



Yamatji Marlpa
ABORIGINAL CORPORATION

Our Ref: GEN033
Your Ref:
Office: Perth

16 January 2015

Hon Michael Mischin MLC
Attorney General; Minister for Commerce
Committee Chair
Joint Select Committee on Aboriginal Constitutional Affairs
Parliament House
PERTH WA 6000

By email: jscacr@parliament.wa.gov.au

Dear Chair

Inquiry into the appropriate wording to recognise Aboriginal people in the Constitution of Western Australia

Thank you for the opportunity to make a submission about this important topic.

Yamatji Marlpa Aboriginal Corporation ("YMAC") is the Native Title Representative Body for the Murchison, Gascoyne, and Pilbara regions of Western Australia. YMAC is also the nominated heritage service provider for many of the native title claim groups in these regions, and provides cultural heritage protection advice and support to native title claimants as a significant aspect of native title.

Overall

YMAC is aware of the Private Member's Bill – the *Constitution Amendment (Recognition of Aboriginal People) Bill 2014* – that led to the creation of this joint select committee. We had previously written to Ms Farrer during her process of consultation about the Bill last year. This submission is similar to that previous letter to Ms Farrer.

In short, we strongly support the passage of Ms Farrer's Bill. It is simple, and without any legal controversy. It is important and long overdue.

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We make one suggested addition to the Bill – namely the deletion of section 75 of the Act – although there may well be a legal or policy reason Ms Farrer left that out of the Bill as read into Parliament.

The power of even symbolic change

Even symbolic constitutional changes like the ones in the Bill are important to have as one of the tools with which we can continue to fashion a strong and permanent reconciliation between Aboriginal and non-Aboriginal communities. As Ms Farrer put it in her Second Reading Speech:

“Recognition, acknowledgement and acceptance are necessary steps to true and lasting reconciliation, and this bill is just one of those steps.”

We note also that at a Federal level at least, the interest in symbolic changes of this nature spans most, if not all, key political parties. As an interesting example, Federal Indigenous Affairs Minister, Senator the Hon Nigel Scullion, said at a Nationals conference last year:

“...I didn’t really think that the Apology we made in 2008 would matter.

I couldn’t see the apology helping at all to close the vast gap on vital issues such as Indigenous life expectancy, remote children’s education, housing, decent work for adults and community safety.

All the symbolic trumpeting was wonderful, but I could not see what difference it could make.

How wrong I was.

The changes to the way Aboriginal people as individuals and as communities saw themselves after that apology were extraordinary. Clearly, those who would diminish the importance of symbolism as something that doesn’t have a role to play in practical outcomes are quite wrong.

Symbolic change must happen if practical changes are to succeed.”

The legal advice confirming the Bill will not create substantive legal changes in WA

We accept, at face value, the references in Ms Farrer’s speech to Solicitor General’s advice that was received in 2004 when a similar Bill was proposed by then Legislative Council President Hon John Cowdell MLC. That advice simply confirms the obvious, in our view; that the addition of a simple statement of historical fact to the preamble of the *Constitution Act 1889* (WA) (“the Act”) would have no impact on the powers of the WA Parliament.

The proposed deletion of section 42 of the Act, to which we would add section 75

We of course strongly agree with the deletion of section 42 of the Act. How extraordinarily archaic to have a provision that excludes Aboriginal people from what is effectively a census, albeit a census that has had no practical effect for over a hundred years.

We would also suggest deletion of a similarly out-of-date reference, being the definition of “Aborigines Protection Board” in section 75 of the Act.

If you have any questions about this submission, please contact our policy officer Cameron Poustie on

Yours faithfully



Simon Hawkins
Chief Executive Officer