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Policy Division, DPAC
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RE: Constitutional Recognition of Tasmanian Aboriginal People

Background on the Australian Christian Lobby

The Australian Christian Lobby (ACL) is a grassroots movement of over 68,000 people seeking to bring a Christian influence to politics. We want to see Christian principles and ethics accepted and influencing the way we are governed, do business and relate as a society. We want Australia to become a more just and compassionate nation. ACL is a non-party partisan, non-denominational movement that seeks to bring a Christian voice for values to the public policy discourse.

Proposed Draft Amendment

ACL welcomes this opportunity to comment on the draft amendment to the preamble of the Tasmanian Constitution, an amendment that would provide constitutional recognition to Tasmanian Aboriginal people. It is pleasing to see a proposal put forward by the Premier and Minister for Aboriginal Affairs, with the draft wording of additions to the preamble. The draft amendment bares similarity to the wording contained in other Australian state constitutions with regard to the recognition of Aboriginal people.

ACL has played a constructive role in the national debate about recognition in the Commonwealth Constitution. ACL's managing director Lyle Shelton was asked to contribute a chapter to the Melbourne University Press published book *The Forgotten People*.

Recognition of Aboriginal people in Tasmania's constitution has also been supported by ACL. A submission in favour was provided by ACL to the Standing Committee on Community Development's inquiry into constitutional Recognition of Aboriginal people as Tasmania's First People, in July 2015.

ACL welcomes the proposed amendment as a positive step forward towards recognition of Aboriginals in the Tasmanian constitution. Should the draft amendment be adopted, it will be a powerful symbolic step towards reconciliation and honour this state's first peoples in its foundational document. It will also send a strong message of affirmation for Aboriginal recognition in the Commonwealth Constitution.

The preamble as it currently stands contains subject matter that is also reflected within the body of the Constitution through substantive provisions. Since the proposed amendment to the preamble will introduce new content that is not then reflected substantively within the body of the constitution it is essential that the proposed wording is clarified as being of a symbolic nature rather than creating additional rights under law. Other states have achieved this by adopting exclusionary provisions to avoid any uncertainty around future legal actions in the interpretation of their constitutions, so as to avoid creating any legal liability on the part of the people or Parliament. The addition of such a clause would ensure that courts would not be tempted to imply rights into the body of the Constitution. This is particularly important given the potential implications for ownership and rights to Tasmanian land and water under the proposed amendment.

NSW's constitution contains an example of an exclusionary provision and may serve as a guide, it reads as follows:

(3) Nothing in this section creates any legal right or liability, or gives rise to or affects any civil cause of action or right to review an administrative action, or affects the interpretation of any Act or law in force in New South Wales.

The addition of a paragraph to similar affect into the Tasmanian constitutional amendment would provide clarity in the minds of the public and ensure that Tasmanian constitutional recognition in the preamble is an enduring symbolic gesture of reconciliation between Aboriginal and non-Aboriginal people of Tasmania.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Mark Brown', with a long horizontal flourish extending to the right.

Mark Brown
Tasmanian State Director
Australian Christian Lobby