

## **Section [XX] Aboriginal and Torres Strait Island People<sup>i</sup>**

The Commonwealth of Australia recognises that the lands now known as Australia were occupied by Aboriginal and Torres Strait Islander peoples according to their own laws and traditions.<sup>ii</sup>

The Commonwealth of Australia recognises that no formal agreement has been entered with Aboriginal and Torres Strait Islander peoples for the occupation of their lands.<sup>iii</sup>

The Commonwealth of Australia commits to a relationship with Aboriginal and Torres Strait Islander peoples based on the recognition of their rights as Aboriginal and Torres Strait Islander peoples.<sup>iv</sup>

- (1) As such, the Commonwealth of Australia:
  - (i) Shall, in consultation with the relevant State and/or Territory, enter a treaty or treaties with Aboriginal and Torres Strait Islander peoples to affirm those rights already recognised and those rights that may be further attained;<sup>v</sup>
  - (ii) Shall, provide for a First Nations Voice to be heard by both houses of parliament;<sup>vi</sup>
  - (iii) May, in consultation with those affected peoples, make laws for Aboriginal and Torres Strait Islander peoples.<sup>vii</sup>

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<sup>i</sup> Many of the concerns about justiciability and drafting have been addressed by subsequent reviews and expert constitutional and public law advice.

<sup>ii</sup> This is an incontrovertible fact now recognised in law. This forms also a significant part of the basis of Indigenous claims that are informed by more than alleviating disadvantage. Recognition of this fact does not and should not make it justiciable, rather this is about providing an authoritative foundation for relations between Indigenous and non-Indigenous peoples which has been absent from the beginning of relations.

<sup>iii</sup> As above, this is recognition of a fact that needs to be made in conjunction with the others in this proposed section.

<sup>iv</sup> As above, about building the foundations of a new relationship between Indigenous and non-Indigenous peoples.

<sup>v</sup> This is important to recognising and re-establishing the traditional authority of Aboriginal and Torres Strait Islander people. The basis of any relations, and any First Nations Voice, would and should be in the local authority of Indigenous peoples and their agreements they enter. This authority would then be projected upward and inform any First Nations Voice.

<sup>vi</sup> The First Nations Voice whatever it may be need not be detailed in the Australian Constitution. This process should rather come as part of the treaty and agreement making process, drawing authority for that voice from the multiple Indigenous peoples.

<sup>vii</sup> Avoid the Race Power altogether and provide a more authoritative foundation for legislation relevant to Indigenous peoples.