



PRIME MINISTER

26 OCT 2017

The Hon Bill Shorten MP  
Leader of the Opposition  
Parliament House  
CANBERRA ACT 2600

Dear Mr Shorten

*Bill,*

My Government has carefully considered the Referendum Council's call to amend the Constitution to provide for a national Indigenous representative assembly to constitute a "Voice to the Parliament".

After giving the recommendations very careful consideration, the Government does not believe such an addition to our national representative institutions is either desirable or capable of winning acceptance in a referendum.

I firmly believe our democracy is built on the foundation of all citizens having equal civic rights, and being able to vote for, stand for, and serve in either of the two chambers of our national Parliament – the House of Representatives and the Senate.

A constitutionally enshrined additional representative assembly for which only Indigenous Australians could vote for or serve in is inconsistent with this fundamental principle.

Such a proposal would inevitably become seen as a third chamber of Parliament, and the Referendum Council noted the concerns that the proposed body would have insufficient power if its constitutional function was advisory only.

The Referendum Council provided no guidance at all as to how this new representative assembly would be elected, how it might succeed when models in the past have not, or how the diversity of Indigenous circumstance and experience could be fairly or democratically represented.

Moreover the Government does not believe such a radical change to our constitution's representative institutions has any realistic prospect of being supported by a majority of Australians in a majority of States.

Senate F&PA Committee  
Tabled Document

Inquiry: *supplementary estimates 2017-18*

Date/Time: *27/10/17*

Witness Name: *Senator the Hon Nigel*

Organisation: *S. Scullion, Minister for  
Indigenous Affairs*

I acknowledge your unequivocal public support for enshrining the Voice in the Constitution.

But as you previously stated to me, along with the informal Parliamentary group, the Voice proposal would not be accepted by the Australian people at a referendum. I have not changed my view.

We cannot afford to put a proposal to the Australian people that will fail.

The Referendum Council said the Voice to Parliament was a “take it or leave it” proposal for the Parliament and the Australian people. We do not agree.

The proposal for an Indigenous representative assembly, or Voice, is new to the discussion on Constitutional change, and dismissed the extensive and valuable work done largely achieved with bi-partisan support.

We are confident that we can build on that work and develop constitutional amendments that will unite our nation rather than ask the Australian people to vote on a model that will divide our system of government based on race.

If we find a way to recognise in our Constitution the unique place of our Aboriginal and Torres Strait Islanders, I believe we can still secure Constitutional change.

The challenge remains to find a Constitutional amendment that will succeed, and which does not undermine the universal principles of unity, equality and “one person one vote”.

We have listened to the arguments put forward by proponents of the Voice, and both understand and recognise the desire for Aboriginal and Torres Strait Islanders to have a greater say in their own affairs. Proponents of the Voice argue it would allow participation and consultation. However, we do not agree that we should interpret the recommendation as then developing a separate system of national political representation for our Aboriginal and Torres Strait Islander peoples.

Our goal should be to see more Aboriginal and Torres Strait Islander Australians serving in the House and the Senate – Members of a Parliament which is elected by all Australians. I acknowledge the contribution the Hon Ken Wyatt MP, the Hon Linda Burney MP, Senator Malarndirri McCarthy, Senator Patrick Dodson and Senator Jacqui Lambie are making in our national Parliament. Their example is a powerful one.

We acknowledge that Aboriginal and Torres Strait Islanders want deeper engagement, and to be better consulted and represented.

My response to the Voice proposal should be seen as continuing my commitment to find a way through in a genuine and honest way. For our relationship with our Aboriginal and Torres Strait Islanders to have integrity, it must be based on honesty.

I propose to establish a Joint Select Committee to consider the recommendations of all of the existing bodies of work developed by the Expert Panel (2012), the Joint Select Committee on Recognition of Aboriginal and Torres Strait Islander Peoples (2015) and the Referendum Council report (2017). The purpose of the committee would be to examine if there is the chance to return to a bi-partisan approach.

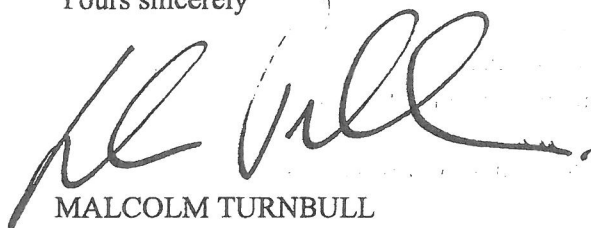
I ask that the existing government chair of the Standing Committee on Indigenous Affairs, Melissa Price, chair the new joint select committee.

I attach proposed draft terms of reference for your consideration.

I want to reiterate my strong desire to return to working in a bi-partisan way to secure Constitutional recognition. There are limits to that bi-partisanship, but I am confident that by working together we can finish the work our predecessors started.

I would be open to meeting you to discuss this issue as soon as possible.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm Turnbull', written in a cursive style.

MALCOLM TURNBULL

## **DRAFT**

### **Joint Select Committee Terms of Reference**

The Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples is established to inquire into Constitutional change.

In conducting the inquiry, the committee will:

1. Consider the recommendations of the Referendum Council (2017), the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (2015), and the Expert Panel on Constitutional Recognition of Indigenous Australians (2012).
2. Work to recommend options for Constitutional change which meet the expectations of Aboriginal and Torres Strait Islander Peoples and can secure both bi-partisan parliamentary support and the support of the Australian people.
3. Ensure that any recommended options are consistent with the four criteria of referendum success set out in the Expert Panel on Constitutional Recognition of Indigenous Australians (2012):
  - a. contribute to a more unified and reconciled nation;
  - b. be of benefit to and accord with the wishes of Aboriginal and Torres Strait Islander peoples;
  - c. be capable of being supported by an overwhelming majority of Australians from across the political and social spectrums; and
  - d. be technically and legally sound.
4. Work in consultation with key stakeholders, including Aboriginal and Torres Strait Islander peoples.
5. The committee is to provide its final report to the Parliament on or before [date] with the committee chair providing an update to the Parliament on the progress of the inquiry during [date].