



North Australian Aboriginal Justice Agency

CIVIL LAW SECTION

North Australian Aboriginal Justice Agency – Further submissions in response to Parliamentary Inquiry:

“How the corporate sector establishes models of best practice to foster better engagement with Aboriginal and Torres Strait Islander consumers”

Dear Chair,

We welcome the Standing Committee on Indigenous Affairs’ question which we took on notice during our recent appearance before the Committee regarding “Dan Murphy and what happened with Woolworths and their decision to build a Dan Murphy’s outlet in Darwin”, and “whether (NAAJA) thinks this is a model for how corporate might review some of their decisions.”

By way of background, we understand that from around 2016, Woolworths pursued an application to open a Dan Murphy’s store in Darwin, Northern Territory. This proposal was opposed by many sectors of the Northern Territory, including NAAJA who held grave concerns around the alcohol-related harm that could flow from the opening of the store, as well as the distinct lack of meaningful consultation with Aboriginal organisations by Woolworths in the application and planning process.

In response to sustained lobbying from organisations across the Northern Territory, including NAAJA, the Board of Woolworths ordered an independent review of their application and planning process around the Darwin Dan Murphy’s store, which was conducted by Danny Gilbert of Gilbert & Tobin Lawyers (“the Gilbert Review”).

The Gilbert Review found that Woolworths had failed to consider the challenges facing Aboriginal communities in the Northern Territory, had put profits above public interest, had lobbied the Northern Territory government for law changes that led to fair processes being ignored, and had not met the standards expected of a leading corporate citizen when it pursued plans to open the store in the face of overwhelming community opposition.

In response to the findings of the Gilbert Review, in April 2021 Woolworths withdrew their application to open a Dan Murphy’s store in Darwin.

Whilst NAAJA are pleased with the above outcome, we do not view this as an ideal model for corporate engagement or review. In the above case study, the corporate organisation

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engaged in poor corporate behaviour and failed to properly consult Aboriginal organisations, or engage with Aboriginal consumers, when making decisions that had a strong impact on Aboriginal people and communities. It was only as a result of sustained lobbying from Aboriginal organisations (particularly health organisations) that the Gilbert Review was undertaken, the results of which were scathing of the corporate organisation.

NAAJA submits that, where applications or decisions are being made that affect Aboriginal consumers and communities, a better model for corporate engagement would be one in which:

- 1) The corporate organisation is required to consult with Aboriginal organisations and consumers through a formal mechanism such as an Aboriginal Consumer Commissioner as part of the planning application process;
- 2) The corporate organisation is required to publish the concerns raised by Aboriginal organisations and consumers, and how they are addressing those concerns as part of the planning application; and
- 3) The issues and responses raised in that formal consultation process are reviewed at set regular intervals in instances where the planning application process extends for a prolonged period of time.

In making this submission, we note that the Gilbert Review found that a number of the deficiencies in the Woolworths planning and application process for the Darwin Dan Murphy's store could have been avoided if a formal mechanism for consultation with Aboriginal organisations and consumers existed, such as that contemplated by the Commonwealth Government and NIAA initiative 'Indigenous Voice'.¹

Further information

We trust that the above is helpful to the inquiry process undertaken by the Parliament.

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Kind regards,

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NAAJA

24 February 2022

¹ <https://voice.niaa.gov.au/final-report#>