*That APY execute a Deed of Assignment, Assumption and Release between Ahava, Dawnpark Holdings and Standard Oil and Ahava Trainor Holdings and Rio Tinto Exploration in respect of PEL138 on such terms as are acceptable to the Director, Chairperson and General Manager, including that the parties pay APY's costs.*

Moved: Kawaki Thompson  
Second: Ronnie Brumby  
Carried: All

### c. Food Security by law – deferred to next meeting

### d. Permits

The Minister has introduced a Bill to amend the permits provisions of the *APY Land Rights Act* but has agreed not to proceed further with this Bill while negotiations for a by-law regarding permits progresses. The Minister has advised that a Bill to repeal the *Outback Areas Settlement Trusts Act* and replace it with a regional authority to manage remote communities will **not** apply to the APY Lands.

#### Resolution

*That APY negotiate a By-law/Constitutional amendment regarding permits and rent collection with the State government for discussion at a future Executive Board Meeting.*

Moved: Jamie Nyangu  
Second: Bernard Singer  
Carried: All

An Investigator's report has revealed instances of asset stripping by AP Services in relation to vehicles and houses owned by APY.

#### Resolution

*That all permit terms be amended to provide that holders of permits shall not:*

- a) make representations about the nature and extent of Anangu legal rights under the APY Land Rights Act; the powers and functions of APY ownership of the lands by APY; and/ or, APY's entitlement to exclusive possession of the Lands and buildings erected on the Lands and/or APY's entitlement to collect the rents and profits from the Lands or buildings erected thereon;*
- b) occupy buildings or other areas without the consent of APY; or,*
- c) collect rents for buildings or lands or other money from Anangu or communities without the written consent of APY.*

Moved: Jamie Nyangu  
Second: Ronnie Brumby  
Carried: All

#### Resolution

*That permits for AP Services employees resident in Alice Springs, together with the Special Administrators be cancelled effective 4 pm 16 November 2009 unless, prior to that time, the CEO of AP Services has given a written explanation of dealings with buildings and vehicles; an acknowledgment of APY's ownership and entitlement to exclusive possession of the Lands (including collection of rents); and, undertakes not to engage in asset stripping, in a form acceptable to the Director and General Manager.*

Moved: Bernard Singer  
Second: Anton Baker  
Carried: All

### 5. Housing Asset Audit and Asset Strategy Update – Beth Dunning, Roman Kowalczyk, Housing SA

Beth gave a presentation giving the Executive Board an update on the housing assets and the planned building and upgrading program over the next 3 years as part of the National Partnership initiative.

Bernard Singer recommended the housing advisory councils at each community be represented by a person from health, council, community representatives and homelands.

Jamie Nyangu had to leave the meeting so without a quorum, the meeting was suspended at 5:50 pm until 12 November 2010.

**Executive Meeting No. 5 of 2009/2010  
Day 2 - 12 November 2009 at Umuwa  
Minutes**

<b>Present:</b>	Chairperson	Bernard Singer
	Anilayla	Kawaki Thompson
	Indulkana	Ronnie Brumby
	Murputja	Anton Baker
	Pukatja	Jamie Nyangu – telephone from Alice Springs
	Watarru	Charlie Anytjipalya

Visitor: Donald Fraser

The meeting resumed at 11:05 am.

**6. Previous Minutes of Meeting No. 4 – 7 October 2009**

The General Manager read through the Minutes of 7 October 2009 which were accepted without alteration.

Moved: Jamie Nyangu  
Second: Ronnie Brumby  
Carried: All

**7. Correspondence In/Out**

**In**

30/09/09	Pukatja	Thanks for sponsorship for Sports weekend
01/10/09	FaHCSIA	Attending Executive Board meeting
08/10/09	Indulkana	Open letter
	Minister	Remote Aerodrome program
16/10/09	Watarru	Meeting re: Kuka Kanyini
20/10/09	Witja	Sponsorship for Great Victoria Bike Ride – <b>agreed \$2000</b>
22/10/09	Nganampa	Invitation to Pukatja Clinic opening 9/11/09
02/11/09	DAC	Assessment Procedures for Development –
		<b>Action: Administration to take appropriate action</b>
	Jane Lester	Amata Bush Medicine Harvesting sites – <b>LM to advise</b>
	Housing SA	Social Housing
	Housing SA	Anangu rent
	Pukatja	Housing at Pukatja
04/11/09	Metals X	EL3932 – Mt Davies
04/11/09	Ninti One	Camel Steering Committee – <b>LM + Anangu tjilpi</b>
09/11/09	Kokatha People	Tjilpi tjuta – <b>letter to be sent to Kokatha</b>
	Indulkana	Greyhound Bus Service – <b>letter to be sent to Indulkana</b>
	Aaron Stuart	Suicide Prevention in Aboriginal communities (email)
	DPC	Membership on State Aboriginal Heritage Committee

**Out**

08/10/09	PIRSA	Mintabie Town Lease
09/10/09	Minister	APY Roads
	Minister	Draft Bill relating to Permits
	Pukatja	Housing at Pukatja
	Iwantja	Open letter
	Minister	Officer from DWLB to APYLM
02/11/09	Community	Invitation to Executive Board meeting

## **8. 2008/2009 Annual Report**

The General Manager provided a copy of the 2008/2009 Annual Report to all Executive Board members and visiting Chairpersons. This report will be provided to the Minister in accordance with the Act when the Audit report is received. The report will also be posted on the APY website.

## **9. Anthropology Matters**

An anthropology report was provided to all members for information purposes.

## **10. Land Management Matters**

A brief land management report was provided to each Board member.

## **11. Date of Next Meeting**

The final AYP Executive Board meeting for this year will be held on Wednesday 2 December 2009 at Umuwa. It will be preceded with a meeting with the Ahava Energy Advisory Committee on Monday 30 November and DEH/Watarru on Tuesday 1 December.

## **12. Development and Planning Matters**

### **a. Kaltjiti- 50 Year leases for seven new Anangu houses**

The October Executive approved the 50 year lease request for the seven house sites, subject to traditional owner consent. Kaltjiti Community requested us to take SA Housing Officer (Roman Kowalczyk) and APY Lawyer (Peter Huntington) to a Housing Meeting 14/10/09, which went really well as we approached it differently to other Housing meetings.

Jude and Mary went through the whole process of the Housing Leases on the APY Lands and doing it this way gave the TO's more knowledge about what the Lease meant. Roman and Peter also talked and finally there was an outcome of approval for the Housing Leases at Kaltjiti.

#### **Resolution**

*The APY approves the fifth variation to the Ground Lease in relation to the seven Anangu houses at Kaltjiti.*

Moved: Kawaki Thompson  
Second: Anton Baker  
Carried: All

### **b. Umuwa - Community Safety Centre lease and Block Size**

The October Executive granted a ten year lease for the proposed Umuwa Community Safety Centre subject to TO consent, and a reduced block size. We planned two meetings for the Traditional Owners of Umuwa to attend on the 28/10/09. This was the second attempt to meet, the first being 17 September 2009. TO's did not attend either meeting

We have physically measured the proposed site for the Umuwa Community Safety Centre and found the block that is requested by the Department for Premier and Cabinet (DPC-AARD) is way too big for the development they planned to build (122m x105.35m which is equivalent to 1.2 hectares or 12,000 square metres.)

We discussed the size of the block with Salisbury Council Development Staff who advised that .5 hectare that is 122m x 52m would be more suitable and provide ample space for car parking etc.



**Resolution**

*The APY Executive Board grants a ten year lease in the absence of TO consent for this centre on a reduced lot size equivalent to .5 hectare.*

Moved: Ronnie Brumby  
Second: Jamie Nyangu  
Carried: All

**c. SA Water**

SA Water representatives met with us in Umuwa to discuss current projects. Recurrent funding for much needed projects is not available. We discussed the idea of putting in place a license agreement (MOU) between APY and SA Water as a way of beginning to better manage and regulate water resources.

***Action: The APY Legal Officer take this proposal for a license agreement between APY and SA Water forward with SA Water.***

**d. Army working in Pukatja Community**

Members of the Australian Army came and visited us in the afternoon of 29 October to inform us about the bore that they would be using to fix up the very rough and corrugated S bend south of the community. This bore is situated between Pukatja and Balfours Well, and the borrow pit they will be using is between Balfours Well and Tjatja Homelands. They also informed us their campsite will be situated between Turkey Bore turn off and the deep creek going towards Pukatja. From this campsite they will also construct 3 new houses for Pukatja Community – the Executive already approved 50 year leases for these new houses.

The borrow pit will be cleared by the anthropologists when they next visit.

All of the above will commence early May 2010. The Army would like to attend the first meeting of the Executive in the new year, to inform Executive of the process and have also stated they will do this often during their time on the APY Lands. This project is being done through FaHCSIA and apparently the Army have been doing this sort of work for FaHCSIA for many years in different communities all over Australia.

***Action: That APY invite Australian Army representatives to the first Executive meeting in 2010 to discuss their work.***

**e. Kungkaku Housing Meeting**

Beth Dunning from Housing SA and APY Planning and Development Unit will meet with women to have their say on Housing issues and also to provide ideas on a homemaker program. That meeting will take place before the SGM on 12 November 2009.

**f. Adelaide Agency Visits- 2-5 November 2009**

Jude and Mary met with many agencies who have a role in planning on the Lands and lots of issues were raised by them about improving communication across agencies, working co-operatively together, having a central point for keeping information updated on all the things we need for good planning.

It was suggested in each meeting attended that there is an annual meeting to discuss future funded capital works and other infrastructure and planning issues, All agencies thought this was a great idea. We would like to see this meeting chaired/hosted by DPC-AARD.

**g. Children's Centres in Amata and Mimili**

AP Services has advised through their newsletter that they are designing, consulting and building new centres funded by the Commonwealth. No application has been received by APY at this stage.

***Action: Write to FaHCSIA ROC team for an update on this matter.***

**h. Transportable Houses discarded by agencies**

Agencies have often gifted unwanted and sub-standard accommodation to communities for use by communities/homelands. This has major impact on Anangu health and safety if Anangu occupy these buildings and it is not feasible to spend any money upgrading them.

**Resolution**

*That APY advise all agencies with transportables on the Lands that they must be removed from the Lands as soon as the agency vacates the premises, unless otherwise approved by APY.*

Moved: Bernard Singer

Second: Anton Baker

Carried: All

The meeting closed at 12:35 pm.

Minutes by Ken Newman