

Amending the Aboriginal Lands Act 1995
Additional Consultation

Proposed reform of Land Council election processes and the
role of the Electoral Commissioner

Refined proposal

1. Agree: Permanently open roll
2. Agree: Remove objection process
3. Agree (pending other changes to only require Aboriginal ancestry): Electoral Commissioner determines eligibility of applicants based on 3 part definition
4. Disagree: Community recognition from any Aboriginal organisation
5. Agree: Electoral commissioner **must take into account** Court decisions on a persons Aboriginality
6. Agree: Current electors remain on roll
7. Agree: Electoral Commissioner may take advice from any person
8. Agree: Electoral Commissioner required to request advice from a representative Advisory Panel;
Minister appoint Advisory Panel on 3 year rotation **or**:
Electoral Commissioner appoints Advisory Panel- agree
9. Agree: Confidentiality
10. Agree: Restrict right of appeal to a declined applicant

Also: Government to facilitate an expanded Archive service to assist intending applicants to investigate their Aboriginal ancestry.

Most proposals make good sense. Good to see that an expanded service of Libraries/Archives will be made available to intending applicants.

Other Comments

The three part definition:

Of the 3 parts of the definition, the Aboriginal ancestry part is the most significant; there is no point getting a confirmation of Aboriginality from an Aboriginal organisation if there is no Aboriginal ancestry. And people would not apply if they did not themselves identify as Aboriginal.

Because the community recognition part of the definition is very subjective, it makes more sense to remove this altogether as long as Aboriginal ancestry has been properly established.

There are many Aboriginal people who do not have connections or associations with any Aboriginal organisations but who can trace their ancestry to tribal Aboriginal people and are members of well known Aboriginal families.

There are also Aboriginal people who may not be on the ALCT roll and who are members of Aboriginal organisations and whose families are well known as being Aboriginal. There is no good reason to require these people to get a Confirmation of Aboriginality from an Aboriginal organisation: more work for them and the organisation, and for many people a confusing process, especially for many younger people or those with lower literacy levels-all unnecessary if the Advisory Panel or similar can confirm their Aboriginal ancestry from their application form.

Likewise if people cannot show Aboriginal ancestry they have no need to seek confirmation from an "Aboriginal organisation". So it makes sense to either remove the 2nd and 3rd parts of the eligibility requirements, or leave it in and have the applicant state their own identity and how they can show they have Communal recognition. In this case it all depends on the form used and how that helps or hinders the process.

The planned Advisory Body should be appointed by the Electoral Commissioner as they would have more knowledge in the relevant area than the Minister, and be less likely to be subjected to political pressure to appoint people with no proven Aboriginal ancestry. The Minister should however in the guidelines for the electoral process provide some clarity about acceptable and unacceptable evidence in relation to family trees.

If archival research shows descent from say two white convicts or even two black convicts who were not Tasmanian/Australian Aboriginal people, any stories purporting to provide family anecdotal evidence about for example, illegitimate children being not from the shown parentage but from an affair with an "unknown local Aboriginal woman" (and similar stories which are known to do the rounds), would not pass the test of Aboriginality for the ALCT election purpose. This would make many people who are likely to apply, ineligible to vote; it would upset many people, but unless the government clearly indicates the parameters of what is acceptable from the outset, the distress will only be worse. On the other hand, if people with no proven Aboriginal ancestry are to continue to be allowed to fight for land against people whose ancestors were incarcerated on Flinders and Cape Barren Island because they were Aboriginal, then that is a very sorry and tragic state of affairs. There would be no Justice, no Truth Telling and no gap would be closed.

Aboriginality in a Wider context

The issue of Aboriginality is so big and harmful and confusing for the general public, who then tend to view anything Aboriginal with scorn and scepticism. The Government could bite the bullet and undertake, for a limited time, say 2-3 years, to fund an office to research family trees to determine if there is Aboriginal ancestry for anyone who seeks to find out. This could be done in conjunction with the proposal to provide an expanded service for Archives/Libraries to assist with family trees for ALCT purposes.

If no Aboriginal ancestry is found, it would not prevent people from identifying as Aboriginal if they still chose to, but it would prevent them from doing a number of things, eg being on ALCT role, taking on Aboriginal specified jobs and awards, being a Director of an Aboriginal organisation and any number of things designed for the benefit of Aboriginal people.

Furthermore it could provide clarity and emotional release for many people who would find out that their dark ancestor was not Aboriginal but another dark race eg Samoan, Portuguese and any number of other races or nationalities who were living in Tasmania in the 1800's. This could be a streamlined, confidential service that would have an archivist/historian, an Aboriginal researcher and an administrative worker and would aim to put an end to the divisive harmful state of affairs that exists in Tasmania in relation to Aboriginality.