



CHILDREN ON THE APY LANDS COMMISSION OF INQUIRY
Part III Government

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Chapter 1 A brief history and overview

Before addressing the terms of reference of the Inquiry, it is appropriate to consider the action of State and Commonwealth Governments to the problems that have confronted Aboriginal people generally and Anangu on the Lands in particular.

Working party in SA

Following the establishment of the Human Rights and Equal Opportunity Commission National Inquiry into the separation of Aboriginal and Torres Strait Island Children from their Families in 1995, the State Government established a working party comprised of representatives from the government and community sector in a range of human service areas. Public meetings were held in Adelaide and various regional areas, including Port Augusta. The meetings involved workshops that explored the question, 'What will have to happen if child abuse is to be prevented in South Australia?'

In April 1996 the joint working party presented its report entitled *South Australian Child Abuse Prevention Strategy*. The report contained a section that dealt with special requirements or needs, including Aboriginal communities. It stated that the rate of child abuse and neglect among the Aboriginal population was significantly higher than in the non-Aboriginal population.

Another report at about this time stated that Aboriginal children are entitled to special consideration and there must be a national approach to the prevention of child abuse. Aboriginal communities advocate prevention of child abuse which is family based and community orientated and supportive. These communities must be targeted for preventive work and they must be involved.

It was reported

While significant work has begun in the healing process for Aboriginal communities, many Aboriginal people are still dealing with systemic child abuse and need support and assistance to find ways to express their pain and move on. Early intervention services must be culturally appropriate, assist families to develop support systems, develop ways to reduce stress, extend respite services and enhance communication/parenting skills.

It may be seen that the problem of child abuse, including sexual abuse, had been specifically identified in Aboriginal communities more than a decade ago.

An inter-governmental committee

Petrol sniffing by Anangu on the Lands had been a major problem for many years resulting in death and serious injury, as well as injury to others. There had been many unsuccessful attempts to address the problem. In 2001 the State Government established the Anangu Pitjantjatjara Lands Inter-Government Inter-Agency Collaboration Committee (APLIICC) to tackle broader issues on the Lands and the Petrol Sniffing Task Force (PSTF) to focus on petrol sniffing.

Coronial inquest 2002

In late May and early September 2002 the State Coroner, Mr Wayne Chivell, conducted an inquest into the deaths of three young Anangu. One died in 1999 and the others died in 2001. The Coroner found that all three died as the result of inhalation of petrol fumes. All of them took a can containing petrol to bed and continued to sniff until they died from respiratory deficiencies and with a possible additional component of asphyxia.

They were aged 27, 25 and 29 years and each had been sniffing petrol for more than 10 years having lived lives 'characterised by illness, hopelessness, violence and alienation from their families and community'. Their parents and families had done their best to stop them sniffing and endured much suffering and grief because of their inability to do so.

The Coroner made important recommendations and observations about the Lands and mention is made of some of them which are particularly relevant for the purposes of the Inquiry.

Clearly, socio-economic factors play a part in the general aetiology of petrol sniffing.

Poverty, hunger, illness, low education levels, almost total unemployment, boredom and general feelings of hopelessness form the environment in which such self-destructive behaviour takes place.

That such conditions should exist among a group of people defined by race in the 21st century in a developed nation like Australia is a disgrace and should shame us all.

He reported that petrol sniffing was endemic on the Lands and caused devastating harm to the community including 35 deaths in the previous 20 years as well as serious disability, crime, cultural breakdown and general grief and misery. The problem of petrol sniffing diminished in the 1990s. There was a reduction in effort towards tackling the problem but from at least 1998 the problem was returning. Little had been done to confine the June 1993 levels let alone to reduce the levels further.

Mention was made of the APLIICC and PSTF and according to the Coroner they had taken too long to act.

The Coroner stated 'What is missing is prompt, forthright, properly planned, properly funded

action'. He found that strategies at three different levels were required;

- primary intervention to reduce recruitment into substance abuse
- secondary interventions to achieve abstinence and rehabilitation
- tertiary intervention to provide services to the permanently disabled.

He set down a number of strategies to be implemented which had to be accompanied by strategies to address socio-economic issues such as poverty, hunger, health, education, and employment. He mentioned problems which could arise in implementation and that Anangu could not be expected to find all of the human and other resources to tackle the problems.

It is not necessary to mention all of the recommendations and strategies. It is sufficient to say that a permanent SA Police presence on the Lands was required and which had been accepted by SA Police following a review in 1998, but had not occurred. The Community Constable Scheme had to be further developed and improved. The overall effect of his recommendations was that urgent Commonwealth and State Government action, which he specified, should be undertaken to remove conditions which lead to petrol sniffing, to combat petrol sniffing and address the consequences of it.

Subsequent to the first Inquest

In May 2003 the Council of Australian Governments established the COAG Indigenous Trial on the Lands, which was a joint initiative of the State Government, the Commonwealth Government and Anangu people, communities and organisations. The trial was for managing and delivering services on 'a whole-of-government approach'. It was led by

the Commonwealth Department of Health and Ageing and agreed on the development and implementation of the two projects: Mai Wiru Regional Stores Policy and the PY Ku Network (Rural Transaction Centres) initiative.

In June 2004 COAG put in place a National Framework on Indigenous Family Violence and Child Protection and agreed to 'continue to undertake work addressing all aspects of the underlying causes of family violence and child abuse'.

The Aboriginal Lands Parliamentary Standing Committee

The *Aboriginal Lands Parliamentary Standing Committee Act 2003* came into operation on 18 September 2003. It established the Aboriginal Lands Parliamentary Standing Committee of the South Australian Parliament. It consists of seven members of the Parliament. One must be the Minister for Aboriginal Affairs and Reconciliation who is a member *ex officio*, three must be appointed by the House of Assembly, two of them on the nomination of the Minister, and the other on the nomination of the Leader of the Opposition in that House. The other members are appointed by the Legislative Council, one must be nominated by the Minister, one by the Leader of the Opposition in the Legislative Council and the other member must be neither a member of the Government nor of the Opposition and if no such member exists, the remaining member is nominated by the Leader of the Opposition in the Legislative Council.

The functions of the Committee are to review the operation of the *Aboriginal Lands Trust Act 1966*, the *Maralinga Tjarutja Land Rights Act 1984* and the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (as it was subsequently entitled), to inquire into matters affecting the interests of the

traditional owners of the Lands, which are defined as vested in the Aboriginal Lands Trust, or described in Schedule 1 of the second and third mentioned Acts and any other lands brought within these definitions by regulations.

The Committee has other functions: to inquire into matters affecting the interests of the traditional owners of the Lands and the manner in which they are being managed, used and controlled and into matters concerning the health, housing, education, economic development, employment or training of Aboriginal people or any other matters concerning the welfare of Aboriginal people.

The committee is also to consider any other matters referred to it by the Minister and to perform any other functions imposed upon the Committee under the Act or any other Act or by resolution of both Houses of Parliament.

It may be seen that the functions of the Committee are very wide and encompass nearly every aspect of the lives and wellbeing of the Aboriginal people.

Pursuant to section 25(1) of the *Aboriginal Lands Parliamentary Standing Committee Act*, the Committee is obliged to report by 31 December each year to the Parliament. It is the only Standing Committee of the Parliament with that obligation. In the 2006 Report the Minister in his statement as Presiding Member said:

The Committee is mindful of the importance of that obligation and the opportunity it provides to bring the concerns and aspirations of Aboriginal people before Parliament and the wider community.

The report sets out the extensive activities of the committee during that year. It visited three Aboriginal communities, Oak Valley, Raukkan and Gerard, and held 13 formal meetings at Parliament House at which evidence was received, and

sought information from State and Commonwealth Government agencies.

During the year under review in the report, the Committee considered the proposed review of the *Pitjantjatjara Land Rights Act 1981* and received a considerable body of evidence about proposed amendments. An important amendment was the inclusion by name of the Yankunytjatjara who, the Inquiry was informed, are the traditional owners of the eastern side of the Lands. Other proposed amendments included aspects of governance of the Lands and responsibility of the members of the elected Executive Board of the body corporate which was then known as Anangu Pitjantjatjara but became Anangu Pitjantjatjara Yankunytjatjara after that Act was amended in 2005, which are mentioned briefly later in this report.

It is significant that the Committee heard evidence from two groups of traditional owners from the Lands. The first group was comprised of 44 traditional owners including the Chairperson of the Executive Board and six of the other members of the Board and the Chairperson of the NPY Women's Council. Some witnesses gave evidence in language with a traditional person as interpreter.

The second group was comprised of three men, two of whom were reported as the chairpersons of communities which may mean of community councils. The other person was the chairperson of the Tjukurpa Anangu Pitjantjatjara Yankunytjatjara Law and Culture Corporation. The evidence of one of them was given in language with an interpreter. A lawyer and Professor Lowitja O'Donoghue, of Yankunytjatjara People's Network, accompanied this group. Both of them also gave evidence.

Anangu had consulted widely among themselves about the proposed amendments and had publicised them throughout the Lands by local radio.

It is unnecessary for present purposes to set out a summary of the evidence given by the witnesses.

What is significant to the Inquiry is that the Committee consulted widely with Anangu and received and considered their evidence, which was of high quality, and also that the Anangu were willing to contribute to the processes.

Two of the second group wanted the time for consultation about the amendments to be extended and legal advice to be provided to Anangu.

The Committee also received evidence from senior staff of the State Government as to the purpose and effects of the proposed amendments.

On another occasion, in October 2005, the Committee received and considered evidence regarding the Improving Indigenous Birthing Outcomes Project, which is an initiative of the Aboriginal Health Division of the Department of Health of the State Government but funded by the Commonwealth Government. This evidence related to, in many respects, all Aboriginal people including women on the Lands. Of particular significance to the Inquiry was the evidence that South Australia has the highest proportion of low birth weight babies born to Indigenous mothers of all Australian states and territories and that the rate of teenage pregnancies in the Aboriginal community was high and rising. In the previous year the rate had risen from 20 per cent to 22 per cent, compared with about five per cent in the non-Aboriginal community. This statistic is a significant indication of the incidence of child sexual abuse on the Lands.

The last matter of particular significance to the Inquiry was the evidence of the Reverend Bill Edwards to the Committee on 29 May 2006. He is a former superintendent of the Ernabella Mission and an Adjunct Senior Lecturer at Unaipon School at

the University of South Australia. He has lived and worked alongside Aboriginal people, particularly Anangu on the Lands for most of 50 years. He had earlier given evidence to the Committee on 2 June 2004. His evidence included the structure of traditional Aboriginal societies, intercultural communication between Aboriginal and non-Aboriginal Australians and petrol sniffing on the Lands.

His evidence was of considerable importance to the Committee and to government agencies which considered the report and have dealings with Anangu.

The report sets out various aspects of his evidence. He stressed the need for the Committee and Government to 'organise their communication and consultation with Aboriginal people in ways that recognised and respected traditional authority and group structures'. He explained these structures and their significance. Also he expressed the need in dialogue to embrace the communities not only the persons on the Executive Board or working at Umuwa. It was necessary to recognise that authority was very different. He said that approaches to communities should be with reserve and before people become involved in Aboriginal work, they should undertake a non-assertiveness training course. Non-Aboriginal were seen as bossy.

The Report states that the Reverend Edwards mentioned the history of petrol sniffing on the Lands. It was most likely first practised at Amata in 1968 and was first observed by him at Pukatja (Ernabella) in about 1971. It was like a dare but eventually it spread. In traditional Aboriginal communities it is normal for children to be 'schooled' or educated by older siblings, which was relevant to petrol sniffing.

He also stressed the importance of delivering education and training in a way that was cognisant of cultural practices and patterns of learning. 'Aboriginal education is very much based on the participatory model and not on the abstract model of learning how to do it.'

Also he emphasised the importance of finding ways for Aboriginal people to be involved in the construction of key infrastructure and housing on the Lands and to break the practice of only employing outside contractors. He mentioned that a few years earlier an Anangu had been involved in construction of some houses at Amata, but when he was living at Pukatja, they did most of the building. An Anangu man had worked on most of the homes and Anangu did the fencing, shearing and looked after the gardens. Now, Anangu are not involved.

There are a number of matters of importance about the establishment and work of the Committee. As has been mentioned its function extends to most aspects of the lives of Aboriginal people including Anangu on the Lands and it is obliged to report to the Parliament each year and matters considered by the Committee can be debated in the Parliament and enter the public arena. During the 2006 year the committee consulted widely with Anangu about important matters and they responded effectively and with interest. Through the committee the Parliament was informed about important matters concerning Anangu culture and life.

It may be said that the governing body of the State, the Parliament, through the Committee, was in discussion and consultation with the governing body of the Lands and most of the communities. The Parliament was informed about a wide variety of matters concerning Aboriginal people and Anangu in particular, many of the problems on the

Lands and the approach required to address them. The *Anangu Pitjantjatjara Land Rights Act* was amended in 2005 with the support of most Anangu. The amendments included the name of the Yankunytjatjara in the title of the Act and alterations to governance of the Lands. This process is a sound precedent for the resolution of current problems on the Lands.

The Aboriginal Lands Task Force

The intervention of the State Government on the Lands really began in a significant way in March 2004. Unlike the much-publicised intervention of the Commonwealth Government in the Northern Territory [2007], the intervention on the Lands involved Aboriginal people and was, according to the Premier, Mr Rann

simply about one thing: saving the lives of young Anangu. We were concerned about a spate of suicides and an epidemic of petrol sniffing robbing young people of any hope for a better and brighter future.

reported in *The Australian* on 15.01.2008.

In March 2004 the South Australian Government asked a senior officer in the Department of the Premier and Cabinet (DPC) to chair the Aboriginal Lands Task Force (AL Task Force) following reports that, despite attempts to respond to recommendations of the 2002 Coronial Inquest, conditions on the Lands had continued to deteriorate. It was a first step in an ongoing strategy to develop a comprehensive and co-ordinated response to improve conditions on the Lands. The Inquiry was informed that the strategy has been built on a collaborative approach across government, including Commonwealth Government agencies and with Anangu, to improve the planning and co-ordination of the delivery of services on the Lands.

In August 2004 the AL Task Force produced its first strategic plan for the Lands. It set out six strategic objectives:

1. improved safety
2. improved health
3. improved program and service co-ordination
4. increased employment, education and training
5. improved housing, infrastructure and essential services
6. improved governance.

Specific matters were mentioned in relation to each of the objectives. They included recognising the need for increased police presence on the Lands to enhance safety, the need to expand health services to assist persons affected by petrol sniffing and alcohol and drug abuse, increasing safety of children and young persons, early intervention measures and improved emotional health. Also the need to develop systems for co-ordinating programs and services was mentioned, the development of a system to monitor and evaluate the provision of services and infrastructure on the Lands and co-ordination of all new programs.

In these objectives the AL Task Force also mentioned maximising opportunities for Anangu to be employed including in all public sector programs on the Lands, improved community governance, attracting highly skilled public sector employees to positions on the Lands, and ensuring school leavers have access to employment or further training.

Also, the AL Task Force reported on the need to develop essential services and environmental health programs, and improving health by recreational activities, providing and maintaining housing, maintenance and minor works, the need

to clarify the legal status of the AP Executive Board, as it was then known, reviewing the *Pitjantjatjara Land Rights Act 1981* and other legislation to improve governance arrangements on the Lands.

Thurtell Report 2005

In April 2005 the Office of Indigenous Policy Co-ordination, the Commonwealth Government's lead agency on Indigenous Affairs, engaged Thurtell Consulting Pty Ltd (Thurtell) to undertake a preliminary assessment of what was required to improve program and service delivery on the Lands and 'consequently improve outcomes for the [Anangu] people, communities and organisations'. Thurtell undertook investigation and consultation with government staff and agencies and Anangu on the Lands and presented a report in June 2005.

Thurtell made the observation that the living conditions and quality of life for people on the Lands needed to be substantially improved which could and should come from more effective programs and services and enhanced governance and administration. Also they set out various factors which they said hampered more effective programs and services.

These factors included:

- the funding of individual communities rather than service providers to deliver most of the programs and services
- funding of programs was often short term and a disproportionate amount of time and effort was spent on securing funding and reporting
- some Government and non-Government agencies failed to work collaboratively with each other and Anangu communities and organisations. There was a tendency not to adapt or work to a whole-of-government approach

- funding was often provided later than expected or required with the consequence that funds for other programs were used
- housing for service providers was in short supply
- some funds were not expended.

These and some other matters mentioned in their report when combined lead to

dissipation of resources and effort and Anangu people, communities and organisations and the South Australian Government and Australian Governments are not getting value for money from the resources invested in programs and services on the APY Lands.

The authors also made the observation that the absence of an overarching body or organisation that,

coalesces and implements the collective interests of the Anangu people has added to the dissipation of resources and effort and hampered efforts to improve living conditions and the quality of life for Anangu people.

The report went on to say that the development of Tjungungku Kuranyukuta Palyantjaku (TKP), mentioned later in this report, may represent a turning point in that regard and it exemplified 'a new sense of urgency and commitment from Anangu and government to changing outcomes in the APY Lands' and that the State Government and the Commonwealth Government were working together much more effectively than had previously been the case.

Thurtell reviewed the six objectives in the Strategic Plan of the AL Task Force and expressed the view that given the enormity of the problems on the Lands, the plan contained a reasonable mix between the planning of programs and services

and their implementation and that oversight of the plan was best undertaken by DPC. It gave support to each of the objectives and made important observations about each of them to improve efficiency and effectiveness which need not be set out in this report. However, one key recommendation must be mentioned which was the engagement of a Regional Service Co-ordinator and two Service Co-ordinators without delay to be funded by government and work with government and Anangu. Their tasks were identified as to:

- improve the design, implementation and monitoring of programs and services on the Lands
- ensure collaboration and partnership between government and non-government agencies
- identify the gaps and duplications and progress of services and develop long-term and structured reform of program and service delivery arrangements and to assist in their implementation
- improve the quality and effectiveness of governance and administration in Anangu communities and organisations
- broker increased and more effective communication between Anangu and government
- represent, or, advocate the interests of Anangu and government so that each is fully aware of any factors, concerns or issues that need to be addressed to improve outcomes for Anangu people, communities and organisations.

Thurtell proposed that the regional service co-ordinator and the two service co-ordinators come from government and report to the quarterly meetings of TKP. The regional service co-ordinator would be based primarily in Adelaide and would be responsible for 'ongoing and high-level contact

with government ministers and senior officials and with boards and senior staff of non-government service providers and keep in close contact with Anangu people, communities and organisations. About one-quarter of the regional co-ordinator's time would be spent on the Lands. The two service co-ordinators would be based on the Lands with some time in Adelaide, one focussing on western communities and homelands, the other on eastern communities and homelands'.

The Department of the Premier and Cabinet

On 30 September 2002 the State Government transferred responsibility for APLIICC to the Department for Aboriginal Affairs and Reconciliation (DAARE). In his report as to the second Inquest on 14 March 2004, the State Coroner found that the transfer was a mistake because DAARE did not have 'the resources, power and authority to drive major changes in key government agencies and also that political instability in the AP Executive Board had hindered effective action'.

The Inquiry heard that there was great division between a range of different organisations at that time. The governance of the Lands was dysfunctional and there were suicides of young people and petrol sniffing was rife. There were warring factions on the AP Executive Board and levels of dysfunction in some communities.

In March 2004 the State Government transferred that responsibility to the Department of the Premier and Cabinet (DPC) which took over the coordination of State Government business on the Lands through the Aboriginal Affairs and Reconciliation Division (AARD) of that department. The Executive Director of AARD, Ms Joslene Mazel, gave evidence to the Inquiry.

A retired senior police officer was appointed by the State Government as co-ordinator of services and administration on the Lands, but he resigned after a very short period of time. In early April 2004 he was replaced by a member of a former Commonwealth Government, Mr Bob Collins, who remained in that position for about eight months. He was seriously injured in a motor vehicle accident and was forced to resign. However, he made an interim report on 23 April 2004 after he had been on the Lands for only a period of a few weeks.

The Collins Report

Mr Collins described his function as to provide advice and recommendations regarding the immediate issues relating to the AP Council, meaning the Executive Board, and community safety on the Lands.

He referred to the Executive Board as the most important Anangu organisation on the Lands, which he stated, was in a 'profoundly dysfunctional situation'. He recommended that the *Pitjantjatjara Land Rights Act 1981* be reviewed to ensure that it was capable of protecting the rights of Anangu on their lands and ensuring their cultural and economic future over the next 10 to 20 years 'with stability and continuity a key element of which is to ensure that the position of the Executive Board of the AP Council is strong, stable and free from dispute'. He recommended a term of three years for the Board.

Mr Collins referred to \$1.6 million which had been allocated by the State Government for use in the communities for health and substance abuse programs including petrol sniffing.

He also reported that SA Police acknowledged that response times by police to serious assault and murder on the Lands had, on occasions in the past, been unacceptably long and that SA Police

was seeking additional resources. He was informed by SA Police that short-term detention facilities on the Lands were sub-standard and needed to be substantially improved. He reported that it was essential that this matter be attended to at once regardless of the response to other issues and referred to the responsibility of government if a prisoner in custody suffered 'negative consequences'.

In his report Mr Collins referred to the difficult and critical role of Anangu community constables and that they should have support from regular police as part of a co-ordinated team. He expressed the view that community based night patrols working in collaboration with police should be established as they were effective in the Northern Territory. He pointed out that they had to be carefully planned and adequately resourced or they would fail. Essential training of staff was required and facilities to accommodate persons affected by substance abuse were essential.

Mr Collins made 10 recommendations. Four of them related to an early election for the Executive Board to be conducted by the South Australian Electoral Commission with encouragement to all Anangu to participate.

The other recommendations were for additional resources for SA Police on the Lands, upgrading of short-term detention facilities at Pukatja (Ernabella), Amata and Pipalyatjara, funds for health and substance abuse programs, night patrols and the commencement of the COAG trial on the Lands.

O'Donoghue and Costello Report

In August 2004 it became clear that Mr Collins could not continue in his role as co-ordinator and the State Government approached Professor Lowitja O'Donoghue AC CBE and Mr Tim Costello, Chief Executive of World Vision Australia, to take

his place. Both agreed to be advisors to the Premier on a provisional basis. They reviewed the progress of the AL Task Force and the whole-of-government approach and recommendations made by Mr Collins.

They visited the Lands on 19 and 20 August 2004 and had extensive discussions at Umuwa with the then Chair of the Executive Board of AP, and people in various communities which they visited over a period of two days. They reported that they confirmed what had been documented in various reports including the report of the Coroner, in 2002 about the Lands.

In short these are the problems of poor living conditions in the APY Lands communities characterised by unemployment, substance abuse particularly petrol sniffing, inadequate housing capacity, low attendance at school, boredom and inadequate youth initiatives, high violence and crime, rubbish and lack of care for the communities and most noticeably great fears for personal safety and evidence of much protective wiring, bars and security.

They reported poor communication within Anangu and between Anangu and Government and claims of corruption and bullying from various community representatives directed to persons in power on the lands or by them to persons in service delivery. They also reported recognising an overwhelming sense of despair and regression of the community amongst the elders 'who commonly talked of wanting the days of the missionaries to return' which they did not interpret literally but as wanting the sense of safety and purpose of those days.

The overwhelming feeling of despair from the elders is dangerously close to considering the situation quite hopeless. That is evident in the neglect and abuse of community property...

Professor O'Donoghue and Mr Costello reported about the need for some specific facilities and services in some of the communities and said that although their views were not exhaustive or comprehensive, they had heard recurring themes that are representative of the sense of despair and communication breakdown that the communities were experiencing. One positive note, they said, was that the presence of more police on the Lands was constantly mentioned.

They consulted widely with members of State Government departments and agencies and noted that all supported a whole-of-government approach to the resolution of problems on the Lands. They sought views on the six strategic objectives of the AL Task Force.

The first objective was to increase safety in all communities on the Lands. They reported that the permanent presence of police on the Lands was viewed by all of the agencies as the most successful and visible outcome of the AL Task Force. It was acknowledged that 'security is fundamental to all other capacity and development issues'. They also reported a debate about whether a corrections facility or a respite facility should be established on the Lands. Women who want domestic violence stopped were asking for respite rather than criminalisation and incarceration.

The second strategic objective was to increase health and welfare services in all communities on the Lands. They reported in general terms and concluded that the 'delivery system of health and welfare services in the APY Lands needs to be rationalised and a simple, clear and sane model agreed upon'.

The third strategic objective was to improve co-ordination of government services on the Lands. The authors agreed with the recommendations of

Mr Collins and other reports. Some persons expressed the view to them that the State Government was reacting in a knee jerk way to the Coronial inquest. It was said that the level of deaths attributable to suicide was greater in the previous year than earlier years. It was reported that there were pleas for a detoxification centre on the Lands which were both desperate and urgent. An issue about the purchase of stores for communities was also raised and dietary problems of some older people. They expressed the view that there needed to be a simplified system of co-ordination of government services on the Lands.

The fourth objective was to improve employment, education and training outcomes. The authors raised a question of 'welfare economy versus a welfare system' and asked why the former could not underpin the Lands in which case heritage and environmental jobs can be raised as a welfare economy. There is discussion about this matter in the report. The authors supported employment opportunities of various types falling into that category.

It was reported that school teachers are the most permanent and employable presence on the Lands and incentives given to them are a model for other departments. They reported favourably about educational outcomes in the communities and supported swimming pools and a 'no school, no pool' program. Despite the good educational outcomes on the Lands it was reported that too few Anangu young people have educational achievements to guarantee their employment and too few see the point of education to overcome or escape boredom and a sense of being trapped on the Lands.

The fifth objective was to improve infrastructure related to essential services on the Lands. The authors stated that many communities were not viable and could not meet requirements of young persons and that it was the older people who have connection with the Lands and enjoy the traditional responsibilities of caring, travelling and teaching culture and lore. Abandonment of the Lands and Anangu is no part of policy of State or Commonwealth Government.

The sixth objective was to develop an effective governance model for the Lands, which the authors reported is the greatest and most difficult challenge. They recommended a review of the *Pitjantjatjara Land Rights Act* and all other relevant Acts and local government models.

The key recommendation of Professor O'Donoghue and Mr Costello was that a person be placed on the Lands who can unblock service delivery, mediate family/clan disputes, clarify governance confusion with the full mandate, legitimacy and direct access to the Premier of the State.

Without the full legitimacy of the office of the Premier, the various silos of government departments and petty clan bitterness, will subvert the coherent authority to manage essential services at a level that will both protect lives and give minimum standards for Lands occupants. This person needs to live on the Lands and be the honest broker desperately needed. She/he should report directly to the head of the Department of Premier and Cabinet. They (sic) must have powers like an ombudsman to range across every department area with access and power to intervene and unblock resources.

Coronial Inquest 2004

In November 2004 the State Coroner, Mr Chivell, conducted an inquest into the deaths of another four Anangu men, aged 19 years, 35 years, 25 years and 27 years, two of whom died in 2003 and the others in 2004. All were residents in communities on the Lands. He made his report on 14 March 2005. It was found that the oldest of them died as a result of exposure in the context of organic brain damage and epilepsy and the others died as a result of neck compression due to hanging. Three of them had been sniffing petrol shortly before death and the other had severe organic brain damage as a result of sniffing petrol since he was a boy.

The Coroner found that there had been a marked increase in suicidal and self-harming behaviour on the Lands since March 2004 and petrol sniffing was a contributing factor, as was the abuse of alcohol, cannabis and other drugs, interpersonal violence, including domestic, and sexual violence, family conflict, mental illness, motor vehicle accidents and other causes. He also found that the conditions which he described as existing on the Lands in his report as to the inquests into the deaths of the three young people conducted in 2002, still existed.

The Coroner was critical of the State Government not taking more urgent action following his earlier report. According to him the deaths which he was then investigating should have resulted in the State Government taking more urgent action. The effect of his findings and observations is that nothing much had occurred in response to his findings and recommendations in the 2002 inquests. He observed that three of the deaths were so connected with petrol sniffing that they must be considered similar to the deaths which were the

subject of the inquests in 2002. He repeated recommendations made in 2002 and considered what had been the State Government's response to them.

Tjungungku Kuranyukutu Palyantjaku

In April 2005 the State Government and the Commonwealth Government established a peak body consisting of representatives of Anangu organisations, and communities on the lands, the AP Executive and both Governments. It is called Tjungungku Kuranyukutu Palyantjaku (TKP) which means 'together towards the future'. A secretariat of TKP was established with mainly Commonwealth Government funding which enabled the participants to have their own meetings. It is called Wiru Palyantjaku (WP). It consists of community representatives from the Lands and Anangu service providers. It can bring matters to TKP.

These initiatives enable all of the organisations to work and plan together 'to provide better outcomes in law and order, health, education, employment and housing and to create better opportunities for young people' according to a report provided to the Inquiry by the State Government.

Before setting up TKP, government representatives consulted with all of the communities on the Lands.

As proposed in the Thurtell Report, three service co-ordinators were appointed to the Lands to oversee both State Government and Commonwealth Government service delivery; work with Anangu to improve governance and administration of Anangu organisations and communities and establish communication and partnerships between Anangu and the governments which was a joint initiative of the two governments.

The State Government committed \$25 million over five years for the initiatives to be administered by DPC, as well as funds to establish a permanent police presence on the Lands and upgrading of police cells and stations.

Reduction in petrol sniffing

The 2006 survey of petrol sniffing on the Lands commissioned by Nganampa showed a reduction of 60 per cent in the number of people identified as sniffing petrol on the Lands compared to the survey in 2003. There had been a drop of 20 per cent from 2004 to 2005. Only 76 petrol sniffers were identified in 2006 compared with 222 in 2004. The 2007 survey found that there were 38 people who sometimes, or regularly, sniff petrol, a fall of 83% since 2004.

TKP Strategic Plan

In June 2006 TKP met in Alice Springs to develop an action plan that would assist in creating sustainable improvement in the living conditions of Anangu on the Lands. A copy of the action plan was provided to the Inquiry. It has not yet been settled by Anangu organisations. It states that the action plan was developed following earlier planning workshops conducted by WP, which consists of community representatives for the Lands and Anangu service providers. WP had identified a number of areas in which significant outcomes were required to improve living conditions on the Lands. With respect to some of them WP proposed targets so that performance could be measured. The action plan states that the proposed targets require further analysis and modification to ensure that they are both realistic and achievable.

The action plan is an extensive document and covers many matters, including targets determined

by WP as to police staffing numbers, petrol sniffing numbers, youth programs, youth leadership training, Year 12 graduates in education, employment of Anangu teachers, employment of Anangu. These targets are precise and set out what should be achieved, and by whom. For example, the number of sworn police working on the Lands in 2011, no petrol sniffers by that year and the number of Year 12 graduates by 2011 and school teachers by the same year. It has not yet been finalised by the State Government in precise detail but is accepted as to the action to be taken and the priorities which have been established. Although not yet finalised in that sense it is referred to as the action plan in this report.

It is stated in the action plan that building on the work of WP, TKP identified five key areas in which significant and sustainable change is needed and which will support the achievement of the targets of WP. They are listed as priorities:

Priority 1: Housing, Infrastructure and Essential Services

The primary focus of this area of the action plan is the need for a much greater housing construction program and the improved delivery of housing to Anangu to reduce overcrowding and the social and health problems that are caused by overcrowding. Additionally, TKP will seek to identify and pursue employment opportunities that exist in the building and construction activities that occur on the Lands.

Priority 2: Safety

This part of the action plan includes strategies:

- to improve the policing service on the Lands with a focus on SA Police filling the existing vacancies
- to reduce the incidence of family violence
- targeting a reduction in petrol sniffing and substance misuse through a range of strategies

- seeking a review of youth programs and activities as part of a diversionary strategy
- to improve child protection and family safety through a range of strategies including rapid response to child harm incidents.

Priority 3: Leadership and Management

This area of the TKP plan targets the improved performance of community organisations through training in leadership and management. It will also focus on the identification and training of talented young Anangu. It states that TKP recognises that long-term improvement in the functioning of communities will be achieved by developing young people to ensure they have the skills and knowledge to take up important leadership roles and positions within communities and service organisations.

Priority 4: Health

This area of the plan is the broad field of health. Particular concerns of TKP relate to the rates of diabetes and kidney disease, poor nutrition, extent of cigarette smoking, a need to improve accommodation and services to the aged, disabled and early childhood health.

Priority 5: Employment, Education and Training

In the area of education TKP recognises that the literacy and numeracy levels of Anangu students are significantly below that of Aboriginal students from urban communities and even further behind non-Aboriginal students. TKP identified a number of strategies to address this issue including a focus on encouraging school aged children to attend school regularly throughout each year and to remain at school for as long as possible. Similarly, the provision of adult education particularly in the area of job and work skilling was seen as important.

Lastly, TKP recognises that there are over 500 jobs (full and part time) on the lands and that Anangu fill approximately 50% of these positions. TKP will work towards increasing the number of local Anangu in paid employment on the Lands.

The action plan states that there are many risk factors which will impact on progress in each of these priority areas, the most significant of which are:

- a general shortage of accommodation on the Lands for service providers which impedes increasing services to Anangu
- additional funding from government will be required which will be subject to approval, budgeting constraints and competing priorities
- a lack of community housing
- a general shortage of a work ready labour force.

All matters within each of the priorities were allocated to a government or non-government agency with particular actions to be undertaken. Each agency was required to respond by specified times.

The Service Co-ordinators

The recommendations of Thurtell were adopted by the State Government. Mr Paul Reardon was appointed the regional service co-ordinator in January 2006 and Mr Bob Smith and Mr Mark Jackman were subsequently appointed as service co-ordinators. The Service Co-ordinator Program is funded by the Commonwealth Government and DPC provides accommodation and corporate services. It is funded until 30 June 2009. Mr Reardon informed the Inquiry as to the role of the service co-ordinators which is substantially in accordance with the recommendations which had been made.

Mr Reardon reports to DPC and the Commonwealth Government each quarter commencing in August 2006. He provided copies of those reports to the Inquiry. They contain considerable detail as to the work of the co-ordinators and demonstrate the importance and effectiveness of their role. They work extensively with all of the agencies on the Lands and in all of the communities. The reports keep DPC and the Commonwealth Government well informed of what is happening on the Lands and in each of the communities with considerable detail about the agencies and personnel.

The information in those reports suggests that the service co-ordinators are effectively undertaking their roles, which assists in bringing stability to the communities. According to Mr Reardon they have established working relationships with TKP, APY Executive Board, the AL Task Force, the Commonwealth Government heads of agencies, and relevant government ministers, senior officials, boards and senior staff of non-government service providers.

The co-ordinators have not received direct information about the sexual abuse of children during the course of their work, but there has been some general information during discussions about the Inquiry. Mr Reardon informed the Inquiry that in the event of information of sexual abuse of children being received by the co-ordinators it would be referred to SA Police and Families SA.

Report of DPC November 2007

In a report prepared by DPC entitled 'Progress on the APY Lands' dated November 2007, the following matters are mentioned. They are mentioned in some detail to indicate the nature and extent of the initiation of proposals and reforms being undertaken by the State Government.

Governance

Amendments were made to the *Pitjantjatjara Land Rights Act* in 2004 and 2005. The 2004 amendment, Act no 23 of 2004, established the constitution of the Executive Board of Anangu Pitjantjatjara being the chairperson and 10 other members, the election of the Board, the control of elections by the Electoral Commissioner and various other matters relating to the integrity of elections. The 2005 amendment, Act no 52 of 2005, provided extensive amendments. The Yankunytjatjara people of the Lands were acknowledged in the title and substantive provisions of the Act, as Anangu, and part of the body corporate, the electorate. Other amendments included specifying the functions and powers of the Executive Board and in particular that it is the governing body of APY and is responsible for carrying out the functions of that body corporate and the day to day business of the Anangu. Various procedural provisions were included which need not be specified for the purpose of this report.

Power of intervention was given to the Minister in particular, limited circumstances. Duties were imposed upon the Executive Board including the duty to act honestly and to avoid a conflict of interest and the obligation to prepare a code of conduct to be observed by members of the Executive Board and senior administrators. Also there were other provisions relating to good governance and financial accounting and duties of senior officials and various other matters.

DPC has co-ordinated the development of training packages with the Office of the Registrar of Aboriginal and Torres Strait Islander Corporation (ORATSIC) and the Office for Consumer and Business Affairs who have delivered workshops to assist members of the APY Executive Board and

incorporated bodies operating on the Lands to better understand the legal framework within which they operate.

There was the opportunity for representatives of Anangu organisations and the executive to participate in a workshop for central Australian Aboriginal corporations in November 2007; further programs will be delivered several times each year.

In October 2007 the Commonwealth Government commenced a young leaders program for Anangu.

Health and well-being

The report sets out extensive action by State Government agencies to improve the health and wellbeing of Anangu. They include placing two senior social workers on the Lands based at Amata and Iwantja (Indulkana) and another to be positioned at Kaltjiti (Fregon). These positions are to be linked with schools and are supported by Families SA at Coober Pedy.

Youth activities have been established to help divert young persons from substance misuse. Holiday activities are undertaken by community health workers with support from the Department for Families and Communities (DFC), Nganampa Health Council and Ngaanyatjarra Pitjantjatjara Yankunytjara (NPY) Women's Council.

The aim is also to divert young persons from substance misuse.

Youth workers are employed in Iwantja (Indulkana), Pukatja (Ernabella), Amata, Pipalyatjara, Kalka and Mimili. They are supported by youth co-ordinators employed by DFC.

Relationships Australia (SA) is contracted by DFC and provides accredited training to the community youth workers which is nationally recognised in the Certificates III and IV and Diploma of Youth Work. The Inquiry was informed that in consequence the

youth workers have developed the capacity to respond to critical incidents involving mental illness and to support children and young persons witnessing or experiencing violence. On behalf of DFC, Relationships Australia (SA) produces an Anangu youth workers' newsletter.

The State Government is establishing a culturally appropriate substance abuse rehabilitation facility near Amata. Construction has been completed and residential programs should commence during the year. Drug and Alcohol Services, South Australia operates the facility. A mobile outreach service commenced operation in August 2006 and provides assessment, counselling and drug education in communities.

The previous Family Support Program has been reviewed by DFC and has been re-focused to provide a family homemaker service. The program works with families to improve safety and wellbeing of Anangu children and young persons by helping parents to create a safe and healthy home environment. In most communities the homemaker program is based in a family centre. Commonwealth funding has enabled the program to be expanded to all major communities.

Family Centres operate in Pipalyatjara, Kalka, Amata, Pukatja (Ernabella) and Kaltjiti (Fregon) and are being established at Iwantja (Indulkana) and Mimili. Community Support Officers have been appointed by DFC and are based near each community to oversee and support the homemaker program both directly and indirectly through Community Development and Employment Projects (CDEP).

Families SA provides services including youth justice, child care and protection. Regular trips each three weeks are made to the Lands by Families SA from the Coober Pedy District Centre

and a youth worker attends every Magistrates Court and addresses specific requirements of young people.

DFC has assumed direct responsibility for support of persons with disabilities on the Lands and continues to fund NPY Women's Council to provide case management and respite services. Local disability support services are placed within the Family Centres Program and are operating in six of the major communities and some small communities. The Inquiry was informed that many people accessing these facilities have disabilities due to substance abuse, and the incidence of their abuse has decreased. There are other initiatives of Disability SA which is part of the program of DFC to assist Anangu with disabilities.

The service of the Northern Territory Government Positive Behaviour Support Unit was engaged during 2005 to undertake intensive intervention and positive behaviour strategy training with people with challenging, violent and anti-social behaviour, living at Amata and Pukatja (Ernabella). Since July 2007 the service has been provided by a person based at Marla and is extended to all communities.

Home and Community Care services are provided through NPY Women's Council and Nganampa to the aged, young persons with disability and their carers. Forty Anangu are employed as aged care workers to provide services such as meals, transport, firewood collection, blanket washing and respite for family carers.

As part of the strategy to deal with substance abuse on the Lands the State Government amended the *Public Intoxication Regulations* in 2004 to declare petrol a drug for the purposes of the *Public Intoxication Act 1984* with the result that persons who are intoxicated by petrol sniffing and unable to take care of themselves can be taken (by police) to their residences, a police station or other

approved premises to sober up. At this stage no other premises have been approved.

The APY Land Rights Act was amended in 2006 and section 42D was introduced which provides for offences relating to the supply of regulated substances. A person must not, on the Lands, sell or supply a regulated substance to another person or have such a substance in his or her possession for the purpose of sale or supply of the substance to another person. The maximum penalty is \$50,000 or imprisonment for 10 years and any motor vehicle suspected to be involved in the commission of the offence may be seized and upon conviction of the offender, forfeited to the Crown. At present a regulated substance is defined as petrol, but the list of substances can be expanded at any time by regulation as the need arises.

Strategies have been developed to improve the management of people at risk of suicide and the provision of psychiatric services to persons on the Lands which includes periodic visits by psychiatrists.

The Commonwealth Government has offered \$25 million as a funding package for housing on the Lands which will result in the construction of new housing and upgrading of existing housing. It is envisaged agreement with the State Government will be reached soon.

A project entitled the Mai Wiru Stores Policy has been established to ensure that stores in the communities on the Lands sell healthy and affordable food to Anangu and comply with fair trading legislation. It is an APY Lands and Council of Australian Governments (COAG) trial project led by the Commonwealth Department of Health and Ageing and is being managed by Nganampa.

Many of those proposals and initiatives are mentioned later in this report in some detail in the

various chapters of Part IV, being Welfare, Health and Well-being, Education and Administration of Justice.

Care and protection of children

The report refers to the State and Commonwealth Governments committing funds to, and the establishment of, this Inquiry, sets out the terms of reference and refers to some of the field work undertaken by the Assistant Commissioners as an initiative relating to the care and protection of children.

Justice and community safety

This part of the report includes information as to the present facilities and personnel of SA Police. These matters are mentioned later in this report of the Inquiry.

In addition the report mentions that SA Police and the APY Executive Board now require a clearance from SA Police for all new non-government workers on the Lands.

SA Police is now part of Operation Midrealm which is said to be a tri-State policing initiative to detect traffickers of illegal substances, such as marijuana, petrol and alcohol, on the Lands. SA Police contributes personnel to the Australian Crime Commission and has developed a voluntary referral protocol so that people detected sniffing petrol are offered the opportunity to be referred to the Drug and Alcohol Services SA program earlier mentioned.

Families SA, through the Coober Pedy District Centre, claims to provide a service response to all areas of the Lands including child protection, failure of children to thrive, anti-poverty, youth justice and alternative care. The extent of child protection services provided by Families SA to the

Lands is mentioned later in this report. At present, one trip by a team from Coober Pedy is planned each three weeks.

The Department for Correctional Services has implemented some services on the Lands. Three community corrections officers supervise orders and bonds, prepare reports for courts and juvenile counselling for offenders. A team of two staff visits most communities three times every year to increase the viability of orders for community service as a sentencing option which has proved successful in that there is a significant increase in the number of hours undertaken and orders completed. Community corrections staff attend each circuit of the Magistrates Court.

The Department for Correctional Services provides programs for Anangu men in relation to family violence, anger management and substance abuse.

A feasibility study has been undertaken into the development of a low security correctional facility on the Lands as an alternative to imprisonment for some categories of Aboriginal offenders from the Lands, but no such facility has been established. Mention is made of the study later in this report.

SA Police is concerned about Mintabie being used as a staging post for the trafficking of marijuana on the Lands. Following an operation two persons were arrested and charged with offences relating to the sale or supply of marijuana. They are awaiting trial.

Mintabie is part of the Lands but is leased by APY to the Crown which in turn issues licences to persons to reside and undertake business activities at Mintabie. Licence conditions are set out in a separate agreement involving APY, the Crown and the Mintabie Miners' Progress Association. Proposed changes to the lease and agreement will

relate to issues of pornography, alcohol and drugs entering the Lands through Mintabie, and the financial exploitation of Anangu.

Infrastructure

Work is being undertaken to identify and cost infrastructure improvements necessary on the Lands including the upgrading of airfields at Pipalyatjara, Murputja and Amata, the structure of the communities at Pipalyatjara, Watarru, Amata, Pukatja (Ernabella), Nyapari and Kanpi. An infrastructure needs survey for the Lands is to be completed by July 2008.

Upgrading of water tank compounds at Pipalyatjara, Amata, Kaltjiti (Fregon) and Pukatja (Ernabella) funded by the National Aboriginal Health Strategy of the Commonwealth Government has been completed. All communities on the Lands now have ultraviolet town water supply disinfection systems which were installed by SA Water Corporation in 2005.

The transfer of spatial and asset management data to a State Government database commenced in July 2006 and will continue over a two year period. This initiative involves the correlation of aerial photography with ground survey information and asset management data.

A central power station at Umuwa has reached the stage of practical completion and should be connected to all major communities by mid-June 2008.

A program to seal internal roads within Kalka, Nyapari and Kanpi communities was completed in July 2007. It is proposed that the internal roads at Iwantja (Indulkana) be sealed by June 2008.

Environment

The Kuka Kanyini Land Management Program protects some rock holes from feral animals. Threatened species of native fauna are being surveyed and monitored and wild camels are being mustered. Employment for Anangu has been created by this project which enhanced health and wellbeing of participants through increased physical activity and a better understanding of the effect of diet on health. The program was nominated for the 2006 Prime Minister's Environmentalist of the Year Award and the Land and Biodiversity Award.

Education

The Department of Education and Children's Services (DECS) works collaboratively with the Pitjantjatjara and Yankunytjatjara Education Committee (PYEC), which is responsible for the development, delivery and monitoring of pre-school and school education to students in each of the communities.

The Inquiry was informed that school retention rates have improved in recent years.

After the 2002 Coronial Inquest, the Countering Risky Behaviours curriculum, which focuses on HIV/AIDS, hepatitis, substance abuse (including petrol and marijuana), and sexual issues for students in Years 6 to 10, was introduced to all Anangu schools. It has been approved by PYEC and is delivered with the support of Nganampa and SA Police. There is monitoring of students who may be sniffing petrol and assistance is given to their families when possible.

The Drug Education Strategy Team of DECS has worked closely with all schools on the Lands to develop a whole-of-school drug strategy.

DECS and Families SA have developed a mandatory reporting training package that is inclusive of Anangu. Issues such as neglect and abuse have been defined and are now raised in Anangu society. The package was delivered in 2005 to all staff in schools, community constables, youth workers and TAFE lecturers.

DECS have appointed the equivalent of two additional school counsellors.

Since 2007 all schools on the Lands have school counsellors and 'Mind Matters', a program focusing on wellbeing, values and building resilience and self-esteem in students, is being introduced into all of the schools on the Lands.

Significant funds have been allocated to improve facilities at the schools at Kaltjiti (Fregon), Pukatja (Ernabella) and Pipalyatjara and a new school was built at Amata in 2007.

Employment and training

Various traineeship programs have been given by TAFE since 2002 but mainly in 2006 and 2007 including 79 trainees.

In addition to community services, management and administration, community education and traineeships, in 2007 TAFE on the Lands targeted the engagement of young men through programs involving music, completion of 'tickets' for plant operation, interpreting training, horticultural training, ceramics and housing repairs and maintenance.

Another program for 30 trainees may soon be introduced.

Community enhancement

Projects to enhance the amenity of the communities, some of which will also have economic benefits, have been established involving ceramics at Pukatja (Ernabella) and Aboriginal art and bush food at Mimili and Amata.

A transaction centre building program is to be completed in 2008 by PY Ku, which is a network project managed by the Department of Health and Ageing and PY Media. This project will provide access to a range of State and Commonwealth Government services including applications for birth certificates, licences to drive motor vehicles, and motor vehicle registration. These transaction centres will provide employment opportunities for trainees.

Interpreting services have been established by PY Ku in partnership with Multicultural SA Interpreting and Translating Centre (ITC). In 2007 the DPC funded the development and delivery of the Diploma of Interpreting tailored for Aboriginal students and opportunities for experienced interpreters to undertake the national accreditation test for interpreting. Ten interpreters from a number of communities on the Lands have registered with ITC and 20 students are enrolled in the Diploma of Interpreting course. Until recently the course has been delivered through regular onsite workshops on the Lands. However, in 2007 DPC brokered State Government funding for Telstra to enable ADSL broadband to five communities on the Lands. With access to high speed internet APY Lands TAFE is now able to offer students online learning.

Accommodation for the art centre co-ordinator at Pukatja (Ernabella) has been upgraded and the exhibition space and facilities at a number of art centres has been improved.

Swimming pools have been built at Mimili, Amata and Pipalyatjara. There is a 'no school, no pool' rule to improve school attendance. The pools were funded by the State and Commonwealth Governments. DECS is responsible for the management of the pools with the support of a local management committee.

A sports program has been developed on the Lands with funding provided to the South Australian National Football League (SANFL) which has appointed two Development Co-ordinators assisting the western and eastern regions. Football and softball competitions are held. In 2008 SANFL will offer training courses on the Lands for umpires. Accredited umpires will be eligible to be paid for officiating in matches. Each community on the Lands is required to establish a local level management body and there is a State level steering group. An audit of sport and recreational facilities on the Lands is to identify and prioritise development of some facilities for competitions.

A Youth Multi-Sports Program is being planned to commence in 2008. It will offer after-school sport and recreational programs and about 15 different sports have indicated interest. There will be a 'no school, no sport policy'.

The State Department of Transport, Energy and Infrastructure on behalf of DPC is managing a tender process for a bus service operating between some communities and Alice Springs.

The Inquiry was informed that the AL Task Force has been subsumed into the Aboriginal Task Force which is to develop a state-wide Aboriginal strategic plan. The plan in relation to the Lands will sit under that task force. Sub-groups for every area such as health and wellbeing, education, employment and training, justice, environment, heritage and culture sit under that overarching task force. Each has a strategic plan.

There is also a draft strategic plan for the Lands which has been developed and will be monitored through TKP. It is a strategic plan for the Lands for 10 years.

Commonwealth Government

In 2007 the Attorney-General's Department of the Commonwealth Government released the *Consultative Draft National Indigenous Law and Justice Strategy* as a framework for discussion and input for a whole-of-government co-ordinated approach to Indigenous justice issues across Australia. It affirmed four law and justice aims which had been identified as the department's priorities for 2006-2007:

1. reducing crime in communities and improving areas of justice
2. reducing imprisonment and juvenile detention
3. increasing actual and perceived safety
4. reducing impacts of family violence.

It is not proposed to discuss those aims and the actions which the Commonwealth Government is considering in support of them in this report. Many of the problems identified exist in communities on the Lands. Some of the matters discussed in the draft strategy are mentioned in this report. They include increasing safety on the Lands, building safer communities, reducing the number of children whose welfare is at risk and addressing levels of family violence in communities.

It is essential that there be co-operation between the State Government and the Commonwealth Government about a response to all of the issues and problems on the Lands and the matters being implemented and considered by both governments.

The Inquiry expects that there is regular discussion between the two governments about these matters. The need for it is so obvious that it has not been considered necessary to make any specific recommendations.

Mention is made of three programs which the Commonwealth Attorney-General's Department states that it funds on the Lands.

1. Indigenous Legal Aid Services

The Department funds the Aboriginal Legal Rights Movement Inc. (ALRM) to provide legal information, advice, referral and representation to Aboriginal people in South Australia including on the Lands and in relation to sexual assault matters. In the current financial year ALRM will receive \$3.555 million for its work in this State.

2. Family Violence Prevention Legal Services

The Family Violence Prevention Legal Service (FVPLS) funds the NPY Women's Council to provide a domestic violence and family violence service in Alice Springs. This service operates extensively on the Lands. It has close working relationships with health centres on the Lands, SA Police and staff of the Director of Public Prosecutions.

The NPY Women's Council provides extensive assistance to women and children on the Lands and representatives attend the circuits of the Magistrates Court and provide an essential liaison between victims and police and prosecutors. The Commonwealth Government has approved expenditure of \$343,590 for the current financial year.

3. Commonwealth Community Legal Services Program

The program provides funds to the Women's Legal Services Centre SA to provide legal assistance to community, legal education, including advice on family law matters, and victim compensation matters. These services are provided by two solicitors who attend the circuit of the Magistrates Court on the Lands at Marla.

Community Legal Education services are conducted in conjunction with NPY Women's Council in schools and community centres with women of all ages, on topics including family violence, domestic violence, sexual abuse and child sexual abuse. Funding is also provided.

The funding of these services is of importance to Anangu and the improvement of conditions on the Lands.

Corrections facility

As has been mentioned, the report of DPC in November 2007 states that a feasibility study has been undertaken into the development of a low security correctional facility on the Lands as an alternative to imprisonment for some categories of Aboriginal offenders on the Lands. The establishment of a corrections facility is discussed in Part IV, Chapter 4 in the context of the administration of justice on the Lands.

Summary

It can be seen from the report of DPC, the TKP Strategic Plan, if adopted, and the document released by the Commonwealth Government in 2007, that the State Government, the Commonwealth Government and the various departments and agencies providing services on the Lands in consultation with Anangu have identified the underlying causes of problems on the Lands and developed strategies and plans to resolve them.

It is essential that once all of the strategies and plans have been adopted, they be implemented as designed and that the implementation of them be constantly monitored and the subject of reports to the Minister and the Aboriginal Lands Parliamentary Standing Committee. The plight of

many Aboriginal people on the Lands, including children, is desperate and those extensive initiatives must not be allowed to be ineffective. It is also essential that the strategies and plans be modified from time to time as the needs of Anangu are better understood.

The appointment of the three service co-ordinators and their role on the Lands, has been mentioned. Their role is critical, not only in the implementation and monitoring of the programs and services but also in the identification of gaps and proposals for reform.

It may be seen that the very serious problems on the Lands have been identified and recognised over many years in various reports and investigations commencing in 1996 relating to child abuse and neglect, the reports of the State Coroner in 2002 and 2004 and the other reports which have been mentioned. The State and Commonwealth Governments have been aware of those problems which include drug and alcohol abuse, including petrol sniffing, poverty, hunger, illness, low education levels, unemployment, community dysfunction, violence, including domestic violence, inadequate housing and overcrowding, deficiencies in governance, unemployment and the exclusion of Anangu in the provision of most services. Lack of safety in the communities is of critical concern.

By 2004 the two governments were aware of what had to be done. Further investigations were undertaken and strategies were developed to resolve the problems on the Lands with the involvement of Anangu and both governments. The strategies and programs developed appear appropriate as far as they go, including the programs implemented by DFC, DECS and

Nganampa which are mentioned later in this report. The role of the co-ordinators is of crucial importance.

The Inquiry established during the field trips that most of the problems remain and the implementation of the programs is a matter of urgency. They must be adequately resourced and involve increasing participation by Anangu.

The problems cannot be resolved overnight. Time is required but the sense of urgency must not be allowed to diminish.

Chapter 2 Governance in communities

The struggle now is over money. It has become very nasty – the money and the Toyota – really crass, and the dignity and the vision that once used to characterise Anangu life.

Experienced worker on the Lands

Graft and corruption is really part of why people think that the law doesn't apply; that it's open slather; it's the law of the jungle here. I think that flows on to some of their social behaviour that in turn flows on to the things that you're investigating.

Experienced worker on the Lands

As has been mentioned in Chapter 1 there has long been concern about governance in communities on the Lands which is provided by local government councils. The precise legal basis of some of the councils varies from others but the distinction is of no consequence for the purpose of this report.

In September 2007, the State Government received another report from John Thurtell Consulting Services Pty Ltd concerning governance on the Lands Scoring *Study of the delivery of Municipal and Local Government Services on the Anangu Pitjantjatjara Yankunytjatjara Lands (APY Lands) Final Report*. The scoping study identified four options for the regional delivery of municipal and local government services on the Lands. The State Government is currently considering this report.

The details of the four proposals are not relevant to the Inquiry, which expresses no view as to which of the four proposals is the best option for the Lands. Such a decision is not within the Inquiry's terms of reference and the Inquiry has not taken evidence specifically about the four proposals.

However, the broader issue of governance generally on the Lands is relevant to the Inquiry's terms of reference. The Inquiry received evidence that influential families dominate particular communities and, within those communities, there are some men who wield significant power and rule a community like a 'fiefdom'. One well-placed worker told the Inquiry *'There's usually a powerful person or family in each of the communities'*.

The Inquiry also received evidence about allegations of fraud and corruption involving the administration of some communities and that people who work in communities

...support key family groups in each of the communities. ...it's easier to have decisions made. Also, ...most people are employed by council, so their positions can be tenuous if they don't tend to support the powerbrokers in the community.

These matters are relevant to the Inquiry's terms of reference because the Inquiry heard evidence that poor governance and corruption frequently inhibited the proper reporting of child sexual abuse.

For example, the Inquiry heard evidence that in one community a health professional was assisting a young teenage girl who was pregnant. The police were involved. The Inquiry was told that nobody would identify the father of the child.

It's to do with people in positions of power and judging by the closing of ranks and no-one being prepared to talk. A whole family can find themselves without food, house, access etc because they are blocked by those in power and everyone therefore keeps quiet.

A former senior employee of the APY Executive Board told the Inquiry that 'a lot' of the people who were employed there 'were basically milking the system; so I really had to start moving a few staff on'.

The general problems were just basically a lack of accountability or a lack of understanding of accountability by Anangu, and I really felt that I walked into a civil war with South Australian public servants.

Police told the Inquiry that ‘whitefellas’ come on to the Lands and have access to funds and can ‘pay off’ any local people. The result was that a perpetrator of child sexual abuse ‘may only get reported if they are not providing resources to the locals’.

A person with more than 30 years’ experience living and working on the Lands told the Inquiry the main routes of corruption were control of the community council, which means control of the white staff and, in particular the MSOs (Municipal Service Officers), the control of the community store and influence over the store manager.

Most of the [MSOs] are unqualified for the jobs that they do. In fact, most MSOs don’t know what their jobs are because they have never been articulated and defined by the funding agencies, so no-one really knows what they’ve got to do. You know, you’re a whitefella; you can read and write; you can do it, but non-one really knows what it is. It’s certainly not community development. Now for that person to keep their job they need to have Anangu allies; the Anangu allies then become the chairmen or the strong people in the community. So the quid pro quo is: you protect my job here and my salary and my ability to take holidays when I want to, my ability to take away the community car for my holidays, my ability for you to authorise an increase in my salary; I will give you access to the order book. I will give you the job. Your kids can all work in the office. You can use the vehicle. We will buy a community vehicle for

you. You can have money out of the till. You can get food for free. So there’s a relationship there between the powerful people in the community – black; and the powerful people employed – white. That is a symbiotic relationship; they depend upon each other.

One MSO told the Inquiry the role of the MSO was to make ‘sure the funds that are provided cover the funding period ... providing the clerical work that the office requires’. The MSO also had to see that ‘the essential services are carried out; that the council meetings are happening; recording of them; the financials are delivered to the council, assist with the elections’.

The Inquiry heard that there was a high turnover of MSOs – including one MSO who may not have ‘even lasted 24 hours’ after being ‘abused so he packed up and left’. Another MSO was threatened then assaulted. The building she worked in was stoned. She was frightened. Her resignation came soon after.

An MSO told the Inquiry that ‘there are no audits of me done; so if they’re not auditing me they’re not auditing any MSO out there’.

The Inquiry heard evidence about ‘stuff missing everywhere’, including widescreen televisions, sporting equipment and office equipment. Access and control of order books were very important and open to abuse. ‘...we just had tremendous trouble to get their order books under control’. One particular person had treated the order book ‘like his own chequebook’.

A former senior employee of the APY Executive Board told the Inquiry that in one instance, 14 or 15 tyres had been ordered in one month and when the relevant person was questioned said ‘they had been stolen off the back of my car ... but, you know, it was fairly obvious that ... the tyres were being sold on or being used on other vehicles ...’

I saw store accounts ... being written off without correct authority... I believe \$36,000, I think, if I recall, of money that was actually booked out under the store and it was virtually just written off and the paperwork disappeared.

A health professional told the Inquiry that because there are these powerful men and powerful families in each community, 'the politics interfere with your objectivity as a clinician'.

It affected my workload because [powerful man] wasn't willing to chastise family members who weren't coming in to work. I was doing the work of all those other family members ... He is the representative of the [health] clinic on the council. If this needs to change, the council are going to have to make a decision that [a woman] should no longer be the Mayatja. That's probably not going to happen ...

Wiltja Residence staff told the Inquiry that child sexual abusers were often from powerful families, with access to resources, good English language skills, jobs and 'contacts with whitefellas'. Their clout is from the 'whitefella' system – not from traditional law.

The Inquiry heard evidence about Mai Wiru – a stores policy trying to get fresh, healthy affordable foods into stores.

One of the significant things about Mai Wiru is that we've been introducing standardised management practices, instituting centralised recruitment, introducing centralised monitoring of accounts. Our biggest battle in this is people who don't want that monitoring.

A person who has lived and worked for decades on the Lands told the Inquiry that 'there's been an increase in graft and corruption, both black and white'. Historically, families have had strong people

to look after resources – 'that's how people survived in clan groups'.

What's happened, I think, is that those resources now mean money and vehicles and access to jobs, access to the wherewithal to get money. In an area of scarce resources, the most powerful people and the most ruthless people are able to access those resources.

A council chairperson told the Inquiry that

there are occasions where women would be frightened to talk about issues or raise certain things, you know; because I think at the moment a lot of our communities don't have a strong police presence.

As has been mentioned, the 2005 Thurtell Report resulted in two service co-ordinators living on the Lands and a regional co-coordinator being based in Adelaide. Having spoken with the relevant people, it is the view of the Inquiry that the following picture emerges:

- most administrative positions in communities are dependent on the community council, so many incumbents favour powerful people or families and that makes it difficult when new people try to enforce rules
- Iwantja (Indulkana) is in the middle of a family power struggle
- Pukatja (Ernabella) community council is dysfunctional
- Mimili is caught in the middle of a three-way family power struggle
- Kaltjiti (Fregon) is dysfunctional, partly because it was established as an outpost of Pukatja and disparate groups were brought together
- community decision-makers frequently have poor literacy and numeracy skills

- issues around management of community stores include misappropriation of food and money and the stocking of fresh food.

APY submitted to the Inquiry that people were more likely to disclose child sexual abuse if action is taken on matters already known and if 'action commences... in communities affected by governance issues'. It stated that 'corruption in some communities and in the provision of some services creates a negative environment in relation to change for the better'.

APY told the Inquiry that police action on complaints needed to be 'strengthened' and a 'zero tolerance' had to be established, with a 'need to disclose' culture through, for instance, advertising and on-going 'appeals from community leaders for disclosure'.

APY made a number of suggestions 'for technical amendments to the APY Land Rights Act to enable attacks on corruption and to force accountability and transparency to be addressed'. For reasons expressed at the start of this section, it is neither necessary nor appropriate for the Inquiry to delve into that detail. The State Government should, when considering issues relating to governance on the Lands, consult widely, including with the Executive Board of APY and other interested stakeholders, before making any substantive changes. The Inquiry is cognisant of the fact that some of the current governance structures are quite detrimental to the disclosure of child sexual abuse. Any change of governance structure should be made in the knowledge of the negative impact of the current governance structure.

Recommendation 1

That any change to governance of communities on the Lands be implemented promptly so as to reduce the extent of dysfunction and possible corruption in the communities.

That the nature of any change should have regard to the empowerment of Anangu and enhancing confidence in disclosing child sexual abuse and implementing measures to prevent the abuse and address its consequences.