



Anangu Pitjantjatjara Yankunytjatjara

A.B.N. 77 261 612 162
PMB 227 Umuwa via Alice Springs NT 0872
Phone: (08) 8954 8132 Fax: (08) 8954 8110
Email: gmapy@anangu.com.au

File No. APY628

19 February 2008

Commissioner
Commission of Inquiry (Children in State Care and Children on APY Lands)
GPO Box 858
Adelaide SA 5001

Attention: T Mullighan

Dear Sir

RE: CHILDREN ON THE APY LANDS SUBMISSION

The following is a brief submission on behalf of APY, the land holding body constituted by the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* in response to the matters on which the Commission has specifically called for a submission.

Anangu Pitjantjatjara Yankunytjatjara holds the freehold title to the lands on behalf of its members under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act (1981)*.

The Anangu Pitjantjatjara Yankunytjatjara Lands occupy 103,000 square kilometres in the North West corner of South Australia. Most of the communities are located in or around these ranges.

All decisions relating to development, use and management of the lands are made by the Anangu Pitjantjatjara Yankunytjatjara General Meetings in conjunction with the Anangu Pitjantjatjara Yankunytjatjara Executive Board.

The following sections have been identified for comment based on discussions amongst Executive Board members and other discussions held with Inquiry members.

1. How to achieve disclosure

People will be more comfortable about disclosure if;

- (a) action is taken on matters already known. People will then be less likely to fear lack of utility in making disclosure;
- (b) action commences, (subject to analysis of actual complaints known), in communities affected by governance issues;

- (c) Police action on complaints strengthened. Police seem reluctant to investigate. Perhaps specialist officers are required such as a Lands based special victims unit, including appropriate numbers of experienced female Officers at a range of age levels;
- (d) promote women's rights, including enhancement of the role of arts centres as women's centres;
- (e) properly resource arts women's centres and perhaps special officers at schools to encourage discrete disclosure and support;
- (f) establishment of safety houses as exist in mainstream communities with training and support for house operators;
- (g) strengthen community safety committees which often suffer from attendance problems and properly resource them;
- (h) establish respite facilities for use by women and children in appropriate circumstances including respite in other communities;
- (i) education and training in cultural and legal standards, ie age of consent;
- (j) community meetings to define what is and is not culturally acceptable and consistent with SA criminal law;
- (k) adoption of a Lands wide Code of Conduct in relation to women's and children's issues;
- (l) establish a "zero tolerance" and "need to disclose" culture through the above measures, advertising and appeals from community leaders for disclosure on an on-going basis;
- (m) implement whistleblower provisions with significant penalties for bullying etc of persons making disclosure,
- (n) ensure that there are mandatory reporting requirements for schools, medical facilities and community staff and that there is public awareness that these requirements will be strictly implemented in all cases.

2. What should happen to the victim and offender and who should be responsible to deal with it.

- (a) do not punish the victim by removal;
- (b) medical/psychological support for victims and affected family;
- (c) availability of respite accommodation for victim and affected family;

- (d) offenders should be processed through the criminal justice system;
- (e) use of community detention, including in other communities, for appropriate offenders;
- (f) availability of counselling, support and treatment for appropriate offenders where rehabilitation is realistically achievable;
- (g) develop safety committees into trained and experienced groups who operate as part of a Lands wide network;
- (h) removal of appropriate offenders to other locations on the Lands or as part of the corrections system off Lands;
- (i) explore possibility of use of culturally trained ‘special juries’ to act in a restorative justice mode in appropriate circumstances.

3. Should there be a therapeutic centre on the Lands for victimised children.

- (a) Specialist resources and expertise should be available on the Lands. working closely with safety committees and women’s centres;
- (b) children and families should not be stigmatised by removal and identification, where possible;
- (c) fully resourced on Lands boarding schools available on a voluntary basis should form an important part of therapy and rehabilitation;
- (d) the image of a dedicated rehabilitation centre is uncertain but should be kept under review.

4. Should there be a correctional facility.

- (a) possibly but not at the expense of other higher priority responses;
- (b) the use of isolated bush training facilities where demanding outdoor / cultural and educational training is offered in appropriate cases should be considered.

5. What is the Executives’ perception on the circumstances which give rise to abuse?

- (a) the existence of any kind of corruption or bullying at any level in communities;
- (b) Poor leadership;
- (c) the existence of a welfare dependant culture;

- (d) a feeling of hopelessness while numerous agencies spend large amounts of money on ineffective projects and schemes about which Anangu are never consulted;
- (e) inequality between the genders;
- (f) overcrowding due to housing shortage and ineffective repairs and maintenance systems;
- (g) concentration of people into communities as opposed to supporting homeland living;
- (h) lack of understanding about what is and is not culturally appropriate and consistent with SA criminal law;
- (i) low risk of disclosure, investigation and punishment;
- (j) unemployment, lack of training opportunities and off Lands work programs which were prevalent at an earlier time;
- (k) lack of strict adherence to mandatory reporting by schools, medical facilities and community staff;
- (l) lack of public awareness that mandatory reporting will be implemented in every case without exception;
- (m) lack of good quality night patrols which should be reintroduced and supported.

6. What can be done to make more interpreters available?

- (a) Provide paid quality training and consequent participation as a team member in a Lands wide special victims unit;
- (b) Development of the 'zero tolerance culture.'

7. The idea of an institution on the Lands such as a private boarding school is worth considering.

- (a) should be available at a primary and secondary level;
- (b) could possibly cater for non-Anangu children as well;
- (c) the Tiwi islands model (see attachment) may be worth considering.

8. Suggestions for technical amendments to the *APY Land Rights Act* to enable attacks on corruption and to force accountability and transparency to be addressed.

- (a) Communities, stores and garages to be incorporated under *APY Land Rights Act* by Executive Order;
- (b) existing assets to be transferred by force of order;
- (c) common constitution approved by Anangu Pitjantjatjara Yankunytjatjara;
- (d) add whistleblower provisions and Lands wide Code of Conduct to *APY Land Rights Act*;
- (e) apply *APY Land Rights Act* governance and accounting provisions to communities, stores, arts centres' etc;
- (f) all community officers (ie communities, stores, service providers) to be subject to Public Offences provisions of the *Crimes (Consolidation) Act SA*;
- (g) Municipal Services Officers to be employed by APY and administered as a network with all necessary support with on-going networking and meetings including training;
- (h) Mandatory police checks and working with children checks for all community based employment, service providers etc.;
- (i) There be a Registrar of APY Lands for Communities, stores, art centres' etc, based on the Lands, with powers of entry, inspection of books and records, seizure of books etc, powers to convene and supervise meetings, to suspend incorporation and take possession of premises.

9. General Submissions

Apart from those specific matters the following general submissions are made.

(a) First, the Executive Board is of the view that corruption in some communities and in the provision of some services creates a negative environment in relation to change for the better.

(b) Second, Anangu are left with very poor service delivery by Contractors, who are paid substantial sums by government, and are treated as prisoners in respect of those services, as opposed to customers or clients.

Recently the Aboriginal members of the Governing Committee of the principal service provider tried to implement change in relation to the management of the service provider and to obtain a report as to the relevant Company's affairs.

They were ‘overthrown’ by a minority of the Governing Committee in a way while legally invalid would require court action to remove dismissed management who will not pryingly surrender control. See Annexure “A”.

These events continued to the point where there was a significant misappropriation of funds by the service provider while under the control of the minority of the Governing Committee. See Annexure “B”.

This is a poor example and goes to the heart of a culture of bullying and intimidation by an unrepresentative minority manipulated or “run” by non-Anangu business or political interests.

(c) Third, in response to the complaint that Anangu do not look after houses or pay rent, APY recently entered into a MOU with the State Office for Aboriginal Housing to form a Lands based partnership to address housing issues. There are now two Lands based Officers and Anangu malpas working on a substantial agenda of reforms. This has worked out very well and is seen as a precedent for the future.

(d) Fourth, in 2005 State Parliament amended the *APY Land Rights Act* to introduce governance and anti-corruption provisions. However the position of communities and service providers was completely overlooked.

In November 2007, the Executive Board acted to implement governance provisions of the *APY Land Rights Act* which preclude conflict of interests (S.12D) by requiring three Executive Board members to resign concurrent positions on the Governing Committee of the service provider.

When they did not resign, the Executive Board resolved at its February 2008 meeting that unless resignations were in place by a specified time than the members concerned be removed from the Executive Board.

In taking these actions the Executive Board has shown that it is ready, willing and able to implement the governance provisions of the *APY Land Rights Act*.

The factual situation described above adds credence to the submission that strengthening the *APY Land Rights Act* will give the Anangu through the Executive Board and APY the tools needed to assist in putting in place a more accountable, transparent and safer community across the Lands.

(e) Fifth, the Executive Board could use its powers as landholder to combat corruption by seeking possession of community office and other facilities in the case of dysfunctional communities. However this process would be slow, cumbersome and could involve expensive recourse to the courts.

(f) Sixth, it is submitted that powers of the kind referred to under the heading at Section 8 above of ‘technical suggestions’ would significantly simplify, improve and strengthen the Executive Board’s ability to act in relation to problem and dysfunctional communities including corruption matters.

10. Conclusion

To enable real and meaningful change on the Lands, it is submitted that such change must come from and be made by the Anangu themselves.

The necessary change relates as much to safety as it does to accountability and transparency as a foundation for the future.

Change cannot be micro-managed from capital cities or by people who fly or drive in or are otherwise "people who come".

It is submitted that APY has the legislative and administrative strength to engender and mentor such change and that this will be enhanced if it is properly resourced, left as the independent administration which it currently is and is strengthened in accordance with the proposals made in these submissions.

If you require any further information, please do not hesitate to contact the writer on (08) 8954 8132 or the telephone number above.

Yours faithfully



BERNARD SINGER
Chairperson