

**SUBMISSION FROM THE SIX RIVERS ABORIGINAL CORPORATION IN RESPONSE
TO THE CONSULTATION PAPER ON PROPOSALS FOR AMENDMENT OF THE
ABORIGINAL LANDS ACT 1995**

September 2022

Summary

Six Rivers Aboriginal Corporation is pleased to have the opportunity to comment on the Government’s proposals for amending the *Aboriginal Lands Act 1995* (the Lands Act) to improve the model for returning land.

We strongly support the Government’s commitment to return more land to Tasmania’s Aboriginal people. We understand that the Aboriginal Lands Act is only one mechanism by which Aboriginal organisations in Tasmania are able to pursue aspirations to hold title of land and to have responsibility for caring for country in a manner that provides the best possible outcomes for our people and for our country. Our strong view is that there are clear circumstances where giving land title to a local Aboriginal group will deliver the desired outcomes for that group, where vesting the title in the ALCT, and subjecting the title to other Lands Act restrictions and provisions may in fact significantly complicate or prevent realisation of those outcomes. In this regard, we want the Government’s commitment to return more land to Tasmania’s Aboriginal people to include giving land title directly to local, family based, Aboriginal organisations where the local organisation presents a case supporting this to occur.

Responses to specific proposals presented in the Consultation Paper

1: Clarifying the scope and intent of the Act.	<ul style="list-style-type: none">• That the long title of the Act be amended and/or a Purpose and Objectives provision be added to expand the Act’s scope and intent to reflect the importance and significance of land to Tasmanian Aboriginal people.• Health, wellbeing, housing and economic outcomes, and inclusion of water(s) may also be included in the scope.
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Six Rivers supports these proposals.

2: Revisions to ALCT elections.	Amend the Act to: <ul style="list-style-type: none">• Remove the process for objecting to a person’s enrolment on the ALCT Roll (s.10(3)(c) etc);• Apply a method consistent with the intent of the Government’s Eligibility Policy to determine eligibility to participate in ALCT election processes, creating consistency with the practices of the Commonwealth and other jurisdictions; and• Implement appropriate procedural reforms to reflect a reduced role of the Electoral Commissioner.
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Six Rivers has considerable concerns with the proposed revisions to the ALCT election process.

Under the Lands Act, anyone who wants to vote in ALCT elections, or to be eligible for election to the Council, must be able to demonstrate that they are an Aboriginal person. We do not accept that the level of evidence that the Government is proposing to accept, in line with its Eligibility Policy, is adequate for proving a person's Aboriginal ancestry and community acceptance. We strongly disagree that a person's statutory declaration is acceptable evidence to support their claim of 'Aboriginal ancestry', and we do not agree that a registered Aboriginal organisation's signature on an eligibility form is acceptable evidence of 'communal recognition by members of the Aboriginal community'. We note that in the event that the process for objecting to a person's enrolment on the ALCT Roll is removed from the Act, a separate and likely onerous legal process would need to be followed through the courts alleging that a false declaration had been made.

There has been a great deal of research in Tasmania and there are accepted records and evidence of the lineage of Tasmanian Aboriginal families. These family groups hold the knowledge of who is and who is not part of their family lineage and who is accepted by them as part of their community.

Self-determination principles dictate that Aboriginal people should be the ones to decide who is Aboriginal, and our view is that it is the role of the family group, to which lineage is claimed, who should be verifying a person's claim to be an Aboriginal person – both in terms of Aboriginal ancestry and community recognition. If accepted and recognised families are not given the role/right to determine a person's Aboriginality and this is entrusted to a flawed process such as one consistent with the Government's Eligibility Policy as is proposed, then a mechanism for challenging a person's enrolment to vote on the grounds that they are not an Aboriginal person must be retained in the Act. We are also of the view that any challenge process must be based on family groups speaking for their own groups.

Our preference would be for something like a Board of Elders, with representatives of all the established family groups, to assess nominations and claims. We think it could also be used for other boards or councils, such as the Aboriginal Heritage Council.

We are very concerned that the approach proposed by the Government will push the question of Aboriginality in Tasmania into an unpleasant and confrontational place that will further harm the very people that the Act seeks to promote reconciliation with.

3: Simplification of land transfer process.	Amend the Act to: <ul style="list-style-type: none"> • Create a new <i>[disallowable]</i> instrument of transfer for significant parcels of Crown land, including reserved land, which will simplify the process. The new instrument of transfer would provide a clear, set of management conditions for each piece of newly transferred land; and • Otherwise make greater use (for both freehold and unreserved Crown land acquired by ALCT) of the ability to declare land as 'Aboriginal land'.
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Six Rivers supports these proposals.

4: A land management role for local or regional	Amend the Act to provide, as part of the new instrument of transfer: <ul style="list-style-type: none"> • The option to specify a land manager or co-manager, in addition
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Aboriginal community organisations.	<p>to ALCT, including where appropriate a local Aboriginal group; and</p> <ul style="list-style-type: none"> • Consolidated details of access rights, ensuring that Aboriginal land vested in ALCT would be (as far as practicable) freely available to access by Tasmanian Aboriginal people and organisations.
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Six Rivers agrees that there are circumstances where a local Aboriginal group should have some sort of role to play in managing Aboriginal land. We are concerned to hear that local groups in some areas are of the view that land in their area will automatically be ‘given’ to them. We would be very concerned if this occurred without broad consultation, and all Aboriginal people with an interest in an area must be involved in any discussion and decision for this to occur. Our comment on this matter applies to land that has already been returned and vested in the ALCT, and to future land transfers.

5: Identification of land suitable for transfer.	<p>Amend the Act to provide for:</p> <ul style="list-style-type: none"> • Clear identification of the values, and the significance to Tasmanian Aboriginal people, of any land proposed for transfer; • A way of identifying whether the significance is primarily to all Tasmanian Aboriginal people (ie, statewide) or is specifically local/regional; and • Development of clear criteria and process to support future evaluation of land nominated for return.
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Six Rivers supports these proposals. We note that the Indigenous Land and Sea Corporation has a process for identifying and assessing the values and interests around any land it’s thinking of buying or investing in. It takes a long time but is worth considering as a model.

6: Governance issues	<p>Amend the Act to:</p> <ul style="list-style-type: none"> • Require management plans to be prepared and published that are proportionate for the size or complexity of the land parcel involved; and • Require ALCT to publish an annual report to support transparency and accountability to Tasmanian Aboriginal people on whose behalf they hold and manage land, and to increase understanding and appreciation among the broader Tasmanian community of the work that ALCT and other Aboriginal land managers undertake.
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Six Rivers supports these proposals.

In relation to management plans, we consider that it is important that they are prepared early, at the time of return if possible, to achieve the best outcomes. We also recognise that the production and implementation of quality management plans requires appropriate resourcing, and we suggest that it is the Government's responsibility to set the Aboriginal community up for success, rather than failure, by ensuring land return is accompanied by sufficient funding to maximise the benefits of returning land. The same goes for the annual report, which needs to be properly funded to ensure it's truly available to anyone who wants to see it.