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Press Statement

No need for referendum at all- just legislate national body and treaty- Mansell

The report of the Referendum Council has been described as disappointingly weak and will not lead to any benefits to Aboriginal people if adopted, Michael Mansell said.

Michael Mansell said, “The proposals for symbolic gestures was roundly rejected at Uluru and the many regional dialogues including here in Tasmania. Yet the Referendum Council is again promoting symbolism by asking for parliaments around the country to re-legislate recognition at the same time. Each of the States have already legislated recognition in their State constitutions, including Tasmania. The Federal Parliament passed the Act of Recognition in 2013. This is the symbolism rejected at Uluru yet it creeps back onto the national agenda. We strongly believe this tactic is meant to distract attention away from the failure of the Referendum Council to honour the outcome of Uluru.

The main proposal from the Referendum Council is for a constitutionally entrenched advisory body. Such a body can do nothing: it cannot make laws, cannot deliver services, administer any revenue and would supervise nothing. It can only give advice to the Parliament which can be ignored, rejected or highly unlikely, be accepted. The Social Justice Commissioner already has the current legislated function of ‘*reviewing the impact of laws and policies on indigenous peoples*’. Parliament usually ignores any comment the Commissioner makes.

The advisory body would not have any say over its own composition, its role, functions and powers. These would be matters entirely for the parliament. It would be a complete waste of time.

For those reasons, the Tasmanian dialogue specifically rejected a constitutionally entrenched advisory body in December last year. Yet the Referendum Council has mistakenly recorded us as supporting such a body. The Dubbo dialogue also rejected an advisory body but is also listed as supporting it.

It is true that national dialogue meetings supported a national body. That support, mostly in anticipation of a new national body that would take over funding of Aboriginal programs and set priorities, was thought to warrant security in the constitution. The Referendum Council report mistakenly twists that position into support for a constitutionally entrenched advisory body, an entirely different concept.

By fobbing Aborigines off to the States on treaty, the Referendum Council report all but ignored the call by 250 Aboriginal delegates at Uluru for a treaty, a truth and justice commission and a national

body. These were the priorities that came out of Uluru but which got sidelined in the Referendum Council report.

The Referendum Council claims that treaty and a national body to replace ATSIC is outside its brief. That is a highly contentious reading of the terms of reference given that the Council had to consider indigenous opinion on whether constitutional proposals were the best way to go:

*4. The Council will report to the Prime Minister and the Leader of the Opposition by 30 June 2016 on:
a. outcomes of national consultations and community engagement about constitutional recognition, including indigenous-led consultations;*

The Referendum Council should have told Aborigines before the dialogues took place that the Council would not support anything other than an advisory body and that it would not entertain recommending a treaty. The effect is that the Referendum Council spent over \$1m on dialogues knowing full well it would ignore indigenous views.

For our part, “Michael Mansell added, “we will honour the Tasmanian dialogue position. We will not support the constitutionally entrenched body and will actively campaign against it. Instead, we will call on the federal parliament to establish a new national representative body, begin the process of treaty making and establish a truth and justice commission.”

Michael Mansell
Spokesperson
18th July, 2017