



# Brumby Hill

Aboriginal Corporation

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## Response to the Consultation paper on Returning Land to Tasmania's Aboriginal People

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### Submission by Brumby Hill Aboriginal Corporation (BHAC)

Attention: Minister for Aboriginal Affairs Roger Jaensch

#### 1. Clarifying the scope and intent of the Act

Agree to include "sea country" where possible, and Inland waters & sky.

#### 2. Revisions to the Tasmanian Aboriginal Land Council of Tasmania (ALCT) election process.

In relation to the process for objecting to a person's enrolment on the ALCT Roll (s.10 (3) (c) ect):

- a) From a BHAC's perspective there is Case Law in relation to Bruce William Patmore and Others v Independent Indigenous Advisory Committee (2002) Administrative Appeals Tribunal, General Administrative Division, Hobart, 17/18 October, & Edwina Shaw & Anor v Charles Wolf & Ors (1998) 389 Federal Court of Australia.
- b) There are the 140 who were challenged, who are part of the BHAC's community. The eligibility process is consistent with the practices of the Commonwealth determination. However, these processes were originated from the Tasmanian Dams case which formed the 3 tripart determination on Aboriginality. The Trustees of those Caves from the Tasmanian Dams Case is the Chair of the Aboriginal Lands Council. We would like the above decision recognized and inserted within the Aboriginal Lands Act to reflect our connection to country and as custodians to land and Sea & Sky country of the Northwest Coast and West Coast of Tasmania.
- c) BHAC being the Custodians for the Northwest Coast and West Coast of Tasmania.
- d) The connection to country for the BHAC community on country purely stands outside the Legislative process unless the legislation is amended to recognize BHAC and the 140 as mentioned above within the legislation. As mentioned in the above points, we are the custodians of the Northwest Coast and West Coast of Tasmania.
- e) There shall be further legal challenges. Should the Commonwealth Electoral Commission be also included in the Aboriginal Lands Act 1995, as the CATSI Act 2005 oversees the Corporations for Aboriginal and Torres Strait Island.

### 3. Simplification of the land transfer process

- Land returns to be looked after/cared for by the local Aboriginal communities from that nation/area. This would involve our BHAC Community that includes the 140 from Case Law mentioned below:

**The Cases:** *Bruce William Patmore and Others v Independent Indigenous Advisory Committee (2002) Administrative Appeals Tribunal, General Administrative Division, Hobart, 17/18 October, & Edwina Shaw & Anor v Charles Wolf & Ors (1998) 389 Federal Court of Australia.*

- Community wishes/wants/should/must be the traditional guardians/custodians of the lands within their nation's perimeter – This relates to the 140 surrounding the above case law mentioned above in Question 1. BHAC would be the corporation as part of the Aboriginal Lands Act 1995.
- Community wishes/wants previous excluded areas within their nations to be entitled (by first people's laws nationwide) to have access to these areas so they can feel the whole connection to their lands to which their ancestors lived and tried to protect. Without hindering outside conflicting influences forbidding them to access their own lands.

Land returns to be looked after / cared for by local Aboriginal communities from that nation/area.

### 4. A land management role for local or regional Aboriginal community organizations

- The BHAC Community would like lands council/s to have and hold seating for each individual cultural area / nation to participate in the development of future and past land hand backs to help strengthen the state of Tasmania so it can become an inclusive and transparent state regarding Aboriginal affairs for each and all Aboriginal peoples. This includes the 140 as outlined in the cases as mentioned above.

**The Cases -** *Bruce William Patmore and Others v Independent Indigenous Advisory Committee (2002) Administrative Appeals Tribunal, General Administrative Division, Hobart, 17/18 October, & Edwina Shaw & Anor v Charles Wolf & Ors (1998) 389 Federal Court of Australia.*

### 5. Creating transparent processes and clearly specified criteria, both to propose land for return and to assess its suitability.

The transparency is BHAC & the CATSI Act 2005 including case law in BHACS favour who are the custodians of the Northwest Coast of Tasmania and the West Coast of Tasmania.

**The Cases -** *Bruce William Patmore and Others v Independent Indigenous Advisory Committee (2002) Administrative Appeals Tribunal, General Administrative Division, Hobart, 17/18 October, & Edwina Shaw & Anor v Charles Wolf & Ors (1998) 389 Federal Court of Australia.*

## 6. Governance Issues

Lateral violence is a major issue for BHAC. No one would be comfortable to attend the Regional Councils if BHAC are going to be the victims of Lateral violence.

Community requires information to be handed to them within reasonable time frames. Preferably all nations informed at the same time, so all nations are then fully informed together and not separately on any upcoming returns/hand backs etc. The concern also is case law and the acceptance relating to connection to country and BHAC being the Custodians of the West Coast and Northwest Coast of Tasmania.

Signed



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Brumby Hill Aboriginal Corporation acknowledges and pays respect to the traditional owners of the land on which we work, live and play. We as a company pay our respects to them and their cultures, and to elders both past and present.