



4 March 2011

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The Hon Grace Portolesi
Minister for Aboriginal Affairs and Reconciliation
Aboriginal Affairs and Reconciliation Division
Department of Premier and Cabinet
State Administration Centre
200 Tarndanyangga (Victoria Square)
ADELAIDE SA 5000

Attn: Ms Sally Skyring

And via email: aboriginallandstrustreview@saugov.sa.gov.au

Dear Minister

Review of the *Aboriginal Lands Trust Act 1966* – Public Policy Consultation Paper November 2010

I refer to an email from Ms Skyring (4 November 2010) inviting the Society to contribute to the Review of the *Aboriginal Lands Trust Act 1966* and providing a copy of the Consultation Paper for the Review.

The Society appreciates the opportunity to consider this matter and is grateful for the extension of time granted to allow this submission to be finalised.

We note that that significant concepts and ideas put forward by the Society in its submission in May 2009 have been adopted in the Consultation Paper.

In particular we note that it is accepted that there are now, as compared to 1966, different classes of Aboriginal Lands Trust (ALT) beneficiaries, including traditional owners, residents, those with historical connection and native title holders. There is an obligation upon Government to treat these different classes of beneficiary fairly. Under the proposals in the Consultation Paper, recognition of their diverse interests is to be given by a kind of future acts regime set out in Part 4 of the Paper, with varying responsibilities for consultation to different classes of beneficiaries. This is an innovative way to handle infrastructure development upon ALT land. The Society also notes with approval the proposal that the ERD Court be given a jurisdiction to resolve disputes between different classes of beneficiaries and with the ALT itself.

The Consultation Paper proposes a wholesale revision of the ALT whereby the Trust is to be reconstituted as Statutory Authority of the State and granted enumerated powers in order to achieve statutory purposes. Proper arrangements will be made for its staffing under a Chief Executive Officer who reports to the Board. Board appointments are to be made on the basis of merit, skill and expertise

and with rolling three year terms. All of these are appropriate reforms. The provisions requiring Annual Reports to Parliament are appropriate as are limited powers of the Minister to give directions. We note with approval, that there is to be transparency of process, with an obligation upon the ALT to publish policies and standard documents. In addition certain anachronistic provisions of the existing legislation are to be abolished. We note with approval that the distinction between vested and acquired land is to be abolished with a form of statutory inalienability to be created. Ministerial approval for all classes of leases is also to be abolished. This seems appropriate. At the same time a process of scheduling is to be set up to enable certain lands to be made available for commercial exploitation. Again, this is appropriate and the mechanism for scheduling with its many safeguards is suitable for that purpose.

At pages 37 to 39 of the Consultation Paper certain proposals are made regarding mining operations on ALT Land. We note the assertion made that the future act provisions of the *Native Title Act 1993* do not apply to ALT land. We make no submission is made on that issue. The mining proposals are broad reaching and cover consultation and negotiations leading to mining operations after a tenement has been granted. The proposals are similar in form to those found in Part 9B of the *Mining Act 1971*. Whilst the general thrust of the proposals is consistent with current native title and mining practice, more detail will be needed before a concluded position can be taken on the proposals. They are of course vastly superior to the anachronistic and grossly outdated mining provisions under the present *Aboriginal Lands Trust Act 1966*. The proposal for sharing of mining royalties on a similar basis to that in the APY and NT Land Rights Acts is appropriate and consistent with a general obligation of Government to share royalties on an equitable basis.

The Consultation Paper proposes a good order Audit of existing ALT holdings and sets out a mechanism of rectification of titles. This seems appropriate and consistent with the general theme of reform and modernisation of the work of the ALT.

In summary the Society submits that the Consultation Paper on the reform of the *Aboriginal Lands Trust Act 1966* is both thoughtful and progressive. Whilst more work will be needed before a Bill can be presented to Parliament, we await the release of an exposure draft of such a Bill with considerable interest.

I trust this these comments are of assistance.

Yours sincerely



Ralph Bönig
PRESIDENT