



Parliament of
South Australia

REPORT

OF THE

SELECT COMMITTEE

ON

PITJANTJATJARA LAND RIGHTS

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1 EXECUTIVE SUMMARY

On 19 March 1981, the South Australian Parliament passed the *Pitjantjatjara Land Rights Act 1981*, thereby providing Anangu (Pitjantjatjara and Yankunytjatjara people) with the inalienable freehold title to 102 630 square kilometres of land in the north west corner of the State.

In passing this Act, Parliament recognised the determination of Pitjantjatjara and Yankunytjatjara communities to control the management, use and development of their traditional lands. The Act was landmark legislation for Indigenous communities across Australia and overseas.

At the time the Act was passed, a spirit of cooperation and optimism enveloped the Anangu Pitjantjatjara Lands (AP Lands). Pitjantjatjara and Yankunytjatjara people anticipated a bright future for themselves and for younger generations.

More than two decades later, in the face of entrenched social and economic problems, the optimism of the early 1980s has been replaced by widespread hopelessness and despair. State and Federal governments have been cognisant of the gravest of the social problems afflicting communities on the AP Lands for many years. At times, they have responded by funding innovative programs and projects. Such efforts have failed to prevent the problems from becoming entrenched.

The focus of the Act is the management, use and control of the land vested in the body corporate, Anangu Pitjantjatjara. It provides little guidance with respect to the delivery of human services and basic infrastructure, and contains few provisions for responding to serious social problems.

Human services and infrastructure have often been provided to communities on the AP Lands in an ad hoc and uncoordinated manner. In some instances, extant organisations have assumed responsibilities far beyond their original mandate and area of expertise. In other cases, new and independent organisations have been established.

Over time, in an effort to coordinate service delivery and improve accountability, some agencies and organisations have formalised their relationship with Anangu Pitjantjatjara, the land-holding body corporate established under the Act.¹ Although this has enhanced the provisioning of some human services and infrastructure, it has done little to remove the potential for misunderstandings, animosities and conflict over roles and responsibilities. In the recent past, one long-standing dispute led to the disruption of a

¹ For example, the terms of reference for the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee (APLIICC) established in 2001 instructs that Committee to “work with and through the Anangu Pitjantjatjara to ... design and deliver services in a manner which respects, promotes and sustains Anangu hopes and aspirations.” (cited in Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, page 24, tabled by NPY Women’s Council).

number of key services and to considerable dysfunction within some peak bodies. That particular dispute was a catalyst for the establishment of this Select Committee.

During the course of its inquiry the Committee has learnt of the interconnectedness of (a) adverse conditions on the AP Lands, (b) a misplaced reliance on the Act and (c) confusion as to the role of the land-holding body corporate. Evidence received by the Committee indicates general support amongst Anangu for clarifying and amending specific sections and provisions contained in the Act. The need to address the issue of the overall governance of the AP Lands and to formalise arrangements within an Act of Parliament and/or the Constitution of Anangu Pitjantjatjara was recognised as a priority. (Recommendation 1)

Notwithstanding this momentum for change, on many significant matters Pitjantjatjara and Yankunytjatjara communities have not yet reached a consensus as to how the Act might be modified, nor have they determined a preferred model of governance. Consequently, it will be necessary for the Government to commence a process of consultation with Anangu. The aim of this process should be to determine how the Act can be amended to ensure, amongst other things, a significant improvement to both the management of the AP Lands and the delivery of human services and infrastructure. (Recommendations 1 & 2)

The bulk of this process of consultation should take place on the AP Lands and be respectful of Pitjantjatjara and Yankunytjatjara decision-making processes. All Anangu residents from across the AP Lands should have the opportunity to participate in this process and be kept informed of draft proposals and final recommendations. Although such a process of consultation is likely to be time-consuming, the Committee is convinced of the need to move forward in this manner, albeit it after establishing a broad timetable for change.

Amendments to the Act will do little to address many of the most pressing problems on the AP Lands unless other significant changes are made. In reviewing current and former programs and projects, the Committee has been confronted by the extent to which many of these have operated as uncoordinated, fragmentary efforts with an emphasis on short-term outcomes. The inability of some government agencies and departments to coordinate their efforts and to consult genuinely with Anangu continues to be a major obstacle. It is essential that in tandem with likely changes to governance on the AP Lands, steps be taken to build within and across these agencies and departments a capacity to respond to complexities in a flexible and sustainable manner. (Recommendation 3).

During the course of its inquiry, the Committee received a myriad of suggestions and proposals aimed at improving conditions and prospects on the AP Lands. Many of these are detailed in this report, some provide the basis for specific recommendations.

A high proportion of witnesses and submissions called for the immediate establishment of a permanent police presence on the AP Lands. This recommendation has already been

endorsed in several reports, including the South Australia Police's 1998 review of its Community Constable Scheme. The Committee believes that such a permanent police presence must be a core component of strategies designed to address the problems of petrol sniffing and family violence. (Recommendation 9)

The Committee acknowledges that the South Australian Parliament has not always been aware of developments unfolding on the AP Lands. Geographical remoteness has compounded this situation. At times, the rhetoric of self-determination has obscured the need for Parliament to stay informed and fostered an unhelpful spirit of laissez-faire.

The Committee finished hearing evidence in 2003 and was in the process of finalising its report when, in March 2004, the Government signalled its intention to intervene in the management of the AP Lands. Consequently, administrative matters associated with that intervention are not considered within this report.

Trusting that the establishment of the Aboriginal Lands Parliamentary Standing Committee will ensure Parliament becomes better informed of conditions on the AP Lands and remains mindful of its responsibilities to Anangu, the Select Committee respectfully suggests that the new Standing Committee receive and review the findings and recommendations contained in this report. (Recommendation 14)

Finally, the Select Committee acknowledges the faith and commitment of many of the Pitjantjatjara and Yankunytjatjara people it has met and heard from during the course of its inquiry. In the midst of widespread misery and hopelessness, they have maintained their dignity and culture, as well as a rugged determination to find a way to pass on that culture to future generations.

The Select Committee on Pitjantjatjara Land Rights is pleased to table its report.

2 RECOMMENDATIONS

The Select Committee recommends:

Recommendation 1:

That the Government continues to consult with Pitjantjatjara and Yankunytjatjara people residing on the AP Lands to determine how the Act should be amended so that Pitjantjatjara and Yankunytjatjara people are better able to use, control and manage the use of the AP Lands. This process should also determine whether and how the Act should be amended to ensure the efficient and effective delivery of human services and infrastructure to all persons residing on the AP Lands, and/or whether additional legislation should be drafted.

Recommendation 2:

That, as part of the Government's process of consultation, it be determined how specific provisions and sections of the Act should be amended to ensure that:

- a) the name of the body corporate and the title of the Act formally acknowledge both Pitjantjatjara and Yankunytjatjara people;
- b) the process by which the Executive of the body corporate and other officials are elected encourages and enables the free and fair participation of all Pitjantjatjara and Yankunytjatjara people regardless of where they reside on the AP lands;
- c) the Executive of the body corporate, as well as the Executive of any other bodies established as a consequence of the Government's consultations, are representative of all communities on the AP Lands;
- d) a significant number of Anangu women is always elected and/or coopted on to the Executive of the body corporate;
- e) the term of office for the Executive of the body corporate and for any other elected officials encourages stability and effective governance;
- f) the Minister of Aboriginal Affairs' ability under the Act to appoint a "tribal assessor" is replaced with more appropriate and efficient dispute resolution processes;
- g) the body corporate is able to process requests to conduct mineral exploration and/or exploitation on the AP Lands in an appropriate and timely manner;
- h) the processes for distributing payments and royalties from mining exploration and mining exploitation are clarified;
- i) royalties from any future mining exploitation benefit all communities on the AP Lands; and
- j) processes are established to enable Anangu Pitjantjatjara to remove from the Executive of the body corporate any individuals who misappropriate funds or fail to fulfil their duties.

Recommendation 3:

That as a matter of urgency the Government takes the necessary steps to:

- a) build within and across its agencies and departments the capacity to respond in a flexible, sustainable, collaborative and cooperative manner to the complexities associated with providing human services and infrastructure on the AP Lands; and
- b) establish and sustain cooperative and collaborative relationships with those Commonwealth agencies and departments currently providing or resourcing programs and services on the AP Lands.

Recommendation 4:

That in future, wherever possible, the Government fund programs and service providers on the AP Lands with block or triennial funding.

Recommendation 5:

That as a matter of urgency the Minister for Aboriginal Affairs & Reconciliation advise the Commonwealth Government through his Federal counterpart of the importance of funding programs on the AP Lands with block or triennial funding.

Recommendation 6:

That as a matter of urgency the Government take steps to address the issue of substance abuse on the AP Lands, including:

- a) working with Anangu Pitjantjatjara to develop and implement enforceable measures that will enable the South Australia Police to:
 - (i) search for and confiscate petrol and prohibited substances on the AP Lands;
 - (ii) detain persons and/or confiscate vehicles suspected of trafficking petrol and prohibited substances on to the AP Lands; and
 - (iii) facilitate the diversion of individuals to health intervention programs;
- b) working with Anangu Pitjantjatjara to develop and implement enforceable measures to provide greater control over the selling and storage of petrol on the AP Lands;
- c) establishing a “drying out” facility or facilities at an appropriate location on or near the AP Lands for use in the rehabilitation of persons affected by substance abuse;
- d) ensuring that holding cells on the AP Lands satisfy the recommended requirements of the Royal Commission into Aboriginal Deaths in Custody; and
- e) funding diversionary programs for children and youth at risk of becoming substance abusers.

Recommendation 7:

That as a matter of urgency the Government significantly increases the level of funding it provides for domestic violence services on the AP Lands.

Recommendation 8:

That as a matter of urgency South Australia Police takes the necessary steps to establish and maintain an adequate, full-time presence of sworn police officers, in addition to community constables, on the AP Lands.

Recommendation 9:

That as a matter of urgency the Government examines ways of expanding the range of sentencing options available to courts adjudicating on offences committed on the AP Lands.

Recommendation 10:

That as a matter of urgency the Government implements the recommendations of the 2002 *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*.

Recommendation 11:

That the Government ensures that incoming members of the Executive of the body corporate and other elected officials have access to appropriate training programs.

Recommendation 12:

That given past inadequacies in the provisioning of TAFE courses and other vocational training programs on the AP Lands, the Government continues to extend and/or develop sustainable training and employment opportunities for Anangu on the AP Lands.

Recommendation 13:

That measures be adopted to ensure that Anangu communities are able to regulate the sale of food and other essential items on the AP Lands.

Recommendation 14:

That a copy of the evidence, submissions and findings tabled by this Committee be provided to the Aboriginal Lands Parliamentary Standing Committee and that that committee be invited to examine and review the need:

- a) for all departments, agencies and service providers to establish professional and quality-assured recruitment, orientation and assessment processes in relation to the employment of non-Anangu persons for positions based on the AP Lands;
- b) for additional, appropriate housing to be constructed on the AP Lands both for Anangu residents and non-Anangu staff;
- c) to give consideration to the provisioning of kidney dialysis treatment on the AP Lands;
- d) to improve the condition of roads on the AP Lands;
- e) to examine the feasibility of establishing a high school facility on the AP Lands comparable with the Northern Territory's Ngangatjatjara College;
- f) to create HECS-free positions within tertiary institutions for Anangu students from the AP Lands;
- g) for the South Australian Government to lobby the Federal government to make Stage 3 of the Anangu Tertiary Education Program HECS-exempt;
- h) to ensure that any ongoing operations at Mintabie do not negatively impact on the well-being of Anangu persons nor disturb nearby Anangu communities;
- i) for the deployment on the AP Lands of suitable communication infrastructure and/or mechanisms to ensure that all Anangu communities are kept fully informed as to the actions of the body corporate established under the Act and the programs and actions of other peak bodies and organisations;

- j) to investigate possible locations for an SA-based office for Anangu Pitjantjatjara outside of the AP Lands;
- k) for the South Australian Government and its agencies to work closely with governments and agencies in Western Australia and the Northern Territory to determine how services and infrastructure can best be delivered across the region;
- l) to review the way funding agencies and government bodies relate to administrative and community organisations on the AP Lands; and
- m) to review and amend as necessary existing provisions to ensure transparency and accountability in the expenditure of all government funding to the AP Lands.

Recommendation 15:

That the Minister for Aboriginal Affairs and Reconciliation arranges for a précis of the Executive Summary and the Recommendations contained in this report to be translated into the Pitjantjatjara language and distributed to all community councils on the AP Lands. Furthermore, that the Minister for Aboriginal Affairs and Reconciliation arranges for a sound recording of that précis to be prepared and distributed to all communities on the AP Lands via the Radio 5NPY Network.

3 TERMS OF REFERENCE AND MEMBERSHIP OF THE SELECT COMMITTEE

On 29 August 2002, the Legislative Council of South Australia appointed a Select Committee to review the operation of the *Pitjantjatjara Land Rights Act 1981* and associated matters.

The Terms of Reference of the Select Committee are as follows:

That a Select Committee be established to inquire into and report on -

- (a) the operation of the *Pitjantjatjara Land Rights Act 1981*;
- (b) opportunities for, and impediments to, enhancement of the cultural life and the economic and social development of the traditional owners of the lands;
- (c) the past activities of the Pitjantjatjara Council and Anangu Pitjantjatjara Executive in relation to the lands;
- (d) future governance required to manage the lands and ensure efficient and effective delivery of human services and infrastructure; and
- (e) any other matters.

The Membership of the Select Committee is as follows:

Hon T G Roberts (Chairperson)
Hon J Gazzola
Hon S M Kanck
Hon R D Lawson
Hon C V Schaefer
Hon N Xenophon

Owing to illness, the Hon Nick Xenophon was unable to participate in the activities of the Committee.

The Select Committee is assisted by Mr Chris Schwarz, Secretary to the Select Committee, and Mr Jonathan Nicholls, Research Officer.

4 INTRODUCTION

Following its appointment, the Select Committee advertised in *The Adelaide Advertiser*, *The NT News* and *The Transcontinental* to inform the public of its formation and to invite submissions.

The Committee also approached and sought comment from people and organisations with specific background to the issues raised in its Terms of Reference.

The Committee commenced hearing public evidence on 5 September 2002. On 17 and 18 September 2002, evidence was heard in Alice Springs. On 25 September 2002, evidence was heard at Yulara.

On 25, 26 and 27 September 2002, the Committee visited the Anangu Pitjantjatjara Lands and heard evidence at six locations: Amata, Ernabella, Indulkana, Pipalyatjara, Umuwa and at a campsite in the vicinity of Young's Well (a homeland near Ernabella). On that trip, most evidence was presented in the Pitjantjatjara language. Accordingly, the Select Committee engaged the Rev. Bill Edwards to act as interpreter. The Committee continued to hear evidence after its return to Adelaide.

The Committee finished hearing evidence in 2003 and was in the process of finalising its report when, in March 2004, the Government signalled its intention to intervene in the management of the AP Lands. Consequently, administrative matters associated with that intervention are not considered within this report.

Ninety-six witnesses appeared before the Select Committee to give evidence. The names of these persons are listed in Appendix A.

The Select Committee received 60 written submissions. Persons and organisations making written submissions to the Committee are listed in Appendix B.

In all the Committee met on 28 occasions.

4.1 Key Terms and the Spelling Thereof

The names “Pitjantjatjara”, “Yankunytjatjara” and “Ngaanyatjarra” are commonly used to identify and distinguish three groups of Indigenous Australians in terms of their affiliations with a specific language and/or geographic territory. Both in submissions presented to the Select Committee and within public documents, the names of these groups are spelt in a variety of ways. Within this report, a standardised spelling of the three names has been employed: Pitjantjatjara, Yankunytjatjara and Ngaanyatjarra. These forms match those found in the *Pitjantjatjara/Yankunytjatjara to English Dictionary*.²

For more than two decades, a number of Indigenous communities in Central Australia have used “Anangu” as a term of self-identification and cultural affirmation. The term is now frequently used by Pitjantjatjara, Yankunytjatjara, Ngaatjatjarra, Ngaanyatjarra and Antikirinya people, amongst others. “Anangu” affirms commonalities across a range of Indigenous groupings whilst differentiating that shared identity from the identity of outsiders, be they non-Indigenous Australians or non-Anangu Indigenous Australians. “Anangu” appears to function in much the same way as “Nunga” does for Indigenous communities in other parts of South Australia and “Koorie” does across the state of Victoria. Within this report, a standardised spelling is employed: Anangu. This form is consistent with the spelling of the term recorded in the *Pitjantjatjara/Yankunytjatjara to English Dictionary*.

5 SUMMARY OF FINDINGS WITH RESPECT TO THE COMMITTEE’S TERMS OF REFERENCE

5.1 Term of Reference (a): the operation of the *Pitjantjatjara Land Rights Act 1981*.

In addition to providing Pitjantjatjara and Yankunytjatjara people with the freehold title to 102 630 km² of land, the *Pitjantjatjara Land Rights Act 1981* – as passed in 1981 and amended in 1987 – sought to enable them to manage, use and develop that land effectively. In support of that expectation, the Act established a body corporate, Anangu Pitjantjatjara, and acceded to it certain rights and responsibilities.

In drafting, passing and amending the Act, Parliament did not attempt to determine the means and manner in which human services and infrastructure were to be delivered to the

² Goddard, C. (ed). 1996, *Pitjantjatjara/Yankunytjatjara to English Dictionary, Revised 2nd Edition*, IAD Press, Alice Springs.

AP Lands. In the absence of any legislative framework, this delivery has occurred in an ad hoc manner.

Over the past 22 years, the body corporate established under the Act has, from time to time, sought to exercise a degree of oversight for the delivery of most human services and infrastructure. Although, neither the Act nor the constitution of the body corporate have been amended to reflect this state of affairs, a number of peak bodies and service providers have formally recognised its authority in memoranda of understanding and through the establishment of reporting mechanisms. Nevertheless, the delivery of human services and infrastructure to the AP Lands remains unsatisfactory.

Given the divergence between, on the one hand, the provisions of the Act and, on the other, the operations of the body corporate, it is not surprising that confusion has arisen as to the scope and requirements of the Act. At times, questions have been raised as to the designated role of Anangu Pitjantjatjara and the legitimacy of some of its actions. In some instances, these questions have engendered bitter conflict. On other occasions, persons have attempted to use this lack of clarity for their own advantage.

The Act details the constitution and functions of the Executive Board of the body corporate. Many witnesses and submissions questioned whether the constituency of that board, as defined by both the Act and the Constitution of Anangu Pitjantjatjara, facilitates the election of a truly representative body. (Recommendation 2c)

The Act provides for the election of an Executive Board comprised of a chairperson and ten other members. At the time the Act was passed this allowed the five main communities on the AP Lands as well as each of the major outlying homelands to elect one representative to the Board. Since the Act was passed, additional homelands have been established, some of which have become major communities in their own right. Consequently, under the provisions of the Act, it is no longer possible for all major communities on the AP Lands to have elected representation on the Executive Board.

The Select Committee heard that the Board as constituted at the time the Committee visited the AP Lands was dominated by persons drawn from communities in closest proximity to the administrative centre at Umuwa, and that this disadvantaged communities situated on the eastern and western sides of the AP Lands.

The Act does not mandate that Anangu women shall be represented on the Executive Board. Submissions and evidence presented to the Select Committee advocated strengthening the role of women in the governance of the AP Lands. Some of these suggested that a minimum number of seats on the Board be designated for women. (Recommendation 2d)

Although the Select Committee was presented with a number of models and recommendations designed to guarantee the election of a more representative Executive Board, Pitjantjatjara and Yankunytjatjara people are yet to reach consensus on a preferred model.

Under the terms of the Act, the Chairperson and all ten Board Members are elected at an Annual General Meeting. Evidence presented to the Committee recommended extending the term of office for these positions from 12 months to either two or three years. (Recommendation 2e)

The Committee also heard of the need for all elected representatives to be required to participate in appropriate training programs to ensure that they understood the extent of their roles and responsibilities. (Recommendation 11)

During the course of its inquiry, the Committee was made aware of various parts of the Act that witnesses believed should be amended to reflect changed circumstances on the AP Lands and to remove loopholes and lessen the potential for conflicts of interest. Section 12 of this report contains a summary of that evidence.

Determining how the Act should be amended to enable Pitjantjatjara and Yankunytjatjara people to use, control and manage the use of the AP Lands more effectively will require the Government to commence and complete a process of consultation. Such consultation should also determine whether the Act and/or the Constitution of Anangu Pitjantjatjara can be amended to ensure the efficient and effective delivery of human services and infrastructure to all persons residing on the AP Lands, or whether additional legislation needs to be drafted. (Recommendations 1 & 2)

The Committee notes that in large part this process of consultation will need to take place on the AP Lands and be respectful of Pitjantjatjara and Yankunytjatjara decision-making processes. All Anangu residents from across the AP Lands should have the opportunity to participate in this process and be kept informed of draft proposals and final recommendations. Although such a process of consultation is likely to be time-consuming, the Committee is convinced of the need to move forward in this manner, albeit it after establishing a broad timetable for change.

5.2 Term of Reference (b): opportunities for, and impediments to, enhancement of the cultural life and the economic and social development of the traditional owners of the lands.

Grief, trauma and hopelessness permeate the lives of many Anangu living on the AP Lands. The number and extent of the problems engulfing Anangu communities – including substance abuse, family violence, poor health, unemployment and poverty – are substantial. All of these problems are impediments to cultural, social and economic development.

During its visit to the AP Lands, the Committee heard from many Anangu witnesses as to the devastating affects of substance abuse: specifically alcohol abuse, illicit drug taking

and petrol sniffing.³ Some of those witnesses described substance abuse as a consequence of “the coming of white people” and spoke of the impossibility of using traditional disciplinary practices to manage or eliminate these problems.⁴ The impact of substance abuse on young lives – particularly the impact of petrol sniffing – was emphasised by many.⁵ (Recommendation 6)

Petrol sniffing has been a problem on the AP Lands for more than 30 years. Over the last two decades, it has been the direct cause of at least 35 deaths; many other persons have acquired serious and permanent psychological and physical disabilities. There have been few constructive programs aimed at combating the petrol sniffing crisis and no sustained interventions. Witnesses complained of inadequate funding, intermittent support and of how the recommendations of previous inquiries had never been properly implemented or only taken up in the short-term. (Recommendation 6)

Family violence is prevalent on the AP Lands. While much of it can be attributed to the effects of substance abuse, other incidents appear to be a consequence of living within a social environment wherein violence has become the norm. Police responses to incidences of family violence remain inadequate, with the lack of a permanent police presence on the AP Lands making it difficult for victims to seek protection in times of attack and/or to press charges. Many incidents of family violence go unreported. A web of family and community relationships also impacts on the prosecution of perpetrators of violence. Many Anangu women are too afraid to report incidents to the police for fear of retribution from their husbands and families. (Recommendations 7, 8 & 9)

Poor health accompanies Anangu throughout their entire lives, with health prospects and life expectancy for Anangu falling far below national averages. A significant number of Anangu have permanent disabilities and exceptional health needs. The Committee saw and received evidence that some of these are the consequence of substance abuse. Many persons with disabilities do not receive appropriate assistance and support services. Health problems are compounded by geographic isolation from population centres wherein patients typically have better access to medical specialists and technologies. (Recommendation 10)

Poverty is a major factor in the perpetuation on the AP Lands of cycles of ill-health and substance abuse. It is exacerbated by the high cost of basic commodities, with most family incomes falling below the minimum amount required to purchase an adequate supply of nutritional food items and other basic commodities.⁶ (Recommendation 13)

Education, training and employment strategies on the AP Lands are failing to achieve acceptable outcomes, though the Committee applauds the success of individual students

³ Evidence S Armstrong, 25 September 2002, Q665; M Minutjukur, 25 September 2002, Q665; L Rose, 25 September 2002, Q665; I Lewis, 25 September 2002, Q665; A Tjitayi, 25 September 2002, Q665; I Baker, 26 September 2002, Q746; G Burton, 27 September 2002, Q801; W Tunkin, 27 September 2002, Q801.

⁴ Evidence J Inyika, 25 September 2002, Q665; A Hunt, 25 September 2002, Q665.

⁵ Evidence D Ward, 25 September 2002, Q665; M Heffernan, 27 September 2002, Q800; M Wilkiri, 27 September 2002, Q800; B Singer, 27 September 2002, Q804.

⁶ Tregenza, J. 1998, “Cost of Living on the Anangu Pitjantjatjara Lands,” Survey Report, AP Services.

and some key programs. Notwithstanding significant improvement over the last few years, school attendance and literacy levels remain far below State averages. In general, school leavers have been unable to assume positions within community organisations and have been provided with relatively few options and/or opportunities to participate in vocational training. (Recommendations 12, 14e, 14f & 14g)

The rate of unemployment is extremely high, with all but some 15% of Anangu income on the AP Lands coming from social security payments and the Community Development Employment Program (CDEP). The outsourcing of most building and maintenance contracts has reduced on-the-job training opportunities and employment prospects and eroded community pride. In recent years, the inadequate and intermittent provision of TAFE courses greatly exacerbated this situation. (Recommendation 12)

Boredom was often cited as a factor contributing to increases in the rate of substance abuse and criminal activity. Witnesses called for the construction of community centres and recreational facilities.

Communication difficulties are long-standing. Pitjantjatjara and Yankunytjatjara remain the first languages of the majority of persons residing on the AP Lands, many of whom are reluctant to speak English. Consequently, in encounters with government agencies and officers, misunderstandings proliferate.

Inadequate and insecure funding undermines the delivery of some critical human services, some of which are either completely unfunded or poorly provisioned. What funding is available is often short-term. Many key service providers remain reliant on annual or pilot-funding, with project staff being forced to spend an inordinate amount of time submitting additional funding applications and/or meeting the administrative and accounting requirements of short-term grants. Many of these providers complained of continually finding themselves responsible to disparate government departments and agencies, each of which maintains a distinctive administrative regime with its own reporting requirements. Funding pressures contribute to staff burn out and the subsequent loss of expertise. There is a need for cooperation between state and federal departments in an effort to rationalise and integrate disparate funding streams. Witnesses expressed a preference for block and/or triennial funding. (Recommendations 4 & 5)

Lack of cooperation, coordination and collaboration between state and federal agencies and across government departments has contributed to the deterioration of services and living conditions on the AP Lands. It severely hampers key programs and has the potential to delay or derail new initiatives. Better coordination is vital if human services and infrastructure are to be delivered more efficiently (Recommendation 3). Lack of coordination has also led to the inadequate collection of data and the poor monitoring of major social and economic problems.

Some state and federal agencies were sharply criticised for the way in which they consult with Anangu communities and organisations. Evidence presented suggested that conflicts

on the AP Lands have been fuelled by the inflexibility of particular agencies and their determination to achieve specific outcomes and priorities.⁷

An inability to attract enough suitably qualified people to work on the AP Lands, coupled with rapid staff turnover, contributes to the inefficiency of many Anangu communities and has, at times, generated dysfunctional and unstable administrations. The Committee heard of the need to establish professional and quality-assured recruitment, orientation and assessment processes for all non-Anangu staff. Some agencies were criticised for failing to ensure that their funding was used to employ appropriately qualified persons. (Recommendation 14a)

Almost all of the AP Lands has mining applications pending on it. The Office of Minerals and Energy Resources considers the region to be highly prospective and has suggested that a mining and petroleum resource industry might allow Anangu Pitjantjatjara to become economically independent. Such an industry will take many years to establish. Problems with the way some mining ventures have been conducted – including operations at Mintabie – have undermined the confidence of some Anangu as to the mining industry's ability to conduct future operations in a respectful and sensitive manner.

As part of the Act, Anangu Pitjantjatjara leased the Mintabie Precious Stones Field to the Crown for 21 years. The lease expired on 2 October 2002. Negotiations to determine if and how it should be renewed are ongoing. Many witnesses expressed strong concern as to the negative consequences of non-mining commercial enterprises operating at Mintabie. Other evidence highlighted the trafficking of alcohol, petrol and illegal substances through Mintabie on to the AP Lands. Most evidence presented called for the immediate removal from Mintabie of all commercial operations that are not mining-specific. (Recommendation 14h)

At the time of the Committee's visit, policing on the AP Lands was provided via the services of Community Constables based in six communities and sworn police officers based at Marla (outside the AP Lands). Although Community Constables have full powers of arrest, holding facilities on the AP Lands do not comply with the specifications outlined in the recommendations of the Royal Commission into Aboriginal Deaths in Custody. Consequently, the detaining of offenders is usually avoided. (Recommendation 6d)

Family ties and cultural protocols also dissuade Community Constables from making arrests. Geographical location greatly effects the ability of the sworn police officers to respond to requests for assistance; response times generally range from 15 minutes to six or seven hours, although much longer delays are not uncommon. Many witnesses and submissions to the Committee stressed the necessity for the South Australia Police (SAPOL) to establish and maintain a permanent presence of sworn police officers on the AP Lands. The Committee believes that such a permanent presence must be a core

⁷ Evidence G Lewis, 18 September 2002, Q587; Y Lester 18 September 2002, Q626-627; G Kunmanara, 25 September 2002, Q671; J Tregenza, 26 September 2002, Q782.

component of strategies designed to address the problems of petrol sniffing and family violence. (Recommendation 8)

Current laws, by-laws and sentencing options, particularly with respect to substance abuse and family violence, have proven to be ineffective. In tandem with calls for tougher measures and the drafting of additional by-laws, witnesses spoke of the need to establish a “drying out”/rehabilitation facility on or close to the AP Lands. (Recommendation 6)

Ensuring Anangu have access to appropriate and affordable food items is an essential component of any strategy aimed at reducing the current level of chronic illness and, more generally, improving the diet of all persons living on the AP Lands. A number of key Anangu organisations, in conjunction with all community councils on the AP Lands, have developed a comprehensive regional Stores Policy and associated regulations. These were ratified at a General Meeting of Anangu Pitjantjatjara on 3 July 2001. Many witnesses expressed strong support for the Stores Policy, with some observing that its employment and training requirements would lead to a significant increase in traineeships for Anangu. (Recommendation 13)

Notwithstanding the serious and entrenched problems impeding the enhancement and development of life on the AP Lands, the Select Committee was impressed by the fortitude of many individuals and by the achievements of key programs and projects. The development of the regional Stores Policy clearly demonstrates the capacity of Anangu and their organisations to identify and develop solutions and strategies aimed at overcoming long-standing social and economic problems. The Committee has learnt of the work of a number of programs and organisations that are successfully contributing towards the social, cultural and/or economic development of Anangu communities. These programs and organisations include: the Nganampa Health Council; the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council; the Pitjantjatjara Yankunytjatjara Education Committee; the Anangu Tertiary Education Program; the Ara Irititja Archival Project; and the Anangu Arts & Culture Aboriginal Corporation. Each of these organisations and/or their programs provide clear evidence of the possibility of establishing and sustaining employment and/or training opportunities for Anangu on the AP Lands. (Recommendation 12)

Finally, the Committee reiterates the importance of establishing a process through which the Act can be reviewed and amended (Recommendations 1 & 2). While in and of itself, the Act cannot ameliorate conditions on the AP Lands, its provisions and operation will continue to impact on all efforts to do so.

5.3 Term of Reference (c): the past activities of the Pitjantjatjara Council and Anangu Pitjantjatjara Executive in relation to the lands.

The Pitjantjatjara Council was established in July 1976 and initially comprised of representatives from 12 communities located in South Australia, Western Australia and the Northern Territory. Although in its early years, the work of the Council was dominated by the struggle for land rights, the minutes of its inaugural meeting indicate

both a willingness to participate in the provisioning of essential services and a concern for the problems facing children and youth.

The Constitution of the Council states: “The central object of the Council is to relieve the poverty, sickness, destitution, distress, suffering, misfortune and helplessness of the inhabitants of the Council area.” Over the past 27 years, this objective has been advanced through the provision of legal, anthropological, financial and other services, by improving land management practices, and by providing educational, training and employment opportunities. At various times, the Council has established specific projects and units aimed at fulfilling its central objective. Some of these operated for many years, others were short-lived. As of August 2003, the Council continued to operate three main units: Financial Services, Projects, and Social History.

Since 1979, the Pitjantjatjara Council has based its operations in Alice Springs where, in 1987, it moved into purpose-built accommodation. The Council continues to operate from that site – the Pitjantjatjara Council Resource Centre – which in and of itself has become an administrative hub for a number of other Pitjantjatjara, Yankunytjatjara and Ngaanyatjarra organisations.

At the first meeting of the Council in 1976, it was decided that control of the North West Reserve, then under South Australia’s Department of Community Welfare, should be transferred to Anangu. Consequently, the Council entered into negotiations with the government of the day. After state elections in September 1979, it continued its negotiations with the new government. On 2 October 1980, the Chairman of the Pitjantjatjara Council and the South Australian Premier signed their agreement to the *Pitjantjatjara Land Rights Bill*. With some amendments, the Bill was passed and became the *Pitjantjatjara Land Rights Act, 1981*. As part of its provisions, the Act stipulated that the Pitjantjatjara Council should “perform the functions and duties of the Executive Board” until Anangu Pitjantjatjara, the body corporate established under the Act, held its first annual general meeting.

The functions of the Executive Board of Anangu Pitjantjatjara, as detailed in the Act, are to “carry out” and “act in conformity with the resolutions of Anangu Pitjantjatjara.” Under the Act, the Executive Board is required to meet at least once in every two months and to “cause proper accounts to be kept of the financial affairs of Anangu Pitjantjatjara.” Other provisions within the Act, detail how the Executive Board shall be constituted and the process by which its decisions may be determined to be “valid and binding upon Anangu Pitjantjatjara.”

As defined in the Act, the primary functions of Anangu Pitjantjatjara – and ipso facto its Executive Board – are to manage, use, control and administer the AP Lands, whilst simultaneously protecting the interests of Traditional Owners and negotiating with persons “desiring to use, occupy or gain access to any part of the lands.”

In 1987, a Select Committee of the House of Assembly recommended a series of amendments to the Act. The *Pitjantjatjara Land Rights Act Amendment Act 1987* was

assented to on 30 April 1987 and came into operation on 18 June 1987. The amendments to the Act, which did not alter its general principles but rather sought to improve its administration and operation,⁸ introduced provisions whereby Anangu Pitjantjatjara could make by-laws in support of their efforts to manage the impact of gambling, alcohol and substance abuse. While neither the Report of the 1987 Select Committee nor the amendments to the Act make any mention of the Pitjantjatjara Council, Hansard from the period indicates that it played a major role in negotiations at this time.⁹

For the first decade of its existence, Anangu Pitjantjatjara based its administrative operations alongside those of the Pitjantjatjara Council, in Alice Springs. Day-to-day communication with the AP Lands was maintained via the use of a sideband high frequency radio system. Lack of funding curtailed its ability to carry out some of its designated duties. Consequently, to begin with, Pitjantjatjara Council staff administered the granting of permits to enter the AP Lands. In addition, the Council's lawyers and anthropologist continued to act for Anangu Pitjantjatjara, including overseeing negotiations between Traditional Owners and mining companies. In the early 1980s, state and federal funding enabled Anangu Pitjantjatjara to employ a secretary and senior project adviser and to assume, among other things, responsibility for the permit system. Procuring funding for other activities took much longer.

Although both Anangu Pitjantjatjara and the South Australian Government were keen for the former's administrative unit to be relocated to the AP Lands, financial constraints prevented this from occurring. With the opening of the Pitjantjatjara Council Resource Centre in 1987, Anangu Pitjantjatjara's administrative office relocated to that complex. Nevertheless, Anangu Pitjantjatjara continued lobbying the government and other agencies for funds to establish an administrative office on the AP Lands. In October 1988, after the Pitjantjatjara Council's Projects Unit had drilled successfully for water, Anangu Pitjantjatjara confirmed that a site 25 kilometres south of Ernabella would be developed as the location for its offices on the AP Lands. In 1991, on the tenth anniversary of the Act, Anangu Pitjantjatjara staff relocated from Alice Springs to the newly built administrative centre at Umuwa.

The establishment of the administrative centre inevitably affected the ease with which Anangu Pitjantjatjara staff could communicate with the Pitjantjatjara Council on a day to day basis. Earlier, in 1988, an inquiry into conditions on the AP Lands had noted the lack of clarity in terms of the role of Anangu Pitjantjatjara and, more particularly, with regard to its precise relationship with the Pitjantjatjara Council.¹⁰ Nevertheless, subsequent to the establishment of Umuwa, the Pitjantjatjara Council continued to service Anangu Pitjantjatjara with respects to its legal and anthropological requirements, in particular the processing of applications for mining exploration licenses.

⁸ See Hansard, House of Assembly, 19 March 1987, page 3567.

⁹ See, for example: Hansard, House of Assembly, 31 March 1987 (pages 3623-2627), 8 April 1987 (page 3996); Hansard, Legislative Council, 9 April 1987 (pages 4048-9), 14 April 1987 (page 4137).

¹⁰ Submission 46: *Always Anangu*, 1988, page 152, (tabled by ATSIC).

From the mid 1990s onward, relations between the two organisations seriously deteriorated. This occurred within the context of the continuing decline of social and economic conditions on the AP Lands and an increasingly competitive funding environment. ATSIC-funded reviews conducted during this period were critical of the operations of both organisations and identified the need for existing interaction between them to be reviewed and/or formalised.

As part of the Act, Anangu Pitjantjatjara – and therefore its Executive Board – is required to consult with Traditional Owners prior to “carrying out or authorizing or permitting the carrying out of any proposal relating to the administration, development or use of any portion of the lands.” The aim of such consultation is to ensure that persons having the traditional responsibility for protecting a particular section of the AP Lands are able both to express their wishes in relation to the proposed project and to indicate sites that may not be entered or disturbed in consequence of their being restricted and/or sacred.

Since the Act was passed, the main focus of these consultations has been the processing of applications from mining companies wanting to obtain exploration licenses. Up until October 1999, these applications were processed one at a time, in order of their receipt. Since then, Anangu Pitjantjatjara has considered three applications at a time.

Consulting with Traditional Owners has proved to be an involved and time-consuming process. The Committee learnt that the process requires a high degree of client confidentiality as in establishing their status as Traditional Owners for a particular site or parcel of land, persons may have to disclose restricted and/or sensitive information that cannot be shared with any third party.

Under the Act, the Executive Board of Anangu Pitjantjatjara is required both to protect the interests of Traditional Owners and to progress applications to conduct mineral exploration. For some 20 years, the anthropological and legal services required to conduct and conclude consultations between these two groups were provided to Anangu Pitjantjatjara by the Pitjantjatjara Council. In providing these services, the Council accessed expertise and skills first acquired during its deliberations with the state government over the granting of land rights. The Committee was told that by outsourcing these services, the Executive Board of Anangu Pitjantjatjara aimed to overcome potential conflicts of interest.

In late 2000, the Anangu Pitjantjatjara Executive moved to formalise the delivery of the anthropological and legal services provided by the Pitjantjatjara Council through the preparation and signing of a service agreement. Negotiations over the drafting of the agreement fuelled tensions between the organisations. When these negotiations broke down, Anangu Pitjantjatjara ceased funding the Pitjantjatjara Council for the delivery of anthropology and legal services and instead, in February 2002, determined to employ its own lawyer and anthropologist.

A number of witnesses and submissions criticised this move. In their view, the decision represented an attempt by the Executive to reduce the influence of Traditional Owners.

Other witnesses supported the decision and spoke of their frustration at the slow pace at which Pitjantjatjara Council staff had previously processed such applications.

Subsequent to the decision being made, both the Pitjantjatjara Council and the Executive Board of Anangu Pitjantjatjara maintained it was within their respective rights to deliver legal and anthropological services to Anangu living on the AP Lands. Concurrently, each organisation attempted to thwart the other's efforts to provide such services. At the time the Select Committee was established, disagreement over the future provisioning of these services was a major factor in the ongoing conflict between the two organisations.

Concurrent with this dispute, the then Department of State Aboriginal Affairs (DoSAA) and the Aboriginal and Torres Strait Islander Commission (ATSIC) brought pressure to bear on Anangu Pitjantjatjara with respect to its operations and financial accountability. In July 2001, at a General Meeting of Anangu Pitjantjatjara, representatives from these agencies advocated appointing an administrator to Anangu Pitjantjatjara. Although, after some negotiations, a management consultant was appointed, this outcome proved controversial. In particular, supporters of the Pitjantjatjara Council suspected it of being part of a wider strategy aimed at marginalising Traditional Owners from negotiations over the processing of applications for mining licences.

In addition to legal and anthropological services, since the Act was passed in 1981, the two organisations – the Pitjantjatjara Council and the Anangu Pitjantjatjara Executive Board – have often coordinated their efforts with respect to the provision of essential services. For example, the Pitjantjatjara Council has been involved in the supply and maintenance of power and water services to homelands.

In the mid 1980s, Anangu Pitjantjatjara assumed ownership of all buildings and roads on the AP Lands and secured funding to employ a building inspector and a road crew. This development marked the beginning of what was to become an essential services division within Anangu Pitjantjatjara. In 1993, as a consequence of funding requirements and in an effort to minimise taxation obligations, Anangu Pitjantjatjara's essential services division was incorporated as an independent body, Anangu Pitjantjatjara Services (APS). Over the next nine years, its main areas of responsibility included: road works; housing repairs; aerodrome construction; waste management and the maintenance of bores. The Select Committee heard that as of 2001, APS was operationally dysfunctional and financially mismanaged. Consequently, at the end of that year, its funding bodies arranged for the organisation to be reviewed. Amongst its findings, the review recommended merging APS with Anangu Pitjantjatjara.¹¹

In 2002, an ATSIC-funded, financial review of the Pitjantjatjara Council's Projects Unit recommended that one body be given responsibility for allocating funding for the provisioning of power and water supplies to the AP Lands.¹² That recommendation, which would have effectively redirected a portion of the funding for both APS and the

¹¹ Submission 47: AP Services Review, 2001, conducted by Grant Thornton Services (SA) Pty Ltd, (tabled by Anangu Pitjantjatjara Services).

¹² Submission 12: Recommendations of the Ron Critchley Report, (tabled by Pitjantjatjara Council).

Pitjantjatjara Council's Projects Unit through a combined organisation, received a mixed response. Witnesses to the Committee varied in their opinion as to which of the two existing organisations should oversee such a combined service.

For more than two decades, a lack of clarity as to the activities and designated responsibilities of both the Pitjantjatjara Council and the Anangu Pitjanjatjara Executive has fostered discrepancies and disagreements.¹³ The Committee observes that in recent years some individuals have played upon this lack of clarity in order to further longstanding disputes and personal agenda.

Many Anangu witnesses who appeared before the Select Committee in September 2002 voiced their frustration as to the continuation of the conflict between the Anangu Pitjantjatjara Executive and the Pitjantjatjara Council. Some of these witnesses detailed its negative impact on their lives. Others emphasised the need for all of the antagonists to put aside their differences and work together. In some cases, this call for a more unified approach was also a call for changes to be made to the governance of the AP Lands.

Overall, a considerable amount of evidence given and submissions presented to the Committee addressed this Term of Reference. Many contradictory claims and assertions were made. While the Committee has gained a solid understanding of the activities of both organisations and insights into long-standing animosities, it does not believe it would be helpful to sift through all of the claims and counterclaims.

The Committee believes that clarifying issues of governance and service provision on the AP Lands is essential if outstanding areas of conflict are to be overcome and to enable Anangu to manage more effectively similar difficulties should they arise in the future. Such clarification will most likely require the Act and/or the Constitution of Anangu Pitjantjatjara to be amended.

5.4 Term of Reference (d): future governance required to manage the lands and ensure efficient and effective delivery of human services and infrastructure.

The Act as passed in 1981 outlines provisions of governance only in terms of the management of the lands and the protection of the interests of its Traditional Owners. Parliament did not then deem it necessary to address either within the Act or within accompanying legislation how human services and infrastructure would be delivered to the AP Lands, nor, following on from that, how such delivery might intersect with issues of governance. Rather, it was assumed that human services and infrastructure would continue to be delivered to Anangu as they had been prior to the Act coming into force.

¹³ For example, on 3 March 1981, speaking in the House of Assembly, Hon D O Tonkin referred to the Pitjantjatjara Council as that which would "become Anangu Pitjanjatjaraku" (Hansard, page 3379). Nor was Parliament able to distinguish effectively between the two bodies when the Act was amended in 1987 – see comments made by Hon P B Arnold (Hansard, House of Assembly, 31 March 1987, pages 3623-4), Mr Gunn (Hansard, House of Assembly, 31 March 1987, page 3635), Hon G J Crafter (Hansard, House of Assembly, 8 April 1987, pages 3994). Such confusion was commented on in 1988 in a Federal review of Anangu communities (Submission 46: *Always Anangu*, 1988, page 152, (tabled by ATSIC)).

Over the last two decades, in an effort to coordinate service delivery and improve accountability, some organisations have formalised their relationship with Anangu Pitjantjatjara, the body corporate established under the Act. Such moves, however, have not ensured the efficient and effective delivery of services and infrastructure. Indeed, a number of these organisations and their supporting agencies have continued to work at cross-purposes and/or without cognisance of what each other is doing.

Conflict over the financing, administration and provisioning of some services has generated debate as to the effectiveness and legitimacy of existing governance arrangements, as well as suggestions as to ways these might be modified or overhauled.

Some witnesses to the Committee advocated recognising Anangu Pitjantjatjara as both the peak political body for the AP Lands and the coordinator of the delivery of infrastructure and human services, though not necessarily the provider of such services. Advocates of this model sometimes spoke of Anangu Pitjantjatjara as being “the umbrella” under which all other organisations might be gathered. Such a model of governance was previously recommended in a 1998 operational review of Anangu Pitjantjatjara.

A number of witnesses spoke against this proposal, observing that as then constituted, the Executive Board of Anangu Pitjantjatjara was “weak and uncoordinated,” incapable of acting as a regional body and an inappropriate vehicle to deliver services. In its submission to the Committee, the Nganampa Health Council argued that the “umbrella” model of governance would be top-heavy, inefficient and undermine the success of its existing programs. The model was also criticised by Professor Mick Dodson who warned of potential conflicts of interest if the Board was expected to be both a proponent of development and an adviser to those persons for whom that development might have a deleterious effect.

As an alternative to the “umbrella” model of governance, the Committee received a number of submissions advocating that Anangu Pitjantjatjara be retained as a land holding/political entity and that a separate entity be established to coordinate and oversee the delivery of human services and infrastructure. Within this model, the key functions of the new entity would be to determine what services are required, to arrange for their provision – either directly or through other organisations – and to establish and maintain an advisory/coordinating role with government departments, agencies and service providers. Within this model, a separate Executive Board would administer this service providing entity. As part of such an arrangement, persons holding elected or paid positions with one entity would be precluded from simultaneously holding positions with the other.

Other witnesses suggested that future governance on the AP Lands could be configured with reference to either the Local Government Act or models of governance already operative within Indigenous communities in other states and territories.

Debate over governance within Indigenous communities and organisations has received considerable attention throughout Australia during the course of the Committee's inquiry. This debate has commonly noted that obtaining good governance requires much more than defining appropriate structures and mechanisms, important as these may be. Elements of this debate were congruent with much evidence and many submissions presented to the Committee.

The Committee was frequently told of the need to ensure elections are conducted in a fair and transparent manner wherein all Anangu, regardless of where they reside on the AP Lands, are able to participate. (Recommendation 2b) Transparency must also be built into an organisation's decision-making processes and into the mechanisms through which its decisions are reviewed. Such fairness and transparency has not always been operative on the AP Lands.

A paucity of understanding among some Anangu as to the scope, limitations and requirements of the Act and of the duties and responsibilities of office holders as constituted under its provisions was identified as a serious problem. Many witnesses commented on the need to increase the skills and capacity of Board members and office holders through the provision of appropriate training programs. These programs and processes should endeavour to ensure such persons are fully informed as to their role, duties and general responsibility and of the requirement to acknowledge and avoid potential conflicts of interest. (Recommendation 11)

Adequate and secure resources – including reliable and appropriate levels of funding and the long-term commitment of suitably-qualified and experienced staff – are prerequisites for achieving effective, sustainable governance on the AP Lands.

The Committee was repeatedly told of the need for government departments and agencies to adopt a coordinated and collaborative approach, both in their dealings with Anangu and amongst themselves. (Recommendation 3) A lack of coordination and collaboration in the past has clearly undermined good governance on the AP Lands. Although, in 1991, the Pitjantjatjara Lands Parliamentary Committee recommended "that State Aboriginal Affairs develop a co-ordinating strategy for service and program provisions for the Anangu Pitjantjatjara lands," it appears this recommendation was never enacted. In recent years, state and federal agencies have attempted to improve the provisioning of services to the AP Lands through the establishment of the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency Collaboration Committee (APLIICC). The Council of Australian Governments' (COAG) whole-of-government trial – as announced on 22 May 2003 – provides another opportunity to improve and support effective governance.

In addition to governance arrangements operative across the AP Lands, the Committee also noted the role of local community councils, the first of which was established in the early 1970s. Today each community on the AP Lands elects its own council and entrusts it with the responsibility to determine and regulate a variety of matters pertaining to local governance and service requirements. In 2001/02 local community councils on the AP Lands received combined funding of \$11.5 million to maintain roads, houses and other

basic services. Although the Committee did not receive any evidence suggesting that the current system of local councils was in need of modification, it received some complaints as to the ineffectiveness of the flow of information between local and regional bodies. It also heard that under current arrangements a Municipal Services Officer – the chief administrator/manager in a local community – acts in complete independence from all regional structures operating across the AP Lands.

Some witnesses advocated changing the composition of the Executive Board of Anangu Pitjantjatjara so that each major community on the AP Lands would forthwith be represented by its locally-elected Chairperson. The Committee heard that such an arrangement is used by some Indigenous groups in Western Australia.

While Anangu have not yet reached a consensus as to a preferred model of governance, it is likely that when this is arrived at both the Act and the Constitution of Anangu Pitjantjatjara will need to be amended. Significant structural changes, for example, the possible establishment of a separate organisation to coordinate the delivery of human services and infrastructure, may require major amendments to the Act or the passing of complementary legislation. Ensuring any such changes are formalised in a timely manner will necessitate close coordination between Anangu Pitjantjatjara and the South Australian Government.

Notwithstanding the importance of improving governance arrangements and structures on the AP Lands, a number of witnesses stressed the importance of Anangu determining a preferred model for themselves and warned of the dangers of Parliament imposing change from outside.

5.5 Term of Reference (e): any other matters.

Although it received a broad range of evidence and materials, the Committee elected to confine its inquiry to the terms of reference (a) through (d).

6 A BRIEF HISTORY OF ANANGU PITJANTJATJARA AND THE OPERATION OF THE ACT

On 19 March 1981, the South Australian Parliament passed the *Pitjantjatjara Land Rights Act, 1981*, thereby providing Pitjantjatjara and Yankunytjatjara people with the inalienable freehold title for 102 630 km² of land in the north west corner of the State.

The Act, which introduced new concepts of land holding and land control for the benefit of Indigenous peoples, was an important milestone in the struggle for land rights not only for Anangu but for Indigenous communities worldwide. During discussion of the Bill, then State Premier, Hon David Tonkin, described it as “very much one of the most significant pieces of legislation which has come before this Parliament in its entire

history.”¹⁴ In 2001, the ongoing significance of the Act was recognised in a major Centenary of Federation project charting the development of Australian democracy through key documents.¹⁵

For Pitjantjatjara, Yankunytjatjara and Ngaanyatjarra people, the struggle for land rights was spearheaded by the Pitjantjatjara Council. Founded in July 1976, the Council was initially comprised of representatives from 12 communities located in South Australia, Western Australia and the Northern Territory. At its inaugural meeting, those present asserted that control of the North West Reserve, then under South Australia’s Department of Community Welfare, should be transferred to Pitjantjatjara people. Consequently, the Council entered into negotiations with the State Labor government of the day. After state elections in September 1979, the Council continued negotiations with the newly elected Liberal government. On 2 October 1980, Premier Tonkin and the Chairman of the Pitjantjatjara Council, Mr Kawaki Thompson, signed their agreement to a *Pitjantjatjara Land Rights Bill*. This was subsequently introduced into the House of Assembly on 23 October 1980. With some amendments, the Bill was passed and became the *Pitjantjatjara Land Rights Act, 1981*.¹⁶

Given that the Pitjantjatjara Council operated across South Australia, Western Australia and the Northern Territory, the South Australian Government deemed it necessary to vest the freehold title with a separate state-based land-holding body. Accordingly, the Act detailed the establishment and responsibilities of “Anangu Pitjantjatjaraku” (subsequently “Anangu Pitjantjatjara”).¹⁷ Under the terms of the Act, the primary functions of Anangu Pitjantjatjara were:

to ascertain the wishes and opinions of traditional owners in relation to the management, use and control of the lands and to seek, where practicable, to give effect to those wishes and opinions;

to protect the interests of traditional owners in relation to the management, use and control of the lands;

to negotiate with persons desiring to use, occupy or gain access to any part of the lands;

and

to administer land vested in Anangu Pitjantjatjara.

The Act also detailed specific requirements of Anangu Pitjantjatjara, including:

¹⁴ Hansard, House of Assembly, 26 November 1980, page 2311.

¹⁵ *Documenting a Democracy Project*, coordinated by the National Archives of Australia and funded by the National Council for the Centenary of Federation (www.foundingdocs.gov.au).

¹⁶ Assented to on 19 March 1981. Came into operation on 2 October 1981.

¹⁷ In 1987, when the Act was amended, at the request of Anangu, the land-holding body’s name was changed to “Anangu Pitjantjatjara” (Hansard, Legislative Council, 8 April 1987, page 3967).

- the holding of meetings and elections;
- the operations and functioning of an Executive Board; and
- the requirement to consult with Traditional Owners having a particular interest in a portion of the AP Lands, prior to authorising or carrying out any proposal relating to the administration, development or use of that portion.

The Act provided that until Anangu Pitjantjatjara held its first Annual General Meeting, the Pitjantjatjara Council should carry out the functions and duties of the Executive Board.

Other sections of the Act outlined the manner in which

- persons other than Anangu could enter the AP Lands;
- mining licenses could be granted to companies wishing to explore and/or mine on the AP Lands;
- any royalties from mining endeavours would be divided between the State and the Traditional Owners; and
- opal mining operations at Mintabie would be allowed to continue under the provisions of a 21-year lease.

The Act did not address the provision of essential and human services to Pitjantjatjara and Yankunytjatjara people living on the AP Lands. It did, however, provide a mechanism whereby Anangu Pitjantjatjara could attempt to address emergent social problems; specifically regulate, restrict or prohibit certain activities.

In 1987, a Select Committee of the House of Assembly recommended a series of amendments to the Act. The *Pitjantjatjara Land Rights Act Amendment Act 1987* was assented to on 30 April 1987 and came into operation on 18 June 1987. Amendments to the Act did not alter its general principles but rather sought to improve its administration and operation.¹⁸ The amendments also introduced provisions whereby Anangu Pitjantjatjara could make by-laws in support of their efforts to manage the impact of gambling, alcohol and substance abuse. In addition, the amendments established a Pitjantjatjara Lands Parliamentary Committee. It was envisaged that this five-member committee, modelled on one established as part of the *Maralinga Tjarutja Land Rights Act 1984*, would keep the South Australian Parliament informed of developments on the AP Lands and, in particular, the ongoing operations of the Act. The Committee was established for a period of five years, visited the AP Lands each year and reported annually to the Parliament. In March 1992, both Houses of Parliament, pursuant to Section 42c(11) of the Act, resolved to continue the Committee's operation for a further five years.

The establishment of both the Parliamentary Committee and the by-law provisions, along with Hansard from the period, indicate an evolving recognition by Parliament of the need for Anangu to be provided with legislative support for the management and provision of essential and human services.

¹⁸ See Hansard, House of Assembly, 19 March 1987, page 3567.

For the first decade of its existence, Anangu Pitjantjatjara based its administrative operations alongside those of the Pitjantjatjara Council, in Alice Springs. Day-to-day communication with the AP Lands was maintained via the use of a sideband high frequency radio system. Lack of funding prevented the full resourcing of the organisation. Consequently, Pitjantjatjara Council staff administered the granting of permits to enter the AP Lands. In addition, the Council's lawyers and anthropologist continued to act for Anangu Pitjantjatjara, negotiating with mining companies on their behalf. In the early 1980s, state and federal funding enabled Anangu Pitjantjatjara to employ a secretary and senior project adviser and to assume, among other things, responsibility for the permit system.

Although both Anangu Pitjantjatjara and the South Australian government were keen for the organisation's administrative unit to be relocated to the AP Lands, financial constraints prevented this from occurring. After the opening of the Pitjantjatjara Council Resource Centre in 1987, the main offices of Anangu Pitjantjatjara were located to that complex. In 1988, after visiting five communities and the Resource Centre in Alice Springs, the Pitjantjatjara Lands Parliamentary Committee reported:

There are obvious difficulties with A.P. [Anangu Pitjantjatjara] operating in Alice Springs and concern was expressed by communities that they have difficulty in liaising with the A.P. Office and in fully understanding the role of A.P. There is a very strong feeling at the community level that the A.P. Office should be on the Lands. A.P. has a commitment to this in principle, however, the costs of re-location would be high and needs to take into account the total infrastructure required for staff and families.¹⁹

During its first decade of operations, exigencies required Anangu Pitjantjatjara to assume a number of roles not expressly covered by the Act. For example, in the mid 1980s it assumed ownership of all buildings and roads on the AP Lands and secured funding to employ a building inspector and a road crew. At this time, Anangu Pitjantjatjara and the Pitjantjatjara Council continued to work closely together.²⁰

Throughout the mid and late 1980s, Anangu Pitjantjatjara continued lobbying the government for funds to establish an administrative office on the AP Lands. After much consultation, Anangu selected a central site near Yurangka, on the Fregon to Amata road. Funding applications were rejected on the basis of the remoteness of the site. In 1988, a possible site was identified at Umuwa, 25 kilometres south of Ernabella. In October 1988, after the Pitjantjatjara Council's Projects Unit had drilled successfully for water, Anangu Pitjantjatjara confirmed that this site would be developed as the location for its offices on the AP Lands. In 1991, Anangu Pitjantjatjara staff relocated from Alice Springs to Umuwa where, on the tenth anniversary of the Act, the office complex was officially opened. The following year the administrative centre for the Nganampa Health

¹⁹ "Pitjantjatjara Lands Parliamentary Committee, Report 1988", page 10.

²⁰ As Murray George informed the Committee, "When Anangu Pitjantjatjara and Pitjantjatjara Council began it was a partnership. It was like a family all working together for the Land" (Submission 15: M George, page 3).

Council also relocated to Umuwa, although it has continued to maintain an office in the Pitjantjatjara Council Resource Centre in Alice Springs.

The establishment of Umuwa inevitably affected the ease with which Anangu Pitjantjatjara staff could communicate with the Pitjantjatjara Council and other organisations located in Alice Springs. Nevertheless, subsequent to the establishment of Umuwa, the Pitjantjatjara Council continued to service Anangu Pitjantjatjara with respect to the provisioning of some key services.

From the mid 1990s onward, relations between the two organisations began to deteriorate. This escalating conflict occurred within the context of the continuing decline of social and economic conditions on the AP Lands and an increasingly competitive funding environment. In late 2000, Anangu Pitjantjatjara moved to formalise the delivery of the anthropological and legal services provided to it by the Pitjantjatjara Council through the preparation and signing of a service agreement. As negotiations broke down, conflict between the two organisations and their representatives escalated.

Concurrent with the dispute over legal and anthropological services, the then Department of State Aboriginal Affairs (DoSAA) and the Aboriginal and Torres Strait Islander Commission (ATSIC) brought pressure to bear on Anangu Pitjantjatjara with respect to its operations and financial accountability. In July 2001, at a General Meeting of Anangu Pitjantjatjara, representatives of these government bodies advocated appointing an administrator to Anangu Pitjantjatjara. Although, after some negotiations, a management consultant was appointed, this outcome proved controversial.

In an effort to resolve the spiralling conflict, Hon T G Roberts, Minister for Aboriginal Affairs and Reconciliation, established a mediation process. In June 2002, he contracted Professor Mick Dodson, former Aboriginal and Torres Strait Islander Social Justice Commissioner with the Human Rights and Equal Opportunity Commission, to attempt to mediate a settlement between the Executives of the two organisations. Joint mediation sessions were conducted at Umuwa on six occasions. On 30 July 2002, Professor Dodson abandoned his efforts, noting in a letter to the Minister that in his opinion, "the process had broken down irretrievably."²¹

In reporting to the Minister, Professor Dodson noted a general lack of understanding as to the operations and intention of the Act and put forward the view that the Act needed to be reviewed and, subsequent to that, amended if necessary.

On 21 August 2002, Hon R D Lawson moved that a Select Committee of the Legislative Council be appointed to conduct a review the terms of reference of which included investigating and reporting upon the operation of the *Pitjantjatjara Land Rights Act 1981*. During debate on the motion, the Minister for Aboriginal Affairs and Reconciliation (the Hon T G Roberts) moved an amendment to broaden the terms of reference. The motion as amended was carried on 29 August 2002.

²¹ Dodson, M. 15 August 2002, Letter to Hon T Roberts, Minister for Aboriginal Affairs. Tabled in the Legislative Council, 29 August 2002.

7 PROBLEMS ON THE ANANGU PITJANTJATJARA LANDS

7.1 Background

In comparison to other parts of Australia, contact with white settlers and European culture came late to most parts of the AP Lands, with white explorers not reaching the Mann and Musgrave Ranges until the early 1870s.²² Subsequent to those visits, for the next forty years, contact between the two groups – Anangu and European Australians – remained sporadic.

Interaction increased from the 1910s onward as a consequence of a burgeoning trade in dingo scalps and the spread of pastoralism. In 1921, in an effort to shield Anangu from some of the more deleterious effects of this contact, the South Australian Government proclaimed the North-West Aboriginal Reserve.²³

Despite the establishment of the Reserve, contact increased, particularly as a consequence of the granting of water permits and pastoral leases to persons wishing to establish homesteads on land located near the eastern edge of the Reserve. Such properties were primarily bases for scalp trading expeditions westward into the Reserve.²⁴

In 1935, an Adelaide-based surgeon, Dr Charles Duguid, visited the Musgrave Ranges. Dr Duguid was alarmed at the exploitation of Anangu labour, the abuse of Anangu women by white men, the numbers and condition of children of mixed parentage and the potentially devastating effect of European diseases. On returning to Adelaide, he lobbied both the Presbyterian Church of Australia and the South Australian Government to establish a medical mission close to the eastern boundary of the Reserve. As a result of his efforts, the Presbyterian Church inaugurated a mission at Ernabella in 1937. The South Australian Government contributed £1000 towards its establishment.

The Ernabella Mission ran from 1937 through to 1 January 1974 at which point the Presbyterian Church handed over full control to the Pukatja (Ernabella) and Aparawatatja (Fregon) communities.²⁵

A number of Anangu witnesses to the Select Committee recalled the mission years as a time when employment and educational opportunities were more plentiful and when problems of substance abuse were unknown.

²² Submission 49: Edwards, W. H. 1992, "Patterns of Aboriginal Residence in the North-West of South Australia," *Journal of the Anthropological Society of South Australia*, 30:1-2, page 6.

²³ Located in the north-west corner of South Australia – abutting both the Northern Territory and Western Australia – the Reserve covered an area of 56,271 square kilometres.

²⁴ Submission 49: Edwards, W. H. 1992, "Patterns of Aboriginal Residence in the North-West of South Australia," *Journal of the Anthropological Society of South Australia*, 30:1-2, page 7.

²⁵ Submission 49: Edwards, W. H. 1992, "Patterns of Aboriginal Residence in the North-West of South Australia," *Journal of the Anthropological Society of South Australia*, 30:1-2, page 16.

A submission made by Rev. Bill Edwards, former Mission Superintendent, confirmed those recollections. He noted, amongst other things, how despite minimal government support and with a small number of white staff, the mission had functioned for Anangu as “a place of purpose and activity.”²⁶ In contrast, Rev. Edwards observed how the subsequent era of self-determination had come to be characterised by:

- constrained local decision-making;
- an increasing dependency both on government funding and on greater numbers of non-Anangu advisers and employees;
- high unemployment amongst Anangu; and
- the unremitting nightmare of problems associated with substance abuse.

For many Anangu residing on the AP Lands, their quality of life and future prospects have significantly deteriorated since the *Pitjantjatjara Land Rights Act 1981* came into operation. Many problems on the AP Lands have been known to both State and Federal governments for more than 15 years.²⁷ During this period, a plethora of government-funded projects have failed to prevent these problems from becoming further entrenched.

Professor Mick Dodson is well-placed to comment on conditions in Indigenous communities throughout Australia. In January 2003, in evidence to the Select Committee, he stated: “I think that there are very few places which I have been to which are as desperate, despairing and sad as the Pit Lands.”²⁸

Anangu witnesses to the Select Committee spoke of being overwhelmed by problems which, from their perspective, have engulfed communities subsequent to the granting of land rights. Evidence presented by Ms Akitiya Tjitayi provides a useful summary of their statements:

When we became men and women, we were all working and we all lived as families that were happy ... everything was good then. ... but now we have come into the 2000s and we have lost so much of what we had ... much of our family life is finished. We have lost too many people. We have many problems, and I am crying now for my daughters and others. Once it used to be very good here and we were very happy, but not now. ... One of the main problems is petrol. ... from that we have children who are hungry ... Then we have the problems with the drugs – with marijuana – and that is making people cranky in the head. ... we also have the alcohol problems in our communities. All these things make us very sad. We remember again back to Itjinpiri²⁹ where we got our land rights. At that time things were very good and we were very happy. All that seems to have finished now ... we are pressed down with all the problems. We have been asking and

²⁶ Submission 49: Edwards, B. [2002], “Facing the Real Problems: Substance Abuse in Aboriginal Communities,” page 2. Edwards worked at the Superintendent of the Ernabella Mission from 1958 through to 1972 and subsequently spent another five years at Amata and Fregon as the Pitjantjatjara Parish Minister for the Uniting Church in Australia.

²⁷ See, for example, Submission 46: *Always Anangu*, page i, (tabled by ATSIC).

²⁸ Evidence M Dodson, 28 January 2003, Q1085.

²⁹ Itjinpiri was where the State Government ceremonially handed over the title to the AP Lands on 4 November 1981.

asking for help and we do not always seem to get the help that is needed. ... We want you to take our talk back with you and to realise that there are people here in great need.³⁰

The general hopelessness and widespread misery pervading life on the AP Lands cannot be explained away in terms of any one problem. Nor will conditions be substantially improved by addressing elements of social dysfunction in isolation. In providing the following sketches of seven of the more recognisable problems on the AP Lands, the Select Committee stresses the importance of all parties, agencies and organisations working together to develop and implement comprehensive, coordinated and fully integrated strategies.³¹ (Recommendation 3) How specific agencies and organisations currently engage with these and other problems is detailed in other sections of this report.

7.2 Petrol Sniffing

For more than 30 years, the devastating effects of petrol sniffing have undermined quality of life on the AP Lands. Over the last two decades, petrol sniffing has been the direct cause of at least 35 deaths. Many other Anangu have acquired serious and permanent psychological and physical disabilities as a consequence of this practice.

Petrol sniffing impacts on every family on the AP Lands, with whole communities becoming dysfunctional at particular points in time. Sniffers frequently exhibit extreme rage and violence and often commit serious acts of vandalism and crime. In September 2002, in his findings into the deaths of three Anangu on the AP Lands, Coroner Wayne Chivell listed the consequences of petrol sniffing as “serious disability, crime, cultural breakdown and general grief and misery”³²

It is difficult to determine precise figures as to the number of petrol sniffers on the AP Lands. In 1986, the South Australian Aboriginal Customary Law Committee estimated that there were 254 sniffers.³³ Although in response to the introduction of Avgas as a petrol substitute, the rate of sniffing diminished significantly in the mid 1990s, within three years, rates were approaching pre-Avgas levels. Taken as whole, evidence presented to the Select Committee suggests that there are some 150 sniffers on the AP Lands, or something in the order of 5% of the total Anangu population.³⁴

Over the past 30 years, the profile of sniffers has changed considerably. Whereas in the 1970s, sniffing was an activity predominantly engaged in by young males in their teenage years, data collected during a police operation staged at the beginning of 2002 indicated that one in five sniffers are now female and that 60% of all sniffers are between 19 and

³⁰ Evidence A Tjitayi, 25 September 2002, Q665.

³¹ Such an integrated approach is advocated, more generally, by the Productivity Commission (*see* Steering Committee for the Review of Government Service Provision, 2003, *Overcoming Indigenous Disadvantage: Key Indicators 2003*, Productivity Commission, Canberra, pages 3.1-3.2).

³² Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002, page ii (tabled by NPY Women’s Council).

³³ Submission 58: SAPOL report on Operation Pitulu Wantima, 2-1.

³⁴ A similar figure – “approximately 6% of the Anangu population” – is cited in the Aboriginal & Torres Strait Islander Social Justice Commissioner’s *Social Justice Report 2003*, page 119.

29 years old. Whereas in the past, it was thought that young men ceased sniffing at the time of tribal initiation, more than a third (35%) of sniffers detected during the police operation were wati (initiated men). Although the youngest person detected by the police was 13 years of age, anecdotal evidence suggests children as young as five and six sometimes partake in the activity.³⁵

While the cause of petrol sniffing has not been definitively identified, witnesses repeatedly cited boredom, poverty and unemployment as key factors in the uptake of the behaviour. The police operation conducted in 2002 lent support to this assessment in that all of the adult sniffers contacted were found to be unemployed.

The Select Committee was informed that there have been few constructive programs aimed at combating the petrol sniffing crisis and that there have been no sustained interventions.³⁶ Witnesses and submissions to the Select Committee complained of inadequate funding, intermittent support and of how the recommendations of previous inquiries were never properly implemented or only taken up in the short-term.³⁷ In a report of one such inquiry – published in September 1993 by the then Department of State Aboriginal Affairs – Ms Ceilia Divakaran-Brown observed that many of the Anangu whom she had interviewed:

were disillusioned by the extent of discussion on this topic and yet the sparse support for Anangu initiatives to take control of the situation. Some said this would be the last time they are sharing their ideas for a solution.³⁸

A decade later, the Select Committee encountered similar frustration at the seemingly endless series of official inquiries with few tangible outcomes. In some Anangu communities, frustration appears to have become despondency. Describing his encounter with a sniffer during a visit to a store on the AP Lands, Professor Mick Dodson told the Select Committee:

I have never seen anything so shocking ... people did not blink an eyelid. It was like it was normal; it was acceptable. I was both shocked and horrified that people were hardened to it, or accepting, or they just pretended that it was not happening.³⁹

³⁵ Submission 58: SAPOL report on Operation Pitulu Wantima, 2-2.

³⁶ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 15.

³⁷ Evidence B Underwood, 22 November 2002, Q1043. See also Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 23.

³⁸ in Divakaran-Brown, C. & Minutjukur, A. 1993, *Children of Dispossession: An evaluation of petrol sniffing on Anangu Pitjantjatjara Lands*, Department of State Aboriginal Affairs, Adelaide.

³⁹ Evidence M Dodson, 28 January 2003, Q1087.

7.3 Family Violence

Violence within Anangu families – especially violence directed against women – is prevalent on the AP Lands. One in four Anangu women between the ages of 15 and 44 have been or are currently a client of the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council's (NPYWC) domestic violence program.⁴⁰ Anecdotal evidence suggests many other incidents of family violence go unreported.

The forms of violence inflicted on Anangu women include:

stabbing with knives, screwdrivers, pointed sticks, boomerangs and iron bars;
beatings with fists, feet and steel capped boots, sticks, wooden hunting and
fighting implements, iron bars, wheel braces, rubber hoses and rocks;
burning with cigarettes, firesticks, petrol that is ignited and hot water.⁴¹

The Select Committee heard that police responses to incidences of family violence have been far from adequate, with the lack of a permanent police presence on the AP Lands mitigating against victims pressing charges. Long delays in the collection of evidence and statements and in the processing of criminal charges has left victims open to intimidation and additional violence and to pressure aimed at getting them to withdraw their accusation. (Recommendation 8)

Increasing the police presence on the AP Lands should not only improve response times, it may also lead to an increase in the number of persons apprehended for bringing banned substances onto the AP Lands. Such substances, it has been estimated, are a contributing factor in 80% of all incidences of domestic violence.⁴² An increased police presence should also provide better protection for the staff of the NPY Women's Council's domestic violence program, a number of whom have been threatened by Anangu men whilst attempting to support women and children caught in situations of family violence and/or sexual assault.⁴³

The Committee heard that the inadequacy of sentencing options within the criminal justice system discourages women from pressing charges against their attackers. In one case, a man convicted of seriously injuring an Anangu woman was sentenced to 80 hours of community service.⁴⁴ (Recommendation 9)

It is important to note that not all family violence can be attributed to the effects of alcohol and drug abuse and/or petrol sniffing, with a significant number of women reporting incidents that had occurred while their partners were sober.⁴⁵ Such incidents

⁴⁰ Evidence J Lloyd, 17 September 2002, Q130; Submission 21: Lloyd, J. 2002, "Minyma Rapa: Courageous Women," page 4.

⁴¹ Submission 21: Lloyd, J. 2002, "Minyma Rapa: Courageous Women," page 6.

⁴² Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002, page 15 (tabled by NPY Women's Council).

⁴³ Evidence J Lloyd, 17 September 2002, Q137-138.

⁴⁴ Evidence J Lloyd, 17 September 2002, Q154-156; Submission 21: Lloyd, J. 2002, "Minyma Rapa: Courageous Women," pages 11-12.

⁴⁵ Submission 21: Lloyd, J. 2002, "Minyma Rapa: Courageous Women," page 5.

suggest that on the AP Lands, domestic violence takes place “within an environment where physical aggression and posturing is the norm.”⁴⁶ Indeed, the Committee heard that some Anangu men have publicly maintained their right to use acts of physical aggression and/or violence to “control” women. Such attitudes make it impossible to locate programs aimed at protecting the victims of family violence within organisations under the control of Anangu men.

Furthermore, in contrast “to the commonly held view about the comfort and protection of the extended [Aboriginal] family,” the Committee heard that “male and female relatives do not always protect their female kin from violent partners because priority and emphasis is given to their ritual, economic and social relationships with those perpetrators of violence.”⁴⁷ The web of these relationships significantly impacts on the prosecution of perpetrators of violence, with many being “too fearful to directly contact the police on patrol for fear of retribution from their husbands and their family.”⁴⁸

In all, the Select Committee was advised of the impossibility of addressing the problem of family violence through a “quick fix” approach. As Ms Jane Lloyd, Coordinator of the NPYWC’s domestic violence program, has noted:

What is needed is skilled staff with good knowledge and understanding of communities; programs and services that place women and children’s safety as paramount; resources that can provide victims of violence with the necessary practical assistance and support to protect themselves from violence; intense and ongoing lobbying of the judicial system to ensure that the safety of the victim is paramount when sentencing Indigenous male offenders who commit violent offences against women and children; increased policing in remote communities and services that assist and support Indigenous women to access the full range of legal services for victims of violence.⁴⁹ (Recommendation 7)

7.4 Poor Health Outcomes

Poor health and a susceptibility to illness and disease accompany Anangu throughout their entire lives.

Many Anangu infants and young children weigh significantly less than what medical authorities consider to be an acceptable level for their height and age. In Central Australia, failure to thrive (FTT) “is commonly defined as below 80 per cent Standard Weight for Age on the National Road to Health Charts.” Estimates suggest that in Central Australia, up to 25 per cent of Indigenous children under five years of age would be classified as FTT.⁵⁰

⁴⁶ Submission 21: Lloyd, J. 2002, “Minyma Rapa: Courageous Women,” page 5.

⁴⁷ Submission 21: Lloyd, J. 2002, “Minyma Rapa: Courageous Women,” page 12; *see also* Evidence J Lloyd, 17 September 2002, Q131.

⁴⁸ Submission 21: Lloyd, J. 2002, “Minyma Rapa: Courageous Women,” page 8.

⁴⁹ Submission 21: Lloyd, J. 2002, “Minyma Rapa: Courageous Women,” page 14.

⁵⁰ Submission 22: *Mai Wiru, Regional Stores Policy and associated regulations for the Anangu Pitjantjatjara Lands*, page 34 (tabled by NPY Women’s Council).

Health prospects and life expectancy for Anangu fall far below those for the majority of the Australian populace. The records of the Nganampa Health Council indicate that on the AP Lands, the average life expectancy of men is approximately 20 years less than for non-Aboriginal men and some 15-17 years less for women.⁵¹

The difficulty for Anangu to purchase food items that would constitute a well-balanced diet contributes to the onset of illnesses and conditions, including heart attacks, strokes, obesity, diabetes and kidney disease. Approximately 29% of females and 20% of males over the age of thirty years have diabetes, more than half of these persons also have renal disease. (Recommendation 13)

Major health problems are compounded by Anangu's geographic isolation from population centres wherein they might have better access to medical specialists and technologies. At present, the closest dialysis services for End Stage Renal Disease patients are in Alice Springs, between 450 and 750 kilometres away from home communities.⁵² While some individuals have reluctantly relocated to major centres in order to be able to access particular health services, in general Anangu would prefer to be able to have ongoing health needs attended to on the AP Lands. (Recommendation 14c)

A significant number of Anangu have permanent disabilities and exceptional health needs. Many of these are the consequence of substance abuse, including petrol sniffing. Acquired Brain Injury from petrol sniffing is the single biggest cause of disability on the AP Lands.⁵³

Many persons with disabilities are not receiving appropriate assistance and support services. Less than 16% of persons formally identified as being eligible for disability assistance and services from an Options Coordination Unit have received any support.⁵⁴ (Recommendation 10)

7.5 Poverty

Poverty on the AP Lands has long been a major factor in the perpetual cycle of ill-health and substance abuse. All but some 15% of Anangu income is derived from social security payments and the Community Development Employment Program (CDEP).⁵⁵

⁵¹ Cited in Submission 22: *Mai Wiru, Regional Stores Policy and associated regulations for the Anangu Pitjantjatjara Lands*, page 32 (tabled by NPY Women's Council).

⁵² Nganampa Health Council, Annual Report 2000/2001, pages 25 & 27.

⁵³ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 20.

⁵⁴ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 4.

⁵⁵ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 12.

A 1998 study of the cost of living on the AP Lands concluded that an average Anangu family's combined income would not buy sufficient food and basic supermarket items requisite for the family to achieve adequate nutrition and hygiene.⁵⁶ Four years later, in a report to the Department of Human Services, Mr John Tregenza of Kutjara Consultants observed that Anangu still did "not have food security on a daily basis, nor ongoing access to the basic necessities of life."⁵⁷ (Recommendation 13)

7.6 Substandard Outcomes in Education & Training

Notwithstanding the recent success of individual students and of some key programs, some evidence to the Select Committee suggested that over the last decade, education, training and employment outcomes on the AP Lands have been "markedly unsuccessful."⁵⁸

The Committee was told that in general Anangu school leavers are unable to assume most positions within community organisations and are provided with limited opportunities to engage in post-school training courses.⁵⁹

While school attendance levels have improved over the last few years, they remain well below what would be deemed acceptable in non-Anangu schools across South Australia.

Pitjantjatjara and Yankunytjatjara remain the main languages of communication on the AP Lands, especially in the home environment. Consequently, most Anangu children commence primary school with low English language skills and few opportunities to expand this competency. The disparity between the language of the home and the language of education significantly impacts on achievement within both the school and vocational training systems.

While the English literacy level of Anangu students has markedly improved over the last five years, it is still significantly below the level of their non-Anangu counterparts.⁶⁰

⁵⁶ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 12; Submission 22: *Mai Wiru, Regional Stores Policy and associated regulations for the Anangu Pitjantjatjara Lands*, page 37 (tabled by NPY Women's Council).

⁵⁷ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 12.

⁵⁸ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 15.

⁵⁹ Submission 39: Anilalya Council Aboriginal Corporation, page 9.

⁶⁰ Evidence R Jackson, 30 October 2002, Q941.

7.7 Unemployment

Unemployment, particularly among younger adults, is extremely high on the AP Lands. All but some 15% of Anangu income is derived from social security payments and the Community Development Employment Program (CDEP).⁶¹

The outsourcing of most building and maintenance contracts in the 1990s reduced on-the-job training opportunities and employment prospects and eroded community pride.⁶² The inadequate and intermittent provision of TAFE courses exacerbated this situation. Evidence presented suggested that in some communities, all of the staff in the community office and local store were non-Anangu. (Recommendation 12)

7.8 Language Barriers and Communication Difficulties

Pitjantjatjara and Yankunytjatjara remain the first languages of the majority of Anangu residing on the AP Lands, many of whom are reluctant to speak English. Consequently, in encounters with government agencies and officers, misunderstandings proliferate.

Such communication difficulties are long-standing. The minutes of the first meeting of the Pitjantjatjara Council in 1976 record a “discussion of the problems associated with attending meetings in Adelaide and other centres because of language difficulties.”⁶³ On one occasion in Alice Springs, the absence of a skilled interpreter prevented the Select Committee from taking evidence from a witness.⁶⁴

Other communication difficulties are a consequence of a divergence between the way information is traditionally shared within Anangu communities and the forms and limitations of modern technology. While the latter tends to support individual privacy, the capacity to exchange and interact with information openly and at a community-wide level is of fundamental importance to Anangu.

The Select Committee heard that the use of “chat radio” (a sideband high frequency radio system) in the 1970s and 1980s enabled communities across the AP Lands to monitor regional negotiations and encouraged transparency in matters of governance.⁶⁵ Ironically, attempts to improve communication technology with the installation of a standard telephone system undermined the capacity for all community members to participate in decision-making processes across the breadth of the AP Lands.⁶⁶ As Mr Ushma Scales, independent consultant, told the Select Committee:

⁶¹ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 12.

⁶² Evidence B Underwood, 22 November 2002, Q1044.

⁶³ Submission 19: Minutes of the Meeting of the Pitjantjatjara Council, 13-14 July 1976 (tabled by U Scales).

⁶⁴ Evidence B Davis, 17 September 2002, Q199 & Q330.

⁶⁵ Evidence B Davis, 17 September 2002, Q209.

⁶⁶ Evidence B Davis, 17 September 2002, Q282.

We really ran into trouble with this telephone. Because Anangu cannot read or write, everything is through the mouth. When the radio stopped and everyone was one-to-one on the telephone, people suddenly did not know what was going on any more.⁶⁷

This change, the Select Committee learnt, coincided with a break down in communication amongst peak organisations, particularly Anangu Pitjantjatjara and the Pitjantjatjara Council.⁶⁸ The relocation of Anangu Pitjantjatjara to Umuwa significantly reduced the ease with which the two organisations could interact with each other and other organisations on a daily basis.⁶⁹ (Recommendation 14i)

8 HUMAN SERVICES AND INFRASTRUCTURE

8.1 Health Services

The *Pitjantjatjara Land Rights Act 1981* contains no provisions concerning the delivery of primary and secondary health services to persons living on the AP Lands. At the time the Act was passed, such services were provided by the South Australian Health Commission and the Pitjantjatjara Homelands Health Service. By the mid 1980s, these had been handed over to the Nganampa Health Council (NHC), an Anangu-controlled community health organisation that was established in 1983.

On the AP Lands, NHC provides primary clinical care via nine community clinics and a 12-bed respite aged-care facility. Its other projects and programs include: dental services; a STD control and HIV prevention program; a renal project; a women's program; aged & disability care; an Anangu Health Worker Education Unit; and a hospital liaison program. Service provision requires the employment of 120 persons, 80 of whom are Indigenous, and annual funding of more than \$9 million.⁷⁰

A 1999 independent organisational review reported that NHC "is providing a high quality service which has been sustained over a long period of time and had made a demonstrable difference to the health of Anangu."⁷¹

In October 2002, the Select Committee heard that NHC has "averaged an operating deficit of between \$140,000 and \$200,000 each year for the past four years" and that from its perspective this shortfall was a consequence of inadequate funding by the State Government.⁷² The Committee heard that as a percentage of the organisation's total funding, the State Government contribution had fallen from 22% in 1992/93 to 13% in

⁶⁷ Evidence U Scales, 17 September 2002, Q355.

⁶⁸ Evidence B Davis, 17 September 2002, Q276; Submission 10: Anangu Pitjantjatjara Operational Review, page 42.

⁶⁹ Evidence M Kavanagh, 17 September 2002, Q93.

⁷⁰ Overview of Nganampa Health based on Submissions 31, 44 & 60, and *Nganampa Health Council: Annual Report 2000/2001*.

⁷¹ Submission 31: Nganampa Health Council.

⁷² Submission 44: Nganampa Health Council.

2001/02. On this, Mr John Singer, Director, NHC, observed: “the lack of SA dollars speaks loudly of a lack of interest in the AP Lands from past SA Governments.”⁷³ Mr Singer was particularly alarmed by the shortfall in funding for the Patient Assisted Transport Scheme, a scheme that covers transportation costs incurred in ensuring persons living in remote locations access hospital and specialist services.⁷⁴ Mr Singer’s concern was reiterated in documents tabled by the Iwantja Community.⁷⁵

On the AP Lands, some additional health services are provided through the programs of the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council (NPYWC). These include: a disability support program; a physiotherapist allied health project; a domestic violence program; the Muñitjulu supported accommodation service; aged-care support and advocacy; a respite for carers project; and a nutrition support program for young mothers and children. Unlike NHC, which operates solely within South Australia, the majority of NPYWC programs/projects operate across South Australia, Northern Territory and Western Australia.⁷⁶ Much evidence presented to the Committee praised the effectiveness of the work carried out by NPYWC, noting its broad endorsement from Anangu.⁷⁷

Evidence presented to the Select Committee stressed the underfunding of residential care for young people with disabilities and for frail, aged persons. In many cases, such persons are forced to live away from the AP Lands.⁷⁸

Witnesses stressed the importance of the *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*, and the necessity of the South Australian government addressing outstanding recommendations.⁷⁹ (Recommendation 10)

Evidence received from some Anangu witnesses pointed out the need to improve health service delivery to homelands⁸⁰ and to provide kidney dialysis on the AP Lands.⁸¹ (Recommendation 14i)

8.2 Police and Policing

As passed in 1981, the *Pitjantjatjara Land Rights Act 1981* contained two references to the police.

⁷³ Submission 44: Nganampa Health Council.

⁷⁴ Submission 44: Nganampa Health Council.

⁷⁵ Submission 27: Iwantja Community Inc.

⁷⁶ Evidence M Kavanagh, 17 September 2002, Q78.

⁷⁷ Evidence M Dodson, 28 January 2003, Q1080; Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*, Country and Disability Services Division, Department of Human Services (SA), page 34.

⁷⁸ Evidence M Kavanagh & R Lindsell, 17 September 2002, Q110.

⁷⁹ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*, Country and Disability Services Division, Department of Human Services (SA). Evidence M Kavanagh, 17 September 2002, Q109.

⁸⁰ Evidence K Mervyn, 26 September 2002, Q745; F Young, 26 September 2002, Q746.

⁸¹ Evidence K McKenzie, 26 September 2002, Q774.

Section 19 (8) (a) allowed for “a police officer acting in the course of carrying out his official duties” to enter the lands without obtaining the permission of Anangu Pitjantjatjaraku.

Section 26 (3) (b) required a member of the Police Force to be on the “Mintabie Consultative Committee.”

In addition, the Act determined possible offences, the prosecution of which would obviously have required the involvement of the South Australia Police (SAPOL).

The 1981 Act also contained provisions by which the Governor, upon the recommendation of Anangu Pitjantjatjaraku, could make additional regulations, including ones “regulating, restricting or prohibiting the supply or consumption of alcoholic liquor on the lands” and “providing for the confiscation of alcoholic liquor.” (Section 43 (1)). Amendments to the Act, passed in 1987, included sections dealing with some of the additional regulations envisaged in 1981. In two cases, those amendments specifically referred to policing on the AP Lands.

Section 42d (3): A member of the police force or a person acting under the authority of a member of the police force may confiscate and dispose of any petrol that he or she reasonably suspects is to be used or has been used for the purposes of inhalation and any container that contains or has contained such petrol.

Section 43 (7): A member of the police force may seize and impound any vehicle reasonably suspected of having been used in connection with the supply of alcoholic liquor to any person on the lands in contravention of a by-law.

The amended Act also included provisions to ensure Anangu employed as part of what was then known as the “Police Aide Scheme” could seize vehicles as provided for by Section 43 (7):

Section 43 (13) (b): a reference to a member of the police force extends to a special constable authorized by a member of the police force to seize a vehicle under this section.

The Police Aide Scheme, now the “Community Constable Scheme,” was established by SAPOL in 1986. It allows communities on the AP Lands to nominate individuals for training and appointment as Community Constables. As of October 2002, there was provision for two Community Constables to be employed in each of the following communities: Ernabella, Amata, Fregon, Indulkana, Mimili and Pipalyatjara.⁸²

Although the scheme allows for the employment of a total of 12 Anangu, the Select Committee heard that there is a high turnover of staff and that typically a number of positions are not filled. When reporting to the Select Committee in October 2002, Chief

⁸² Evidence P Mildren, 29 October 2002, Q838.

Superintendent Peter Mildren, SAPOL's Northern Operations Coordinator, noted that only 10 of the 12 positions were then occupied.⁸³ While the scheme is open to both men and women, the Select Committee heard that over a 16-year period only one Anangu woman had been employed as a Community Constable.⁸⁴

After a short period of probation, Community Constables have full powers of arrest.⁸⁵ Nevertheless, the detaining of offenders is usually avoided. Although there are holding cells in each of the six communities in which Community Constables are based, none of these facilities comply with the specifications outlined in the recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC). The Select Committee heard that SAPOL considers the cost of modifying the facilities prohibitive and consequently only arrests Anangu "as an absolute last resort," after which the person is transported to Marla.⁸⁶ (Recommendation 6d)

In addition to infrastructure limitations, family ties and cultural protocols greatly impact on the rate of arrests.⁸⁷ The Committee heard that if a person convulsed, died or sustained an injury whilst in custody, their relatives would hold the Community Constable personally responsible.⁸⁸

In 1988, two years after the Community Constable Scheme was established, SAPOL stationed a non-Anangu Senior Constable at Amata and charged him with supervising the Community Constables based in both Amata and Ernabella; this was later extended to include supervision of constables based at Pipalyatjara. In 1997, after the incumbent Senior Constable resigned, SAPOL was unable to fill the position.

From 1999 onward, Community Constables were supported by a Development Officer as well as sworn police officers, all of whom were stationed at Marla, outside the AP Lands.⁸⁹ Geographical location has greatly affected the ability of these officers to respond to requests for assistance, with SAPOL informing the Committee that response times range from 15 minutes to six or seven hours.⁹⁰ Other evidence suggested adverse weather and road conditions can cause much longer delays.⁹¹

As with the Community Constable Scheme, SAPOL experiences ongoing difficulties in attracting and retaining sworn police officers to the region. Consequently, instead of appointing officers for a two-year period, the Select Committee heard, in October 2002,

⁸³ Evidence P Mildren, 29 October 2002, Q836.

⁸⁴ Evidence P Mildren, 29 October 2002, Q841.

⁸⁵ Evidence P Mildren, 29 October 2002, Q860.

⁸⁶ Evidence P Mildren, 29 October 2002, Q861.

⁸⁷ Evidence J Lloyd, 17 September 2002, Q142.

⁸⁸ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002 (tabled by NPY Women's Council).

⁸⁹ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002 (tabled by NPY Women's Council).

⁹⁰ Evidence P Mildren, 29 October 2002, Q844.

⁹¹ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002, page 58 (tabled by NPY Women's Council).

that SAPOL has tended to station relief staff at Marla, typically for short-periods of approximately three months duration.⁹² Such measures, the Select Committee heard, had not enabled the Marla station to secure a full contingent of staff. In all, as Chief Superintendent Mildren informed the Committee, “we [SAPOL] have not really met our objectives in the past four years – probably since 1998. Prior to that we had a heavy concentration, particularly because of the rise in petrol sniffing. We took our eye off the ball for a while and problems emerged again.”⁹³

Many witnesses and respondents to the Committee stressed the necessity of SAPOL establishing and maintaining a permanent presence of sworn police officers, in addition to community constables, on the AP Lands.⁹⁴ (Recommendation 8) In 1998, such a presence was advocated by both Anangu Pitjantjatjara and SAPOL’s own review of the Community Constable Scheme.⁹⁵ That review recommended placing “two mainstream Police Officers at Umuwa within three years to provide operational and on-the-job support to the Community Constables.” Six years later, in 2004, Anangu communities still await the appointment of those officers. As Coroner Wayne Chivell noted in September 2002: “This issue seems to be proceeding at a very slow pace ... consistent with the generally tardy government response to issues arising in the Anangu Pitjantjatjara Lands.”⁹⁶ Earlier, in June 2002, the South Australian Government’s Drug Summit added its voice to the call for a permanent police presence, recommending “that funding for the construction of a police facility for police officers to be based at Umuwa be treated as a high priority.”⁹⁷

The Committee heard that as of October 2002, SAPOL was aiming to base two officers from the Marla Police Station on the AP Lands on a rotational basis. However, such an arrangement could not commence, it was informed, until suitable housing at Umuwa had been secured. Although SAPOL is already in possession of accommodation facilities at Pipalyatjara, Amata and Ernabella, the Committee heard that it was reluctant to base staff in those communities because of the constancy of requests for assistance and thus of the inability of its officers to obtain any time out from their official duties.⁹⁸ In October 2002, Mr Chris Larkin, General Manager, Aboriginal Housing Authority (AHA), informed the Select Committee that AHA had offered to assist SAPOL to expedite the establishment of the staff housing by enabling them to access immediately a housing block at Umuwa to which water and electricity were already connected.⁹⁹

⁹² Evidence P Mildren, 29 October 2002, Q849.

⁹³ Evidence P Mildren, 29 October 2002, Q870.

⁹⁴ Evidence J Lloyd, 17 September 2002, Q116; D Fraser, 26 September 2002, Q757; L Burton, 27 September 2002, Q801.

⁹⁵ Submission 10: Response of AP Steering Committee to *Anangu Pitjantjatjara Operational Review (Final Report)*; Submission 22: Review of SA Community Constable Scheme 1998 (recommendations from the Review tabled by the NPY Women’s Council).

⁹⁶ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002 (tabled by NPY Women’s Council).

⁹⁷ Submission 22: South Australian Drugs Summit 2002 – *Final Recommendations for Plenary Discussion* (tabled by NPY Women’s Council).

⁹⁸ Evidence P Mildren, 29 October 2002, Q858.

⁹⁹ Evidence C Larkin, 29 October 2002, Q933.

While it is vital that SAPOL establish and maintain a permanent base at Umuwa, a number of submissions and evidence presented to the Committee called for sworn police officers to be stationed in all of the major communities on the AP Lands or, at least, in much closer proximity to communities in the far west of the state.¹⁰⁰

The Committee heard evidence that the lack of a permanent police presence on the AP Lands has severely hampered programs aimed at supporting women experiencing domestic violence.¹⁰¹ Moreover, the report of an intensive police operation conducted on the AP Lands early in 2002 indicated that the presence of extra officers precipitated “a behavioural change among sniffers who became progressively more passive and co-operative.”¹⁰² The same report suggested that the lack of a permanent police presence has led to a substantial under-reporting of serious crimes.

The Committee also received evidence highlighting the inadequacy of current laws, by-laws and sentencing options, particularly with respect to substance abuse and family violence.¹⁰³ In tandem with calls for tougher measures, a number of witnesses spoke of the need to establish a “drying out” facility on or close to the AP Lands; a place “where people can be removed to, but where family can still visit.”¹⁰⁴ In 2002, the South Australian Government’s Drug Summit also recommended the establishment of a “culturally appropriate treatment and rehabilitation facility on the AP Lands for petrol sniffers and their families.”¹⁰⁵ (Recommendations 6a, 6b & 6c)

Questioned as to the effectiveness of the law in responding to petrol sniffing, Chief Superintendent Mildren told the Select Committee:

It is not adequate, in our view. The difficulties are that, firstly, it is only a very minor offence. It is difficult for us always to justify arresting someone for that level of offence. Yet, arrest is probably the only way that we can handle it at the time, and remove the person from the scene. It is also a problem for us in that we don’t have the facilities ... to be able to handle the person once they are arrested. What we are doing currently, is arresting them and then bailing them immediately to appear before a court. ... To make the legislation more effective, it probably has to tie in with some sort of diversion program that is available to them on the lands or very close to the lands, without sending them to Port Augusta, Adelaide or somewhere where they are out of their environment, would only fret, and probably get into more trouble.¹⁰⁶

¹⁰⁰ Evidence J Lloyd, 17 September 2002, Q146; L Burton, 27 September 2002, Q801.

¹⁰¹ Evidence J Lloyd, 17 September 2002, Q130.

¹⁰² Submission 58: Report on Operation Pitulu Wantima (Petrol – Leave It Alone) page 1-2.

¹⁰³ Evidence D Fraser, 26 September 2002, Q 756-757; G Burton, 27 September 2002, Q801; A Baker & W Tjukangku, 27 September 2002, Q804; Submission 33: Minutes of the Meeting of the Executive of Anangu Pitjantjatjara, Feb 2001, page 34 (tabled by Mr Rob Burdon).

¹⁰⁴ Submission 38: D Fraser, page 2.

¹⁰⁵ Submission 22: South Australian Drugs Summit 2002 – *Final Recommendations for Plenary Discussion* (tabled by NPY Women’s Council).

¹⁰⁶ Evidence P Mildren, 29 October 2002, Q878.

A similar view has been expressed by Coroner Wayne Chivell:

Police are considerably inhibited from dealing in a more effective way with offending in the Anangu Pitjantjatjara Lands at present by the lack of appropriate detention facilities, lack of personnel, the distances involved, and the lack of sentencing options available to the courts.¹⁰⁷

The Coroner, noting SAPOL's Operation Pitulu Wantima, repeated some of the findings and recommendations contained in its final report, the first of which recommends that:

Amendments to the Anangu Pitjantjatjara Land Rights Act 1981 and associated By-laws be drafted to enhance police powers which allow for the search and confiscation of petrol and facilitate diversion to health intervention as appropriate for petrol inhalation.¹⁰⁸

8.3 Education & Training

Approximately 20% of all Commonwealth and State funding directed to the AP Lands is spent on the provisioning of education and training programs.¹⁰⁹ Neither the *Pitjantjatjara Land Rights Act 1981* nor the Constitution of Anangu Pitjantjatjara include any references to those programs.

8.3.1 Schooling on the AP Lands

The first school on what is now the AP Lands was inaugurated at the Ernabella Mission in 1940. Staffed by qualified teachers, the mission school championed a vernacular language policy whereby students were taught to read and write in their own language before progressing to English literacy.

Over the next 60 years, the opening of additional schools followed on from the establishment of other population centres. In 2003, 509 students were enrolled in schools on the AP Lands.¹¹⁰

The passing of the Act in 1981 appears to have had little immediate impact on Anangu schooling. For most of the 1980s, Pitjantjatjara remained the dominant language of instruction up until Year 5. In recognition of this, in 1985, the South Australian Education Department appointed a regional teacher-linguist to the Ernabella School and

¹⁰⁷ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002 (tabled by NPY Women's Council).

¹⁰⁸ Submission 58: SAPOL report on Operation Pitulu Wantima, 1; *see also* Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002, Section 11.45-54 (tabled by NPY Women's Council).

¹⁰⁹ Submission 40: *The Money Story. An Overview of the Commonwealth and State Government Funding to The Anangu Pitjantjatjara Lands*, March 2002, Commonwealth Department of Family and Community Services, (tabled by ATSIC).

¹¹⁰ Information provided by R Jackson, Acting Superintendent, Anangu Schools, APY Lands, 9 December 2003.

established a literature production centre. The centre was equipped with an on-site printing press and serviced all bilingual schools on the AP Lands.

The Committee was informed that in 1987, the State Government granted Anangu Pitjantjatjara, the land-holding body corporate established under the Act, substantial control over educational policy on the AP Lands.¹¹¹ Consequently, Anangu Pitjantjatjara established the Pitjantjatjara Yankunytjatjara Education Committee (PYEC) to oversee policy development and implementation.¹¹²

PYEC works with 9 schools on the AP Lands, each of which operates under a model of dual governance, taking direction from both PYEC and its local community council.¹¹³ Local councils are able to make their own decisions in terms of policy direction and school practices. Each term, PYEC convenes a cross-community meeting to which individual schools send an Aboriginal Education Worker (AEW), their Anangu Coordinator¹¹⁴ and five members of the local community.¹¹⁵

As a consequence of the establishment of PYEC, the role of the government educational agency, Anangu Education Services (AES), was reconfigured as a service provider to it. Thus AES is fully answerable both to PYEC and to the Department of Education and Children's Services.¹¹⁶ The Committee was told that this arrangement is an endeavour to get beyond the rhetoric of self-determination.¹¹⁷

In 1998, PYEC took over full responsibility for developing the strategic plan for all education and training on the AP Lands.¹¹⁸ The handing over of this control has resulted in improvements in school attendance and learning outcomes. For example:

- In consultation with the local community and PYEC, each school council developed its own strategy to improve attendance. Attendance rates have subsequently climbed from around 50% in 1999 to 70% by mid 2003.¹¹⁹
- Between 1998 and 2003, 19 Anangu students – 15 girls and 4 boys – completed their SACE requirement and graduated from Year 12.¹²⁰ No students had completed SACE prior to this time.

¹¹¹ Submission 51: "Response to questions posed by Thea Williams, reporter for the Australian Newspaper," 2002, page 1 (tabled by Anangu Education Office).

¹¹² Evidence R Jackson, 30 October 2002, Q943.

¹¹³ Evidence R Jackson, 30 October 2002, Q960.

¹¹⁴ Anangu Coordinators are selected annually by the school's governing council and the local community. Their role includes supervising AEWs, developing policies with school staff, providing support for behaviour management programs and providing a link between the local community and the school principal (Evidence K Tjitayi, 30 October 2002, Q941).

¹¹⁵ Evidence K Tjitayi, 30 October 2002, Q941.

¹¹⁶ Evidence R Jackson, 30 October 2002, Q941.

¹¹⁷ Evidence R Jackson, 30 October 2002, Q943.

¹¹⁸ Evidence R Jackson, 30 October 2002, Q944.

¹¹⁹ Evidence R Jackson, 30 October 2002, Q962. Additional information provided by R Jackson, Acting Superintendent, Anangu Schools, APY Lands, 9 December 2003.

- Since 1998, English language competency skills, as well as English literacy and numeracy levels, have all improved.¹²¹

The Committee heard that in the early 1990s, as a consequence of decisions made by PYEC, most schools on the AP Lands ceased using the Pitjantjatjara language. The push to adopt and implement an “English language only” policy occurred during a period when the membership of PYEC was dominated by persons with limited experience at teaching or working within the school system.¹²² The decision also reflected Anangu frustration at the continuing inability of their school graduates to assume administrative positions on the AP Lands.

The establishment of the “English language only” policy coincided with the employment of the first graduates from the Anangu Tertiary Education Program (AnTEP). For many years, these teachers remained frustrated at being prevented from teaching classes in their and their students’ mother tongue.

A decade after the policy was first introduced, the membership of PYEC substantially changed. Today, about half of its members are women, many of whom have extensive experience working in schools on the AP Lands. Consequently, PYEC is now supportive of those local governing councils wishing to grant permission for Pitjantjatjara/Yankunytjatjara language and culture to be taught included as part of their school’s curriculum.¹²³ Unlike in the earlier period of bilingual education, however, only home and community speakers of the language are allowed to teach it.¹²⁴ Furthermore, English remains the primary language of instruction.¹²⁵

Despite recent achievements, and notwithstanding the effort and hard work of hundreds of teachers over many years, several witnesses and submissions argued that schooling on the AP Lands remains inadequate.¹²⁶ The continuing inability of the majority of school leavers to undertake further studies and/or find meaningful employment lends support to that judgement.

8.3.2 High School Education

Anangu students access high school education both on and off the AP Lands. Secondary school programs are provided in the larger Anangu schools. Since 1998, three Anangu students have successfully completed their SACE requirements on the AP Lands.

¹²⁰ Evidence R Jackson, 30 October 2002, Q941. Additional information provided by R Jackson, Acting Superintendent, Anangu Schools, APY Lands, 9 December 2003.

¹²¹ Evidence R Jackson, 30 October 2002, Q941.

¹²² Evidence R Jackson, 30 October 2002, Q945; B Underwood, 22 November 2002, Q1024-1025.

¹²³ As of November 2002, such a position had been adopted by the Fregon, Amata, Ernabella and Kenmore Park Councils (Evidence R Jackson, 30 October 2002, Q946).

¹²⁴ Evidence R Jackson, 30 October 2002, Q946.

¹²⁵ Evidence B Underwood, 22 November 2002, Q1028.

¹²⁶ Evidence J Tregenza, 26 September 2002, Q786; B Underwood, 22 November 2002, Q1022.

Since the early 1980s, many Anangu secondary school students have completed a portion of their high school education in Adelaide through the Wiltja Program. PYEC and AES administer this education and accommodation program which aims, in part, to immerse Anangu secondary school students in an English language environment and to increase their understanding of and exposure to mainstream Australia.¹²⁷ In 2003, 45 high school students from the AP Lands were enrolled in the Wiltja Program and attended Woodville High School.¹²⁸

Some witnesses stressed the importance of providing high school education on the AP Lands and called on the government to fund the construction of a dedicated high school.¹²⁹ Others advocated establishing a model of high school education which combined time spent at the Wiltja Program in Adelaide with time spent at a high school on the AP Lands. Such a high school might, one witness suggested, be run along similar lines to the Northern Territory's Ngangatjatjara College which provides high school education to the Anangu communities of Mutitjulu, Imanpa and Kaltukatjara.¹³⁰ (Recommendation 14e)

8.3.3 Vocational Training on the AP Lands

Over the past twenty years, changes in the provisioning of vocational training have reduced the opportunity for Anangu to be involved in the work force. Many tasks formerly completed by them on the AP Lands are now outsourced to contractors.¹³¹

In the late 1970s, Community Development Employment Programs (CDEP) commenced on the AP Lands and "provided a broad scope in which community employment could be developed."¹³² Although CDEP continues to operate on the AP Lands, the Committee heard that policy changes by government agencies have reduced its scope and effectiveness and that the wage incentive has been greatly diminished.¹³³

At the time of the deliberations over land rights, many more Anangu were employed in the running of their local community. There were also far fewer non-Anangu staff working on the AP Lands and, of these, many had worked in those communities for long periods of time.

With few exceptions, for much of the 1990s education and vocational training strategies on the AP Lands were largely unsuccessful. One consequence of these past failures is that many Anangu with poor literacy and numeracy skills are unable to gain employment with agencies and service providers operating on the AP Lands.¹³⁴ Consequently, non-Anangu

¹²⁷ Evidence R Jackson, 30 October 2002, Q941.

¹²⁸ Figure provided by R Jackson, Acting Superintendent, Anangu Schools, APY Lands, 9 December 2003.

¹²⁹ Evidence L Burton, 25 September, Q672.

¹³⁰ Evidence B Underwood, 22 November 2002, Q1052.

¹³¹ Submission 41: Mike Last "Land, Nutrition and Employment for Anangu Pitjantjatjara," page 2.

¹³² Submission 41: Mike Last "Land, Nutrition and Employment for Anangu Pitjantjatjara," page 2.

¹³³ Submission 41: Mike Last "Land, Nutrition and Employment for Anangu Pitjantjatjara," page 2.

¹³⁴ Evidence M Kavanagh, 17 September 2002, Q163; R Lindsell, 17 September 2002, Q165.

fill almost all administrative positions, a situation which will be difficult to change in the immediate to short-term.

8.3.3.1 *Anangu Tertiary Education Program (AnTEP)*

For the past 20 years, the University of South Australia (formerly “South Australian College of Advanced Education”) has conducted the Anangu Tertiary Education Program (AnTEP). Prior to its establishment, students from the AP Lands wishing to enrol in teacher training courses were required to relocate to Adelaide or Darwin. In all instances, cultural isolation, lack of appropriate support, homesickness and other factors led to these students returning to the AP Lands prior to completing their course.¹³⁵

AnTEP operates on-site in communities on the AP Lands, allowing Anangu to study towards and obtain teaching qualifications whilst continuing to live in their home communities. Its courses emphasise the value of Anangu knowledge and Pitjantjatjara language skills. Consequently, its graduates are able to teach effectively and confidently in schools on the AP Lands and elsewhere.¹³⁶

AnTEP’s teacher training course is offered in three stages. On completion of Stage 1, students are awarded the Certificate in Education (Anangu Education). This qualification enables them to work as Anangu Education Workers within schools. As of December 2003, 74 students had successfully completed this stage.¹³⁷

On completion of Stage 2, students are awarded the Diploma in Education (Anangu Education). This qualification enables them to progress to a higher employee level as an Anangu Education Worker. As of December 2003, 35 students had successfully completed this stage.

On completion of Stage 3, students are awarded the Bachelor of Teaching (Anangu Education). This qualification enables them to work as independent teachers either on the AP Lands or in any other South Australian primary school. As of December 2003, 15 Anangu students had successfully completed this stage. Of these 15 graduates, 10 were working on the AP Lands as fully accredited teachers, three were teaching in Adelaide schools, another was the Director of PYEC, and one was deceased.¹³⁸

AnTEP Students can undertake their studies on a full-time or part-time basis. In 2003, full-time students were based at Ernabella or Fregon.¹³⁹ Part-time students undertake their studies while working in a school as an AEW, normally in their home community.¹⁴⁰ As

¹³⁵ Submission 53: Gale, M. 1996, “AnTEP Comes of Age,” *The Australian Journal of Indigenous Education*, 24.1: pages 20-21 (tabled by AnTEP).

¹³⁶ Evidence B Underwood, 22 November 2002, Q1042.

¹³⁷ Figures for 2003 provided by B Underwood, AnTEP, University of South Australia, 17 December 2003.

¹³⁸ In addition, three Northern Territory students have also graduated through AnTEP. Evidence K Tjitayi, 30 October 2002, Q941. Additional information provided by B Underwood, AnTEP, University of South Australia, 17 December 2003.

¹³⁹ Evidence B Underwood, 22 November 2002, Q1019.

¹⁴⁰ Evidence B Underwood, 22 November 2002, Q1020.

of November 2003, some 50 students were enrolled in AnTEP courses, a third of these were studying full-time.¹⁴¹

AnTEP is a collaborative program between PYEC, AES, the University of South Australia, the South Australian Department of Education and Children's Services and the Commonwealth Department of Education Science and Training.¹⁴² AnTEP's Program Director is based at Ernabella on the AP Lands. While this is a costly arrangement, the Committee heard that the Director's presence on the AP Lands ensures the better delivery of services to students and to Anangu communities as a whole.

Despite AnTEP's achievements, program funding has not kept pace with the rising cost of running courses in remote communities. Staff numbers declined from 10 persons in 1992 to four persons in 2003.¹⁴³

Since the days of the Ernabella Mission, teaching by Anangu has predominantly been regarded as "women's work."¹⁴⁴ This perception is clearly reflected in the profile of AnTEP's students and graduates, the vast majority of whom are women. In an effort to encourage Anangu men to participate in academic education programs, in June 2002, in association with the South Australia Police (SAPOL), AnTEP conducted a three-day Community Constable Workshop. One of the aims of the workshop was to reintroduce Community Constables to the idea of formal study and to enable them to see how such study can be of assistance to them in their current role.¹⁴⁵ Following on from the success of that first workshop, AnTEP has continued to run workshops with Community Constables.¹⁴⁶

In November 2002, the Committee heard that a high degree of flexibility is built into the administration and running of AnTEP courses. This enables the program to be responsive to the need for Anangu to move to another community or intermit from their studies for health, family or cultural reasons.¹⁴⁷ While the Bachelor of Teaching (Anangu Education) can be completed in three years, in most instances students take between five and six years.¹⁴⁸

Such flexibility, however, is not present within the Higher Education Contribution Scheme (HECS) which as it presently operates appears unable to accommodate the need for Anangu students to "stop-start" their studies. Many graduates accumulate a significant HECS debt, one that is felt more keenly as a consequence of the cultural expectation that they provide financial support to a large extended family. Evidence presented to the

¹⁴¹ Evidence B Underwood, 22 November 2002, Q1018.

¹⁴² Evidence B Underwood, 22 November 2002, Q1013.

¹⁴³ Evidence B Underwood, 22 November 2002, Q1013. Additional information provided by B Underwood, AnTEP, University of South Australia, 17 December 2003.

¹⁴⁴ Evidence B Underwood, 22 November 2002, Q1034.

¹⁴⁵ Submission 53: "Community Constable Workshop" Report, 2002 (tabled by AnTEP); Evidence B Underwood, 22 November 2002, Q1034.

¹⁴⁶ Information provided by B Underwood, AnTEP, University of South Australia, 17 December 2003.

¹⁴⁷ Evidence B Underwood, 22 November 2002, Q1021.

¹⁴⁸ Evidence B Underwood, 22 November 2002, Q1021.

Committee suggested that the impact of HECS repayments is deterring some Anangu from completing or undertaking further studies.¹⁴⁹ In line with submissions to the 2002 Commonwealth Review of Higher Education (Indigenous Australians), AnTEP advocates raising the minimum threshold for HECS repayment. AnTEP staff have also made requests for Stage 3 of the AnTEP course to become HECS-exempt. (Recommendations 14f & 14g)

The Select Committee also heard how the impermeability of state and territory boundaries from the perspective of various governments and administrative bodies has prevented AnTEP staff from supporting former students now residing in Western Australia or the Northern Territory and obstructed the establishment of tri-state operations.¹⁵⁰

8.3.3.2 TAFE

Over much of the last eight years, TAFE programs were only offered intermittently on the AP Lands. As Ms Ikungka Lewis told the Committee during its visit to the AP Lands in September 2002:

We used to have more training programs – TAFE and so forth – and we do not have them now for the young people. ... There are now a lot of white people coming and working in the jobs and our people are not working. ... So that is our main need now, to have people trained to take up this work and look after everything.¹⁵¹

In 2000, in an effort to address this enduring problem, the then Department of Education, Employment & Training (DEET), recommended that the Pitjantjatjara Yankunytjatjara Education Committee (PYEC) be given oversight and operational control of all TAFE programs on the Lands.¹⁵² Once that recommendation had been accepted by all parties, TAFE established the position of Educational Manager based on the AP Lands. Then, with PYEC and Anangu Education Services, TAFE commenced a process of community consultation. The outcomes of this process included:

- the development of a strategic plan for further education and employment on the AP Lands; and
- the establishment of the Community Education and Training for Employment Program (CETEP), an AP Lands-based TAFE program working under the direction of PYEC.

¹⁴⁹ Evidence B Underwood, 22 November 2002, Q1048.

¹⁵⁰ Evidence B Underwood, 22 November 2002, Q1037-Q1038.

¹⁵¹ Evidence I Lewis, 25 September 2002, Q665.

¹⁵² Evidence R Jackson, 30 October 2002, Q950. Additional information provided by J Busse, Regional Manager, TAFE Programs (AP Lands), 7 November & 1 December 2003.

The Committee has been informed that since its visit in September 2002, TAFE has begun to re-establish programs on the AP Lands.¹⁵³ From late 2002 onwards, CETEP began the process of recruiting eight TAFE lecturers. These are based in six Anangu communities – Amata, Ernabella, Fregon, Indulkana, Mimili and Pipalyatjara – with extension programs being offered to the communities at Kalka and Watarru. Two of the eight lecturers specialise in community education (numeracy and literacy), while the other six are multi-trades lecturers whose specialist fields include motor mechanics, building and design, boiler-making, plumbing, and farming.¹⁵⁴

In 2003, CETEP received \$1.65 million from the Commonwealth Department of Employment and Workplace Relations' Indigenous Employment Program to establish 50 two-year traineeships on the AP Lands. These traineeships allow participants who work a 35-hour week to earn up to \$24,000 per annum. Traineeships include positions in office and business administration, retail, and civil construction.

Since February 2003, CETEP has facilitated retail traineeships aimed at equipping Anangu to work within community stores on the AP Lands. This has required CETEP to bring in visiting lecturers from the Adelaide Institute (TAFE). CETEP anticipates basing two full-time Retail lecturers on the AP Lands by mid-2004. Funding for those positions is being sourced through the Commonwealth Department of Education, Science and Technology's (DEST) Enterprise & Career Education Foundation (ECEP).

In close collaboration with the Nganampa Health Council, CETEP has undertaken to facilitate training programs in aged care. Onsite training at the Ernabella aged care complex commenced in February 2004, with teaching staff sourced from the Torrens Valley TAFE.

From the beginning of 2004, CETEP has maintained, managed and staffed a mobile skills centre, established with funds from the Australian National Training Authority (ANTA). The mobile skills centre is allowing multi-trade courses to be staged in smaller communities and on homelands.

Past difficulties in the provisioning of TAFE programs were, in part, a consequence of the inadequate funding for the design and delivery of appropriate programs into an area as remote as the AP Lands. To overcome this and other problems, CETEP has recently negotiated to become an accredited Regional Training Organisation (RTO). RTO-status should allow CETEP to reduce costs by developing and provisioning courses *in situ*, thereby lessening its reliance on outside contractors and consultants. RTO-status should also ensure that the design and delivery of courses is appropriate to Anangu needs and employment opportunities. Furthermore, it should allow CETEP to pursue additional funding streams.¹⁵⁵ (Recommendation 12)

¹⁵³ Information on the re-establishment of TAFE programs provided by J Busse, Regional Manager, TAFE Programs (AP Lands), December 2003 & February 2004.

¹⁵⁴ Information provided by J Busse, Regional Manager, TAFE Programs (AP Lands), 1 December 2003.

¹⁵⁵ Information provided by J Busse, Regional Manager, TAFE Programs (AP Lands), 1 December 2003 & 3 February 2004.

8.3.3.3 *Training of Office Holders and Other Elected Officials*

The Select Committee heard that in the mid 1980s, TAFE conducted some courses in management and administrative training for members of the AP Executive.¹⁵⁶ A number of witnesses stressed the need for similar courses to be re-established on the AP Lands.¹⁵⁷ (Recommendation 11)

8.3.3.4 *Other Training and Vocational Opportunities on the AP Lands*

Some other agencies and organisations provide Anangu with opportunities to engage in educational and training on the AP Lands. These include:

- The Nganampa Health Council: as part of its commitment to providing primary health care across the AP Lands, this organisation offers a broad range of health education services, as well as delivering specialised training programs for Health Workers.¹⁵⁸ Health Workers can study towards certificates in Aboriginal Primary Health Care. Ongoing training workshops are conducted regularly at the Umuwa Training Centre.
- The Ara Irititja Archival Project: managed by the Pitjantjatjara Council's Social History Unit, this project has developed an electronic multi-media archive and associated training programs. Through the delivery of its services, Anangu are encouraged to develop computer and information technology competencies. The Project aims to engender those competencies whilst simultaneously upholding the role, knowledge and status of senior men and women.¹⁵⁹
- Community-based art centres: these organisations enable Anangu to learn or maintain, exercise and adapt, both traditional and contemporary artistic practices. The centres also identify commercial outlets for works produced by Anangu artists and craftworkers. In recent years, a number of these centres have established a regional association, Ananguku Arts & Culture Aboriginal Corporation. This new organisation is allowing all of the art centres on the AP Lands to strengthen and expand their markets and to capitalise on existing expertise.

8.3.4 Tertiary Education outside the AP Lands

Although since the 1970s, some Anangu have enrolled in courses at tertiary institutions outside of the AP Lands, few of these students have been able to successfully complete their studies. The Committee was pleased to learn that at the beginning of 2003, two

¹⁵⁶ Evidence B Davis, 17 September 2002, Q209.

¹⁵⁷ Evidence M Dodson, 28 January 2003, Q1075-6.

¹⁵⁸ Nganampa Health Council, Annual Report, 2000/2001, page 19.

¹⁵⁹ Submission 43: Pitjantjatjara Council; Evidence U Scales, 17 September 2002, Q350.

students from the Indulkana community commenced tertiary courses at Flinders University.¹⁶⁰ (Recommendation 14f)

8.4 Housing

When the Act was passed in 1981, the provision of housing for the state's Aboriginal population was administered by the South Australian Housing Trust through the Aboriginal Housing Unit and the South Australian Aboriginal Housing Advisory Committee. In February 2000, this responsibility was transferred to the Aboriginal Housing Authority (AHA).¹⁶¹ The AHA was established, the Select Committee was told, with the aim of directing state and commonwealth funding through one agency, thereby ensuring "efficiencies, less duplication and better planning."¹⁶²

In evidence presented by Mr Chris Larkin, General Manager, AHA, the Committee heard of the difficulties and additional costs incurred in supplying and maintaining houses on the AP Lands.¹⁶³ As of October 2002, state and commonwealth agencies were allocating a total of \$4.9 million per annum for housing on the AP Lands, with the average cost for supplying a new house being approximately \$200,000.¹⁶⁴

According to Mr Larkin, the allocation of houses across the AP Lands, as well as the design/layout of individual dwellings, is determined by the AP Development Committee, a committee comprised of representatives from each community.¹⁶⁵ Despite this arrangement, several witnesses to the Select Committee complained of inadequate allocations to homelands and called for parity to be applied across the AP Lands.¹⁶⁶

Although the designs and standards developed for Anangu housing have been recognised nationally for their cultural appropriateness and for the ease with which the finished product can be maintained, the Committee heard that, more often than not, houses delivered to the AP Lands fall short of community expectations.¹⁶⁷ Research conducted in 1998 noted that the identification of "strategies for improving living conditions for Anangu" had resulted in minimal changes for the better in terms of housing and that the

¹⁶⁰ Information provided by R Jackson, Acting Superintendent, Anangu Schools, APY Lands, 30 June 2002.

¹⁶¹ Evidence C Larkin, 29 October 2002, Q910.

¹⁶² Evidence C Larkin, 29 October 2002, Q910.

¹⁶³ Evidence C Larkin, 29 October 2002, Q913.

¹⁶⁴ Submission 40: *The Money Story. An Overview of the Commonwealth and State Government Funding to The Anangu Pitjantjatjara Lands*, March 2002, Commonwealth Department of Family and Community Services, page 17 (tabled by ATSIC). This figure is GST-exclusive and based on the house being established on a site to which water and power are readily accessible. The figure excludes professional fees, the costs of site visits and inspections by Aboriginal Housing Authority staff and any contingency costs (additional information provided by T May, Aboriginal Housing Authority, 9 February 2004).

¹⁶⁵ Evidence C Larkin, 29 October 2002, Q920.

¹⁶⁶ Submission 39: Anilalya Council Aboriginal Corporation; Evidence G Kunmanara, 25 September 2002, Q671.

¹⁶⁷ Evidence J Tregenza, 26 September 2002, Q784.

general approach had been “to provide standardised housing ... developed by European-Australians in the absence of consultation with Anangu.”¹⁶⁸

Given the number of people with disabilities living on the AP Lands, the Committee heard of the need for architects and planners to be mindful of the cost-effectiveness of incorporating wheelchair access into houses at the time of their design and construction.¹⁶⁹

Although a key objective of AHA is to “improve training and employment opportunities for Aboriginal people within the social housing sector,”¹⁷⁰ the Committee saw no evidence of such opportunities being provided to Anangu during its visit to the AP Lands. For example, on 27 September 2002, Committee members inspected a housing construction project at Amata. Despite a contractual requirement that Indigenous trainees be employed on the project, no such trainees were then working at the site.

Such observations were confirmed by Mr Larkin who, on 29 October 2002, gave evidence that AHA was unable to incorporate traineeships into contracts issued for the supply of houses to the AP Lands.¹⁷¹ In large part, he informed the Committee, this was a consequence of the Department of Employment and Workplace Relations (DEWR) having withdrawn all of its country-based trainers in South Australia.¹⁷²

This situation improved in 2003, with DEWR providing funding for a number of two-year traineeships, some of which are enabling Anangu to acquire building and construction skills. Since June 2003, six civil construction trainees at Mimili have been helping to build nine community houses, five of which had been completed by November 2003. All nine houses are AHA-funded.¹⁷³

A shortage of suitable accommodation for non-Anangu staff, as well as the management of existing housing stock, frequently impacts on the delivery of essential services and programs.¹⁷⁴ For example, conflict over access to established houses forced a significant Commonwealth-funded petrol-sniffing program to relocate its staff from Fregon and Amata to communities in the Northern Territory where secure housing and office space was assured.¹⁷⁵ In that instance, the Committee was told, ATSIC had vetoed a community-endorsed plan to house a staff worker in a vacant ATSIC-controlled house at Fregon because the petrol-sniffing program was funded by another agency.¹⁷⁶

¹⁶⁸ Submission 32: John Lawler, “Summary” document, page [3].

¹⁶⁹ Evidence R Lindsell, 17 September 2002, Q179; Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), page 40.

¹⁷⁰ Submission 48: Aboriginal Housing Authority, *Annual Report 2000-2001*, page 6.

¹⁷¹ Evidence C Larkin, 29 October 2002, Q926 & Q933.

¹⁷² Evidence C Larkin, 29 October 2002, Q913.

¹⁷³ Information provided by J Busse, Regional Manager, TAFE Programs (AP Lands), 1 December 2003.

¹⁷⁴ Evidence, J Harvey, 17 September 2002, Q185.

¹⁷⁵ Evidence J Harvey, 17 September 2002, Q185-187.

¹⁷⁶ Evidence J Harvey, 17 September 2002, Q186.

Similarly, South Australia Police (SAPOL) cited lack of suitable housing as one reason why it had been unable to establish a permanent presence of sworn police offices on the AP Lands.¹⁷⁷ (Recommendation 14b)

8.5 Infrastructure and Maintenance Requirements

Both Anangu Pitjantjatjara and the Pitjantjatjara Council have long been concerned with the provision and maintenance of infrastructure and essential services. The grading of roads and the need for communities to share the cost of equipment are both recorded as matters of discussion in the minutes of the first meeting of the Pitjantjatjara Council.¹⁷⁸

In the mid 1980s, the South Australian Government commenced funding Anangu Pitjantjatjara to undertake a road construction and maintenance program.¹⁷⁹ This was the beginning of what later became an essential services unit. In 1993, as a consequence of funding requirements and in an effort to minimise taxation obligations, the unit was incorporated as an independent body: Anangu Pitjantjatjara Services Inc. (APS).¹⁸⁰ APS's main areas of responsibility include road works, housing repairs, aerodrome construction, waste management and the maintenance of bores.¹⁸¹

The Select Committee heard evidence that APS had, at times, been operationally dysfunctional and financially mismanaged and that the quality of service provided to communities and homelands had often been inadequate.¹⁸² The Committee learnt that at one point in 2001, APS was some \$500,000 in debt.¹⁸³ A review of the organisation arranged by the then Department of State Aboriginal Affairs (DoSAA) highlighted inappropriate expenditure and "a significant lack of authorisation, review and management procedures." It recommended merging APS with Anangu Pitjantjatjara.¹⁸⁴

A service agreement linking the two bodies commenced in July 2002. Under the terms of the agreement all funding for APS was henceforth to be channelled through Anangu Pitjantjatjara, with the General Manager of AP having managerial oversight of APS.¹⁸⁵ Subsequent changes to the constitution of APS ensure that the Executive Board of Anangu Pitjantjatjara determines all appointments to APS' governing committee.¹⁸⁶

¹⁷⁷ Evidence P Mildren, 29 October 2002, Q845 & Q858.

¹⁷⁸ Submission 19: Minutes of the Meeting of the Pitjantjatjara Council, 13-14 July 1976 (tabled by U Scales); *see also* Evidence B Davis, 17 September 2002, Q209.

¹⁷⁹ Evidence B Davis, 17 September 2002, Q209.

¹⁸⁰ Evidence C Marshall, 18 September 2002, Q397; Submission 10: Anangu Pitjantjatjara Operational Review (Final Report), 1998, page15.

¹⁸¹ Evidence C Marshall, 18 September 2002, Q384; Submission 10: Anangu Pitjantjatjara Operational Review (Final Report), 1998, page15.

¹⁸² Submission 39: Anilalya Council Aboriginal Corporation.

¹⁸³ Evidence C Marshall, 18 September 2002, Q385; B Davis, 17 September 2002, Q284.

¹⁸⁴ Submission 47: AP Services Review, 2001, conducted by Grant Thornton Services (SA) Pty Ltd, page 1 (tabled by Anangu Pitjantjatjara Services).

¹⁸⁵ Submission 47: Service agreement between Anangu Pitjantjatjara Incorporated and Anangu Pitjantjatjara Services Incorporated (tabled by Anangu Pitjantjatjara). *See also* Evidence C Marshall, 18 September 2002, Q424-431.

¹⁸⁶ Evidence C Marshall, 18 September 2002, Q391-392.

The 2001 review of APS also led to the closure of the garage at Umuwa and the retrenchment of some Anangu staff.¹⁸⁷ As a result, when the Select Committee visited Anangu communities in September 2002, Anangu motorists had no access to car maintenance and/or service facilities anywhere on the AP Lands.¹⁸⁸

As part of the overhauling of APS, agreement was reached with the Aboriginal Housing Authority to allow some \$330,000 of insurance monies, paid out as a result of house fires, to be used to offset some of APS's financial losses.¹⁸⁹

For many years, the Projects Unit of the Pitjantjatjara Council looked after some essential services on the AP Lands, particularly the supply and maintenance of power and water to homelands.¹⁹⁰ In recent years, some of the funding for this work was directed to the Council via intermediary organisations, specifically Anangu Pitjantjatjara and Anangu Pitjantjatjara Services.

The Select Committee received evidence suggesting that dedicated funding sometimes failed to reach the Pitjantjatjara Council or was not provided in a timely manner. For example, the Committee heard allegations that in 2001/02, \$100,000 provided by the then Department of State Aboriginal Affairs (DoSAA) for the repair and maintenance of homeland bores failed to reach the Pitjantjatjara Council's Project Unit – the organisation responsible for such work – and was instead expended by Anangu Pitjantjatjara Services on other work. This and similar events led to unacceptable delays and disruption in the provisioning and maintenance of some essential services.¹⁹¹

In 2002, an ATSIIC-funded review of the provision of essential services to the AP Lands recommended that one body be given responsibility for allocating the “funding supplied for the upgrade, maintenance and supply of power and water over the lands.”¹⁹² Moves to combine the two organisations – APS and the Projects Unit – were supported by Mr Chris Marshall, then General Manager, Anangu Pitjantjatjara. In his evidence to the Committee, Mr Marshall advocated absorbing the Projects Unit within APS.¹⁹³ Other witnesses wanted responsibility for the provision of all services to be transferred to the Pitjantjatjara Council.¹⁹⁴

¹⁸⁷ Submission 47: AP Services Review, 2001, conducted by Grant Thornton Services (SA) Pty Ltd, page 2 (tabled by Anangu Pitjantjatjara Services)

¹⁸⁸ Evidence C Marshall, 18 September 2002, Q420; S Lyons, 26 September 2002, Q773.

¹⁸⁹ Evidence C Marshall, 18 September 2002, Q415; C Larkin, 29 October 2002, Q937.

¹⁹⁰ Submission 8: “Land – Let's Get it Right” Special Edition Annual Report, 2001-2002, Pitjantjatjara Council, pages 8 & 36.

¹⁹¹ Submission 12: Ron Critchley Report, page 17, (tabled by Pitjantjatjara Council). Additional information provided by C Duff, Manager, Projects Unit, Pitjantjatjara Council, 5 April 2004.

¹⁹² Submission 12: Ron Critchley Report, page 18, (tabled by Pitjantjatjara Council).

¹⁹³ Evidence C Marshall, 18 September 2002, Q376 & Q444.

¹⁹⁴ Evidence L Paddy, 26 September 2002, Q745.

Overall, many witnesses commented on infrastructure inadequacies and on problems associated with the provisioning of essential services.¹⁹⁵

A number of communities asked the Committee for government assistance to build additional facilities, particularly community halls and/or recreation centres.¹⁹⁶ The need to establish “multi-function community centres” was previously identified in the *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*.¹⁹⁷

One witness at Indulkana spoke of that community’s strong desire to have a swimming pool.¹⁹⁸ Such a facility, he argued, would have a positive affect on health outcomes. More generally, the crucial role recreational facilities can play in diverting Anangu youth away from petrol sniffing and other substance abuse behaviour was noted.¹⁹⁹

On a number of occasions, the Select Committee heard of the need for a rehabilitation centre or “drying out” facility to be built on or near the AP Lands,²⁰⁰ and of the importance of conducting an adequate feasibility study prior to its establishment.²⁰¹ In 2002, statements in support of the establishment of such a facility appeared in the findings of the coronial inquest into three deaths from petrol sniffing and in the recommendations of the South Australian Drugs Summit.²⁰²

Witnesses also expressed concern as to the poor condition of roads on the AP Lands and described how this negatively impacted on police response times, attendance at meetings and vehicle maintenance.²⁰³

The rate of Anangu deaths from motor vehicle accidents far exceeds that for the population of South Australian taken as a whole. The condition of the roads on the AP Lands is one likely factor contributing to this higher rate.²⁰⁴

¹⁹⁵ Evidence D Fraser, 26 September 2002, Q755.

¹⁹⁶ Submission 42: Pipalyatjara Community Inc; Submission 39: Anilalya Council Aboriginal Corporation; Evidence D Ward, 25 September 2002, Q665; R Connelly, 27 September 2002, Q809.

¹⁹⁷ Tregenza, J. 2002. *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*. Country and Disability Services Division, Department of Human Services (SA), pages 24 & 41.

¹⁹⁸ Evidence J Hawkins-Clarke, 27 September 2002, Q830.

¹⁹⁹ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002, sections 10.3, 10.10 & 11.54 (tabled by NPY Women’s Council).

²⁰⁰ Evidence D Ward, 25 September 2002, Q665; P Mildren, 29 October 2002, Q878-879.

²⁰¹ Evidence M Kavanagh, 17 September 2002, Q159; J Harvey, 17 September 2002, Q192.

²⁰² Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002, sections 8.3 & 8.10; South Australian Drugs Summit 2002 – *Final Recommendations for Plenary Discussion* (both documents tabled by NPY Women’s Council).

²⁰³ Evidence D Fraser, 26 September 2002, Q755; L Burton, 27 September 2002, Q800.

²⁰⁴ Anecdotal evidence suggests that out of a total population of 2700, on average three or four Anangu die as a consequence of motor vehicle accidents on the AP Lands each year, with other Anangu accidents and deaths occurring on access and public roads. In 2003, the Road Crash Unit, Transport Information Management Section, Transport SA recorded four motor vehicle deaths on the AP Lands (information provided by Transport SA, 22 January 2004).

The Committee also heard evidence concerning the poor condition of the roads linking small homeland settlements to the larger communities on the AP Lands. In some cases, the poor condition of these roads prevented families with school-age children from electing to living away from communities wherein petrol sniffing is rife.²⁰⁵ (Recommendation 4d)

8.6 Homelands

Homelands, as defined in 1987 by the House of Representatives Standing Committee on Aboriginal Affairs, are “small decentralised communities of close kin established by the movement of Aboriginal people to land of social, cultural and economic significance to them.”²⁰⁶ Across Australia, the establishment of homeland communities represents both a “strong desire of Aboriginal people to return to traditional land to meet ... responsibilities in relation to their land” and “a reaction to the stresses of living in [larger] settlements.” According to the House of Representative’s Committee, the homelands movement amounts to a “clear statement” by Aboriginal people as to “the sort of future they wish for themselves and their children, a future on land to which they have spiritual and economic ties and a future over which they have much greater control.”²⁰⁷

On the AP Lands, Anangu families have been moving away from the larger communities and establishing homelands since 1971. As Rev. Bill Edwards has commented, no single motivation underlies this movement, though in particular cases it represents a desire to return to traditional lands and/or to distance themselves from the pressures and problems of life in the bigger communities.²⁰⁸ To date, some 110 homelands have been established on the AP Lands, though only a third of these are occupied on a regular basis.²⁰⁹

The Select Committee heard evidence as to the high cost of adequately maintaining so many smaller homelands and of the difficulty of providing their occupants with reasonable access to basic services. Other witnesses decried the inadequate resourcing of existing homelands and noted that, as a consequence, some elderly people were forced to relocate back into main communities.²¹⁰

Twenty-four homelands located in the vicinity of Ernabella are members of the Anilalya Council Aboriginal Corporation (ACAC), a homelands-focused organisation.²¹¹ In its submission ACAC complained of the quality of support they received from both Anangu

²⁰⁵ Evidence L Burton, 27 September 2002, Q800.

²⁰⁶ House of Representatives Standing Committee on Aboriginal Affairs, 1987. *Return To Country: The Aboriginal homelands movement in Australia*, AGPS, Canberra, page 7.

²⁰⁷ House of Representatives Standing Committee on Aboriginal Affairs, 1987. *Return To Country: The Aboriginal homelands movement in Australia*, AGPS, Canberra, pages 14 & 257.

²⁰⁸ Submission 49: W. Edwards, 1992, “Patterns of Aboriginal Residence in the North-West of South Australia.”

²⁰⁹ Submission 39: Habitat Solutions, 2002, “NWKRC Homelands Implementation Plan” (tabled by Anilalya Council Aboriginal Corporation). In April 2002, Habitat Solutions estimated that “somewhere between 30 and 40 homelands are occupied for any length of time.”

²¹⁰ Evidence D Fraser, 25 September 2002, Q671; J Lyons & Y Young, 27 September 2002, Q802; H Cullinan, 27 September 2002, Q804.

²¹¹ Submission 39: Anilalya Council Aboriginal Corporation.

Pitjantjatjara Services (APS) and the Projects Unit of the Pitjantjatjara Council, noting that “if a homeland has a blocked toilet ... we have sometimes waited up to 9 weeks before it is repaired.”²¹²

The Select Committee heard that a number of homelands are occupied infrequently or only on weekends.²¹³ ACAC disputes such statements, noting that of its homelands “21 have full occupancy, they are not ‘holiday’ homes.”²¹⁴

Evidence presented by Mr Chris Larkin, Manager, Aboriginal Housing Authority (AHA) revealed that in February 2000, AHA had determined to no longer allocate houses to areas without a power supply and potable water. It seems likely that this decision will effect the establishment of additional homelands.²¹⁵

8.7 Community Stores

Ensuring Anangu have access to appropriate and affordable food items is an essential component of any strategy aimed at reducing the current level of chronic illnesses among Anangu and, more generally, improving the diet of all persons living on the AP Lands.²¹⁶ While visiting the AP Lands in September 2002, Committee Members inspected community stores at Amata and Pipalyatjara.

A 1998 study – *Cost of living on the AP Lands* – found a direct link between levels of ill health and the difficulty Anangu face in attempting to buy nutritious food and other basic items.²¹⁷ Subsequent to the release of the study’s finding, a number of key organisations in conjunction with all community councils on the AP Lands developed *Mai Wiru: Regional Stores Policy and associated regulations for the Anangu Pitjantjatjara Lands*.²¹⁸

The stated goal of the policy “is to improve the health and wellbeing of Anangu ... by ensuring continuous access for them to nutritious and affordable food and essential health items.”²¹⁹ More specifically, it aims to “improve and monitor the supply, quality and safety of food and identified essential health items” and, in response to the level of poverty, establish subsidies for specific food items in all stores on the AP Lands.²²⁰

Comprehensive in its scope, the Stores Policy proposes applying a series of regulations to all public food outlets on the AP Lands, including stores, take-away food outlets, school canteens and catering services at sporting events and carnivals. The proposed regulations

²¹² Submission 39: Anilalya Council Aboriginal Corporation.

²¹³ Evidence G Borchers, 18 September 2002, Q524-525.

²¹⁴ Submission 39: Letter to Bill Mansell from Anilalya Council Aboriginal Corporation dated 18 June 2002 (tabled by ACAC).

²¹⁵ Evidence C Larkin, 29 October 2002, Q915-916.

²¹⁶ Submission 41: M Last, 2002, “Land, Nutrition and Employment for Anangu Pitjantjatjara,” page 1.

²¹⁷ Tregenza, J. 1998, “Cost of Living on the Anangu Pitjantjatjara Lands,” Survey Report, AP Services.

²¹⁸ Submission 22: Regional Stores Policy for the AP Lands, page 50 (tabled by NPY Women’s Council).

²¹⁹ Submission 22: Regional Stores Policy for the AP Lands, page 23 (tabled by NPY Women’s Council).

²²⁰ Submission 22: Regional Stores Policy for the AP Lands, page 85 (tabled by NPY Women’s Council).

include such requirements as that “free cold water be available at all times from the Store or nearby” and that “soft drinks high in sugar ... must not be stocked in community stores.”²²¹

On 3 July 2001, a General Meeting of Anangu Pitjantjatjara ratified the policy, and passed the following resolution:²²²

That the meeting directs the Executive Board of Anangu Pitjantjatjara to request the Government of South Australia to cause there to be made pursuant to Section 43 (1) (e) of the Pitjantjatjara Land Rights Act a Regulation the operative part of which is in the following words or words to their effect:

A stores policy applicable in relation to the lands (as defined in the Act) is hereby prescribed as a matter in relation to which by-laws may be made by Anangu Pitjantjatjara pursuant to section 43 (3) of the Act (and for the purposes of this regulation ‘stores’ policy means any policy at any time adopted by Anangu Pitjantjatjara which has as its goal improving the health and wellbeing of the people on the lands by ensuring continuous access for them to nutritious and affordable food and essential health items).

Subsequently, Anangu Pitjantjatjara requested the Minister for Aboriginal Affairs and Reconciliation to take the steps necessary to cause the regulation to be put in place.

A number of witnesses to the Select Committee endorsed the Stores Policy and stressed the importance of securing its effective operation.²²³ Support appeared to be less forthcoming from the Aboriginal and Torres Strait Islander Commission (ATSIC) whose representatives told the Select Committee in October 2002 that “stores are expected to be run as a commercial venture” and that they “ought to be recovering operating expenses from the proceeds of sales.”²²⁴ Such a position would appear to be at odds with the proposed policy and regulations which, in part, state:

Essential ongoing repairs and maintenance must not be passed on to the price of good but be funded through mainstream funding streams.

Service costs for running stores must not be added on to the cost of goods; for example, power costs.²²⁵

More generally, the Stores Policy document observes:

²²¹ Submission 22: Regional Stores Policy for the AP Lands, pages 93-94 (tabled by NPY Women’s Council).

²²² Submission 22: Regional Stores Policy for the AP Lands, pages 29-30 (tabled by NPY Women’s Council).

²²³ Evidence M Kavanagh, 17 September 2002, Q182-183; R Jackson, 29 October 2002, Q941; Submission 41: M Last, 2002, “Land, Nutrition and Employment for Anangu Pitjantjatjara,” pages 1-2.

²²⁴ Evidence R Pratap, 29 October 2002, Q887.

²²⁵ Submission 22: Regional Stores Policy for the AP Lands, page 102 (tabled by NPY Women’s Council).

Stores [on the AP Lands] are not enterprises and are no longer regarded as such. Remote communities are closed economies. The disparity between low incomes and high store prices means those families cannot buy sufficient food to be healthy. The notion of 'Store profits' is a contradiction in terms, a further imposition on people living in poverty.²²⁶

Many witnesses were unequivocal in their strong support for the Stores Policy, with Mr Russ Jackson, then Acting Superintendent, Anangu Schools, APY Lands, observing that its employment and training requirements would lead to a significant increase in traineeships.²²⁷

The Committee commends Anangu communities and organisations for the formation of the Stores Policy. Its development stands as clear evidence of the capacity of Anangu to identify and formulate their own solutions to long-term social problems. The final policy stands as a strong reprove to those agencies and departments who continue to impose 'solutions' developed in isolation from the AP Lands and its people. (Recommendation 13)

8.8 Non-Anangu Staff and Administrative Support

The Select Committee was told that the quality of community administration, coupled with an environment within which there is rapid staff turnover, has significantly contributed to an increase in "social trauma" within Anangu communities.²²⁸ Witnesses spoke of an inability to attract suitably qualified people to work on the AP Lands such that communities were often stuck with "unprofessional people giving non-professional advice."²²⁹ As Mr John Tregenza, Kutjara Consultants, told the Select Committee, "we get Europeans coming into positions; the next thing you know, the whole community is full of their relations and friends, and Aboriginal people are being marginalised from the jobs."²³⁰ Other evidence suggested that conflict and tension within and between key Anangu organisations had led to unacceptably high levels of job turnover and to dysfunctional and unstable administrations.²³¹

Witnesses spoke of the need to establish professional and quality-assured recruitment, orientation and assessment processes for all non-Anangu staff.²³² The importance of recruiting professionals trained in community development was also emphasised.²³³ Given the degree to which the policies and objectives of funding agencies pre-determine the scope and delivery of some programs and services on the AP Lands, some agencies

²²⁶ Submission 22: Regional Stores Policy for the AP Lands, page 37 (tabled by NPY Women's Council).

²²⁷ Evidence R Jackson, 30 October 2002, Q941; *see also* M Kavanagh, 17 September 2002, Q182.

²²⁸ Evidence C Larkin, 29 October 2002, Q911; C Marshall, 18 September 2002, Q366-367.

²²⁹ Evidence M Kavanagh, 17 September 2002, Q190; J Tregenza, 26 September 2002, Q786.

²³⁰ Evidence J Tregenza, 26 September 2002, Q786.

²³¹ Submission 55: "Discussion Document" by Roger Chennells, June 2002 (tabled by M Dodson).

²³² Evidence J Tregenza, 26 September 2002, Q788-790; R Connelly, 27 September 2002, Q821.

²³³ Evidence J Tregenza, 26 September 2002, Q784 & Q789.

were criticised for failing to ensure that their funding was used to employ appropriately qualified persons.²³⁴ (Recommendation 14a)

Evidence presented by the Aboriginal and Torres Strait Islander Commission (ATSIC) acknowledged that some non-Anangu staff have exploited Anangu communities.²³⁵ ATSIC also stated that while its grant conditions stipulate that every opportunity should be taken to employ Indigenous staff and trainees, to date, on the AP Lands, contractors have been unable to attract suitable workers.²³⁶

One submission complained that Municipal Services Officers (MSOs) – the chief administrators within local Anangu communities – are not accountable to Anangu Pitjantjatjara. On the other hand, it noted the vulnerability of MSOs to unfair dismissal by communities.²³⁷

The issue of where administrative support staff and services should be located received considerable comment from witnesses to the Select Committee. It also figured prominently in evidence pertaining to the conflict between Anangu Pitjantjatjara's Executive Board and the Pitjantjatjara Council, with some witnesses arguing that it was inappropriate for a key Anangu organisation to be located in Alice Springs where Anangu cannot readily access its services.²³⁸

Other witnesses noted the long history of organisations with a Central Australian-focus being based in Alice Springs and detailed the economic and human resource benefits of basing staff in a major town.²³⁹ These included:

- not having to provide and maintain staff housing;
- not having to provide for the health and educational needs of staff's families;
- reducing the overall number of non-Anangu personnel based on the AP Lands;
- reduced staff turnover as a consequence of their being able to readily access amenities;
- easier access to a range of services (eg for maintenance of vehicles and office equipment).

These benefits noted, one witness argued that the basing of key Anangu organisations in Alice Springs has allowed South Australian governments to ignore some of its funding and human service responsibilities in the expectation that these will be picked up by the Northern Territory government.²⁴⁰ Arguing that Anangu often elect to travel to Adelaide

²³⁴ Evidence J Tregenza, 26 September 2002, Q784.

²³⁵ Evidence B Butler, 29 October 2002, Q894.

²³⁶ Evidence R Pratap, 29 October 2002, Q888-889.

²³⁷ Submission No 55: "Discussion Document" by Roger Chennells, June 2002, pages 2-3 (tabled by M Dodson).

²³⁸ Evidence C Marshall, 18 September 2002, Q400, Q437 & Q460; O Burton, 25 September 2002, Q672.

²³⁹ Submission 7: M Last, "Strategies for Employing Resource People and Providing Resources to the Anangu Pitjantjatjara Lands," pages 2-4; Submission 27: Iwantja Community Inc; Evidence C Marshall, 18 September 2002, Q367.

²⁴⁰ Evidence G Borchers, 18 September 2002, Q538 & 540.

to access human and educational services, the witness advocated establishing an AP office in Adelaide.²⁴¹

Evidence from Anangu communities and witnesses located on the eastern and western edges of the AP Lands indicated a common belief that communities closer to Umuwa were more able to influence the operations and priorities of Anangu Pitjantjatjara's Executive Board. For some of these witnesses, the remoteness of Alice Springs from all communities on the AP Lands encouraged a level-playing field.²⁴²

9 GOVERNMENT AGENCIES: FUNDING AND COORDINATION OF SERVICES

In 2002, *The Money Story*, an overview of state and federal funding to the AP Lands, prepared by the Commonwealth Department of Family and Community Services, estimated a total of \$59.4 million for the financial year 2001-2002.²⁴³

Representatives from the Aboriginal and Torres Strait Islander Commission (ATSIC) informed the Committee that less than \$1 million of that allocation was directly controlled by Anangu Pitjantjatjara. Indeed, Anangu witnesses expressed dismay and surprise at the possibility that such a substantial amount of money was allocated to the AP Lands.²⁴⁴

In September 2002, in the findings of a coronial inquest, Coroner Wayne Chivell, commented on *The Money Story*. He noted that once Community Development Employment Program (CDEP) and Centrelink payments (\$16 million) had been excluded, per capita spending could be calculated at around \$15,000 per annum. He observed, "having regard to the remoteness of the area and the extent of the problems to be dealt with, [this] does not seem a particularly high figure."²⁴⁵

A substantial number of witnesses were of the opinion that current funding levels to the AP Lands are inadequate,²⁴⁶ noting that as a consequence some critical human services are either completely unfunded or poorly delivered. Examples cited included disability and mental health services and petrol-sniffing programs.²⁴⁷ Both witnesses and

²⁴¹ Evidence G Borchers, 18 September 2002, Q539-540.

²⁴² Submission 27: Iwantja Community Inc; Evidence C Marshall, 18 September 2002, Q477; T Baker, 26 September 2002, Q744.

²⁴³ Submission 40: *The Money Story. An Overview of the Commonwealth and State Government Funding to The Anangu Pitjantjatjara Lands*, March 2002, Commonwealth Department of Family and Community Services (tabled by ATSIC).

²⁴⁴ Evidence D Fraser, 26 September 2002, Q755.

²⁴⁵ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, 2002, page 23 (tabled by NPY Women's Council).

²⁴⁶ Evidence L Burton, 26 September 2002, Q755; J Tregenza, 26 September 2002, Q782; Hector Burton, 27 September 2002, Q800.

²⁴⁷ Evidence J Lloyd, 17 September 2002, Q177; R Connelly, 27 September 2002, Q809.

submissions to the Committee stressed the importance of implementing the recommendations of the *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*.²⁴⁸

What funding is available is often short-term and project-specific. Many Anangu-controlled organisations expressed frustration at being unable to obtain any long-term funding. Often programs are reliant on annual or pilot-funding,²⁴⁹ with project staff being forced to spend an inordinate amount of time submitting additional funding applications and/or meeting the administrative and accounting requirements of short-term grants.²⁵⁰ These pressures contribute to staff burn out and the subsequent loss of expertise. Witnesses repeatedly expressed their need and preference for block and/or triennial funding.²⁵¹ Others called for funding to be provided on a five to 10 year basis.²⁵² (Recommendations 4 & 5)

The Committee also heard of the need for cooperation between state and federal departments in an effort to rationalise what is otherwise “a whole conglomerate of funding streams.”²⁵³ Many key Anangu organisations find themselves being responsible to disparate departments and agencies, each of which maintains distinctive funding regimes and reporting requirements.²⁵⁴ For example, Ms Maggie Kavanagh, then Coordinator, Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council (NPYWC), described the “absolute nightmare” NPYWC faces in having to run 16 program areas with 59 separate grants from nine funding sources, most of which come in the form of annual funding.²⁵⁵

One witness called for an inquiry to be held into the administration of finances coming on to the AP Lands, with a particular focus on the administration of some of the agencies distributing those funds.²⁵⁶ (Recommendation 14I)

Beyond funding, the need to build overall cooperation and coordination between state and federal agencies at all levels was recognised both by Anangu and their organisations and by government agencies.²⁵⁷ Lack of cooperation, the Committee learnt, severely hampers key programs and has the potential to delay or derail vital programs.²⁵⁸ Mr Brian Butler, ATSIC Commissioner, echoed the evidence of many witnesses in speaking of a

²⁴⁸ Tregenza, J. 2002, *Review of the delivery of services to people with disabilities on the Anangu Pitjantjatjara Lands*.

²⁴⁹ Evidence M Kavanagh, 17 September 2002, Q122.

²⁵⁰ Evidence M Kavanagh, 17 September 2002, Q123.

²⁵¹ Evidence M Kavanagh, 17 September 2002, Q122; J Tregenza, 26 September 2002, Q794; C Larkin, 29 October 2002, Q932.

²⁵² Evidence B Underwood, 22 November 2002, Q1024.

²⁵³ Evidence J Tregenza, 26 September 2002, Q783.

²⁵⁴ Evidence K Davey, 29 October 2002, Q907.

²⁵⁵ Evidence M Kavanagh, 17 September 2002, Q76.

²⁵⁶ Evidence J Tregenza, 26 September 2002, Q784.

²⁵⁷ Evidence J Lloyd, 17 September 2002, Q81; E McNamara, 29 October 2002, Q884.

²⁵⁸ Evidence M Kavanagh, 17 September 2002, Q101-104; R Connelly, 27 September 2002.

“deficit in goodwill on behalf of all agencies that have been working on the lands ... an unwillingness, if you like, to work together.”²⁵⁹ (Recommendation 3)

Other evidence called for the way in which services are delivered to be completely re-
envisaged. For example, a report submitted by the South Australia Police commented:
“What is required is a whole of government response to the problem which restructures
education, employment, welfare, housing, health and to a degree law enforcement.”²⁶⁰

Noting the appalling condition of many Anangu communities, Mr Butler stressed that
coordination was vital for any attempt to improve long term prospects: “it has got to the
stage where it will not be changed by one agency; it will have to be a collective thing.”²⁶¹
For other witnesses, a lack of collaboration and an unwillingness on the part of some
departments and organisations within South Australia to communicate with each other
has been a contributing factor in the deterioration of human services and living conditions
on the AP Lands. As a consequence of this “vacuum in coordination,” Anangu
Pitjantjatjara, the land holding body, has often had “no way of knowing” what was
happening on the AP Lands.²⁶²

Other witnesses highlighted the discrepancy between the porousness of state boundaries
for Anangu and their rigidity for state and commonwealth agencies.²⁶³ ATSIC, in
particular, was identified as an organisation that disliked allocating regional funds to
organisations whose administration was based outside the region in which the services
were to be delivered. The Committee received evidence suggesting that such
parochialism had contributed to the defunding of some services formerly provided to
Anangu by the Pitjantjatjara Council.²⁶⁴ (Recommendation 14k)

The Committee is aware of ongoing attempts to coordinate the efforts of state and federal
departments via the Anangu Pitjantjatjara Lands Inter-Governmental Inter-Agency
Collaboration Committee (APLIICC) and the Council of Australian Governments’
(COAG) whole-of-government trial.

APLIICC was established in 2001 with the intention of creating a forum through which
state and commonwealth senior executives could exchange information and coordinate
departmental and agency responses to the serious problems and widespread disadvantage
engulfing communities on the AP Lands. APLIICC’s terms of reference are:

To work with and through the Anangu Pitjantjatjara to:

- Improve Anangu community capacity to manage current and emergent issues;
- Ensure that Anangu have access to services necessary to sustain life and
wellbeing at a quality comparable with that enjoyed by other Australians;

²⁵⁹ Evidence B Butler, 29 October 2002, Q889.

²⁶⁰ Submission 58: SAPOL report on Operation Pitulu Wantima, 2.

²⁶¹ Evidence B Butler, 29 October 2002, Q895.

²⁶² Submission 55: “Discussion Document” by Roger Chennells, June 2002, page 2 (tabled by M Dodson).

²⁶³ Evidence U Scales, 17 September 2002, Q332.

²⁶⁴ Evidence G Borchers, 18 September 2002, Q529; Y Lester, 18 September 2002, Q642.

- Design and deliver services in a manner which respects, promotes and sustains Anangu hopes and aspirations;
- Monitor, evaluate and review the success of programmes and processes in light of the above.²⁶⁵

In September 2002, APLIICC was criticised by Coroner Wayne Chivell for taking “far too long to act.”²⁶⁶ That criticism was supported by the Aboriginal and Torres Strait Islander Commission (ATSIC) in its submission to the Select Committee. ATSIC argued that APLIICC “should be refocussed to achieve a clear action plan for rationalising and reorganising relationships with service providers.”²⁶⁷ It also observed that APLIICC “seems to have become weighed down in its own processes, and noted its failure “to set a clear policy direction and framework for the Action Plan.”

In April 2002, the Council of Australian Governments agreed to trial a whole-of-government cooperative approach with Indigenous communities in up to ten regions in order to “provide more flexible programs and services based on priorities agreed with communities.”²⁶⁸ It noted:

The aim of these trials will be to improve the way governments interact with each other and with communities to deliver more effective responses to the needs of indigenous Australians. The lessons learnt from these cooperative approaches will be able to be applied more broadly. This approach will be flexible in order to reflect the needs of specific communities, build on existing work and improve the compatibility of different State, Territory and Commonwealth approaches to achieve better outcomes.²⁶⁹

Eight trial sites were subsequently selected throughout Australia, with the AP Lands being chosen as the South Australian trial site. In October 2002, Mr Elliott McNamara, Chairperson, Nulla Wimila Kutju Regional Council (ATSIC), spoke of his hope that the COAG trial would become a vehicle by which “the commonwealth, the state and local and community people” would “bring about change.”²⁷⁰

Other evidence presented to the Select Committee noted how a lack of coordination has led to the inadequate collection of data and information concerning the size of problems affecting communities on the AP Lands.²⁷¹

²⁶⁵ Cited in Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, page 24 (tabled by NPY Women’s Council).

²⁶⁶ Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, page 34 (tabled by NPY Women’s Council).

²⁶⁷ Submission 40: ATSIC, page 13.

²⁶⁸ “COAG Initiative” 2003, Indigenous Communities Co-ordination Taskforce, Commonwealth Government, www.icc.gov.au/coag_initiative. Page accessed September 2003.

²⁶⁹ COAG *Communique*, 5 April 2002, cited in the Aboriginal & Torres Strait Islander Social Justice Commissioner’s *Social Justice Report* 2003, page 228.

²⁷⁰ Evidence E McNamara, 29 October 2002, Q906.

²⁷¹ Evidence M Kavanagh, 17 September 2002, Q81; Submission 22: Coronial Inquest Findings for Thompson, Hunt and Ken, page 29 (tabled by NPY Women’s Council).

The lack of coordination experienced at both state and federal government levels is mirrored on the AP Lands. Mr Chris Marshall, then General Manager, Anangu Pitjantjatjara, spoke of a proliferation of organisations providing an array of services without any overall coordination and advocated the establishment of “a peak coordinating organisation for the Lands.”²⁷² Confidence in such an organisation may be difficult to build. Anangu communities, particularly those at some distance from Umuwa and smaller homelands expressed their scepticism as to the ability of a revitalised Anangu Pitjantjatjara to be responsive to their needs. For these communities, better coordination should not be equated with centralisation.²⁷³

The absence of a coordinated approach within some communities on the AP Lands may, in part, be a flow on effect from the lack of coordination at higher levels. For example, major difficulties experienced by a petrol-sniffing program at Fregon can be sourced back to an unwillingness on the part of ATSIC to support the work of another service provider. In that instance, in opposition to the wishes of the local community council, ATSIC refused to allow the program’s staff worker to be accommodated in a vacant house that it controlled.²⁷⁴ Consequently, the program and its staff relocated to a community in the Northern Territory where, the Committee was told, the local council was not held to ransom by agency-appointed advisers.²⁷⁵

The Select Committee heard sharp criticisms of the way both state and federal agencies consult with Anangu communities and organisations:

They come up with an agenda, they know what they want and they go away with it, notwithstanding what anyone might say.²⁷⁶

Other witnesses suggested that some conflict on the AP Lands was a direct result of certain agencies’ determination to achieve particular outcomes and priorities. In this regard, the Committee heard allegations as to the past activities of ATSIC and the then Department of State Aboriginal Affairs (DoSAA).²⁷⁷ It was alleged that those agencies had acted in a heavy-handed manner, threatening to cut off funding if the Executive Board refused to endorse specific changes; most particularly, the appointment of a financial administrator and the restructuring of the Body Corporate. Witnesses claimed that representatives from ATSIC told the Executive Board:

“If you don’t agree to all this there will be no money.”

²⁷² Evidence C Marshall, 18 September 2002, Q372 & 374.

²⁷³ Submission 39: Anilalya Council Aboriginal Corporation.

²⁷⁴ Evidence J Harvey, 17 September 2002, Q185.

²⁷⁵ Evidence J Harvey, 17 September 2002, Q187.

²⁷⁶ Evidence J Tregenza, 26 September 2002, Q782.

²⁷⁷ Evidence G Lewis, 18 September 2002, Q587; Y Lester, 18 September 2002, Q626-627; G Kunmanara, 25 September 2002, Q671.

“You will have this man or we will stop your funds.”²⁷⁸

Others witnesses claimed a similar dictatorial approach had been employed by Anangu Pitjantjatjara Services and had contributed to a reticence on the part of some local community organisations to have their funding controlled regionally.²⁷⁹

The Select Committee also heard that past attempts by both government agencies and some Anangu to progress the establishment of mining industries on the AP Lands contributed to recent disputes and conflict.²⁸⁰ In this regard, it was alleged that PIRSA, DOSAA and ATSIC had all been intent on decreasing the role and influence of Traditional Owners with respect to mining applications:

PIRSA always and possibly still is adamant that negotiations with Traditional Owners ought to be kept to a minimum in order to speed up mining exploration on the AP Lands.²⁸¹

The situation had been further complicated by concurrent efforts on the part of ATSIC to transfer some of the financial responsibility for land rights administration to the state government.²⁸²

While in reporting to the Committee, representatives of government agencies emphasised a desire to act in the best interests of Anangu,²⁸³ other witnesses spoke of a lack of interest and commitment from government agents in terms of genuine self management on the AP Lands.²⁸⁴

10 GOVERNANCE, ANANGU PITJANTJATJARA AND THE FUTURE DELIVERY OF SERVICES TO THE AP LANDS

The topic of governance within Australia’s Indigenous communities and organisations received widespread attention and scrutiny during the course of the Committee’s inquiry.²⁸⁵ Elements of this broader, national debate were consistent with much of the evidence and many of the submissions presented to the Committee.

²⁷⁸ Evidence G Kunmanara, 25 September 2002, Q671; Y Lester, 18 September 2002, Q626. *See also*, Submission 13: Ascione, Hope & Associates, page 5.

²⁷⁹ Submission 39: Anilalya Council Aboriginal Corporation.

²⁸⁰ Evidence R Burdon, 25 September 2002, Q736.

²⁸¹ Submission 5: G Stotz, page 5.

²⁸² Evidence B Butler, 29 October 2002, Q908.

²⁸³ *For example*, Evidence D Blight, 30 October 2002, Q969.

²⁸⁴ Evidence J Tregenza, 26 September 2002, Q782.

²⁸⁵ For example, in October 2003, the Queensland Government released a white paper on new laws for Aboriginal community governance, while in November 2003, the Northern Territory Government sponsored a four-day conference entitled “Building Effective Indigenous Governance.”

In November 2003, addressing the Northern Territory's "Building Effective Indigenous Governance" conference, Professor Mick Dodson defined governance as being

about power, relationships, processes of representation, decision making and accountability. It is about who decides, who has influence, how that influence is exercised and how decision makers are held accountable.²⁸⁶

Appearing before the Committee in January 2003, Professor Dodson outlined some prospects for improving governance on the AP Lands:

You have to have legislation that allows for good governance, that has transparent and accountable selection processes for the decision makers and about the processes of decision making ... Certain principles make for good governance. The principles are one thing, but good governance also requires competent individuals to make the decisions, to carry them out and to be able to review them.²⁸⁷

10.1 Local Community Councils

Anangu-controlled, local community councils were already in existence on what became the AP Lands prior to the passing of the Act.

The first local councils were formed and incorporated at Ernabella and Fregon in 1973. On 1 January 1974, control of those communities passed from the Presbyterian Church of Australia to, respectively, the Pukatja Community Council Inc. and the Aparawatatja Community Inc. From the start, both councils received assistance from non-Anangu Community Advisors.²⁸⁸

By the end of 1974, community councils had also been established and incorporated at the former government-controlled station at Amata and at the Aboriginal reserve at Indulkana. The Department of Community Welfare maintained offices in both communities until late in the 1970s.

Earlier, at the beginning of the 1970s, some Anangu had settled alongside a mining exploration camp near Mt Davies. Subsequently, the community of Pipalyatjara was established, with the Pipalyatjara Community Council being incorporated in 1974.²⁸⁹

²⁸⁶ Dodson, M. 2003, "Capacity Development for Indigenous Leadership and Good Governance," Paper presented at the Building Effective Indigenous Governance Conference, Jabiru, 7 November.

²⁸⁷ Evidence M Dodson, 28 January 2003, Q1074.

²⁸⁸ Submission 49: Edwards, W. H. 1992, "Patterns of Aboriginal Residence in the North-West of South Australia," *Journal of the Anthropological Society of South Australia*, 30:1-2, page 16.

²⁸⁹ Submission 49: Edwards, W. H. 1992, "Patterns of Aboriginal Residence in the North-West of South Australia," *Journal of the Anthropological Society of South Australia*, 30:1-2, page 17. Additional information supplied by staff at the Pipalyatjara Community Office, 19 May 2004.

Other community councils were established at Mimili and Kenmore Park (Yungarinyi) when those properties were purchased by the Aboriginal Land Fund Commission in 1973 and 1976 respectively.

Consequently, at the time the Pitjantjatjara Council was formed in July 1976, seven independent community councils operated on what was to become, five years later, the AP Lands. The establishment in 1981 of Anangu Pitjantjatjara, the land-holding body corporate created under the Act, did not reduce the need for local community councils.

Over the past 25 years, as other communities have been established across the AP Lands, additional local councils have been formed, particularly as a consequence of the movement to establish homelands (*see* Section 8.6 of this report).

Today communities on the AP Lands continue to elect and maintain local councils, entrusting them with the responsibility to determine and regulate a variety of matters pertaining to local community governance and service requirements. In 2001/02 local councils on the AP Lands received combined funding of \$11.5 million to oversee the maintenance of roads, houses and other basic services.²⁹⁰

In 2002/2003, the Aboriginal and Torres Strait Islander Commission (ATSIC), Nulla Wimila Regional Council, provided funding for the delivery of municipal service to the following 16 local councils and homeland organisations located on the AP Lands:

- Amata Community Inc
- Anilalya Homelands Council Aboriginal Corp
- Irintata Homelands Council Aboriginal Corporation
- Iwantja Community Inc
- Kaljiti Community Aboriginal Corporation
- Mimili Community Inc
- Murputja Homelands Council Aboriginal Corporation
- Nyapari Community Inc
- Pipalyatjara Community Inc
- Pitjantjatjara Homelands Council Aboriginal Corporation
- Pukatja Community Inc
- Tjurma Homelands Council Inc
- Turkey Bore & Tjutjunpiri Community Aboriginal Corporation
- Watarru Community Inc Aboriginal Corporation
- Watinuma Community Inc
- Yunyarinyi Community Inc²⁹¹

²⁹⁰ Submission 40: *The Money Story. An Overview of the Commonwealth and State Government Funding to The Anangu Pitjantjatjara Lands*, March 2002, Commonwealth Department of Family and Community Services, page 14 (tabled by ATSIC).

²⁹¹ In 2002/2003, ATSIS also provided funding to Anangu Pitjantjatjara, Nganampa Health Council and the Pitjantjatjara Council for municipal services on the AP Lands (*Nulla Wimila Kutju Regional Council Report 2002/2003*, ATSIC, pages 34-40)

Each of these organisations function independently, has its own Council and Chairperson, and employs a Municipal Services Officer (MSO). The MSO has the task of coordinating the day-to-day running of the local community whilst liaising with funding agencies and government departments.

As of November 2003, only two local councils on the AP Lands employed an Anangu MSO. Evidence presented to the Select Committee was critical of this continued reliance on “outsiders,” suggesting that it effectively marginalised local community members.²⁹² One report presented to the Committee, describing MSOs as the “defacto CEOs of communities,” observed that they are not accountable to any organisation on the AP Lands – including Anangu Pitjantjatjara – and are “only partially accountable to Community structures.”²⁹³

Although neither the Act nor the Constitution of Anangu Pitjantjatjara contain any references to local community councils, the Committee was told that the composition of Anangu Pitjantjatjara’s Executive Board had, at times, tacitly recognised the significance of local communities. Although the Act stipulates that the Executive Board must be elected at an Annual General Meeting, for a number of years after the Act was passed, the Executive Board was constituted through the endorsement of locally-selected community representatives.²⁹⁴

Some witnesses argued that certain problems, such as petrol sniffing, are community-based and therefore require community-driven solutions.²⁹⁵ The Committee also received a request for specific matters administered by Anangu Pitjantjatjara under the Act to be transferred to local communities, these being the issuing of permits and the process of negotiating with mining companies.²⁹⁶

Although the Committee did not receive any evidence suggesting that the system of local councils was in need of modification, it did receive some complaints as to the ineffectiveness of the flow of information between local and regional bodies.²⁹⁷

10.2 Yankunytjatjara Council

A significant portion of the AP Lands is the traditional country of Yankunytjatjara people.²⁹⁸ Today, Indulkana and Mimili are the main centres for Yankunytjatjara people residing on the AP Lands.

²⁹² Submission 49: Edwards, B. “Facing the real problems: substance abuse in Aboriginal communities,” Unpublished paper, pages 3-4;

²⁹³ Submission 55: “Discussion Document” by Roger Chennells, June 2002 (tabled by M Dodson), pages 2-3.

²⁹⁴ Evidence B Davis, 17 September 2002, Q209.

²⁹⁵ Evidence D Fraser, 25 September 2002, Q671.

²⁹⁶ Evidence I Baker, 26 September 2002, Q744.

²⁹⁷ Submission 55: “Discussion Document” by Roger Chennells, June 2002, page 3 (tabled by M Dodson).

²⁹⁸ See, for example, Tindale, N. 1974, *Aboriginal tribes of Australia: their terrain, environmental controls, distribution, limits and proper names*, Berkley, University of California Press, page 212.

The Yankunytjatjara Council was formed in February 1983 with the aim of establishing an organisation through which matters of importance for Yankunytjatjara people could be pursued.²⁹⁹ At that time, Yankunytjatjara people were concerned to prevent a proposed mining venture from being established on their traditional land. In subsequent years the organisation lay dormant for an extended period of time. It was revived, the Select Committee heard, in the late 1990s, in part, to fight for the due representation of Yankunytjatjara people on the Executive Board of Anangu Pitjantjatjara.³⁰⁰

In September 2002, the Select Committee received evidence from the Chairman of the Yankunytjatjara Council, Mr Yami Lester. At that time, Mr Lester estimated that the Yankunytjatjara Council represented some 100 Yankunytjatjara people and noted that the organisation was then involved in negotiations over a possible extension of the lease for the Mintabie Precious Stones Field. The Select Committee heard that lawyers and anthropologists from the Pitjantjatjara Council had been assisting the Yankunytjatjara Council in those negotiations.³⁰¹

At the time the Select Committee visited the AP Lands, there was a significant disagreement between the then Executive Board of Anangu Pitjantjatjara and the Yankunytjatjara Council as to the terms and conditions of any possible extension to the Mintabie lease.³⁰² One witness alleged that the Yankunytjatjara Council was “no longer fully representative of Yankunytjatjara People.”³⁰³

The Yankunytjatjara Council is involved in native title claims and Indigenous land management agreements for land outside of the AP Lands. In those matters, it receives assistance from the Aboriginal Legal Rights Movement.³⁰⁴

Neither the Act nor the Constitution of Anangu Pitjantjatjara contain any references to the Yankunytjatjara Council. Much evidence and many submissions to the Select Committee spoke of the importance of formally recognising Yankunytjatjara people within the name of the body corporate and the title of the Act.³⁰⁵ (Recommendation 2a) Others argued that the Act should require the inclusion of Yankunytjatjara people on the Executive Board of Anangu Pitjantjatjara.³⁰⁶

The Yankunytjatjara Council is not currently involved in the provision of human services or infrastructure on the AP Lands.

²⁹⁹ Submission 8: “Land – Let’s Get it Right” Special Edition Annual Report, 2001-2002, Pitjantjatjara Council, page 11. Also “Minutes of Meeting held at Mimili 15/2/83,” 1983, unpublished document.

³⁰⁰ Evidence Y Lester, 18 September 2002, Q635 & Q638-639.

³⁰¹ Evidence Y Lester, 18 September 2002, Q626, Q636 & Q644.

³⁰² Evidence N Bell, 26 September 2002, Q776-777; Submission 17: Y Lester.

³⁰³ Evidence R Connelly, 27 September 2002, Q828.

³⁰⁴ See Lester, Y. 2000, Hansard, Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, Commonwealth of Australia, 17 April, NT822.

³⁰⁵ Evidence B Davis, 17 September 2002, Q310; E McNamara, 29 October 2002, Q883; K Davey, 29 October 2002, Q907.

³⁰⁶ Evidence R Connelly, 27 September 2002, Q828; Submission 27: Iwantja Community Inc.

10.3 Governance and the Act

The Act as passed in 1981 outlined governance arrangements only in terms of the management, control and use of the lands and the requirement to protect the interests of Traditional Owners.

The Act is silent with respect to the delivery of infrastructure and human services to Anangu communities.³⁰⁷ Likewise, the Constitution of Anangu Pitjantjatjara contains no provisions to guide or govern the delivery of services.³⁰⁸

As a representative from the Crown Solicitor's Office informed the Committee:

There is no function of AP which relates to anything other than land administration. ... It was meant to be a land rights act, that is all. It was not meant to be a welfare act or a general service provider. The body was never set up for doing those things.³⁰⁹

The AP Lands are not covered by the *Outback Areas Community Development Trust Act 1978* which includes a provision specifically excluding "parts of the State as lie within Aboriginal reserves."

In 1994, the South Australian Parliament passed a regulation recognising Anangu Pitjantjatjara as a council for the purposes of the *South Australian Local Government Grants Act 1992*.³¹⁰ The Select Committee heard evidence suggesting that, at the time, this recognition increased the level of confusion vis-à-vis the designated role of Anangu Pitjantjatjara.³¹¹

Back in 1981, it was assumed, with the passing of the Act, that human services and infrastructure would continue to be delivered to Anangu as they had been prior to it coming into force. Support for this interpretation of events is evidenced by those sections of the Act that:

- guarantee access to the Lands to police officers and other officers appointed pursuant to statute for the purposes of carrying out official duties (Section 19 (8) (a) and (b)).
- enable Anangu Pitjantjatjara to lease a portion of the land to an agency or instrumentality of the Crown (Section 6 (2) (b) (ii))

³⁰⁷ Evidence M Johns, 5 September 2002, Q31-32, Q55-56; C Marshall, 18 September 2002, Q379; see also Submission 40: ATSIIC, page 7.

³⁰⁸ Evidence M Johns, 5 September 2002, Q42.

³⁰⁹ Evidence M Johns, 5 September 2002, Q55 & Q56.

³¹⁰ Regulation No. 111 of 1994. In all, the regulation recognised five Aboriginal bodies. The other four are: Gerard Community Council Inc., Maralinga Tjarutja, Nepabunna Community Council Inc., and Yalata Community Council Inc. This recognition made all five bodies eligible for annual grants from the South Australian Local Government Grants Commission. In 2002/2003, Anangu Pitjantjatjara received a total grant of \$854,667.00 (Local Government Grants Commission, 2003, *Annual Report 2002-2003*, page 16).

³¹¹ Evidence G Borchers, 18 September 2002, Q543.

The first of these provisions has for the past 23 years provided South Australia Police with guaranteed access to the AP Lands. The second has enabled land to be leased for the purpose of establishing schools, clinics and other service institutions.

The creation in 1987 of a Pitjantjatjara Lands Parliamentary Committee created a channel through which Parliament could keep abreast of conditions on the AP Lands. The first four of the Committee's reports provided to the Parliament contained recommendations, many of which called for specific actions to be undertaken by state and commonwealth departments. Two recommendations contained in the report for the year 1990-1991 read as follows:

Your Committee recommends that State Aboriginal Affairs develop a co-ordinating strategy for service and program provisions for the Anangu Pitjantjatjara lands.

Your Committee also resolved to recommend to the House that provision be made in the appropriate legislation to make the existing two Parliamentary Committees, permanent Committees of the House and for a Committee to be established for the Aboriginal Lands Trust.

The Select Committee understands that neither recommendation was implemented at that time. Without an explicit legislative framework or strategy, the provision of human services and infrastructure on the AP Lands was uncoordinated.

In due course, such delivery fostered misunderstandings as to the role and responsibilities of the body corporate. In August 2002, Professor Dodson informed the Minister for Aboriginal Affairs and Reconciliation:

I do not believe that [the] fundamental reason for the existence of AP [Anangu Pitjantjatjara] is fully understood by the AP Executive Board, Staff of AP, staff and executive members of [the Pitjantjatjara Council] and many government officials who have had any involvement in the Lands in the last 18 months or so. ... there has been a tendency to inflate or expand the position of AP beyond what is provided for in the Act. This is a muddle-headed view of the [Act] and the AP! It is not appropriate to ascribe to AP roles that are not provided for it under the statute.³¹²

On the basis of much evidence, the Committee has concluded that such "a muddle-headed view" had existed for much longer than 18 months. Indeed over the course of two decades, many external agencies and organisations, by entering into formal and informal arrangements with the body corporate, moved it beyond its role as outlined in the Act. For example, in the early 1990s, after extensive negotiations, the Department of Education and Children's Services (DECS) granted substantial policy and operational

³¹² Dodson, M. 15 August 2002, Letter to Hon T Roberts, Minister for Aboriginal Affairs. Tabled in the Legislative Council, 29 August 2002, page 3.

control of educational services on the AP Lands to a sub-committee of Anangu Pitjantjatjara.³¹³

10.4 Improving the Delivery of Services and Infrastructure through Better Governance

An inordinate number of state and federal government departments provide services to the AP Lands.³¹⁴

Both on the AP Lands and within government departments and agencies, conflict and confusion over the financing, administration and delivery of some services have generated considerable debate as to the effectiveness and legitimacy of existing arrangements. Over a number of years, there have been many suggestions as to the way existing arrangements might be modified or overhauled through the establishment of a separate body or by expanding the legislated role of Anangu Pitjantjatjara.

A fierce dispute between Anangu Pitjantjatjara and the Pitjantjatjara Council over the provision of legal and anthropological services was a key factor in the establishment of the Select Committee. In 2002, many Anangu witnesses to the Select Committee voiced frustration as to the continuance of that dispute and spoke of the impact it was having on their lives. Others called for the antagonists to put aside their differences and work together.³¹⁵ In some instances, this call for unity was also a call for modifications to the governance of the AP Lands.³¹⁶

Many witnesses to the Committee advocated modifying existing structures and governance arrangements to ensure the efficient and effective delivery of human services and infrastructure. In some instances, witnesses advocated recognising Anangu Pitjantjatjara as both the peak political body for the AP Lands and the coordinator of the delivery of human services, though not necessarily the provider of these services.³¹⁷

³¹³ Submission 51; Evidence R Jackson, 30 October 2002, Q941, Q943.

³¹⁴ In 2001/2002 three federal and six state government departments funded services on the AP Lands (Submission 40: *The Money Story. An Overview of the Commonwealth and State Government Funding to The Anangu Pitjantjatjara Lands*, March 2002, Commonwealth Department of Family and Community Services, tabled by ATSIC).

In 2003/2004, six federal and twelve state government departments are funding services on the AP Lands ("A summary of Commonwealth Agency Activity in the Anangu Pitjantjatjara Lands of South Australia" April 2004, COAG team, Adelaide; additional information provided by Department of Aboriginal Affairs & Reconciliation, Adelaide, May 2004). See Appendix C.

In the financial year 2002/2003, Anangu Pitjantjatjara managed 76 separate grant funds, 69 of which were sourced through 18 state and federal departments and agencies (see Grants Schedule in "Anangu Pitjantjatjara, Special Purpose Financial Report for the year ended 30 June 2003," Anangu Pitjantjatjara, Umuwa, pages 10-12).

At the time the Select Committee visited Alice Springs in 2002, the NPY Women's Council managed 59 separate grants from nine funding sources (Evidence M Kavanagh, 17 September 2002, Q76).

The issue of funding to the AP Lands is explored in more detail in Section 9 of this report and is the focus of a number of recommendations (see Recommendations 3, 4, 5 & 14).

³¹⁵ Evidence T Baker, 26 September 2002, Q745.

³¹⁶ Evidence O Burton, 26 September 2002, Q672; I Baker, 26 September 2002, Q744.

³¹⁷ Evidence D Fraser, 25 September 2002, Q671; Submission 40: ATSIC.

Advocates of this model spoke of the organisation as being “the funnel”³¹⁸ or, more often, “the umbrella.”³¹⁹ For example, in September 2002, Mr Owen Burton, then Chairperson of Anangu Pitjantjatjara, told the Committee:

We realise that it is time for Anangu Pitjantjatjara to be an umbrella organisation. It is time to change the Act so that the Anangu Pitjantjatjara is recognised as an umbrella organisation and then when other government departments are making contact they know to come through the Anangu Pitjantjatjara, the umbrella organisation on the lands.³²⁰

The “Anangu Pitjantjatjara as umbrella” model of service delivery and coordination was previously recommended in a 1998 ATSIC-funded operational review.³²¹ The review also observed:

“separately incorporated bodies have proliferated across the lands to respond to grant funders’ requirements, define legal responsibilities and reduce taxation obligations;”

the proliferation of services has “produced a structure of administration and service provision which lacks overall coherence and integration and has promoted inefficiency;”

“there is a strong need for administrative reform of AP [Anangu Pitjantjatjara] and agencies directly and indirectly related;”

Anangu Pitjantjatjara “must demonstrate a commitment to comprehensive reform if it is expected that other service providers will cooperate in the process;”

“AP’s decision making processes and authority are not highly regarded;” and

“major reforms will be necessary to build AP’s administrative and Executive capacity.”³²²

In September 2002, a number of witnesses, upholding the relevance of these observations, opposed any move to give Anangu Pitjantjatjara responsibility for the delivery of human services on the AP Lands,³²³ with one witness observing that the organisation has been “unable to act as a regional body.”³²⁴ Such a stance had previously been put forward in the report presented to the Minister for Aboriginal Affairs and Reconciliation in August 2002 by Professor Dodson. In his opinion, Anangu Pitjantjatjara as currently constituted under the Act is an inappropriate “legal vehicle ... to deliver a

³¹⁸ Evidence B Davis, 17 September 2002, Q288.

³¹⁹ Evidence R Tjami, 18 September 2002, Q364; Submission 27: Iwantja Community Inc.

³²⁰ Evidence O Burton, 26 September 2002, Q754-755.

³²¹ Submission 10: Anangu Pitjantjatjara Operational Review, 1998, pages 56-61.

³²² Submission 10: Anangu Pitjantjatjara Operational Review, 1998, pages *viii*, 15, 22-23 & 46.

³²³ Evidence M Kavanagh, 17 September 2002, Q191.

³²⁴ Evidence G Borchers, 18 September 2002, Q543.

host of municipal and human services to the communities on the Lands generally and the [Traditional Owners] particularly.”³²⁵

In a submission to the Select Committee, the Nganampa Health Council (NHC) explicitly rejected the “umbrella” model as advocated in the 1998 review. Arguing that such a “top heavy” model would in reality be inefficient and undermine existing program success, NHC advocated “maintaining the independence of the Health Service.”³²⁶

Opinions varied as to how the establishment of an “umbrella” model might impact on the Pitjantjatjara Council. Some witnesses argued that it should continue as a separate organisation, supplying particular services to Anangu Pitjantjatjara.³²⁷ Others suggested incorporating its existing departments within a revamped Anangu Pitjantjatjara.³²⁸ Still others, while acknowledging its past achievements, ventured that the organisation should be wound up.³²⁹

In opposition to the “umbrella” model of governance, the Select Committee received evidence advocating that Anangu Pitjantjatjara should be retained as a land-holding entity and that a separate entity should be established to coordinate the delivery of human services and infrastructure.³³⁰ Within this model, the key functions of the new entity would be to determine what services are required, to arrange for their provision – either directly or through other organisations – and to establish and maintain an advisory/coordinating role with government departments, agencies and service providers.³³¹ Under such an arrangement, a separate Executive Board would administer the service-providing entity. Anyone holding an elected or paid position with one entity would be precluded from simultaneously holding a position with the other.

Other evidence suggested governance on the AP Lands could be reconfigured with reference to either the Local Government Act³³² or governance models used by Indigenous communities in other parts of Australia.³³³ Thus Professor Dodson concluded:

Serious consideration should be given to the adoption of local government type models of governance on the Lands. What this might look like is a matter for discussion, consultation and negotiation between Anangu, their representatives and government.³³⁴

³²⁵ Dodson, M. 15 August 2002, Letter to Hon T Roberts, Minister for Aboriginal Affairs. Tabled in the Legislative Council, 29 August 2002.

³²⁶ Submission 31: Nganampa Health Council.

³²⁷ Evidence I Baker, 26 September 2002, Q746.

³²⁸ Evidence G Borchers, 18 September 2002, Q538.

³²⁹ Evidence C Marshall 18 September 2002, Q445; J Kite, 26 September 2002, Q765.

³³⁰ Submission 24: G Lewis; Submission 17: Y Lester; Submission 14: I Baker; Submission 13: Ascione, Hope & Associates.

³³¹ See Submission 24: G Lewis; Submission 13: Ascione, Hope & Associates.

³³² Evidence G Borchers, 18 September 2002, Q545. See also Dodson, M. 15 August 2002, Letter to Hon T Roberts, Minister for Aboriginal Affairs. Tabled in the Legislative Council, 29 August 2002, page 4.

³³³ Evidence G Borchers, 18 September 2002, Q545-548; Evidence R Burdon, 25 September 2002, Q739.

³³⁴ Dodson, M. 15 August 2002, Letter to Hon T Roberts, Minister for Aboriginal Affairs. Tabled in the Legislative Council, 29 August 2002.

Establishing good governance is not only a matter of defining appropriate structures and mechanisms, important as these may be.

The Committee heard that adequate and secure resources – including reliable and appropriate levels of funding and the long-term commitment of suitably-qualified and experienced staff – are prerequisites for achieving effective, sustainable governance on the AP Lands.³³⁵ (Recommendations 4 & 5)

The Committee was frequently told of the need to ensure elections are conducted in a fair and transparent manner wherein all Anangu, regardless of where they reside on the AP Lands, are able to participate.³³⁶ (Recommendation 2b) Transparency must also be built into an organisation's decision-making processes and into the mechanisms through which its decisions are reviewed.³³⁷ Such fairness and transparency has not always been operative on the AP Lands.

A paucity of understanding among some Anangu as to the scope, limitations and requirements of the Act and of the duties and responsibilities of office holders seriously undermines the possibility for good governance. Many witnesses commented on the need to increase the skills and capacity of Board members and office holders through the provision of appropriate training programs.³³⁸ (Recommendation 11) Such programs and processes should endeavour to ensure persons are fully informed as to their role, duties and general responsibility and of the requirement to acknowledge and avoid potential conflicts of interest.³³⁹

The Committee was repeatedly told of the need for government departments and agencies to adopt a coordinated and collaborative approach, both in their dealings with Anangu and amongst themselves. A lack of coordination and collaboration in the past has repeatedly undermined the prospect of establishing good governance and effective service delivery on the AP Lands. (Recommendation 3)

10.5 Determining Future Governance Arrangements

Notwithstanding the importance of improving governance arrangements and structures on the AP Lands, a number of witnesses stressed the importance of Anangu determining a preferred model for themselves and warned of the dangers of Parliament imposing change from outside.³⁴⁰

³³⁵ Evidence D Fraser, 25 September 2002, Q671; J Tregenza, 26 September 2002, Q782-784.

³³⁶ Evidence B Davis, 17 September 2002, Q310; Submission 18: B Davis; Submission 27: Iwantja Community Inc.

³³⁷ Evidence M Dodson, 28 January 2003, Q1074.

³³⁸ Evidence B Davis, 17 September 2002, Q310; C Marshall, 18 September 2002, Q502.

³³⁹ Evidence M Dodson, 28 January 2003, Q1083 & 1084.

³⁴⁰ Evidence M Dodson, 28 January 2003, Q1079; Submission 7: M. Last, 2002, "Principles for Use in Policy Development on the Anangu Pitjantjatjara Lands."

While it would seem that Anangu are yet to achieve consensus as to a preferred model of governance, it is possible that when this consensus is obtained both the Act and the Constitution of Anangu Pitjantjatjara will need to be amended. Significant structural changes, for example, the possible establishment of a separate organisation to coordinate the delivery of human services and infrastructure, may require major amendments to the Act or the passing of complementary legislation. Ensuring any such changes are formalised in a timely manner will necessitate close coordination between Anangu Pitjantjatjara and the South Australian Government. (Recommendation 1) It will also require close cooperation and sustained collaboration amongst the myriad of Commonwealth and State agencies and departments that currently provide or resource programs and services on the AP Lands. (Recommendation 3)

11 MINING

11.1 Mineral Exploration and the Processing of Licences

The establishment and conduct of mining operations on the AP Lands are governed by Part III, Division III of the Act which includes an outline of processes that need to be followed by any party applying for a licence to explore and/or exploit mineral deposits.

Under the Act (Part II, Division II), Anangu Pitjantjatjara is required to consult with Traditional Owners prior to the granting of any licence. The aim of such consultation is to ensure that persons having the traditional responsibility for protecting a particular section of the AP Lands are able both to express their wishes in relation to the proposed project and to indicate areas that may not be entered or disturbed in consequence of their being restricted and/or sacred.

For some twenty years, the anthropological and legal services required to conduct and conclude these consultations were provided to Anangu Pitjantjatjara by the Pitjantjatjara Council. Disagreement over their provisioning was a major factor in recent conflict between the two organisations.³⁴¹

Up until October 1999, applications for licences were processed one at a time, in order of their receipt. Since then, applications have been considered three at a time. Although representatives from the Office of Minerals and Energy Resources (OMER) assured the Committee that Primary Industries and Resources SA (PIRSA) understands the complexity of the consultation process and wishes to “move at a traditional owners’ pace and in their time frame,”³⁴² other evidence suggested that Anangu Pitjantjatjara had only determined to process three applications concurrently as a consequence of pressure from PIRSA.³⁴³

³⁴¹ Evidence R Burdon, 25 September 2002, Q735.

³⁴² Evidence D Blight, 30 October 2002, Q968.

³⁴³ Submission 5: G Stotz.

The Select Committee also received evidence suggesting that the root of past conflict between Anangu Pitjantjatjara's Executive Board and the Pitjantjatjara Council lay in a 1997 attempt by the Pitjantjatjara Mining Company to bypass the long-established practice of processing applications in order of receipt.³⁴⁴ The company, which had lodged mining applications to explore some 18% of the AP Lands, justified its request to "queue jump" other applications on the basis that it had Anangu directors. The Committee heard allegations that non-Anangu directors of the company had secured the assistance of the Anangu directors by way of inducements.³⁴⁵ Although the company's request was rejected by both the Anangu Pitjantjatjara Executive and at a General Meeting of Anangu Pitjantjatjara, the Select Committee heard that the incident destabilised the Anangu Pitjantjatjara Executive and administrative staff.³⁴⁶

A number of witnesses and submissions criticised the decision of Anangu Pitjantjatjara to employ, from the beginning of 2002 onwards, its own legal and anthropological staff. In their view, this decision represented an attempt to reduce the influence of Traditional Owners so that the processing of applications for licenses could be hastened.³⁴⁷ The Select Committee also heard that for other Anangu the lengthy processing of applications is a cause of frustration.³⁴⁸

Evidence presented by the Office of Minerals and Energy Resources (OMER) indicated that almost all of the AP Lands has mining applications pending on it, with the mining industry viewing the region "as the last frontier in Australia."³⁴⁹ OMER witnesses described the AP Lands as being "highly prospective" and argued that "a successful and vibrant mining and petroleum resource industry offers a realistic option for economic independence" for Anangu Pitjantjatjara, though they cautioned that it would take many years, possibly decades, to establish such an industry.³⁵⁰

While the Committee was told that such an industry could allow Traditional Owners to become economically independent,³⁵¹ it also heard predictions that the distribution to Anangu of royalties from any such ventures would be difficult to administer.³⁵²
(Recommendations 2h & 2i)

In a submission to the Committee, Dr Gertrude Stotz, formerly Senior Anthropologist with the Pitjantjatjara Council, explained how monies provided as compensation for mining exploration activity were annually distributed to Traditional Owners:

Once a year the Senior Anthropologist calls a Money Distribution Meeting. ... At such meetings a whiteboard is provided where the sum available for distribution is

³⁴⁴ Evidence R Burdon, 25 September 2002, Q736.

³⁴⁵ Evidence G Borchers, 18 September 2002, Q510.

³⁴⁶ Submission 24: G Lewis, page 8.

³⁴⁷ Evidence G Lewis, 18 September 2002, Q576.

³⁴⁸ Evidence G Borchers, 18 September 2002, Q521.

³⁴⁹ Evidence D Blight, 30 October 2002, Q966 & Q969.

³⁵⁰ Evidence D Blight, 30 October 2002, Q966 & Q968.

³⁵¹ Evidence D Blight, 30 October 2002, Q968.

³⁵² Evidence P Heithersay, 30 October 2002, Q993.

written up. ... People are advised of various possibilities of investment, family pooling, private account transfers, etc. People always opt for immediate release of the money to individual TOs. The Traditional Owners then put their names on the whiteboard ... The anthropologist then reads out the list of names and ... the meeting reaches a consensus that all the names are correct. We make sure that no main TO has been forgotten (which happens sometimes and the anthropologist will point this out) then the anthropologist divides the total by the number of TO and the result is read out and agreed upon. Within the week cheques are mailed out to the respective TO. The anthropology department had no serious complaints since I introduced this method of money distribution.³⁵³

Despite the objective of the Office of Minerals and Energy Resources to establish a “strong resource exploration and development program,”³⁵⁴ evidence presented by other witnesses indicated problems with the way an exploration program had previously been conducted.³⁵⁵ The Committee heard how drilling crews had commenced operating without proper notification and had transgressed particular sacred areas in contravention of negotiated agreements.³⁵⁶

11.2 Mintabie

Part III, Division IV of the *Pitjantjatjara Land Rights Act 1981* protects the rights and interests of persons prospecting for precious stones at Mintabie. In addition, it extends certain rights to other persons, including those conducting lawful businesses at Mintabie and to the families of the prospectors. The Act provides for the establishment of the “Mintabie Consultative Committee,” a five-person committee empowered to prohibit a person from entering or remaining on the Mintabie precious stone field if they have been convicted of any of a number of listed activities, including “an offence involving the unlawful sale of liquor.” The Act also empowers the Consultative Committee to prohibit persons who have “acted in a manner prejudicial to the welfare of an Aboriginal individual or group.”

Terms and conditions both for annual prospecting licences and for the broader leasing of the stone field by Anangu Pitjantjatjara to the Crown for a term of 21 years from the commencement of the Act are also included. As no alterations to Division IV were made when the Act was amended in 1987, the original lease of the Mintabie Stone Field to the Crown expired on 2 October 2002. Negotiations to determine if and how the lease should be renewed are ongoing. Interim measures established since the expiry of the lease are continuing.

The Select Committee received evidence that negotiations for the renewal of the lease commenced several years ago and originally were overseen by the Yankunytjatjara

³⁵³ Submission 5: Stotz, G. 2002, “Protection of Traditional Owners’ Rights on Anangu Pitjantjatjara Lands: Anthropological Perspective,” page 6.

³⁵⁴ Evidence D Blight, 30 October 2002, Q969.

³⁵⁵ Evidence Y Lester, 18 September 2002, Q626.

³⁵⁶ Submission 15: M George.

Council on behalf of Anangu Pitjantjatjara.³⁵⁷ A draft lease was produced by the Yankunytjatjara Council but was judged to be unacceptable by some of the Traditional Owners who currently reside at Indulkana.³⁵⁸

The Committee was told that conflict between Anangu Pitjantjatjara's Executive Board and the Pitjantjatjara Council had impacted on negotiations over the Mintabie lease. Specifically, it heard that Anangu Pitjantjatjara had not been able to access relevant files held in the Pitjantjatjara Council's office in Alice Springs³⁵⁹ and, from the other perspective, that by refusing to grant a permit for the lawyer acting for the Yankunytjatjara Council to enter the AP Lands, Anangu Pitjantjatjara had prevented him from attending a meeting with Traditional Owners.³⁶⁰

The negotiations over the Mintabie lease have been further complicated by disputes over who should be considered a Traditional Owner for this portion of the AP Lands and also over possible applications of Section 7 of the Act.³⁶¹ In part, that section states that Anangu Pitjantjatjara is required to consult with "traditional owners having a particular interest in that portion of the lands, or *otherwise affected by the proposal*" (emphasis added).

In September 2002, Mr Neil Bell, then a lawyer for Anangu Pitjantjatjara, told the Select Committee that a "substantial disagreement" centred on the future of non-mining commercial businesses currently based at Mintabie.³⁶² According to Mr Bell, while the Yankunytjatjara Council wished for the leases for these businesses – with some exceptions – to be extended, the community at Indulkana wanted all of these commercial operations removed from Mintabie and, where appropriate, relocated to Marla.

The Select Committee notes that the profile of Mintabie has changed considerably since the Act was passed in 1981. At that time it had a population of approximately 100. Throughout the 1980s this grew substantially. The 1988 report of the Pitjantjatjara Lands Parliamentary Committee noted that "the population had increased to about 1200, including some 200 women and over 40 children of school age." During this boom period the Education Department relocated school facilities from Marla to Mintabie.

The near exhaustion of the opal fields has led to an equally dramatic decline in population numbers. On 7 August 2001, the Census recorded 212 persons at Mintabie of whom 173 indicated that they were staying in their usual place of residence.³⁶³ Fourteen months later, however, in October 2002, Chief Superintendent Peter Mildren, Northern Operations Coordinator, South Australia Police, told the Committee that Mintabie was a "dying town" and estimated its population at about 12 persons.³⁶⁴

³⁵⁷ Submission 17: Y Lester.

³⁵⁸ Evidence N Bell, 26 September 2002, Q777.

³⁵⁹ Evidence N Bell, 26 September 2002, Q776.

³⁶⁰ Submission 17: Y Lester.

³⁶¹ Submission 17: Y Lester.

³⁶² Evidence N Bell, 26 September 2002, Q777.

³⁶³ Australian Bureau of Statistics, 2001 Census of Population and Housing, Mintabie (L) (UCL 416200).

³⁶⁴ Evidence P Mildren, 29 October 2002, Q874.

Some evidence suggested Mintabie miners had begun to supplement their declining incomes by operating commercial businesses and that the Mintabie Miners' Progress Association had been lobbying for a mixed township to be recognised should the current mining activity completely cease.³⁶⁵

Such a development was strongly opposed by evidence and submissions received from the community at Indulkana.³⁶⁶ Mr Ray Connelly, then its Municipal Services Officer, described the proposal to establish a mixed township as "ludicrous," suggesting it would only increase Mintabie's capacity to be a "back door" through which alcohol, drugs and pornography enter the AP Lands.³⁶⁷

Indeed, many individuals and organisations told the Committee about the negative social costs borne by Anangu communities as a consequence of activities conducted at Mintabie.³⁶⁸ The Committee heard that communities close to Mintabie believed that all they got from the settlement "was grief, drugs, secondhand cars that are overpriced and underperforming, ... alcohol and ... dodgy operators who hang onto their key [ATM] cards."³⁶⁹ Such ill-effects are not a recent development. The use of Mintabie as a base for "grog-running" on to the AP Lands was noted in the 1988 Report of the Pitjantjatjara Lands Parliamentary Committee. The Select Committee heard that these operations have now expanded to include the production and selling of marijuana.³⁷⁰

Significant concern was expressed to the Committee about the operation of stores at Mintabie and how these had resulted in the financial enslavement of many Anangu. A submission from the Iwantja Community at Indulkana described how store operators at Mintabie "allow Anangu people to enter into a book up arrangement, for large debts, then accept their bank key cards and pin numbers as security." The Mintabie storekeepers, the submission continued,

then use the keycards to remove the required payments themselves on a fortnightly basis, with little or no account keeping records. When people have no income they return to those same businesses and book up further amounts to feed themselves and their families. They then become permanently indebted to these companies with no way out.³⁷¹

It was alleged that at one point in 2002, Mintabie store owners held some 200 key cards belonging to people from the AP Lands.³⁷² The Select Committee did not pursue the veracity of this allegation but considers it worthy of further investigation.

³⁶⁵ Submission 27: Iwantja Community Inc.

³⁶⁶ Submission 27: Iwantja Community Inc.

³⁶⁷ Evidence R Connelly, 27 September 2002, Q821.

³⁶⁸ Evidence I Baker, 26 September 2002, Q746-747.

³⁶⁹ Evidence C Marshall, 18 September 2002, Q483.

³⁷⁰ Evidence P Mildren, 29 October 2002, Q872.

³⁷¹ Submission 27: Iwantja Community Inc.

³⁷² Evidence J Lloyd, 17 September 2002, Q179.

Most witnesses called for the removal from Mintabie of all non-mining commercial operations. In addition, some Anangu witnesses stressed that the lease should not be renewed until more stringent by-laws and controls aimed at protecting Anangu and their communities had been established. (Recommendation 14h)

The Select Committee notes that the decline of the township's population, coupled with the possible removal of the non-mining commercial enterprises, may impact on the viability of the Mintabie School.

Representatives from the Office of Minerals and Energy Resources informed the Select Committee that the impact of opal mining operations at Mintabie coloured the views of the Traditional Owners with respect to the pursuit of more significant mining ventures on the AP Lands.³⁷³

12 THE ACT: CURRENT PROVISIONS AND PROPOSED CHANGES

Taken as a whole, evidence received by the Select Committee indicated widespread support from Anangu for changes to a number of key sections and provisions in the *Pitjantjatjara Land Rights Act 1981*. The Committee also received advice on other parts of the Act that if amended might improve its functioning and future operations.

Some Anangu witnesses voiced the fear that the Committee's Inquiry and Recommendations might reduce their tenure over the AP Lands.³⁷⁴ On a number of occasions during its visit to the AP Lands, the Committee's Chairperson reassured those present that this would not be the case.³⁷⁵

Notwithstanding the widespread support amongst Anangu and their organisations for changing certain aspects of the Act, evidence presented to the Select Committee in 2002 clearly indicated that on many matters Anangu had not then reached a consensus on preferred modifications.

When asked whether specific aspects of the Act should be changed, a number of Anangu witnesses appeared reticent to offer a personal opinion, noting instead that change should not be advocated by individuals. Rather, they stated, it should be determined through consultation with Traditional Owners, after which decisions could be ratified at a Special General Meeting of Anangu Pitjantjatjara.³⁷⁶

³⁷³ Evidence D Blight, 30 October 2002, Q969.

³⁷⁴ Evidence M Wikiliri, 27 September 2002, Q800; B Davis, 17 September 2002, Q250.

³⁷⁵ Evidence 25 September 2002, Q665 & Q667; 27 September 2002, Q801.

³⁷⁶ Evidence G Lewis, 18 September 2002, Q577-578, 604 & 606; Y Lester, 18 September 2002, Q626.

Other evidence stressed the importance of respecting Anangu decision-making processes and of locating consultations aimed at determining changes to the Act on the AP Lands.³⁷⁷ As Professor Mick Dodson told the Committee:

you cannot impose amendments on the Anangu. This has to be something worked out with them. I am absolutely convinced of that. I think that they would embrace that opportunity to work as a partnership to bring the Act up to date and get it to do what Anangu now want it to do. ... I would not impose something: that would be absolutely last resort. You would just be totally frustrated in the process. ... Anangu people will make the right choices in the end if it is done properly, they are given time to think about it, and there is a consultative and educative process.³⁷⁸ (Recommendation 1)

12.1 Definitions

Section 4 of the Act provides definitions for a number of key terms as used within the Act. This includes:

“Pitjantjatjara” means a person who is –

(a) Pitjantjatjara, Yungkutatjara or Ngaanattjara people;

and

(b) a traditional owner of the lands, or a part of them:

“traditional owner” in relation to the lands means an Aboriginal person who has, in accordance with Aboriginal tradition, social, economic and spiritual affiliations with, and responsibilities for, the lands or any part of them.

In evidence received from Anangu and their organisations, the use of “Pitjantjatjara” was challenged for the prominence it extends to Pitjantjatjara people, to the detriment of Yankunytjatjara and Ngaanyatjarra people.³⁷⁹

Currently the Act refers to “Traditional Owners” in the following contexts:

1) Section 6 (1) “Powers and functions of Anangu Pitjantjatjara,”

The functions of Anangu Pitjantjatjara are as follows:

(a) to ascertain the wishes and opinions of traditional owners in relation to the management, use and control of the lands and to

³⁷⁷ Submission 7: M. Last, 2002, “Principles for Use in Policy Development on the Anangu Pitjantjatjara Lands.”

³⁷⁸ Evidence M Dodson, 28 January 2003, Q1074 & Q1079.

³⁷⁹ Submission 20: Anangu Pitjantjatjara, page 4. The Committee notes that the spelling of ‘Yungkutatjara’ and ‘Ngaanattjara’ as contained in the Act is not in line with the spelling most commonly used by, respectively, ‘Yankunytjatjara’ and ‘Ngaanyatjarra’ communities.

seek, where practicable, to give effect to those wishes and opinions;

(b) to protect the interests of traditional owners in relation to the management, use and control of the lands;

2) Section 7 “Requirement of consultation”

Anangu Pitjantjatjara shall, before carrying out or authorizing or permitting the carrying out of any proposal relating to the administration, development or use of any portion of the lands, have regard to the interests of, and consult with, traditional owners having a particular interest in that portion of the lands, or otherwise affected by the proposal, and shall not carry out the proposal, or authorize or permit it to be carried out, unless satisfied that those traditional owners—

3) Section 42c. “Parliamentary Committee”

(1) There will be a Committee to be known as the "Pitjantjatjara Lands Parliamentary Committee". . . .

(2) The duties of the Committee are—

(a) to take an interest in— . . .

(i) matters that affect the interests of the traditional owners of the lands;

While the Select Committee did not receive any evidence from Anangu and/or their organisations challenging the definition of “Traditional Owners,” it observed the term being used in two distinct ways. Firstly, in connection to specific Anangu who have “social, economic and spiritual affiliations with, and responsibilities” for distinct portions of the AP Lands. Secondly, and less frequently, as an overarching term for all Anangu living on the AP Lands. The Committee heard that the use of the term in the first sense, and the process of identifying such traditional ownership, is particularly complex on the AP Lands.³⁸⁰

In the last few years the process of identifying the Traditional Owners for particular portions of the AP Lands and, following on from that, who may represent and/or speak for such persons, has fuelled much debate and conflict.³⁸¹ Mr Greg Borchers, a lawyer with the Central Land Council, noted that while it might be difficult to address this matter within the Act, the current definition would cause “grave difficulties” if there was ever a need to distribute royalties and/or benefits from a mining venture.³⁸² That point was

³⁸⁰ Evidence G Borchers, 18 September 2002, Q512.

³⁸¹ Evidence C Marshall, 18 September 2002, Q378; Y Lester, 18 September 2002, Q626.

³⁸² Evidence G Borchers, 18 September 2002, Q512-513.

supported in evidence submitted by the Aboriginal and Torres Strait Islander Commission.³⁸³

12.2 The Name of the Body Corporate

Evidence and submissions presented to the Select Committee unanimously supported changing the name of the body corporate established under the Act – “Anangu Pitjantjatjara” – to one that recognised Yankunytjatjara people.³⁸⁴ In September 2002, the Committee heard that community consultations had highlighted a preference for the name to be changed to the “Pitjantjatjara Yankunytjatjara Land Council.”³⁸⁵ The Committee also received evidence suggesting that the title of the Act should be amended to the “Pitjantjatjara-Yankunytjatjara Land Rights Act.”³⁸⁶ (Recommendation 2a)

Although “Pitjantjatjara” as defined within the Act encompasses Ngaanyatjarra people,³⁸⁷ the Committee did not receive any evidence advocating their recognition within the name of the body corporate or the name of the Act. The Committee understands that since 1981, Ngaanyatjarra communities, which are predominantly located within Western Australia, have been represented by the Ngaanyatjarra Council (Aboriginal Corporation).³⁸⁸

12.3 The Scope of the Act and the Mandate of the Body Corporate

The focus of the Act is the management, use and control of the AP Lands. The Act is silent with respect to the delivery of infrastructure and human services to Anangu communities.³⁸⁹ The Constitution of Anangu Pitjantjatjara also contains no provisions for such delivery.³⁹⁰

A number of submissions and witnesses called for the Act to be amended so that it covers the provision of human and essential services on the AP Lands. This evidence sometimes advocated investing Anangu Pitjantjatjara with the responsibility to coordinate such provision, though other witnesses opposed this.³⁹¹ Some evidence advocated leaving Anangu Pitjantjatjara with the task of overseeing the management, use and control of the lands, while establishing a separate entity to coordinate the provisioning of services.³⁹²

³⁸³ Submission 40: ATSIC, page 8.

³⁸⁴ Evidence B Davis, 17 September 2002, Q310; E McNamara, 29 October 2002, Q883; K Davey, 29 October 2002, Q907.

³⁸⁵ Evidence B Davis, 17 September 2002, Q329.

³⁸⁶ Submission 40: ATSIC, page 8.

³⁸⁷ More specifically, Ngaanyatjarra people who are Traditional Owners of all or part of the AP Lands (*see* Section 4 of the Act).

³⁸⁸ *See*: www.tjulyuru.com/ngcouncil.asp

³⁸⁹ Evidence M Johns, 5 September 2002, Q31-32, Q55-56; C Marshall, 18 September 2002, Q379; *see also* Submission 40: ATSIC, page 7.

³⁹⁰ Evidence M Johns, 5 September 2002, Q42.

³⁹¹ *See* Evidence M Kavanagh, 17 September 2002, Q191; C Marshall, 18 September 2002, Q444; O Burton, 25 September 2002, Q672.

³⁹² *See, for example*, Submission 24: G Lewis.

One witness argued that service provision was inseparable from the current requirement of Anangu Pitjantjatjara to oversee the management, use and control of the AP Lands as covered by (Section 6.(1) (a)).³⁹³ In support of this position, he argued that in the 1980s some responsibilities – specifically with respect to the maintenance of roads and the need to provide appropriate training to members of the AP Executive – had evolved in direct consequence of the organisation’s efforts to fulfil its designated functions.³⁹⁴

In terms of legislating for the provision of services on the AP Lands, a representative from the Crown Solicitor’s Office advised the Select Committee that it could either recommend incorporating such requirements into the existing Act or advocate the establishment of separate legislation.³⁹⁵

The Committee is convinced of the need for the Government to commence a process of consultation with Pitjantjatjara and Yankunytjatjara people residing on the AP Lands to determine how the Act should be amended so that Pitjantjatjara and Yankunytjatjara people are better able to use, control and manage the use of the AP Lands. This process should also determine whether and how the Act should be amended to ensure the efficient and effective delivery of human services and infrastructure to all persons residing on the AP Lands, and/or whether additional legislation should be drafted. (Recommendation 1)

12.4 Representation on the Executive Board

According to Section 9 (2) of the Act, the Executive Board of Anangu Pitjantjatjara shall consist of a “chairman” and ten other members elected at an annual general meeting.

The Select Committee heard that for a number of years subsequent to the passing of the Act each of the major communities and outlying homelands elected one representative to the Executive Board:

The system we had working there was such that, for each of the major community centres, of which there were only five at the time, there was an executive representative, and for each of the outlying homelands areas there was an executive. Thus Pipalyatjara had an executive person and the homelands area around there had an executive. It was the same for Amata and the homelands around there. It was also the same for Ernabella, Fregon, Kenmore Park, Mimili and Indulkana which had just one executive each. In total it came to 11.... The system then was that the Executive [Board of Anangu Pitjantjatjara] chose their chairperson, and that was a highly workable system. Sometimes the chairman was rotated as well; it was a very flexible thing, depending on whose country it was in ... and depending on the availability of people.³⁹⁶

Over the next 20 years, more homelands were established. In time, some of these became substantial communities in their own right. Consequently, with more than 11

³⁹³ Evidence B Davis, 17 September 2002, Q296.

³⁹⁴ Evidence B Davis, 17 September 2002, Q297.

³⁹⁵ Evidence M Johns, 5 September 2002, Q60.

³⁹⁶ Evidence B Davis, 17 September 2002, Q209.

communities in existence, it was no longer possible for each of them to elect a representative to the Executive Board.

In evidence received in September 2002, the Committee heard that “over the last six or seven years,” in an effort to ensure that all communities were represented on the Executive Board, an additional eight members had been co-opted to it subsequent to the annual election. Although under the Constitution of Anangu Pitjantjatjara co-opted members on the Executive Board do not have voting rights, the Select Committee was told that the vast majority of decisions on the AP Lands are determined by consensus. Thus, all 19 representatives on the Executive Board – elected and co-opted – were able to participate in most decision-making processes.³⁹⁷

Despite this arrangement, many witnesses and submissions to the Select Committee indicated existing problems concerning the degree to which the Executive Board was functional and/or truly representative.³⁹⁸ In evidence presented in September 2002, the Select Committee was told that discontented members of the Board were not attending meetings and that, as a consequence, there was a heavy reliance on proxies.³⁹⁹ It also heard that Yankunytjatjara communities on the eastern side of the AP Lands believed that they had been marginalised from decision-making processes and that representatives drawn from the communities closest to Umuwa were then dominating the Executive Board.⁴⁰⁰ One witness suggested this imbalance could be overcome by mandating that the membership of Anangu Pitjantjatjara’s Executive Board should always include a representative of the elected Yankunytjatjara Council.⁴⁰¹

The Select Committee was presented with a number of models designed to guarantee the election of a more representative Executive Board.

Some witnesses and submissions advocated increasing the size of the Board to allow each “full-sized” community one representative.⁴⁰² The Committee received varying estimates as to what the total number of Board members would be if such a practice was introduced.⁴⁰³ In its submission, ATSIC advocated stipulating within the Act the type of representative structure required but not enshrining a fixed number of positions, which it felt could better be identified in the Constitution of Anangu Pitjantjatjara. Such an arrangement would allow the number of Board members to be modified more easily as a consequence of the development or decline of specific communities.⁴⁰⁴

³⁹⁷ Evidence R Burdon, 25 September 2002, Q720-723.

³⁹⁸ Evidence B Davis, 17 September 2002, Q278-279.

³⁹⁹ Evidence B Davis, 17 September 2002, Q281.

⁴⁰⁰ Evidence Y Lester, 18 September 2002, Q635; R Connelly, 27 September 2002, Q829.

⁴⁰¹ Evidence R Connelly, 27 September 2002, Q828.

⁴⁰² Evidence B Davis, 17 September 2002, Q310.

⁴⁰³ For example: Evidence B Davis, 17 September 2002, Q250 (16 or 17 members); D Fraser, 26 September 2002, Q769 (18 members).

⁴⁰⁴ Submission 40: ATSIC, page 9.

Some witnesses argued that the Board was already large enough and advocated changing the Constitution so that five members were drawn from communities on the western half of the AP Lands, and the other five from the east.⁴⁰⁵

Still others suggested that the Executive Board should be comprised of the local community chairpersons.⁴⁰⁶ The Select Committee learnt that this model is operative within some Western Australian land councils.

The Select Committee believes that issues of representation on the Executive of the body corporate must be considered within the proposed process of consultation between the Government and Pitjantjatjara and Yankunytjatjara people. (Recommendation 2(c))

The role of Anangu women as drivers of change has become more prominent since Anangu Pitjantjatjara was established, particularly through the work of the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC). Although the Act does not designate that any of the seats on the Executive Board must be occupied by women, for many years two women nominated by the NPYWC have sat on the Board as coopted members. Although, in August 2002, an Executive Meeting of the NPYWC resolved to ask Anangu Pitjantjatjara to increase the number of these positions to four, additional women were not coopted to the Executive Board in 2003.⁴⁰⁷ Submissions and evidence presented to the Select Committee frequently advocated strengthening the role of women in the governance of the AP Lands with some suggesting a specific number of seats on the Board be designated for women.⁴⁰⁸ (Recommendation 2(d))

The Committee heard that occasionally in the past some individuals with little understanding of the Act had stood for a position on the Executive Board in the hope of accessing sitting fees or other benefits. Witnesses stressed the importance of finding ways to ensure that standing for an elected position indicated a willingness to make a contribution towards good governance and to take on public responsibilities.⁴⁰⁹ (Recommendations 2j & 11)

12.5 Election of the Board and the Chair

Section 9 (2) of the Act requires that the Board of Anangu Pitjantjatjara be elected at the organisation's annual general meeting. Since the establishment of the administration centre in 1991, these have been held at or near Umuwa.⁴¹⁰ In some years these have not been well attended. At the AGM in 2001, the 87 persons in attendance elected a Board to

⁴⁰⁵ Evidence B Davis, 17 September 2002, Q257; G Lewis, 18 September 2002, Q609.

⁴⁰⁶ Evidence G Borchers, 18 September 2002, Q543; M Dodson, 28 January 2003, Q1081.

⁴⁰⁷ Evidence M Kavanagh, 17 September 2002, Q88. Additional information provided by M Kavanagh, 3 December 2003. Two of the 10 Executive Board members elected on 7 November 2002 were women.

⁴⁰⁸ Evidence G Lewis, 18 September 2002, Q610; K Davey, 29 October 2002, Q907; M Dodson, 28 January 2003, Q1080.

⁴⁰⁹ Evidence G Borchers, 18 September 2002, Q543; M Dodson, 28 January 2003, Q1075.

⁴¹⁰ Evidence B Davis, 17 September 2002, Q250.

represent some 2700 people.⁴¹¹ Reasons given for the poor attendance included people being “meetinged out” and the considerable distance between Umuwa and some of the communities.⁴¹²

The Select Committee received evidence advocating that instead of electing the Board at an AGM, “bush polling” should be conducted in each local community.⁴¹³ The Committee believes that local community-based elections, supervised by an independent party, would encourage and enable more Anangu to participate in the process of electing representatives to the Executive Board. (Recommendation 2b)

Although one submission noted the absence of any provisions for postal voting, the Select Committee does not believe that such provisions are appropriate on the AP Lands.⁴¹⁴

Section 9 (2) of the Act also requires that the Chairperson of the Executive Board of Anangu Pitjantjatjara be elected at the annual general meeting. Evidence and submissions to the Select Committee generally recommended changing the Act so that the Chairperson is appointed by the Executive Board.⁴¹⁵

The Select Committee believes that the processes by which the Chair and the Executive of the body corporate are elected must be reviewed during the proposed consultations between the Government and Pitjantjatjara and Yankunytjatjara people. (Recommendation 2b)

12.6 Term of Office for the Executive Board

At present, membership of the Executive Board of Anangu Pitjantjatjara lasts for one year. The Select Committee received evidence in support of this term of office being extended. Such an extension was advocated in order to allow Board members to “get their head around the job.”⁴¹⁶

Most evidence received in support of extending the term of office advocated that Executive Board members should be elected for a three-year term.⁴¹⁷ (Recommendation 2e)

⁴¹¹ Evidence B Davis, 17 September 2002, Q250. The Nganampa Health Council estimates the current Anangu population of the AP Lands to be 2700 (information provided by C Master, November 2003).

⁴¹² Evidence B Davis, 17 September 2002, Q239-240. For example, a number of Anangu communities near the Western Australian border are more than 300 kilometres from Umuwa.

⁴¹³ Evidence B Davis, 17 September 2002, Q310; Submission 18: B Davis.

⁴¹⁴ Submission 55: “Discussion Document” by Roger Chennells, June 2002, page 4 (tabled by M Dodson).

⁴¹⁵ Evidence B Davis, 17 September 2002, Q310; G Borchers, 18 September 2002, Q543; E McNamara, 29 October 2002, Q883.

⁴¹⁶ Evidence U Scales, 17 September 2002, Q357.

⁴¹⁷ Evidence B Davis, 17 September 2002, Q310; C Marshall, 18 September 2002, Q502; G Borchers, 18 September 2002, Q543; Y Lester, 18 September 2002, Q626.

A number of witnesses, however, spoke of an unwillingness to extend the term of the Board without first establishing mechanisms whereby individual members can be removed from office if they act inappropriately or fail to fulfil their duties.⁴¹⁸ (Recommendation 2j)

In addition, many witnesses commented on the need to increase the skills and capacity of all office holders through the provision of appropriate training programs. These should endeavour to ensure every Board member is fully informed as to their role, duties and general responsibilities and of the requirement to acknowledge and avoid potential conflicts of interest. (Recommendation 11)

12.7 Consulting with Traditional Owners

Section 7 of the Act states:

Anangu Pitjantjatjara shall, before carrying out or authorizing or permitting the carrying out of any proposal relating to the administration, development or use of any portion of the lands, have regard to the interests of, and consult with, traditional owners having a particular interest in that portion of the lands, or otherwise affected by the proposal, and shall not carry out the proposal, or authorize or permit it to be carried out, unless satisfied that those traditional owners—

- (a) understand the nature and purpose of the proposal
- (b) have had the opportunity to express their views to Anangu Pitjantjatjara;
- and
- (c) consent to the proposal.

The Select Committee was told that this provision significantly limits the manner in which the Executive Board of Anangu Pitjantjatjara may carry out its functions.⁴¹⁹

Opinion was divided as to whether or not this section of the Act needed to be changed. For example, Mr Chris Marshall, then General Manager, Anangu Pitjantjatjara, told the Select Committee:

that is one of the things that need to be clarified in the Act. What is the authority of the Executive of AP vis-à-vis the Traditional Owners? What matters can be determined by the executive of AP and what matters need to be referred to a General Meeting?⁴²⁰

⁴¹⁸ Evidence B Davis, 17 September 2002, Q310 & Q315; Y Lester, 18 September 2002, Q626. *See also:* Evidence M Dodson, 28 January 2003, Q1082 & 1083.

⁴¹⁹ Evidence M Johns, 5 September 2002, Q18.

⁴²⁰ Evidence C Marshall, 18 September 2002, Q378.

In contrast, Mr Rob Burdon argued that this provision “must never be changed” even though as a consequence applications and requests take longer to process.⁴²¹ A similar view was expressed by Mr Ivan Baker, a Traditional Owner from Pipalyatjara. He argued that the Act should be strengthened so that:

the rights of Traditional Owners are protected and ... their right to direct the Executive [is] maintained. Any power which the AP Executive exercises must be in accordance with the wishes of the Traditional Owners expressed at General Meetings.⁴²²

Other witnesses alleged that persons and organisations advocating changes to this section of the Act were ultimately seeking to diminish the power and influence of Traditional Owners and that their actions had caused “incredible distress and concern.”⁴²³

Determining which Traditional Owners have, as the Act states, “a particular interest in ... [a] portion of the lands” can be a controversial process. For example, in September 2002, Mr Gary Lewis, then Chairman of the Pitjantjatjara Council alleged that the lawyers and anthropologists employed by Anangu Pitjantjatjara were:

not really talking to the right people with a connection with that country. They talked to anybody. They talked to the community. The anthropologists and legal people were telling the community that they were the traditional owners. They were not the traditional owners. The traditional owners could be living in Coober Pedy, Port Augusta, Oodnadatta or anywhere. We have had problems with the legal people and anthropologists for six months. They were not really talking to the right people.⁴²⁴

A similar complaint was received from Mr Murray George, a traditional owner in the Fregon area.⁴²⁵ Mr George also criticised the Executive of Anangu Pitjantjatjara and Primary Industry and Resources, South Australia (PIRSA) for failing to keep Traditional Owners properly informed as to developments with respect to exploration conducted near Kanypi in 2002.⁴²⁶

More generally, the Committee also received calls for the rights of the Traditional Owners to be adequately protected. As Mr Donald Fraser, a Traditional Owner for the Kalka/Pipalyatjara area advised the Committee in September 2002:

It is quite clear that the Land Rights Act and the AP Constitution need to be amended so that these problems cannot occur in the future. To all Traditional

⁴²¹ Evidence R Burdon, 25 September 2002, Q736.

⁴²² Submission 14: I Baker, September 2002.

⁴²³ Evidence G Lewis, 18 September 2002, Q572; Submission 13: Ascione, Hope & Associates. Submission on behalf of the Pitjantjatjara Council and Yankunytjatjara Council, 12 September 2002, “Legislative Council Select Committee,” pages 3-4,

⁴²⁴ Evidence G Lewis, 18 September 2002, Q572.

⁴²⁵ Submission 15: M George, 19 September 2002, page 2.

⁴²⁶ Submission 15: M George, 19 September 2002, page 2.

Owners the most important issue is that they are properly advised about issues, that they have the opportunity to discuss and voice their concerns about these issues, and that they consent to any changes which may be required in dealing with these issues. This is only what they are entitled to under the Land Rights Act.⁴²⁷

12.8 Evidentiary Provision

The Crown Solicitor's Office advised the Committee that Section 12 of the Act, an evidentiary provision, effectively provides a loophole for the Executive Board of Anangu Pitjantjatjara to circumvent the requirement to consult with Traditional Owners and, more broadly, the members of Anangu Pitjantjatjara. The provision allows any five members of the 11-member Executive Board to assert that a "specified act of the Executive Board has been done in conformity with a resolution of Anangu Pitjantjatjara and the provisions of this Act" and to provide legal and binding proof of this by writing, sealing and signing a document to that effect. Commenting on the evidentiary provision, a representative from the Crown Solicitor's Office observed: "Obviously the Parliament is not encouraging people to act fraudulently and make up false certificates, but it certainly gave every opportunity for that course."⁴²⁸

The Committee notes that a similar provision appears in Section 10 of the *Maralinga Tjarutja Act 1984*.

12.9 Royalties & Compensation

Section 22 of the Act details how the royalties from any mining operations on the AP Lands shall be distributed, with one third – up to a "prescribed limit" – being paid to Anangu Pitjantjatjara. The Select Committee heard evidence arguing that this provision should be amended to ensure royalties are used to support affected communities and not distributed as individual or private payments.⁴²⁹ (Recommendation 2i)

Section 24 of the Act determines conditions under which payments, excluding royalties, shall be made to Anangu Pitjantjatjara as fair compensation for "the carrying out or proposed carrying out of mining operations on the lands." Although, in the past, compensation for mining exploration activities had been distributed to the Traditional Owners of the land on which the activity had occurred or was scheduled to occur (*see* Section 11.1 of this report),⁴³⁰ these distribution processes are not spelt out in the Act. In September 2002, Mike Williams a Traditional Owner for the Tankanu area close to

⁴²⁷ Submission 16: D Fraser, 16 September 2002, pages 4-5.

⁴²⁸ Evidence M Johns, 5 September 2002, Q25. Hansard from 1980, however, suggests Parliament was aware of this potential loophole and attempted to close it at the time the Act was passed (*see* Hon P Duncan, House of Assembly, 25 November 1980, pages 2193-2194; Hon D O Tonkin & Mr Abbott, House of Assembly, 3 March 1981, page 3380).

⁴²⁹ Evidence G Borchers, 18 September 2002, Q523 & 526. The payment and distribution of royalties to communities is an established practice in some situations in the Northern Territory.

⁴³⁰ Submission 5: Stotz, G. 2002, "Protection of Traditional Owners' Rights on Anangu Pitjantjatjara Lands: Anthropological Perspective," page 6.

Murputja, alleged that Anangu Pitjantjatjara had begun to distribute payments to the wrong persons and that consequently, an assault and property damage had occurred.⁴³¹ Clarifying how payments for mining exploration should be distributed may help prevent future conflict. (Recommendation 2h)

12.10 Tribal Assessor

Sections 35 to 37 of the Act provide the opportunity for the Minister of Aboriginal Affairs to appoint, with the approval of Anangu Pitjantjatjara, a “tribal assessor” whose role it would be to consider an appeal lodged by an Anangu person “aggrieved by a decision or action of Anangu Pitjantjatjara, or any of its members.” While a representative from the Crown Solicitor’s Office informed the Select Committee, that the mechanism had never been used, one submission suggested it was nearly activated in 2002, prior to the appointment of Professor Mick Dodson as mediator.⁴³² In his evidence to the Committee, Professor Dodson described the provision to appoint a tribal assessor as “cumbersome and expensive” and not always an appropriate course of action to take.⁴³³ Another witness, whilst not advocating the removal of these sections, described them as “a bit loose” and in need of reassessment.⁴³⁴ In its submission, ATSIC noted that the term “tribal assessor” was outdated and suggested using “mediator” instead.⁴³⁵ (Recommendation 2f)

Evidence presented by the Office of Minerals & Energy Resources indicated that if and when any mining operation commences on the AP Lands, it will be a substantial, long-term venture.⁴³⁶ The requirement to distribute royalties from such a large venture adds weight to calls for adequate and appropriate dispute resolution mechanisms to be incorporated into the Act.

12.11 120-day Clause

Section 20 (8) (b) of the Act provides a mechanism whereby an applicant who has applied to carry out a mining operation on the AP Lands and who has not received notice of a decision by Anangu Pitjantjatjara upon the application within 120 days, may request the Minister of Mines and Energy to refer the application to an arbitrator. While the Select Committee did not receive any evidence requesting that this provision be changed, representatives from the Office of Minerals and Energy Resources noted that the 120-day provision is “largely irrelevant” as “the process is very long and complex” and cannot be resolved within that timeframe.⁴³⁷

⁴³¹ Submission 25: Mike Williams, 18 September 2002.

⁴³² Submission 40: ATSIC, page 11.

⁴³³ Evidence M Dodson, 28 January 2003, Q1072.

⁴³⁴ Evidence G Borchers, 18 September 2002, Q528.

⁴³⁵ Submission 40: ATSIC, page 11.

⁴³⁶ Evidence D Blight, 30 October 2002, Q980.

⁴³⁷ Evidence P Heithersay, 30 October 2002, Q1002; D Blight, 30 October 2002, Q968.

12.12 The Mintabie Lease

Division IV of the Act (sections 25 – 29) contains provision for the operations of a 21-year lease to the Crown of the Mintabie Precious Stones Field. The original lease expired on 2 October 2002, though interim arrangements have been put in place. Most evidence received by the Select Committee advocated renewing the mining lease but withdrawing provisions – Section 24 (2) (b) – whereby persons are allowed to carry “on lawful business at an established place of business upon the field.” Witnesses also called for the strengthening of the provisions contained in Section 27 of the Act, whereby persons may be excluded from the field.⁴³⁸ (Recommendation 14h)

12.13 Additional By-laws

Section 43 of the Act provides Anangu Pitjantjatjara with a mechanism to create by-laws that can be applied and enforced on the AP Lands. A number of such by-laws were incorporated into Section 42 of the Act when it was amended in 1987.

Evidence presented to the Select Committee indicated a widespread desire on the part of Anangu for the creation of a by-law regulating the sale of food and other essential items through stores and other food outlets.⁴³⁹ If the Parliament resolves to amend the Act, an appropriate by-law could be incorporated into the Act at that time. (Recommendation 13)

Operation Pitulu Wantima (Petrol – Leave It Alone), a report detailing a South Australia Police Operation conducted on the AP Lands in January and February 2002, includes recommendations that:

Amendments to the Anangu Pitjantjatjara Land Rights Act 1981 and associated By-laws be drafted to enhance police powers which allow for the search and confiscation of petrol and facilitate diversion to health intervention as appropriate for petrol inhalation.

Anangu Pitjantjatjara develop and implement a by-law which will provide greater control over whether a community may sell unleaded petrol, the amount of fuel stored in any community, its manner of storage and disbursement.⁴⁴⁰

Under the terms of the Act, such by-laws could only be incorporated into the Act at the recommendation of Anangu Pitjantjatjara. (Recommendations 6a & 6b)

Hon Terry Roberts, MLC
Chairperson
1 June 2004

⁴³⁸ Evidence, W Tjukangku, 27 September 2002, Q804.

⁴³⁹ Submission 22: Regional Stores Policy for the AP Lands, page 30 (tabled by NPY Women’s Council).

⁴⁴⁰ Submission 58: SAPOL report on Operation Pitulu Wantima, Recommendations - 1.

APPENDIX A: SCHEDULE OF WITNESSES

Mr Mark Johns, Advising Section, Crown Solicitor's Office	1-16
Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council – Margaret Kavanagh, Coordinator Jane Lloyd, Coordinator, Domestic Violence Services Yanyi Baker, Vice Chairperson Robyn Lindsell, Coordinator, Cross Border Carer Respite Centre John Harvey, Coordinator, Young People's Program	17-52
Consultation Team for Changes to the Constitution of the AP Lands – Bill Davis, Coordinator Peter Nyanninge, Member	53-85
Mr Ushma Scales	86-95
Anangu Pitjantjatjara – Chris Marshall, General Manager Rex Tjami, Director Owen Burton, Chairman, AP Executive.....	96-130
Mr Greg Borchers, Lawyer, Central Land Council	131-146
Mr Garry Lewis, Pukatja Community	150-171
Mr Yami Lester, Chairman Yankunytjatjara Council.....	163-171
Mr Donald Ferguson, Chairman, Wingelinna Community	174-176
Open Forum at Women's Council Meeting near Ernabella.....	181-191
Open Forum at Ernabella Community	192-201
Mr Rob Burdon, Burdon Torzillo Pty Ltd	202-219
Messrs T Adamson, I & T Baker, B Nelson, L Paddy, S & F Young and Ms K Mervyn	220-227
Messrs N Bell, L Burton, O Burton, D Fraser, J Kite, S Lyons, K McKenzie, C Marshall R Tjami, J Tregenza.....	228-255

Messrs L Brady, G Burton, H Burton, L Burton, O Kunyima, J Lyons, W Tunkin, M Wikiliri; Ms M Heffernan and Ms Y Young.....	256-262
Messrs A Baker, H Cullinan, E Ducasse, A Henry, S Kantji, L Mingkili, B Singer, H Tjami, Witjiki Tjukangku, Whiskey Tjukangku and Ms V. Cullinan	263-269
Messrs B Singer, R Connelly, B Edwards, J Hawkins-Clarke	270-281
Superintendent Peter Mildren, Northern Operations Coordinator, SAPOL	282-291
ATSIC -	
Mr Elliott McNamara, Chairperson, Nulla Wimila Kutju Regional Council Mr Brian Butler, Commissioner Mr John Patterson, South Australian State Manager Mr Kym Davey, Senior Policy Adviser, State Policy Section Ms Tanya Hosch, Executive Policy Adviser Mr Eric Roberts, Public Affairs Officer Mr Raj Pratap, Manager, Programs, Adelaide Network Regional Officer	292-305
Mr Chris Larkin, General Manager, Aboriginal Housing Authority	306-315
Anangu Education –	
Ms Katrina Tjitayi, Director, Pitjantjatjara Yankunytjatjara Education Committee Mr Russ Jackson, Superintendent	316-326
PIRSA -	
Mr David Blight, Executive Director, Office of Minerals and Energy Resources Mr Paul Heithersay, Manager, Geological Survey, Office of Minerals and Energy Resources	327-339
Mr Bruce Underwood, Adelaide Coordinator, Anangu Tertiary Education Program, University of South Australia	340-357
Professor Michael Dodson, Consultant to the Minister for Aboriginal Affairs and Reconciliation	358-375

APPENDIX B: SCHEDULE OF WRITTEN SUBMISIONS

Written submissions were received from the following persons and organisations:

Aboriginal Housing Authority – Mr Chris Larkin, General Manager
Aboriginal and Torres Strait Islander Commission (ATSIC)
Anangu Education Office
Anangu Pitjantjatjara (Pitjantjatjara Yankunytjatjara Land Council)
Anangu Tertiary Education Program, University of South Australia –
 Mr Bruce Underwood
Anilalya Council Aboriginal Corporation
Ascione, Hope and Associates
Baker, Mr Ivan
Burdon, Mr Rob
Centre Consultants – Mr Ushma Scales, Consultant Anthropologist
Davis, Mr Bill
Dodson, Professor Mick
Edwards, Rev. William
Ferguson, Mr Donald
Fraser, Mr Donald
George, Mr Murray
Iwantja Community Inc - Mr Bernard Singer, Chairman
Last, Mr M W
Lawler, Mr John
Lester, Mr Yami
Lewis, Mr Gary
Lewis, Ms Sandra
Marshall, Mr Chris
Ngaanyatjarra Pitjantjatjara (NPY) Women’s Council Aboriginal Corporation
Nganampa Health Council -
 Mr Chris Masters, Health Services Manager
 Mr John Singer, Director
Pipalyatjara Community Inc
Pitjantjatjara Council Inc
Primary Industries and Resources SA -
 Dr David Blight, Executive Director, Office of Minerals &
 Energy Resources
South Australia Police - Chief Superintendent Peter Mildren
Stotz, Dr Gertrude
Wallace, Mr John
Williams, Mr Mike

**APPENDIX C: FEDERAL AND STATE GOVERNMENT DEPARTMENTS
FUNDING SERVICES ON THE APY LANDS (2003/2004)**

Federal:

Aboriginal and Torres Strait Islander Services
Centrelink
Department of Education, Science and Training
Department of Employment and Workplace Relations
Department of Family and Community Services
Department of Health and Ageing

(Source: "A summary of Commonwealth Agency Activity in the Anangu Pitjantjatjara Lands of South Australia" April 2004, COAG team, Adelaide)

State:

Department for Aboriginal Affairs and Reconciliation
Department for Administrative and Information Services
Department for Business Manufacturing and Trade
Department for Environment and Heritage
Department for Further Education, Employment, Science and Technology
Department for Human Services
Department for Transport and Urban Planning
Department of Education and Children's Services
Department of the Premier and Cabinet
Department of Water, Land and Biodiversity Conservation
Primary Industry and Resources South Australia
The Justice Portfolio

(Information provided by Department of Aboriginal Affairs & Reconciliation, Adelaide, May 2004)

DISSENTING STATEMENT OF HONS CAROLINE SCHAEFER AND ROBERT LAWSON

We support the recommendations of this Report. However, recent developments on the Anangu Pitjantjatjara lands and elsewhere have meant that many of the threads and themes which underlie the recommendations are not presented in their current context.

These developments are not adequately addressed in this Report and to that extent its currency and relevance is seriously undermined.

The particular issues and events which have intervened are summarised in the following paragraphs.

On 15 March 2004, the State government, through the Deputy Premier Hon Kevin Foley, issued a media statement, the flavour of which appears from the following extracts.

“A high level task force headed by former SA Assistant Police Commissioner Jim Litster will be sent into the Anangu Pitjantjatjara Yunkunytjatjara (APY) community in South Australia’s north to sort out an escalating crisis that has resulted in tragedy and death.

“Deputy Premier...Kevin Foley says he is deeply concerned about developments on the APY Lands in the past fortnight, the vast majority of which appears to be related to petrol sniffing.

“...Since March 2, there have been four deaths among young people and another eight have committed suicide.

“...It is the opinion of Cabinet that this crisis has simply gone beyond the capacity and control of the APY Council.

“Crown law has advised us that the APY Council may not be valid since last December and that it now has questionable authority to spend State Government money on services and in areas where it is clearly needed.”

The following day, the headline on page 1 of *The Advertiser* was: SELF RULE IS FINISHED. In the extensive coverage which followed, the Deputy Premier was quoted as saying:

“This government has lost confidence in the ability of the executive of the AP Lands to appropriately govern their lands...”

“Self governance...has failed.

“This government...will not tolerate an executive that cannot deliver civil order, community services, social justice and quality of life in their community.”

While the situation on the AP lands was (and remains) very serious in terms of health outcomes, substance abuse, delivery of services and law and order, the grandstanding actions of the State government in seeking to lay the sole blame on the Executive and others working in the lands was deplorable. In our view, the government’s announcements were a shameful device to deflect blame for its failure to implement recommendations of the Coroner’s inquest into petrol sniffing and other matters.

The haste with which the government cobbled together a response to the situation on the lands was reflected in the fact that Mr Litster (whom the Deputy Premier described as an “administrator” of the lands) resigned shortly after his appointment – see Ministerial Statement, 22 March 2004.

On 24 March, the Legislative Council passed a motion of censure against the Government for:

- 1. Their failure to provide a timely and adequate response to the recommendations made in September 2002 by the Stater Coroner in relation to petrol sniffing on the Anangu Pitjantjatjara (AP) Lands,*
- 2. Their failure to insist that the AP Executive Board face election at the last annual general meeting of the Anangu Pitjantjatjara,*
- 3. Their refusal to accept responsibility for the delays in providing effective health, welfare, police and other services for the people on the lands, and*
- 4. Attempts by the Rann government to transfer blame to the Executive Board of AP for the failures of the government to address issues on the AP Lands.*

On 26 March, the Nganampa Health Council issued a statement expressing concern about the “continued misreporting” regarding the cause of recent deaths on the lands. The statement made it clear that attributing the deaths to chronic petrol sniffing was incorrect.

On 7 April, the government appointed the former Federal Minister, Hon Bob Collins to “coordinate the provision of State government services” to the lands.

By letter dated 23 April, Mr Collins provided the government with an initial report. Mr Collins stated:

"I am dismayed at what appears to be a profoundly dysfunctional situation [in the Executive Board of AP]."

Mr Collins recommended that an election for the AP Executive Board be held no later than July 2004 followed by a review of the *Pitjantjatjara Lands Rights Act*. Despite the fierce opposition to these recommendations from some quarters, we urge the government to implement them.

This "Dissenting Statement" is the only means by which Standing Orders allow minority views to be recorded in the report of a Select Committee. By this statement we seek to ensure that readers are provided with information which will enable them to consider the recommendations in their proper, current, context. Implementation of the recommendations will only go some small way towards ameliorating some of the issues on the lands.

Dated 1 June 2004

Hon Caroline Schaefer MLC

Hon Robert Lawson MLC