


CABINET - SUBJECTS FOR CONSIDERATION, 05 MARCH 2007 11:00 AM


Not relevant



2 **Bills and Regulations in Principle**

201	MFC/CS/07/006	Drafting of Regulations - Control of Alcoholic Liquor and Regulated Substances under the Aboriginal Lands Trust Act 1966 (Jay Weatherill) WITHDRAWN MOVED TO SUB-COMMITTEE
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Not relevant



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802

CABINET COVER SHEET

1. **TITLE:** DRAFTING OF REGULATIONS – CONTROL OF ALCOHOLIC LIQUOR AND REGULATED SUBSTANCES UNDER THE *ABORIGINAL LANDS TRUST ACT 1966*
2. **MINISTER:** Hon Jay Weatherill MP
MINISTER FOR ABORIGINAL AFFAIRS AND RECONCILIATION
3. **PURPOSE:** The Submission seeks Cabinet approval to instruct Parliamentary Counsel to draft the *Aboriginal Lands Trust Act (Control of Alcoholic Liquor and Regulated Substances on Umoona Community) Regulations 2007*, with a view to them being operative 1 May 2007.
4. **IDENTIFY THE RELEVANT GOVERNMENT POLICY AND/OR TARGET IN SOUTH AUSTRALIA'S STRATEGIC PLAN:** Target 6.1 in *South Australia's Strategic Plan* seeks to "improve the overall wellbeing of Aboriginal South Australians".

Controlling the supply and consumption of alcohol and other regulated substances to residents of Umoona community will directly benefit community wellbeing and harmony.
5. **ICT COMPONENT:** N/A
6. **RESOURCES REQUIRED FOR IMPLEMENTATION:** Nil

COSTS:
This financial year
Next financial year
Subsequent years
Source of funds

Treasury and Finance agrees with the basis of the assessment of costs contained in this submission (Costing Comment attached)
7. **COMMUNITY AND ENVIRONMENTAL IMPACT:** Community Impact
Most members of the Umoona Community and the Umoona Community Council believe that the wellbeing of all members of their community is severely and negatively impacted by the consumption, sale and supply of alcoholic liquor.

Business Impact

Does the submission have an impact on business?

Yes. However, the general order of impact on the 3 licensed premises in Coober Pedy in terms of reduced sales is low. It is acknowledged that this is a subjective assessment in the absence of detailed financial data.

These premises are located approximately 5 kilometres from Umoona Community. While the current Liquor Accord in Coober Pedy already restricts the supply of alcohol and the sale of alcoholic takeaways to certain times during the day and to the type of containers for sale, the Umoona dry zone Regulations are likely to have further impact on sales.

The Department of Trade and Economic Development agrees with the basis of the business compliance costs associated with this submission.

Regulatory Impact

The Regulations bring the Umoona Community in line with the broader Coober Pedy dry zone, which covers the Coober Pedy township. The proposed Regulations, coupled with the Coober Pedy township Regulations, seek to prohibit alcohol consumption in Umoona Community and in Coober Pedy township. The Coober Pedy dry zone Regulations are created within the Liquor Licensing (Dry Areas – Long Term) Regulations 1997 under Section 313 of the *Liquor Licensing Act 1997*. The Umoona Regulations are not expected to restrict competition.

8. RISKS:

There are some people in Coober Pedy, including the Umoona Tjutaka Health Service who support the Regulations but have identified the likely impact the Regulations will have on service provision as a resourcing issue. However, regardless of this impact, consultation reveals that the majority of Umoona Community members and residents of Coober Pedy township support the establishment of a Regulation.

There could be criticism that the prohibition of alcohol on Umoona Community is paternalistic and that community members

who do drink will in future have no where to do so. However, Umoona Community Council has requested this action and the Board and Management of the Aboriginal Lands Trust support it.

9. CONSULTATION:

Consultations have occurred and are on-going with Umoona Community and the Umoona Community Council, the latter being the governing body requesting the making of the Regulations.

Consultations with the Aboriginal Lands Trust, the Aboriginal Legal Rights Movement, State Government agencies striving to achieve the objectives for Aboriginal people in *South Australia's Strategic Plan* (including Department of Justice, Crime Prevention Unit in Attorney General's Department, Department of Health and Aboriginal Affairs and Reconciliation Division in DPC) and relevant Commonwealth Government agencies reveals full support for the making of the Regulations.

10. COMMUNICATION STRATEGY:

The proposed communication strategy for the Regulations has been discussed with the Strategic Communications Unit, Services Division, DPC.

Senior officers of DPC (Aboriginal Affairs and Reconciliation Division (AARD)) and Crime Prevention Unit, Attorney-General's Department have informed Umoona Community of the need for Cabinet approval to make new Regulations if there is to be any prohibition that is legally enforceable.

If approval is granted, senior officers of DPC (AARD) will communicate that fact to the community and seek its views regarding any further communication.

Officers from Umoona Community Council will inform the local community. Umoona Community Council will erect signs that give notice about the dry zone. The signs will in the first instance alert residents to the dry zone and that, after a 3 month educational period, expiation notices will be issued for infractions.

During the initial three months, officers from Umoona Council will embark on an education campaign to inform residents about the Regulations and the consequences of breaching the Regulations.

AARD will inform Chief Executives of all State agencies and senior officers of relevant Commonwealth agencies of the new Regulations and ask them to draw the implications to the attention of all personnel visiting Umoona Community.

AARD will also coordinate a series of media releases throughout the region to ensure potential visitors to Umoona Community are aware of the Regulations.

11. URGENCY:

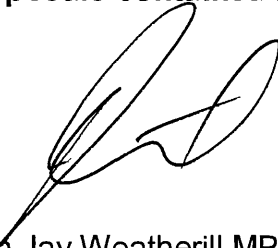
Urgent. Community expectation is such that the Regulations should be in place by 1 May 2007.

12. RECOMMENDATIONS:

It is recommended that Cabinet:

- 4.1 approve that Parliamentary Counsel draft Regulations under Section 21 (1) of the *Aboriginal Lands Trust Act 1966* to control liquor and regulated substances in Umoona Community in accordance with the drafting instructions, with the expectation that the regulations will operate from 1 May 2007.

I declare that I have no actual or potential conflict of interest in relation to the proposals contained in this submission.



Hon Jay Weatherill MP

MINISTER FOR ABORIGINAL AFFAIRS AND RECONCILIATION

22/2/2007

Queries to be referred to:

Lead Author: Alison Kimber, A/Manager, Programs and Community Development
Department: Premier and Cabinet
Telephone: 08 8226 3509

TO: THE PREMIER FOR CABINET

RE: DRAFTING OF REGULATIONS – CONTROL OF ALCOHOLIC LIQUOR AND REGULATED SUBSTANCES UNDER THE *ABORIGINAL LANDS TRUST ACT 1966*

1. PROPOSAL

- 1.1 It is proposed that Cabinet approve the drafting of Regulations to control liquor and regulated substances under the *Aboriginal Lands Trust Act 1966*, with a view to them being operative by 1 May 2007.

2. BACKGROUND

- 2.1 The Umoona Community Council, on behalf of the Umoona Community, is seeking to impose a prohibition on the possession, consumption, sale and supply of alcoholic liquor on Umoona Community under Section 21 the *Aboriginal Lands Trust Act 1966*. Section 21 states that "The Governor may, on the recommendation of (1) Aboriginal community, make Regulations (a) restricting or prohibiting the consumption, possession, sale or supply of alcoholic liquor on a specified part of the lands...".
- 2.2 The Umoona Community is leasehold land of the Aboriginal Lands Trust (ALT). It is located approximately 5 kilometres north east of Coober Pedy township and has a population of approximately 350 Aboriginal people.
- 2.3 Umoona Community is a discrete community with administrative offices, municipal services, recreation facilities and a homemaker service.
- 2.4 The governing body is Umoona Community Council Incorporated, incorporated under the terms of the *South Australian Associations Incorporation Act 1985*.

3. DISCUSSION

3.1 Purpose

This Submission seeks Cabinet approval to instruct Parliamentary Counsel to draft the *Aboriginal Lands Trust Act (Control of Alcoholic Liquor and Regulated Substances on Umoona Community) Regulations*, to be operative by 1 May 2007.

- 3.1.1 The new Regulations will prohibit the possession, consumption, sale and supply of alcohol liquor in Umoona Community.
- 3.1.2 The Umoona Community believes that their health and wellbeing will decline if there is not a legislative authority to control the mis-use of alcohol in the Umoona Community. The governing body, Umoona Community Council Incorporated, has

requested that the Regulations be made and expressed as a total prohibition.

- 3.1.3 It is anticipated that these Regulations would operate in a manner similar to those at Yalata Community (also located on ALT land). These Regulations were continued under a 2005 decision of Cabinet based on their demonstrated effectiveness for controlling liquor and regulated substances in the community.

3.2 The various impacts of this submission are discussed below.

3.2.1 Economic, Financial and Budgetary Implications

a) Financial Implications.

While there are no immediate or direct financial implications of this submission, it is likely to, over time, result in increased demand for some Government and community services. This issue will be considered by line agencies once the impact of the Regulations becomes clearer (within the first 12 months). Refer paragraph 3.2.4.2.3.

b) Required Resources.

N/A

c) Staffing implications.

N/A

3.2.2 South Australia's Strategic Plan

3.2.2.1 Target 6.1 in *South Australia's Strategic Plan* commits the Government to improving the overall wellbeing of Aboriginal South Australians.

3.2.2.2 Controlling the supply and consumption of alcohol and other regulated substances to residents of Umoona community will directly benefit community wellbeing and harmony.

3.2.3 Information and Communication Technology Requirements

There is no ICT component to the submission.

3.2.4 impact on the community and the environment

3.2.4.1 Regulatory Impact

3.2.4.1.1 The proposed new Regulations seek to prohibit the possession, consumption, sale and supply of alcoholic liquor. This will authorise the prohibition as requested by the Umoona Community and maintain it for two years (by which time the Regulations will automatically require review) or until the community requests revocation from Cabinet and Her

Excellency the Governor, whichever occurs first.

3.2.4.1.2 The Regulations are likely to have some impact upon the Coober Pedy township, although the township does already have its own dry zone in place. This impact will be monitored, as well as being given due consideration as part of the 2 year review of the Regulations.

3.2.4.2 **Impact on Families and Society**

3.2.4.2.1 The mis-use of alcohol is identified by Indigenous Australians and by the health profession as one of the most pressing health and social problems in Aboriginal communities.

3.2.4.2.2 The majority of Umoona Community believe that the wellbeing of all members of their community will be severely and negatively impacted if there are no Regulations for a total prohibition of the possession, consumption, sale and supply of alcoholic liquor in Umoona Community.

3.2.4.2.3 If the Regulations are made, particularly given that dry zone Regulations already cover Coober Pedy, there is a strong likelihood that there will be an increase in expiation notices issued to Aboriginal people in the area. This will likely lead to a greater burden being placed on families and service organisations, including FamiliesSA, Umoona Tjutaka Health Service and Umoona Community Council.

3.2.4.2.4 There is leadership within the Umoona Community and a strong desire to prevent the mis-use of alcohol and other substances within the community. State and Commonwealth agencies have for some time sought to provide improved services and secure positive outcomes for Umoona community members. They see the provision to regulate the use of alcohol in keeping with the community's wishes.

3.2.4.3 Regional Impact

The making of these Regulations is likely to have an impact upon visitors from the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands. It is likely to result in an increase in expiation notices being issued to these visitors who periodically travel to Coober Pedy for a variety of reasons.

3.2.4.4 Impact on Business

There will be some commercial impact on three licensed premises in Coober Pedy. For financial reasons the publicans do not support prohibition on alcohol at Umoona Community. While there is already a Liquor Accord in Coober Pedy that is supported by publicans that seeks to restrict the sale and supply of alcohol, the proposed Regulations are likely to have further impact, albeit relatively small, on the sales figures of these businesses.

3.2.4.5 Environmental Impact

Nil.

3.2.5 Risk Management Strategy

3.2.5.1 The majority of community members support the making of the Regulations. However, consultation reveals that some members of the Umoona and Coober Pedy communities do not support the prohibition.

3.2.5.2 There could be criticism that the prohibition of alcohol on Aboriginal land is paternalistic or a denial of self-determination, but this is untenable given that Umoona Community Council Incorporated has requested this action.

3.2.5.3 Government action to make these Regulations to reflect the local Aboriginal community's request is in keeping with *South Australia's Strategic Plan* (Target 6.1).

3.2.6 Consultation

3.2.6.1 Consultation has occurred and is ongoing with the Umoona Community Council Incorporated, which has requested the making of the Regulations, expressed as a total prohibition.

3.2.6.2 Consultation with the Aboriginal Lands Trust, the Aboriginal Legal Rights Movement, State Government agencies striving to achieve the objectives for

Aboriginal people in *South Australia's Strategic Plan* (including Department of Justice, SA Police, Crime Prevention Unit of Attorney-General's Department, Department of Health Department of Education and Children's Services, Department of Further Education, Employment, Science and Technology and DPC-AARD), and relevant Commonwealth Government agencies reveals full support for the making the Regulations, expressed as a total prohibition.

3.2.7 Implementation Plan

- 3.2.7.1 Once made, the Regulations will be implemented in the same way as other Regulations on Aboriginal Land Trust land, that is by the local governing council, Umoona Community Council Incorporated, and all government personnel visiting or working at Umoona will actively support the prohibition. Umoona Community Council staff will also engage the services of SAPOL to enforce the Regulations once they are made.
- 3.2.7.2 A grace period of three months from 1 May 2007 to 31 July 2007 (inclusive) will enable Umoona Community Council staff to consult broadly with residents about the Regulations. During this period, Umoona Community Council staff will also engage in an education campaign that will inform residents of the consequences of breaching the Regulations and what the Regulations are intended to achieve.
- 3.2.7.3 Umoona Community Council staff will also erect signs to warn residents about the existence of the Regulations.

3.2.8 Communication Strategy

- 3.2.8.1 Senior officers of AARD have informed Umoona Community Council Incorporated of the need for Cabinet approval to make the Regulations.
- 3.2.8.2 AARD has discussed the proposed communication strategy for the Regulations with the Strategic Communications Unit, Services Division, DPC.
- 3.2.8.3 If this submission is approved, AARD will inform Chief Executives of all State agencies and senior officers of relevant Commonwealth agencies of the new Regulations and ask that they draw the implications to the attention of all personnel visiting or working at Umoona community.

3.2.8.4 Officers of Umoona Community Council Incorporated, some of whom are in regular contact with local media, will inform the local community.

3.2.8.5 Additionally, during the Regulations' initial three months (the grace period), the communication strategy will include a variety of steps to ensure that the wider region is informed of the Regulations, including potential visitors to the Umoona Community. To this end, AARD-DPC will release a media statement on the making of the Regulations, which will be followed by a media release from the Minister for Aboriginal and Reconciliation. During this period, additional information will be disseminated through the local newspapers.

3.2.9 **Executive Council**

This submission does not need to be referred to Executive Council.

4. **RECOMMENDATIONS:**

It is recommended that Cabinet:

- 4.1 approve that Parliamentary Counsel draft regulations under Section 21 (1) of the *Aboriginal Lands Trust Act 1966* to control liquor and regulated substances in Umoona Community in accordance with the drafting instructions, with the expectation that the regulations will operate from 1 May 2007.



Hon Jay Weatherill MP

MINISTER FOR ABORIGINAL AFFAIRS AND RECONCILIATION

21 ✓ / 2007

Attachments:

DTF Costing Comment
Instructions to Parliamentary Counsel



Government of South Australia

Department of the Premier
and Cabinet

MINUTES *forming* ENCLOSURE to:

File No.

TO: PARLIAMENTARY COUNSEL

**RE: DRAFTING INSTRUCTIONS - MAKING A REGULATION UNDER THE
ABORIGINAL LANDS TRUST ACT 1966**

Clause 10(1)

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Clause 10(1)

