



**ANTAKIRINJA MATU-YANKUNYTJATJARA
ABORIGINAL CORPORATION RNTBC
(ICN 2932)**

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The Honorable Terry Stephens
Presiding Member
Aboriginal Lands Parliamentary Standing Committee
Parliament House
GPO Box 572
ADELAIDE SA 5001

By email: alps@parliament.sa.gov.au; stephens.office@parliament.sa.gov.au

Dear Presiding Member

RE: SUBMISSION TO THE ABORIGINAL GOVERNANCE INQUIRY

This letter is a submission from Antakirinja Matu-Yankunytjatjara Aboriginal Corporation RNTBC (**AMYAC**) to the Aboriginal Governance Inquiry (**the Inquiry**) currently underway by the Aboriginal Lands Parliamentary Standing Committee (**the Committee**). We thank you for agreeing to receive this submission out of time.

Introduction

AMYAC is the registered native title body corporate (**RNTBC**) for the Antakirinja Matu-Yankunytjatjara (**AMY**) native title determination (SAD6007/98) (**Native Title Determination**) with responsibilities to hold and manage native title rights and interests as the agent of native title holders.

This submission provides an overview of the governance successes and challenges AMYAC has had while carrying out its functions as an RNTBC with over 950 members.

AMYAC was incorporated in 2011, and has since worked hard to advocate for and support the aspirations of the AMY community. To do this, we have worked with native title holders to develop a strategic plan as a road map to achieve our goals for our future, including establishing our presence as traditional owners in Coober Pedy.

AMYAC tirelessly works to carry out its objectives and achieve the aspirations of our native title holders. AMYAC is accountable to its membership base and has strong governance practices that integrate cultural governance processes and demonstrates AMYAC's commitment to self-determination. AMYAC's activities are carried out in compliance with AMYAC's Rule Book and the relevant processes set out in the *Native Title Act 1993* (Cth) (**NTA**) and *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth) (**PBC Regulations**).

We are proud of our work, and we want to share this story with you as the Committee considers the key elements of a comprehensive governance capacity-building framework.

Resourcing

As a registered native title body corporate, AMYAC has significant obligations, responsibilities and opportunities in relation to the Native Title Determination under the NTA and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth). Failure to comply with or seize opportunities arising by virtue of the Native Title Determination may have significant impact on the AMY people whose native title rights and interests AMYAC is responsible for managing. This heavy responsibility is felt keenly by the AMYAC board, as they work to achieve the aspirations of AMY people and secure a bright future for the next generation.

Preparing and implementing a strategic plan to achieve these objectives, while at the same time being required to respond to and engage with government and other stakeholders at an overwhelming pace, is particularly challenging with limited resources.

AMYAC does not receive financial support from the Federal Government through the National Indigenous Australians Agency. Further, to date, the State of South Australia has not entered into a compensation settlement agreement with AMYAC. This means that AMYAC relies solely on generating its own operational funding through third-party agreements. Where third party agreements include monetary payments, those payments are compensation for impact on native title and should not be required to be used to support corporate administration and compliance with statutory obligations.

Without funding, AMYAC knows that AMY people may not be able to meaningfully engage with proposals relating to activities on country. This puts AMYAC at a disadvantage at the negotiating table and undermines their right to free, prior and informed consent. A lack of funding puts further strain on AMYAC to use its native title benefits to manage its ongoing compliance with its statutory obligations, diverting attention and effort from achieving the goals and strategic priorities of its community. This inhibits AMYAC's capacity to help realise meaningful self-determination for native title holders.

In addition, the vast majority of AMYAC members face significant hardship residing in remote and isolated locations. For residents in Coober Pedy, this includes the challenges relating to oppressively high utility prices. This substantially impacts the well-being of AMYAC members and the cohesion of the AMY community. Indeed, the responsibility for supporting AMYAC members to redress experiences of socio-economic disadvantage primarily rests with a charitable trust established to manage native title compensation, for the benefit of AMY people.

Well-funded and functional RNTBCs have clear benefits to government, third party proponents, and AMY native title holders. In addition to the benefit of being able to meaningfully engage with proposals for activities on country, securing core funding to administer key RNTBC functions would enable AMYAC to focus on its strategic goal of pursuing business and economic opportunities with the view to securing long term economic independence. As such, we respectfully suggest that the Committee recommends State funding be allocated to support the operations of RNTBCs.

Governance

AMYAC has a strong track record in governance, with robust processes in place to support accountability, transparency and considered decision making. Set out below are some of the factors that together demonstrate AMYAC's functionality and success.

Cultural governance

AMY native title holders nominated AMYAC to be the agent PBC, which was confirmed by determination of the Federal Court. All native title holders over the age of 18 are eligible for membership of AMYAC and the members nominate the directors. As such, AMYAC has cultural authority to act in the best interests of the AMYAC native title holders.

AMYAC has integrated cultural governance practices within the formal structures of its Rule Book, and within its policies, procedures, and practices. This ensures AMYAC is doing business in a culturally appropriate way that respects cultural protocols, ensures culturally safe processes are in place, and incorporates traditional decision-making principles. Acting in accordance with cultural governance protocols helps the AMYAC board to maintain cultural authority and credibility with its members, be consistent in decision making, and build trust within the AMY community, and with broader stakeholder groups.

Ways in which AMYAC integrates strong cultural governance practices include:

- Utilising traditional decision-making processes where possible or appropriate. For example, where applicable, such processes have been embedded in the AMYAC Rule Book.
- Implementing policies that support the maintenance of cultural protocols. For example, AMYAC manages its cultural heritage in a way that ensures the right native title holders are put forward by AMYAC to undertake cultural heritage monitoring and survey work.
- Aligning directorship eligibility to ensure the board retains cultural authority and fosters a culturally safe place for directors. For example, the board must have at least two female and two male senior cultural advisors appointed as directors.
- Seeking ways to support the intergenerational transfer of traditional knowledge, making it a priority in our strategic plan.

Integrity and leadership

The AMYAC board carries out its work with a high level of integrity. This is demonstrated by the processes in place for the management of conflicts of interest and disputes. For example:

- Conflicts of interest are actively managed at the beginning of each meeting in accordance with an internal policy and register.
- The Rule Book sets out a process to actively manage disputes or potential disputes. The corporation has yet been required to use this process, demonstrating directors' commitment to actively manage disagreements in the interests of resolving disputes before they arise.
- Directors, members and heritage survey participants must all comply with the code of conduct relevant to those positions. Compliance is actively managed.

AMYAC directors have a considerable amount of responsibility within the AMY community and are put under pressure to do a good job and manage the expectations of the members about what can be achieved and what they have the authority to do.

AMYAC directors and senior cultural advisors step forward and take responsibility in challenging situations. They mentor upcoming leaders, speak up and raise community concerns and priorities when engaging with stakeholders and proponents, and listen to and engage with AMYAC members and native title holders. AMY leaders lead by example and know when to ask for assistance. For example:

- Directors undertake governance training through AICD
- AMYAC seeks expert advice on complex issues relating to governance or native title including legal, anthropological, financial or advice as required.

Transparency and accountability

As an RNTBC, AMYAC has responsibilities under the NTA and the CATSI Act in relation to native title holders and members. In addition, AMYAC directors and members have cultural responsibilities and obligations to family and community that do not always neatly align with corporate obligations. This is one of the challenges for native title holders to navigate between two systems. The AMYAC board is committed to transparency and accountability and:

- Provides regular reports to members on AMYAC's activities, through updates to the AMYAC website, written notices and independently facilitated community meetings as required
- Ensures all reporting obligations are complied with on time
- Presents detailed information at the AGM in addition to what is required by the CATSI Act
- Consults with the members on the strategic direction of AMYAC
- Frequently meets with members and native title holders to provide information, assistance, or updates on activities, or to support the resolution of disputes
- Consults with native title holders on significant decisions and as required by the PBC Regulations
- Engages independent scrutineers at AGMs to promote a fair, transparent and accountable process for the election of directors.

In addition, all native title compensation benefits are managed through trusts, with professional corporate trustees, independent and separate to AMYAC. This trust management structure was established in accordance with decisions made by the community, made in light of the limited options available to native title holders for native title benefit management structures.

Economic opportunities

AMYAC approaches each economic opportunity on its merit and consults with members and native title holders on whether to proceed. AMYAC has established a subsidiary company, AMY Nominees Pty Ltd (**AMY Nominees**) for this purpose. AMY Nominees has subsidiaries established for particular economic ventures and employs a General Manager with other team members. AMYAC is the sole shareholder of AMY Nominees and regularly reports to the AMYAC board, with the audited financial statements of AMY Nominees (and its subsidiaries) included in the AMYAC audited consolidated financial statements.

AMY Nominees has several active economic ventures. The majority of these ventures relate to the mining industry, leveraging relationships with OZ Minerals for the Prominent Hill mine. Achievements include increased employment, training, cultural heritage management and the operation of two on-site AMYAC-owned-and-managed contracts at Prominent Hill.

Where possible, AMYAC takes a partnering approach to proposed activities on country and is committed to strengthening relationships with key stakeholders. For example:

Oz Minerals

This is an example of AMYAC's successful partnering approach to activities on country through a considered governance structure. This partnering approach is embodied in the "Tjunguringanyi [coming together]" – a committee established with members from OZ Minerals, AMYAC and related organisations. Tjunguringanyi was established so the full benefits of the mining agreement could be realised through mutual commitment and investment.

Conclusion

We trust that our submission demonstrates the success of AMYAC, the strong governance processes that underpin its work, the challenges AMYAC faces and the commitment AMYAC directors show in facing and overcoming those challenges.

We hope that the outcome of this Inquiry is a commitment to funding RNTBCs to undertake core work, and a broader realignment of the approach of government to Aboriginal-led organisations so that the relationship is underpinned by recognition of and respect for our right to self-determination.

We are confident we are already making good decisions about our futures. Please share this confidence with us, and remain committed to supporting us realise these futures for ourselves.

Please contact Michael Pagsanjan (Contact Person) on **08 7221 1690** if you have any questions or would like further clarification on the above.

Yours sincerely, the AMYAC board.