TASMANIAN ABORIGINAL CENTRE INC.

ABN 48 212 321 102

HEAD OFFICE:

198 ELIZABETH STREET,
G.P.O. BOX 569,
HOBART TAS. 7001
Phone: (03) 6234 0700
Fax: (03) 6234 0799
Email: hobart@tacinc.com.au

182 CHARLES STREET,
P.O. BOX 531,
LAUNCESTON TAS. 7250
Phone: (03) 6332 3800
Fax: (03) 6332 3899
Email: launceston@tacinc.com.au

53 ALEXANDER STREET,
PO. BOX 536,
BURNIE TAS. 7320
Phone (03) 6431 3289
Fax: (03) 6431 8363
Email: burnie@tacinc.com.au

Dr Anna Dacre
Committee Secretary
Standing Committee on Aboriginal and Torres Strait Islander Affairs
Parliament House
Canberra 2600

4th March 2013

Dear Dr Dacre,

Re: Native Title Act amendments

Thank you for your letter dated 15th February 2013 inviting us to make a written submission by close of business today.

Disregarding historical extinguishment of native title on parks and conservation areas

We submit the provision should exclude historical extinguishment regardless of the cause of extinguishment on crown land reserve areas. The current amendment is restricted to exclusion of historical extinguishment only where the vesting of crown land reserves had the effect of extinguishment.

In her Second Reading speech, the purpose in excluding historical extinguishment from park areas was said by the Hon. Nicola Roxen to be "*this amendment may be used in claimant applications and revised native title determination applications to ensure flexibility for parties*". It seems the focus of this part of the amendment is not so much on the strict ingredients of native title but more on Aboriginal rights over parks as agreed to by governments.

Aboriginal people practise and maintain their traditional rights over parks areas including through hunting, fishing, gathering of foods and basket, canoe and spears. They know the stories of their ancestral roots to the areas but because of historical factors such as removals, both forced and coerced, cannot successfully make a native title claim.

Why the amendment would exclude this class of Aboriginal but accept others whose rights were denied by 'parks legislation' is difficult to appreciate.

Flexibility must be sensibly applied- not just to a class of potential native title holders who ran afoul of crown lands legislation but also to other Aborigines whose rights and interests were more forcefully severed. If native title may apply to parks but for the parks declaration, why should native title not apply to parks for any other reason?

Aboriginal people would still be required to produce evidence of association and connection, and traditional rights in order to take advantage of our suggestion. The State's are protected by the provision requiring joint agreement.

We say the amendment should open the way for a broader class of Aborigines to gain recognition of their rights to 'parks'. Attention is on the land areas broadly known as 'parks land' for Aboriginal engagement.

We call for the words "by any of the following acts" in s10 (7) to be deleted so that the section would read:

Prior extinguishment to be disregarded
10 (7) *For all purposes under this Act in relation to the application, any extinguishment of the native title rights and interests in relation to the agreement area ~~by any of the following acts~~ must be disregarded.*

Sub-paragraphs (a) to (c) become obsolete.

Aboriginal people would still be required to produce evidence of association and connection, and traditional rights in order to take advantage of our suggestion. The State's are protected by the provision requiring joint agreement.

We do not agree that authorities other than the native title holders should be able to veto the application of the amended section 10 (7) as we have proposed. Nevertheless, we are forced to accept that States and the Commonwealth will insist on retaining this veto power.

We thank you again for allowing us the opportunity to submit our views.

Michael Mansell
Legal Director