

**Mr Todd Buttsworth,
Secretary, Standing Committee on Community Development
House of Assembly
Parliament House
Hobart TAS 7000**

15 July 2015

Submission from Maggie Walter to:

Standing Committee on Community Development

- a. Proposals for amending the Tasmanian constitution to recognise Aboriginal people as Tasmania's first people: and**
- b. Any matters incidental thereto**

Dear Mr Buttsworth

I am a member of the Briggs/Johnson family and a descendant of the pairrebeenne people from tebrakunna country in North Eastern Tasmania. I am also Professor of Sociology and the Pro Vice-Chancellor Aboriginal Research and Leadership at the University of Tasmania. I write this submission from both these positions, as an Tasmanian Aboriginal person and as an academic with a long scholarly interest in Aboriginal social and cultural positioning within Australian and Tasmanian society.

Why the Tasmanian constitution should be amended

The Tasmanian parliament is a relative late comer in asking whether it is time to recognise Tasmanian Aboriginal people in our State's Constitution (and hopefully answering yes, as have NSW, Victoria, Queensland and South Australia). Yet, altering the State constitution to recognise Aboriginal people as Tasmania's first peoples is arguably more important in Tasmania than in other states.

First, and foremost, recognition of Aboriginal people in the Tasmanian Constitution is about addressing the missing Aboriginal place in our State's founding documents. The Constitution Act 1934 as it currently stands does not mention Aboriginal people at all within its five parts and 46 clauses. The Act, however, does refer to the State's previously being a colony (and therefore, by definition, coming into being through the acts of colonisation). There is therefore a significant gap in the narrative of our State's origins within this document. The result of this long term absence of the Tasmanian Aborigines from our State's central piece of legislation, constitutes, I argue, a form of legislative terra nullius.

Recognition of Tasmanian Aboriginal people within the Tasmanian Constitution is fundamentally about recognising that Tasmania is an island with a 40,000 plus deep human history and that it remains home to Aboriginal people alongside those who have come to be Tasmanian through settler and other migration. It is our shared (but not the same) identity as Tasmanians all, which needs to be recognised. In this submission I argue that that recognition has two co-joint aspects:

- insertion of Aboriginal recognition within The Constitution Act 1934
- establishing mechanisms to allow the dual Tasmanian identity to be enacted .

The reasons for these measures are detailed in the next sections.

1. Putting out the Extinction Myth

A singular compelling reason for formal Aboriginal Constitutional Recognition is the long, and on-going legacy of the myth that truganini was the last Tasmanian Aborigine.

As someone in my late 50s I have lived that legacy. Growing up in the North West Coast through the 1960s cultural homogeneity was the apparent norm. The region's British background was proudly displayed and local historical references began abruptly from the time of European settlement. The notion that Tasmanian history was about 150 years old went unchallenged and unremarked.

Within this discourse the region's Aboriginal past was made invisible – and it was not allowed to be discussed – in school, in text books, or in open conversation. There was no open discussion of the absent Aboriginal peoples or the circumstances of their disappearance. Just one Aborigine, truganini, was acknowledged, but as a historical full stop, not as a representative of a people; the people who had lived on these lands for tens of thousands of years before Europeans arrived.

As a child, I was also oblivious to the racial undercurrents of this ostensibly open community. But my older relatives recall the whispered gossip and the veiled references. Because while the area's Aboriginal past was taboo, the Aboriginal antecedents of particular families were common and pejorative knowledge. It is hard to imagine this now – but it was real and it had real lived effects on how we lived our lives within our communities. Since the 1970s, myself and my family have been active in assisting Tasmania's resolute forgetfulness to gradually give way to (a sometimes grudging) re-remembering the old people and their descendants' right to openly acknowledge their identity.

Despite the advances made since the 1970s, in the day-to-day life of Tasmania at the social, cultural and political level that absence of Aboriginal presence continues. As I have argued elsewhere (Mercury Jan 5 2015) there seems to currently exist an either/or assumption when it comes to our Island's history. That somehow, it is presumed that recognising Tasmania's long Aboriginal past undermines or delegitimises the Euro-colonial-settler-state history. It doesn't, and such thinking has been a key barrier for too long (on both sides of the argument) for open conversations between Tasmanian Aboriginal and non-Aboriginal people: conversations we need to have move forward.

So there is much more to do – and constitutional recognition is a first step down a new path of rewriting the Tasmanian narrative; one in which the events of the past, of colonisation then and now are acknowledged but also one in which Tasmania's tens of thousands of years old human history can be celebrated and shared by all. As Tasmanians it belongs to us all. We all have the right to know this history and be proud.

2. Benefits of Constitutional Recognition

It is time for a new approach; one where we can all see that our histories are not mutually exclusive but are part of the same set of stories. And there are good reasons to predict that Aboriginal Constitutional recognition will bring significant benefits to all Tasmanians.

I suspect that when most non-Aboriginal people (parliamentarians included) think about Constitutional Recognition, it will be assumed by that these benefits will be primarily to Aboriginal people – with the State ‘giving’ recognition. Again, I feel this is erroneous thinking. Yes Tasmanian Aboriginal people will be formally recognised as Tasmania’s first peoples and this formal recognition will be a source of pride for us and will be the start of a resetting the relationship between Aboriginal and non-Aboriginal people in Tasmania and resetting the relationship between Aboriginal people and the State itself.

But many benefits of Constitutional recognition will flow to non-Indigenous Tasmanians and the State itself.

- a. Recognition will have cultural benefits. Recognition will improve Tasmania’ national and international reputation and it will support the building of a more convincing narrative (to ourselves and to others outside of the State) of who we are as Tasmanians. It will also, I feel, help non-Aboriginal Tasmanians move from perhaps fearing our Aboriginal history to embracing it. It will allow our Island’s history and its many, many stories and our Aboriginal culture and heritage to become assets, to be celebrated rather than silenced.
- b. Recognition will have economic benefits. As an academic I frequently host international scholars, Indigenous and non-Indigenous. They all are fascinated by Tasmania and ask where they can find the Aboriginal stories, sites and culture. I have to tell them that apart from a display at TMAG, there is very little acknowledgement of these in our tourism ventures or even within our landscapes. They are always astonished. Why, they ask –are we hiding our uniqueness and history, almost pretending Aboriginal Tasmania never was – when in such recognition would add immeasurably to the existing national and international view of Tasmania as a must visit, must see part of the globe.

3. The Risks of Constitutional Recognition

What about the risks – potential losses? Michael Mansell is quoted as downplaying the concept of recognising Tasmanian Aboriginal people in the Constitution by stating ‘It’s just a set of meaningless words’. I respectfully disagree. Mr Mansell’s argument seems to be that moving to Constitutional Recognition undermines the possibility for other important changes to be made, such as closing the gap on Aboriginal employment and educational achievements in Tasmania.

To my mind the Mansell argument has a fatal flaw. It sets up a simplistic false choice– that somehow Constitutional Recognition means the other causes cannot be progressed. If you get one, you cannot have the other. This argument make no logical sense. Constitutional Recognition would at worst make no difference at all to how the State and its non-Aboriginal peoples engage with Tasmanian Aboriginal people and issues and the situation would remain the same. At best Constitutional Recognition is the catalyst for a new engagement and relationship between Tasmania’s Aboriginal and settler populations.

But there is a serious risk here – not that Constitutional Recognition will be a meaningless set of words, but that those words will be taken as ‘enough’ in and of

themselves: that adding a mention of Aboriginal people to The Constitution Act 1934 is the end of the matter, that Aboriginal and non-Aboriginal Tasmania is reconciled, nothing more needs to be said or done.

Such an outcome would be a loss to all Tasmanians. If this is what happens then perhaps Constitutional Recognition will do more harm than good.

Constitutional Recognition and the Mechanism to Enact Recognition

To make genuine change Constitutional Recognition must be accompanied by a mechanism that establishes an Aboriginal voice with influence in the political realm. Making up just four percent of the population it is not possible for Aboriginal people to achieve political representation through the ballot box. Nor would we want to vote along racial lines; our political views as Tasmanians are as varied as those of the non-Aboriginal population. We need another mechanism that recognises that while a minority in our ancestral lands we are active and valued contributors to the how the issues and matters that frame and shape Tasmania's present and future are understood and taken forward.

Recognition is an active, not a passive concept and cannot be 'given' by one group to another. It is a partnership concept with multiple dimensions. These include (but are not restricted to):

- recognition that Aboriginal people are Tasmania's first peoples;
- recognition of equality between Aboriginal and settler peoples in Tasmania; and
- recognition of the rights to, and interdependence of, both groups on the land we call Tasmania.

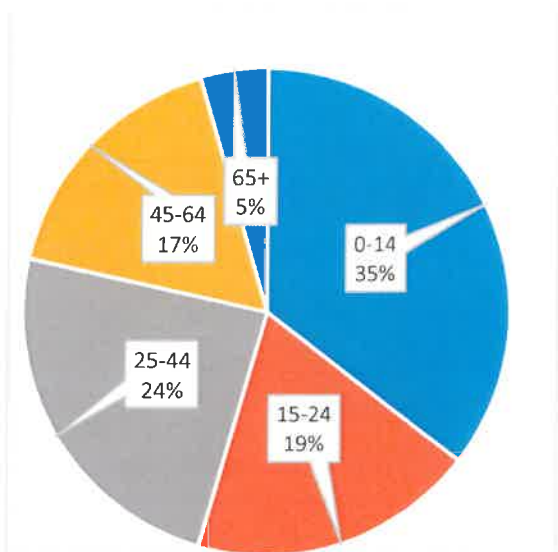
It also includes, as I argue above, recognition of an Aboriginal place within the governance of Tasmania.

I propose that the Tasmanian Aboriginal voice could be achieved through the establishment of a Parliamentary Aboriginal Council. The Council should be established by an act of Parliament, perhaps within the Constitution Act 1934 itself, to ensure that its role and position are embedded in how we take our State forward. The full purpose and role of this Council is open to further development and negotiation but it would need to be framed around the concept of partnership between the polity and Aboriginal people in Tasmania on matters and issues of relevance. These are many.

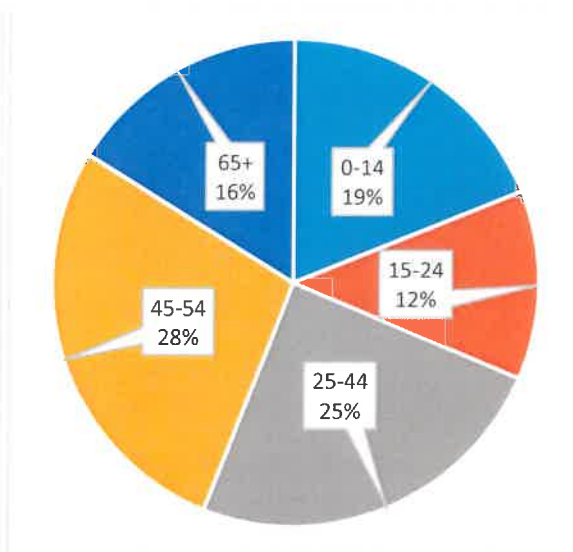
The Council would be made up of eminent Tasmanian Aboriginal people who can bring a range of experience and knowledge to their role. It also must be representative of all Tasmanian Aboriginal people, inclusive of Tasmania's three known Aboriginal families; the descendants of Aboriginal women who resided on the Bass Strait Islands, including Flinders Island and Cape Barren Island; the descendants of Dalrymple Briggs from North West Tasmania; and the descendants of Fanny Cochrane Smith from the state's South East.

I also direct the Committee's attention to the growing proportion of Aboriginal people within the Tasmanian population and the youth of that population. As shown in Figures 1 and 2, the Aboriginal median age in Tasmania is 22 years (compared to 40 years) and as per Figure 1 below more than half (54%) of the population is aged 24 years and under compared to 31 percent of the total Tasmanian population. Constitutional Recognition, and enactment

of that Recognition, is central to broadening and improving the life chances of this large and growing population of young Tasmanians and facilitating their full engagement in contributing to Tasmania's future social, cultural and economic prosperity.



**Figure 1: Aboriginal Tasmania
Age Profile (2011)**



**Figure 2: Tasmania
Age Profile 2011**

Source: Calculated from ABS 2011 Census of Population and Housing, Aboriginal and Torres Strait Islander Peoples (Indigenous Profile (Catalogue number 2002.0) Tasmania (IREG601

I thank you for the invitation to make a submission regarding Constitutional reform in Tasmania. In this submission I have answered some of the questions around why Constitutional Recognition is important and how it might be achieved. My question to this Standing Committee is how willing are you to take leadership on this critical issue and to achieve a genuine resetting of the Tasmanian non-Aboriginal/Aboriginal relationship into the future – for all Tasmanian's benefit?

Please contact me at the numbers or email below if you have any questions.

Professor Maggie Walter
Pro Vice-Chancellor Aboriginal Research and Leadership
PB 22 University of Tasmania 7000
Hobart, Tasmania, Australia
Ph: +61 3 6226 2874
Mob: 0408 527 362
Margaret.Walter@utas.edu.au

