



the
Lowitja
Institute

Australia's National Institute for Aboriginal and
Torres Strait Islander Health Research

June 29, 2018

Joint Select Committee on Constitutional Recognition
relating to Aboriginal and Torres Strait Islander Peoples
PO Box 6021
Parliament House
Canberra ACT 2600

Email: jscr@aph.gov.au

Dear Sir/Madam

The Lowitja Institute welcomes the opportunity to contribute to this Inquiry. We would also be happy to be of any further assistance to the Committee, should it be required.

The contact person for this work is Ms Leila Smith, Knowledge Translation Manager, The Lowitja Institute, email leila.smith@lowitja.org.au, phone 0401 536 002

Yours sincerely

Romlie Mokak
Chief Executive Officer



**The Lowitja Institute Submission to the
Joint Select Committee on Constitutional Recognition
Relating to Aboriginal and Torres Strait Islander Peoples 2018**

The Lowitja Institute

The Lowitja Institute is Australia's national institute for Aboriginal and Torres Strait Islander health research, named in honour of our Patron, Dr Lowitja O'Donoghue AC CBE DSG. Our chair is Ms Pat Anderson, AO, who also co-chaired the Referendum Council, which led consultations in relation to recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution in 2017.

We are an Aboriginal and Torres Strait Islander organisation working for the health and wellbeing of Australia's First Peoples through high impact quality research, knowledge translation, and by supporting Aboriginal and Torres Strait Islander health researchers.

Established in January 2010, the Lowitja Institute operates on key principles of Aboriginal and Torres Strait Islander leadership, a broader understanding of health that incorporates wellbeing, and the need for the work to have a clear and positive impact.

The Institute hosts the Lowitja Institute Aboriginal and Torres Strait Islander Health CRC (Lowitja Institute CRC) which is funded by the Australian Government Cooperative Research Centres (CRC) Programme. The history of the Lowitja Institute CRC dates back to 1997 when the first CRC for Aboriginal and Tropical Health was established.

The Institute and the CRC organisations have led, since 1997, a substantial reform agenda in Aboriginal and Torres Strait Islander health research by working with communities, researchers and policymakers, with Aboriginal and Torres Strait Islander people setting the agenda and driving the outcomes. At present, the Lowitja Institute CRC works in partnership with 22 Participants around Australia, including Aboriginal and Torres Strait Islander health organisations; government departments; and academic research institutions.

Further detail about the Lowitja Institute is available at our website at www.lowitja.org.au.

Constitutional Recognition

Health and Medical Sector support

The Lowitja Institute is committed to the recognition of Aboriginal and Torres Strait Islander people in the Australian Constitution. We believe that a resolution of constitutional recognition of Aboriginal and Torres Strait Islander people, and what that means, is vital for the health and wellbeing – and the healing – of Australia as a nation.

In 2015, the Institute coordinated an initiative which brought together 135 health and medical organisations across Australia, who signed a statement of support of recognition, based on its link to the health and wellbeing of Aboriginal and Torres Strait Islander people.

The Statement is as follows:

We call on all Australians to support recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution.

We look forward to a time when all Aboriginal & Torres Strait Islander people can fully participate in all that Australia has to offer, enjoying respect for our country's first cultures and leadership, and the dignity and benefits of long healthy lives.

Australia's First Peoples continue to die far earlier and experience a higher burden of disease and disability than other Australians. This is a result of long term economic disadvantage and social exclusion, among other factors. Constitutional recognition would provide a strong foundation for working together towards better health and social wellbeing in the hearts, minds and lives of all Australians.

Further detail about this initiative, and the organisations which supported this work, is available at <https://www.lowitja.org.au/recognisehealth>.

Since then, a number of significant developments have taken place, from Parliamentary Inquiries to the Referendum Council's report. The Lowitja Institute supports the work and the recommendations of the Referendum Council.

The Lowitja Institute supports the Uluru Statement from the Heart

We believe that the process undertaken by the Referendum Council was rigorous and fair. As the Council's report states, it was required to consult specifically with Aboriginal and Torres Strait Islander peoples on their views of meaningful recognition. The 12 First Nations Regional Dialogues culminated in the National Constitutional Convention at Uluru in May 2017. This process empowered First Peoples from across the country to form a consensus position on the form constitutional recognition should take. That was the first time in Australia's history that such a process has been undertaken and was a significant response to the historical exclusion of First Peoples from the original process that led to the adoption of the Australian Constitution. The outcomes of the Council's consultations were articulated in the Uluru Statement from the Heart.

The Lowitja Institute strongly supports the Uluru Statement from the Heart. The process was undertaken in good faith between Aboriginal and Torres Strait Islander people and the Government, in bi-partisanship with the Opposition, on behalf of the Australian People. Such engagement presented an opportunity for hope and for healing. As an Aboriginal and Torres Strait Islander organisation, we were deeply disappointed by the Government's outright rejection of recommendations of the Referendum Council.

We are hopeful now that the current Joint Parliamentary Inquiry will consider ways in which the directions outlined in the Uluru Statement from the Heart can be implemented.

Importance of the Voice to Parliament

The Referendum Council's proposal for an Indigenous representative assembly, or Voice, should not have been new or surprising to the Government. The context of any discussion about recognition of Aboriginal and Torres Strait Islander people will be about empowerment. There cannot be empowerment without proper representation, that is, having a voice.

A representative body – a First Nations Voice – is not intended to be a third chamber of the Parliament. If there is a lack of clarity about how the model would work, we don't believe this is cause for outright rejection. This is a complex matter of historical standing, that cannot be resolved quickly. Such reform however, does require listening, commitment and leadership on the part of government and opposition parties. For example, similar representative bodies have been established overseas, such as the Sámi Parliament established in Finland in 1972. Rather than radical, such an approach could be modern, modest, and innovative approach for Aboriginal and Torres Strait Islander people. The 2012 Report of the Expert Panel explores other international models of Indigenous representation.¹

The Lowitja Institute believes that a Makarrata Commission, established under legislation to enable agreement-making between governments and First Nations and truth-telling is vital for the healing of Australia as a nation. The power of Makarrata — “parties coming together after a struggle, healing the divisions of the past”²— is a powerful and fitting approach if Aboriginal and Torres Strait Islander people are to fully participate in all that Australia has to offer.

Truth telling – acknowledging the uncomfortable and confronting aspects of our history, is also an important part of this process. This needs to occur at local, regional and national levels if Australia is to come to terms with its past. The Lowitja Institute supports the establishment of a Makarrata Commission.

The Lowitja Institute has a vision for a nation that can acknowledge the past and recognise the rightful place of Aboriginal and Torres Strait Islander people; believes that these reforms are crucial for the health, wellbeing and the healing of Aboriginal and Torres Strait Islander people, and for Australia as a nation.

Unfinished Business

There have been numerous Parliamentary Inquiries into constitutional recognition for Aboriginal and Torres Strait Islander people over recent years.

- November 2010 - Prime Minister announced the establishment of an expert panel to consult on options for a constitutional amendment on recognition of Aboriginal and Torres Strait Islander peoples to be put to a referendum

¹ Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution: Report of the Expert Panel, Chapter 2

²https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/ULuruStatement

- January 2012 - Final Report of the Expert Panel on Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution³
- December 2013 – Australian Parliament appointed a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples be appointed to inquire into and report on steps that can be taken to progress towards a successful referendum on Constitutional recognition. The committee tables:
 - the Interim Report in July 2014
 - Progress Report in October 2014
 - Final report on 25 June 2015⁴
- December 2015 - the Prime Minister and the Leader of the Opposition appointed a Referendum Council to consult widely with Aboriginal and Torres Strait Islander people throughout Australia and take the next steps towards achieving constitutional recognition for First Australians.
- May 2017 – following national consultations throughout Australia with Aboriginal and Torres Strait Islander peoples on their views of meaningful recognition, the Referendum Council held the National Constitutional Convention at Uluru in May 2017 held. The Uluru Statement from the Heart was issued⁵
- June 2017 - Referendum Council delivers its final report June⁶
- October 2017 – Federal Cabinet rejected the idea of an Indigenous "Voice to Parliament" - the central recommendation of the Uluru Statement from the Heart, and the Referendum Council's report, because it was not "desirable or capable of winning acceptance in a referendum"⁷.
- April 2018 - Establishment of current Joint Select Committee on Constitutional Recognition.

The Parliament has been consulting with Aboriginal and Torres Strait Islander people and the wider Australian people on this matter for almost ten years. It is our sincere hope that this Inquiry will be the last on the matter. We urge the Joint Select Committee to endorse the Uluru Statement from the Heart and commit to ensuring that it can work meaningfully for Aboriginal and Torres Strait Islander people.

Recommendation

That the Joint Select Committee on Constitutional Recognition recommend to the Government that the Uluru Statement from the Heart be endorsed and implemented.

³ <https://www.pmc.gov.au/resource-centre/indigenous-affairs/final-report-expert-panel-recognising-aboriginal-and-torres-strait-islander-peoples-constitution>

⁴ https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples/Constitutional_Recognition/Final_Report

⁵ <https://www.referendumcouncil.org.au/final-report#toc-anchor-ulurustatement-from-the-heart>

⁶ <https://www.referendumcouncil.org.au/final-report>

⁷ Turnbull, M. 2017. Response to Referendum Council's report on Constitutional Recognition; Media Release. Australian Government, Canberra, 26 October.