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Senator Nita Green

Chair

Joint Select Committee on the Aboriginal and Torres Strait Islander Voice Referendum

Parliament House

Canberra

ACT 2600

Dear Senator Green

Please accept this submission to the Committee's inquiry into the *Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023*.

My name is Gillian Calvert AO. I am the first Children's Commissioner in Australia, appointed by the NSW Government in 1999 following the recommendation of the Royal Commission into the NSW Police Service headed by Justice James Wood. In 2010 I was made an Officer of the Order of Australia for my service to the community as a leading advocate in the protection of the rights and welfare of children and youth. I am making this submission to share my experience as one of the few people privileged to hold a statutory position to be a "Voice" for disenfranchised citizens.

I support the wording of the referendum question and the proposed constitutional amendment.

The Commissioner for Children was a new statutory position in Australia, reporting directly to the NSW Parliament to provide a voice for children into the decisions that impact on them. Children do not vote, they don't have the resources to organise and lobby as adults do, they are often incorrectly seen as incapable of knowing, they are often not considered or are ignored by adult decision makers; in short, they are disenfranchised from the decision making that impacts on their lives. It was for this reason the Royal Commission recommended a person be appointed to be "their voice" at the table.

Importantly the legislation establishing the Commission had the support of all Parliamentary members which provided a broad authorisation, enabling us to be seen as above the partisanship of the day-to-day business of Parliament. Placing "The Voice" in the Constitution however is a welcome improvement to bipartisanship as its authorised by the people, rather than only politicians.

The legislation bound the Commissioner to promote children's direct participation in decision making and to seek their views in her decision making and influencing. An

example of direct participation was children's participation in the Alcohol Summit. After extensive consultation with other young people, 16 young people attended the Summit with 67 resolutions prepared from those consultations. 47 of these were wholly or partly adopted by the Summit. The young people were not "elites" rather they came from diverse backgrounds and circumstances places including but not limited to Indigenous communities, various ethnic groups, regional or remote localities, poor households, juvenile detention centres, out of home care and refugees.

Participating in Parliamentary Inquiries was another way in which the voices of children were heard by decision makers. Inquiries by the Joint Parliamentary Committees on Children and Young People as well as other Committee's inquiries were an important part of the Commissions work. This included arranging specific consultations with children and young people for the Committee members, undertaking research that would assist the committee in their deliberations, making submissions and appearing before the Committees, negotiating with other Parliamentarians and the Executive regarding recommendations and assisting in implementing the Committees recommendations where appropriate.

The Commission also assisted individual Members of Parliaments with their work or within their electorates. This included providing advice on situations involving individual and groups of children and young people, assisting with consultations, providing relevant research and so on. Similar advice and assistance were also provided to Ministers and Shadow Ministers in the administration of their portfolio areas.

The Commission also had a working relationship with the Government of the day and the Executive. This was essential to our capacity to influence the decision making and bring children's voices to bear. I was granted access to those Cabinet processes that were seen by others to impact children and young people. This enabled me to put their voices into the decision-making mix. I was also included in the Executives processes which enabled me to assist departments to adapt and change the way they did business to include children and young people's voices.

Based on my experience, having the capacity to make representation to Parliament and the Executive is necessary if the voices of disenfranchised are to be heard. Being authorised to be present, opens space for mutual dialogue and subsequent improvements in decisions.

First Nations people hold a particular and unique position in Australia – that of being the First Peoples of this land that they have continuously occupied and cared for over 65,000 years. We need more than legislation as the basis of their Voice – we need a guarantee their Voice will always be represented in the workings of our Parliament and Executive. Placing it in the Constitution guarantees them an enduring presence. The Commission for Children and Young People did not have that guarantee and while it has evolved over time, it can always be abolished – thus further disenfranchising the disenfranchised. For

example, following my term the Commission was altered to focus more on young people sometimes at the expense of children. The knowledge that the institution can be abolished, does subtly shape advocacy. In my view the proposed referendum question and constitutional amendment strikes the right balance between guaranteeing the existence of a Voice in the Constitution while allowing for Parliament to make laws about the shape of the Voice, enabling it to change with the times and making it more effective.

Direct participation by those disenfranchised can and does have a positive impact on decisions and direction that governments and parliaments take in the interests of Australia as a nation. A Voice to Parliament and the Executive is a necessary platform if Australia is to make a material and practical difference to the lives of First Nations people.

In summary, as one of the few people in Australia privileged to hold a statutory Voice for disenfranchised citizens to Parliament and the Executive, the proposed referendum question and Constitutional amendments will provide the basis for further reconciliation between Australia's first people and more recent colonial beginnings. It's a simple proposition whose time has come. It is a legally safe way to constitutionally recognise Australia's first peoples, one supported by 80% of Indigenous Australians.

Thank you for the opportunity to make this submission.

Gillian Calvert AO



Note:

The history, its establishment, operations and achievements is set out in *"Captured by Kids. The first ten years of the NSW Commission for Children and Young People"* (2009). This is a full guide to the research, sub missions, children and young people and adults involved in the operations of the Commission. It sets out the breadth of their work and how a voice for the disenfranchised goes about its business and achieves its aims.