

Review of the Aboriginal Lands Act 1995

Please find below my response to the proposals regarding amendments to the *Aboriginal Lands Act 1995*.

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

There are problems with this proposal. I have had family involved in ALCT processes (*Aboriginal Lands Act 1995 in the Matter of Marianne Watson No. 2* (2001) Tasmanian Supreme Court). They were (correctly) objected to for enrolment as they have no Aboriginal ancestry, the Supreme Court of Tasmania also found this, but through the Administrative Appeals Tribunal they were determined to be 'persons of the Aboriginal race' based on their strong conviction that they are. Originally they claimed descent from a known Aboriginal person and now accept this as inaccurate (easily provable). Then they claimed descent from another line (my great grandmother), since proved wrong through baptism and digitalised newspaper records. Then they claimed descent through another line, also since proved incorrect through digitalised newspaper records. But nonetheless in the more "inclusive" process, they were recognised by a non-Aboriginal body as being Aboriginal.

I have supported someone who grew up being told she was Aboriginal and recognised in some environments as Aboriginal, to research her family history. There are complete records and none of her ancestry is Aboriginal. It seems there was a 'mystery' in the family so someone filled the gap with a claim of Aboriginality, based on the fact that there was something not talked about. There is German ancestry that appears to have been covered up during WW2.

I have a close connection who claimed Aboriginal ancestry however on researching and talking to family, it is not true. There is a photo of a non-Anglo great, great grandmother and records prior to her marriage are difficult to trace, however she is not a known Aboriginal woman and there is nothing to indicate that she is Aboriginal. In general people do not seem to understand that having an ancestor who is not white, is not the same as having an Aboriginal ancestor.

In my family history research I connected with a distant cousin who is descended from a person of African descent (ex-slave taken to Scotland, daughter transported as convict) and she has family who insist on claiming Aboriginal identity even though there is no evidence of it, and there is evidence of African ancestry which explains the darker skin colour of some people in the family.

There is a phenomenon of people claiming Aboriginal ancestry when it is not true. It is called "race-shifting" by anthropologists and being observed in Australia, Canada and the United States.

Failing to challenge this and resolve it is a form of racism against Aboriginal people causing their identity to be appropriated. There needs to be some kind of intervention to find out why people are doing this and divert the behaviour away from Aboriginal organisations. When Aboriginal people say someone is not Aboriginal they need to be listened to and the onus of proof should be on the person making the claim.

I think a part of the problem is that non-Aboriginal people are often unclear about who is Aboriginal, through ignorance or lack of information, so when someone claims to be Aboriginal, others do not wish to offend and so accept what they say at face value, not knowing any different. This leads to a perfect storm of ignorance and politeness and leaves the Aboriginal community to bear the brunt of

saying no to people. Also once people have made a claim, they do not want to back down. It becomes a part of their identity. We need to separate that from having rights.

That the objection process is unique to Tasmania does not mean it is wrong. A more inclusive eligibility means that non-Aboriginal people, such as the examples above, will be included. I don't think the problem and the proposed solution fit one another. What if the problem is false claims and the experience of adversariality is people being told no? Should they be told yes simply because they didn't like being told no? Is the adversariality some people feeling uncomfortable seeing other people told no? There are other methods to reduce adversarial experiences rather than effectively making Aboriginal identity (and in this case voting rights) available to non-Aboriginal people.

As described in the report *Pathway to Truth-Telling and Treaty*, the question of identity is vexed, and just making it more "inclusive" is not a solution.

The right to object should be upheld.

False claims of Aboriginality should be part of any future truth telling. Encourage broader family to speak up about these claims as rather than relying on missing evidence about someone's Aboriginality, we often have evidence to the contrary. This practice of false claims needs to be ended to have any constructive way forward.

A land management role for local or regional Aboriginal community organisations

A new Act to return Aboriginal Land should have a long-term view. For this reason it should be to hold land for ALL Aboriginal people. Regional groupings are small and come and go and do not provide the deep, long-term sustainability of skills developed in state-wide, open to all land management. Regional groupings by their very nature have exclusive membership and as such go against the intent of this proposal to make access available to all Tasmanian Aboriginal people.

I think the questions raised in the ALCT election process need resolving about who Aboriginal people are, because if that is wrong in the first place and non-Aboriginal people continue to present themselves as Aboriginal, then the premise of the proposal is faulty and will create problems rather than find a constructive way to move forward.

Identification of land suitable for transfer

This seems to contradict the proposal to clarify the Act to more easily return land. This reads as an over-bureaucratisation of what could be a more simple process of land return.