



**Ngaanyatjarra Pitjantjatjara Yankunytjatjara
Women's Council (Aboriginal Corporation)**

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**Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie)
Amendment Bill 2009**

Please find following NPY Women's Council response to the *Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Bill 2009*. Please do not hesitate to contact me if you require further information.

Yours faithfully,

Andrea Mason
**Acting Co-ordinator,
on behalf of
NPY Women's Council**

1. Introduction

The Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPYWC/ NPY Women's Council) represents women in the remote tri-State area of Western Australia, South Australia and the Northern Territory. The region covers 350,000 square kilometres. There is an overall population of around 6,000. Anangu and Yarnangu (Aboriginal people) living on the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara lands (Western Desert language region) who share strong cultural and family affiliations.

NPYWC was formed in 1980. The push for a separate women's forum emerged through the South Australian Pitjantjatjara Land Rights struggle of the late 1970s. Many women felt that their views were ignored during consultations over land rights, so they established their own organisation. Advocacy and information dissemination were the main foci for NPYWC during the 1980s and early 1990s. NPYWC is now a major provider of human services, working to address the identified unmet needs of Anangu and Yarnangu women and their families.

The organisation's position remains that there should be no further lease granted over the Mintabie opal mining area, in keeping with the expressed preference of Anangu when the original lease was granted, and in view of the well-documented

social, health and financial damage caused over the years to Anangu through the reprehensible activities of legal and illegal traders who reside in this ‘shanty town’ on Aboriginal land.

As the Minister noted in his Second Reading speech on 23rd September, the opal mining has declined, the population is just 100 to 150, and the commercial activities of the *four* shops and the secondhand motor dealer are mainly with Anangu, and have been less than satisfactory. This is all in addition to poor or non-existent environmental and building regulation, and no police presence. Further, for reasons unknown to NPYWC but which appear to have no basis in logic, the Marla school was relocated to Mintabie in the late 1990s, and children residing at Marla must travel nearly forty kilometres each way to and from school, mostly on a rough road. Given the then Coroner’s comments in two petrol sniffing inquests in 2002 and 2004, on the need to place senior public servants on or near the Lands, NPYWC believes the current location of the school is unlikely to assist in the recruitment of suitable government officers, police, or other local staff, and should be reversed as soon as possible.

Despite a paucity of reasons for the continued existence of what NPYWC members see as a blight and a disgrace, a new lease is to be granted, albeit with, finally, some regulation through the *Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Bill 2009*.

2. Issues of concern in relation to Mintabie

NPYWC has raised the issue of the supply of illicit and or intoxicating substances from the Mintabie Opal Field area on many occasions and in a number of forums, including to the land-holding body, the APY Land Council. In June 2007 NPYWC provided comments to APY on a draft lease. In August 2008 in a written submission and in October 2008 in oral submissions, NPY Women’s Council raised concern about the township of Mintabie with the **Senate Inquiry into Petrol Sniffing and Substance Abuse in Central Australia**:

The township of Mintabie is frequently and adamantly cited by NPYWC members as a source of cannabis, premium fuel and alcohol to the NPY region, including but not only to the APY Lands. There are ongoing issues with the retention of key cards and often excessive and questionable (in terms of authorisation) deductions from accounts held by Anangu. NPYWC’s preference is for no new lease to be issued; alternatively, strict conditions must be imposed on the right to residence and retail activities.

These concerns have not abated and with reference to one substance, cannabis, the supply into the APY Lands appears to have increased significantly in recent years, to the point that members report to NPYWC that cannabis is available, for Anangu, from Mintabie ‘twenty-four hours a day, seven days a week’.

a) Supply of cannabis

NPYWC members continue to raise concerns about Mintabie as a major source of cannabis into the APY Lands and the Ngaanyatjarra Lands in Western Australia.

The flood of cannabis on to the Lands contributes to domestic and family violence and to poverty across communities. Anangu who are addicted to, or who are frequent users of cannabis, fight with family members and put other family members' well-being at risk. Users are also over-eating and consuming food that would normally be available to other family members. This known side-effect is putting other family members' health at risk, including the aged and young children, because they are being forced to skip meals.

Members also frequently report that violence often occurs when the supply runs out.

In September and October, two former NPYWC Co-ordinators and others, conducted in APY communities, individual attitudinal surveys compiled by NPYWC. This was done as part of the Langford Consulting contract for the compilation of Baseline Community Data for the Australian Government's Closing the Gap exercise. Several respondents stated that male users commonly threaten or assault their wives in order to get money for cannabis, and one respondent at least stated that some women 'sell themselves' (under pressure) for money for this purpose. Mintabie was repeatedly nominated as the main source of cannabis during these interviews.

NPY Women's Council notes the new licence provisions proposed in section 29D. This procedure for revocation of a licence by the Minister on his or her own motion is welcomed by NPY Women's Council and we are interested in how this will operate. Our view is that these new procedures will only operate effectively and in a timely manner if there is an efficient process to inform the Minister or his/her delegate when a person has not complied with the requirements of their licence or been charged or convicted of a criminal offence and the Minister or his/her delegate has the ability to act promptly to revoke a licence. In the absence of a permanent police presence at Mintabie, NPY Women's Council would question how well the Minister or his/her delegate will be able to be sufficiently informed for this purpose.

NPY Women's Council also welcomes the inclusion in section 29D of the provision that the Minister may require the criminal history of the applicant and the inclusion in section 29H of offences against Part 5 of the *Controlled Substances Act 1984* such as trafficking. In terms of criminal history, NPY Women's Council would argue that a criminal history check should be a requirement for all Mintabie licence holders above the age of 18 years, as any agency staff, employee or contractor working on the APY lands requires a National Police Clearance Certificate.

(b) Concerns regarding petrol sniffing

All three fuel outlets at Mintabie have Opal low octane fuel. Premium ULP is however also sold at Mintabie. NPYWC is convinced that premium fuel from Mintabie finds its way to communities on the APY Lands, whether or not this is the intention of traders.

There is no consistency and no effective way, at present, to ensure that premium fuel is not taken into APY communities. NPY Women's Council recommended to the **Senate Inquiry into Petrol Sniffing and Substance Abuse in Central Australia**, that the sale of premium unleaded fuel needs to be subjected to a legislative regime whereby the sale or supply of petrol other than Opal fuel is unlawful within a designated area except where it (i.e. premium) is kept in a locked bowser accessible only to specific persons or their employees and it is supplied directly into the tank of a vehicle whose driver can demonstrate that their vehicle cannot operate without premium fuel.

This continues to be NPY Women's Council's recommendation for regulating the sale and supply of Premium ULP in Mintabie and NPYWC would like to see these types of requirements included as part of either the *Mintabie Township Lease Agreement* or as one of the conditions of a licence for an individual who is operating a business that sells fuel. NPYWC would argue that an even more effective option would be that, as provided by subsection 29D (6), the sale of premium unleaded fuel is determined to not be 'a business or activity that is approved in accordance with the Mintabie Township Lease Agreement.'

(c) **Key cards**

NPY Women's Council continues to receive reports from its members that improper deductions are being made from key cards retained by retailers in Mintabie. NPYWC also continues to receive requests for emergency assistance from vulnerable members on the APY Lands including the disabled, frail, aged or those with an acquired brain injury, who, due to pressure from family members, hand over their key card, and, as a direct result of purchases made at Mintabie, are left with no money to buy food.

Families SA has an anti-poverty service which assists families and individuals with financial issues; this service is delivered through its Coober Pedy office. This office is providing assistance to Anangu who have complained that funds are being deducted incorrectly from their key card.

NPY Women's Council again welcomes the new licence provisions proposed in Section 29D to address this issue of key card misuse, and as expressed above, hopes that procedures will operate in an effective and timely manner to refuse or revoke a licence.

Under section 29H a person may be excluded from Mintabie if the individual has acted in a manner prejudicial to the welfare of an

Aboriginal person. Under this provision the Magistrates Court has the power to make an exclusion order. NPY Women's Council believes that the Minister, under the power in subsection 29D(3) to revoke a licence, should also be able to act to revoke a licence where a person has acted in a manner prejudicial to the welfare of an Aboriginal person. Subsection 29D(3) does not specify the circumstances under which the Minister may revoke a licence so we understand that this may well be the intention. NPY Women's Council's view is that the provision in section 29H will only operate effectively if the Minister, Anangu Pitjantjatjara Yankunytjatjara and the Mintabie Miners Progress Association are aware of how to and have the ability to make an application to the Court for an exclusion order.

In relation to the retention of key cards and questionable (in terms of authorisation) deductions from accounts held by Anangu, a consumer who lodges a complaint with Families SA has their complaint referred to the relevant authority including the Office of Consumer and Business Affairs (OCBA) which follow up the complaint. This is a slow and difficult process for a range of reasons. Anangu are often reluctant to be interviewed for reasons including a mistaken belief that the retailer is a friend whom they do not want to upset or offend.

NPY Women's Council has no doubt that if the improper use of cards by retailers and the supply of cannabis and alcohol out of Mintabie is not stemmed, the anti-poverty team in Coober Pedy will continue to be kept very busy with urgent requests for assistance from Anangu.

(d) Liquor restrictions

New provisions provide that alcohol can only be consumed at licensed premises or at specially licensed premises. NPY Women's Council welcomes the ban on the sale of takeaway alcohol and strict requirements around alcohol being brought into Mintabie by residents. As with other regulatory provisions of this *Bill*, requirements around the consumption of alcohol will require monitoring and consequences will need to be enforced, such as revocation of a person's licence, in order for these provisions to operate effectively.

3. Mintabie Township Lease Agreement

This *Bill* provides that specifications regarding regulation of licences and management of Mintabie Township are to be included in the *Mintabie Township Lease Agreement* (the Lease Agreement). Important detail such as the grounds on which an application for a licence can be refused, the approval of a business or activity to operate in Mintabie and general management of the Mintabie Township will all be included in the Lease Agreement. We understand that this decision was made to ensure flexibility and a simpler operating structure and agree with this intent, however, we would point out that this means that the success of the *Bill* to address the problems identified by NPYWC, to a large extent hinges on the effectiveness of the terms of the Lease Agreement.

Summary

As noted, NPY Women's Council preference is for no new lease to be issued. That said, the restrictions proposed through this *Bill* are welcome as they do go some way to addressing our concerns. The implementation of these proposed regulations would have greater success if there was a permanent, sworn police presence in Mintabie to monitor compliance and report non-compliance. Without such a presence, it is unlikely that the amendments will be adequately monitored and those who breach them, charged. A level of policing that is approaching adequate is finally being achieved on the APY Lands through the efforts of the Australian and SA Governments, and after many years of lobbying, including by NPYWC. It is nothing short of disgraceful that in the meantime, the disgraceful activities at Mintabie go unchecked. Even if the amendments have some deterrent effect, NPYWC believes they are unlikely to lead to the cessation of the illegal supply of substances and the other damaging activities for which Mintabie is renowned, without a permanent police presence.

Finally NPYWC would argue that the amendments proposed in this *Bill* are significant enough to require the Minister to cause an independent review of the operations of the amendments, NPY Women's Council suggests after twelve months of operation. There already exists a precedent for such a review under the Act (refer *Pitjantjatjara Land Rights (Miscellaneous) Amendment Act 2005* section 32 Review of Act by Minister).