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Committee Secretary
Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait
Islander Peoples
Parliament House
Canberra ACT 2600

Dear Secretary

Thank you for the opportunity to make a submission to this inquiry. I do so in a personal capacity.

The Australian Constitution needs to be changed to provide appropriate and respectful recognition of Aboriginal and Torres Strait Islander peoples. Any proposal for reform must have as its starting point the aspirations of Indigenous peoples themselves. Recognition will be tokenistic and highly problematic unless it has the clear support of that community.

The Uluru Statement from the Heart is a powerful articulation of the reforms desired by Indigenous peoples. The proposal for a Voice by way of an advisory body to Parliament is sensible and sound. It is wrong to suggest any such body would amount to a third chamber of Parliament, or that it would destabilise the existing structures of government.

Change to the Constitution requires broad community and political support. I set out the preconditions for a successful referendum in my book *People Power: The History and Future of the Referendum in Australia* (UNSW Press, 2010). That analysis of every national referendum held since 1901 illustrates that each of the following are needed to have confidence that a proposal will succeed:

- 1 bipartisanship;
- 2 popular ownership by voters;
- 3 popular education; and
- 4 a modern referendum process.

At this point, none of these preconditions is sufficiently evident to suggest a referendum in this area will be passed.

An alternative would be for the Voice to be brought about by legislation. That could provide an interim step to design and illustrate the workability of this model, pending a referendum. A legislative approach should only be adopted however if it has the support of the Indigenous community.

In addition to the change proposed in the Uluru Statement, I have argued over many years in favour of the following amendments to the Constitution:

- The addition of introductory words to the Constitution that frame its purpose and context, including the long history of Indigenous peoples on this continent.
- The repeal of section 25, which contemplates that States may deny people the vote in state elections due to their race.
- The repeal and replacement of section 51(xxvi), which permits the federal Parliament to make race-based laws, including laws that discriminate against members of the Indigenous community. This section should be replaced with a general power to make laws in respect of Aboriginal and Torres Strait Islander peoples, subject either to a general guarantee against racial discrimination or a more specific requirement that the power not be used to make laws that discriminate adversely against Indigenous peoples.

Yours sincerely

George Williams AO