

**Executive Meeting No. 1 of 2010/2011
7 July 2010 at Umuwa
Minutes**

Present:

| | |
|--------------------|---|
| Chairperson | Bernard Singer |
| Amata | Leonard Burton – by telephone |
| Anilayla | Kawaki Thompson - part |
| Indulkana | Ronnie Brumby |
| Kaltjiti | Murray George – by telephone |
| Mimili | Tony Campbell – by telephone |
| Murputja | Anton Baker |
| Pukatja | Jamie Nyangu |
| Kalka/Pipalyatjara | Mrs Paddy – by telephone |
| Watarru | Charlie Anytjipalya |
| APY Administration | Rex Tjami, Director of Administration Chris Malcolm, Executive Officer |

Visitors:

Phillip Toyne
Kim Robertson, DPC-AARD
Danielle Seal, Crown Law Office

7 July 2010

1. Welcome

The meeting commenced with a prayer by Mrs Paddy at 12noon.

Ronnie Brumby, deputy Chairperson opened the meeting for business.

2. Correspondence In/Out for 2 June Meeting presented to the Executive.

Matters arising:

The Cross Borders program for Violent Indigenous Women was discussed, and the Executive requested that the Cross Borders Program be invited to Umuwa to present to the Executive on the latest initiatives.

Bernard Singer joined the meeting at 12.10pm and assumed the Chair.

3. Previous Minutes of Meeting No.10 2 June 2010.

The Executive Officer read the Minutes of the Meeting No.10 held on 2 June 2010.

Matters arising:

Some discussion arose regarding the absences of Executives during the course of the meeting, but no actions were called for.

The Minutes of Meeting No.10 held on 2 June 2010 were accepted without alteration.

**Moved: Jamie Nyangu
Seconded: Murray George
Carried: All**

4. Correspondence In/Out for June/July

In

| | | |
|----------|----------------------|---|
| 26/05/10 | Aust Govt | Review of Woomera Prohibited Area |
| 28/05/10 | FaHCSIA | Municipal Services on the APY Lands 2010/2011 |
| 1/06/10 | McCullough Robertson | Legal Services for APY |

| | | |
|----------|-------------------|--|
| 1/06/10 | Housing SA | Housing SA Residential Accommodation, Umuwa |
| 1/06/10 | Housing SA | Washing Machines in new Anangu Housing |
| 1/06/10 | Steve Matthews | Letter re Permit Cancellation |
| | Donald Fraser | Letter re Shed for Homeland |
| 2/06/10 | SA Health | Visit by John Hill, Minister of Health 11/7 – 13/7 |
| 11/06/10 | DPC-AARD | GM Position |
| 20/06/10 | Minister Holloway | Letter supporting APY/whole of government approach |
| 21/06/10 | ALPSC | Advice re Parliamentary Standing Committee visit |
| 22/06/10 | Pukatja Council | Letter re RASAC management/community assets |
| 22/06/10 | ILC | Report on Cattle Operations |
| 25/06/10 | DFC, Wiltja | Sponsorship of Victorian Bike Ride participants |
| 25/06/10 | DEH | Report on Kuka Kanyini at Watarru |
| 28/06/10 | Minister Gago | Infrastructure Grant |
| 1/07/10 | Nganampa Health | Letter re Petrol Restrictions |
| 2/07/10 | ACHM | Activity Report |
| 6/07/10 | Deloitte | APY General Manager followup |

Out

| | | |
|----------|---------------|---|
| 14/05/10 | Housing SA | Housing SA Residential Accommodation, Umuwa |
| 16/06/10 | Mellor Olsson | Invitation to July Executive Meeting |
| 16/06/10 | Phillip Toyne | Invitation to July Executive Meeting |
| 17/06/10 | DPC-AARD | Response to GM Position Enquiry |
| 17/06/10 | SAPOL | Old Amata and Mimili Police Stations |

The correspondence in and out as listed was tabled and summarised by the Executive Officer. Matters arising:

- Regarding the visit by Minister John Hill during the week beginning 12 July it was proposed that Chris Malcolm and Ronnie Brumby meet with the Minister (if available) and request an update on the status of dialysis treatment for patients from the APY Lands
- Chairperson requested that Executive Officer organise another meeting under the Leaders and Leaders program in Adelaide for around August
- Regarding the letter from Nganampa Health following a recent incident of substance abuse (petrol) at Fregon the discussion presented two actions;
 - a) The Code of Conduct to be drafted and applied in support of the Permit By Law include a clause stating that only Opal fuel shall be allowed to be used on the APY Lands in petrol powered vehicles and machinery. This Code of Conduct to be presented in Draft to the Executive at the next meeting

Action: Executive Officer

- b) Review the possibility of including such a clause in the Conditions of Permit issuance

Action: Executive Officer

5. Mining Royalty Consultations – Phillip Toyne

Phillip Toyne made a presentation on his consultations across the APY Lands in which he visited all 10 Communities and some Homelands. The purpose of these consultations was to hear what the Anangu had to say on the subject of mining royalty distribution and present options and models for Anangu to consider.

Phillip Toyne presented to the Executive the charts and basis of his community discussions. He spoke about the options to be considered in the future.

Phillip Toyne also commented that the current PISIR map showing mining tenements requires updating to reflect the non-negotiable areas for future mining.

Action: Executive Officer

Chairperson thanked Phillip for his work in these consultations and his report.

6. Permit By-Law Rewording

Phillip Toyne presented to the Executive some minor changes to the wording of the Permit By-Law. These changes have been presented by the government in order to remove the possibility of confusion. The changes include;

- The code of conduct previously referred to in the by-law has been removed and the conditions of entry have been inserted.
- The notification form, required to be forwarded in advance of entering the lands, has been inserted.
- Under the by-law APY cannot demand payment for entry, but the government is prepared to pay for the administration of permits and notification processes. This has been agreed with Kim Peterson.

The discussion following this presentation resulted in the following resolution being put;

Resolution

The Executive Board agree to the amendments negotiated with the SA Government today and approve the attached By-law and Notification of Entry Form

Moved: Jamie Nyangu
Second: Bernard Singer
Carried: All

The final wording for the By-Law is provided in Attachment 1 to these Minutes

7. Legal Services

Phillip Toyne made a further presentation to the Executive regarding the legal services offered by a large Queensland based legal company McCollough Robertson within which he is a colleague. This company has extensive experience in mining matters, land rights, Indigenous affairs, and community matters. Phillip proposed himself as a coordinating resource. The approach he is suggesting for such an engagement is that joint party work, such as APY and mining companies, would attract the full cost rate to be met by the second party, not APY. For work solely done for APY a lower rate would apply.

Chairperson commented that APY would consider this proposal.

Chairperson thanked Phillip for his assistance to APY and wished him well.

Phillip Toyne left the meeting at 2.20pm

8. Albert Ward joined the meeting at 2.25pm.

Albert spoke about the cattle agisted in the Homeland No15/No22 area for the last ten years, and requested that the Executive look into an issue of possible income due as a result of this agistment, and respond to Albert.

Chris Malcolm commented that this will be considered within the operational review about to be undertaken, and hoped that this can be completed within three months.

Albert left the meeting at 2.40pm.

9. Permit By Law

Kim Peterson of DPC AARD and Danielle Seal of Crown Law joined the meeting at 2.40pm.

Ronnie Brumby chaired the meeting at this juncture.

Executive Officer commented that the amended wording for the By Law had been accepted by the Executive and this can now be forwarded to the Governor for sign off.

Kim Peterson thanked the Executive for their work in agreeing to this amended wording, and said she would pass onto the Minister recognition of APY's cooperation and support in accommodating these changes.

Bernard Singer returned to the meeting and to the Chairperson at 2.50pm

10. Internal Correspondence and General Manager Position.

The Chairperson spoke about the “internal correspondence” (listed below), and to the circumstances that had led to this correspondence over the last four weeks. He spoke about issues of governance, approvals, decision making, reporting and other allegations made within this correspondence.

Internal Correspondence

| | From | To | |
|----------|--------------|----------------------|--|
| 4/06/10 | Chairperson | GM / Minister | GM Resignation |
| 4/06/10 | Exec Officer | Chairperson | Response to Supplementary Legal Report |
| 10/06/10 | Chairperson | Director/Minister | APY Executive and GM Resignation |
| 8/06/10 | Director | Minister/Chairperson | GM Resignation Correspondence |
| 21/06/10 | Director | Chairperson | APY Executive and GM Resignation |
| 5/07/10 | GM | Executive Board | Position of General Manager |

The Chairperson went on to call for the restoring of governance to the Executive and for the Executive to get back in control of the APY organisation and operations. He mentioned as an example the way that the Minister was treated in the recent past, and again called for governance to be restored within APY. He commented that Land Management need to be responsive to the Executive and not work independently of the Executive. He further commented that an example of this was the funding recently transferred from general untied funds to Land Management projects without Executive approval.

Kim Peterson stated that the Minister has every confidence in the Chairperson and in the Executive to manage APY.

She further commented that if Ken Newman, as General Manager, has resigned, then the Executive need to appoint an interim general manager that can carry out the role for a 3-6 month period until a permanent appointment can be made.

The Chairperson added that this interim role would be required to help restore the governance to APY and address these issues that had arisen in the “internal correspondence”.

Kim Peterson added that in this interim period the future direction of APY may change. She stated that there had been discussion about the possibility of bringing in a local council model into APY, and commented that the future permanent general manager needs to be capable to manage in this future organisation. She urged the APY Executive not to rush into the decision of appointing a permanent General Manager too soon.

The Chairperson spoke about the importance of government support to APY and for the government to work alongside an Acting General Manager to assist APY in moving forward.

The Chairperson then tabled the most recent letter received from Ken Newman, General Manager, in which the General Manager tendered his resignation effective close of business 7 July 2010.

The letter of resignation requested the Executive consider two resolutions. These were put to the Executive and resulted in the following;

Resolution

The APY Executive Board accepts the resignation of Ken Newman as General Manager and agrees to terminate him as of COB 7 July 2010 and to pay him six weeks in lieu of notice as well as any outstanding recreation and TOIL entitlements as per his contract.

Moved: Jamie Nyangu

Second: Ronnie Brumby

Carried: All

The second requested resolution related to indemnifying any action taken against Ken Newman during his tenure as General Manager. The Executive decided to seek further legal advice in relation to this second draft resolution.

The Chairperson then continued to speak about the way that APY might address the issues that have arisen over the last month as presented within the "internal correspondence", and suggested that a review of the organisation and its operations be conducted to identify governance and other issues.

The Executive Officer spoke generally around the terms of such a review and the need for an Executive sub-committee to be established to manage this review. This approach was supported by the Executive and the following representatives of this sub-committee proposed;

APY Executive – Bernard Singer, Anton Baker

APY Administration – Rex Tjami, Chris Malcolm

DPC AARD – Kim Peterson

FaHCSIA – not be advised

The Executive Officer tabled a draft and summarised listing of the areas for this review to be undertaken. The review is to commence immediately and attempts made to complete within the next three months.

It was agreed that the sub-committee would meet prior to the next Executive meeting and confirm the details and terms of reference for this operational review.

Action: Executive Officer

Further discussion around the position of an interim General Manager then took place and the following resolution put.

Resolution

That Chris Malcolm is appointed as Acting General Manager of APY for a period of six months with this appointment to be reviewed after four months.

Moved: Anton Baker
Second: Jamie Nyangu
Carried: All

Kim Peterson and Danielle Seal left the meeting at 3.40pm
Kawaki Thompson joined the meeting at 3.45pm

11. Development and Planning Matters

Mary Anderson joined the meeting at 3.50pm and presented the Planning and Development report as tabled in the Executive meeting papers.

The following resolutions from the Planning Report were put.

Resolution

The Executive Board approves the applications from Housing SA for the development of new Anangu Housing at Amata, Mimili, and Kaltjiti.

Moved: Tony Campbell
Second: Bernard Singer
Carried: All

Resolution

The Executive Board approves in principle the application from Housing SA for the development of new Anangu Housing in Pukatja, until further work gets approved by Traditional Owners. .

Moved: Bernard Singer
Second: Ronnie Brumby
Carried: All

A resolution to approve a lease over a house on lot FRE217 proposed through Kaltjiti Arts was not put to the Executive. Instead further investigation by Acting General Manager and Planning Officer will be undertaken to assess this proposal.

The Sixth Deed to vary the Ground Lease for housing in Pukatja, Kaltjiti and Pipalyatjara will be deferred until the next Executive meeting pending further work to identify and define the actual proposed locations, and address any issues arising from the previous ground lease deed variations in the case of Amata and Minmili.

12. Land Management Report

The Land Management report for the month was tabled and included within the Executive meeting papers.

A single request was made of the Executive and related to a Permit application from Birds Australia. Following discussion the Executive agreed to the Permit request and to allow entry to the areas applied for within this permit application with the exception of Aparatjara and Inarki (Lake Wilson).

13. Other Business

Tony Campbell raised the issue of infrastructure being removed from the Homelands of Pigeon Bore and Antara. It was agreed that the Acting General Manager would write to Regional Anangu Services and request an explanation as to these actions.

Kawaki Thompson raised an issue relating to Homelands maintenance citing issues at Blackhill No3 with plumbing systems. It was agreed that this will also be brought up with Regional Anangu Services.

14. Date of Next Meeting

The next Executive Board meeting will be held on Wednesday 4 August 2010 at Umuwa.

The meeting closed with a prayer by Kawaki Thompson at 5.10 pm.

Minutes by Chris Malcolm

Minutes accepted as a true and correct record of the meeting on 4 August 2010.

Attachment 1;

**Permit By-Law under the
*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981***

Pursuant to the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, Anangu Pitjantjatjara Yankunytjatjara makes the following by-law:

1. This by-law may be cited as the *Anangu Pitjantjatjara Yankunytjatjara Land Rights (Entry to the Lands) By-Law 2009*.

2. In this by-law, unless the contrary intention appears:

The Act means the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;

an authorised person means a natural person authorised in writing by the Minister for the purposes of this by-law, while that person is complying with any conditions of the authorisation and until the term of the authorisation (should there be one) has expired or until the authorisation is revoked by the Minister;

Anangu means Anangu Pitjantjatjara Yankunytjatjara;

Approved in relation to any works on the lands means approved by Anangu;

APS employee has the same meaning as in the *Public Service Act 1999* of the Commonwealth;

Arbitrator means a person appointed by Anangu and the Minister as the Arbitrator for the purposes of this by-law;

journalist means a person engaged in writing for, filming or otherwise producing a newspaper, periodical, television or radio program or similar production;

the lands means the lands described in Schedule 1 to the *Act*.

3. This by-law only applies to the extent that permission to enter the land is required under section 19 of the *Act* and has no application to any person who is exempted from the operation of that section by section 19(8) of the *Act*

4. Subject to the provisions of this by-law, and for the purposes of Section 19(1) of the *Act*, Anangu grants permission to the following persons to enter the lands:

- (a) members of the Australian Federal Police acting in the course of carrying out their official duties;
- (b) APS employees acting in the course of their official duties;
- (c) any officer appointed by or under a Commonwealth statute who is acting in the course of his or her official duties;
- (d) an authorised person who is carrying out a function of or works relating to one or more of the following:
 - (i) a Minister of the Crown in right of the Commonwealth; or
 - (ii) a Commonwealth Department, agency or instrumentality; or

- (iii) a Commonwealth or State funded or contracted service provider; or
 - (iv) any approved installation, operation, maintenance or upgrade on the lands of roads, electricity, telecommunications, water, sewer, waste removal, community or airfield infrastructure, and or municipal services; and,
 - (v) journalists (other than those journalists who have, in the last ten years been convicted of an offence listed in paragraph 4) who enter the lands for the purpose of the genuine investigation or reporting of a matter occurring on the lands provided that it is in the public interest to investigate or report on that matter.
5. A journalist who has been convicted of any of the following offences in the ten years prior to entering the lands is not granted permission to enter the lands under these by-laws and must apply for permission to enter the lands under Section 19 of the Act:
- (a) An offence of a sexual nature against a minor; or
 - (b) Child pornography offences; or
 - (c) Criminal trespass, or an offence under Section 19 of the *Act* or Section 18, *Maralinga Tjarutja Land Rights Act 1984*; or
 - (d) An offence of dishonesty; or
 - (e) An offence under Section 42D or Section 43 of the *Act*; or
 - (f) An offence under the *Controlled Substances Act 1984*; or
 - (g) An offence under the *Aboriginal Heritage Act 1988*; or
 - (h) An offence under the *Liquor Licensing Act 1997*; or
 - (i) An offence of selling or supplying alcohol or petrol under the *Aboriginal Lands Trust Act 1966*; or
 - (j) An offence under legislation of another jurisdiction, of a similar nature to these offences listed above
6. In the event that the permission granted under this by-law to enter the lands is given in relation to a function, or to enable duties to be carried out, the permission to enter and remain on the lands shall continue only for so long as the duties or functions for which the permission has been given are continuing to be performed or carried out and for such further time as may be reasonably necessary so as to allow the person to leave the lands.
7. (a) A person granted permission to enter the lands under this by-law who proposes to enter the lands must give reasonable notice of the time, place and purpose of the proposed entry to Anangu.
- (b) Notice given under this by-law must indicate the places on the lands the person intends to access and must be in the form set out in Schedule A to these by-laws.
8. Permission to enter the lands under this by-law is given on the following conditions:

SCHEDULE A

NOTIFICATION FORM

To: APY Permits Officer

Notification of intended entry to the APY Lands pursuant to the APY (Entry to the Lands) By-law of The *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

Name: _____

Organisation/Department: _____

Purpose of Entry / Project: _____

Locations and Dates of Visit:

| Places / Location / Community | Intended Arrival Date | Intended Departure Date |
|-------------------------------|-----------------------|-------------------------|
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Contacts details whilst on the APY Lands: _____

Signature: _____ Date: _____

Your personal information will not otherwise be disclosed to any other third party without your consent, unless authorised or required by law, or for the purposes of the *Information Privacy Act 2009*.