



The Hon. Christian Porter MP
Federal Member for Pearce

28 November 2017

By email: smorris@cyp.org.au

Dear Ms Morris,

I refer to your article titled; *“Turnbull’s rejection of an Indigenous voice to parliament is immoral and foolish”* dated 30 October 2017.

In that article you made two assertions that I felt compelled to respond directly with regard to.

Notably you stated that:

“Christian Porter also told us he supported the Indigenous body proposal, and in a separate meeting, without Pearson, he described it as an “elegant solution”.

“But after Turnbull elevated Porter to the social services ministry, he changed his tune and started arguing against it. We wrote back to Porter in March asking him to work with us to refine the proposal. We never heard back from him.”

I have never before written to the author of an opinion piece about its content but in this instance, considered that the two statements above were so disappointingly inaccurate it appeared necessary to query why they were ever made.

The first assertion is that I, *“supported the Indigenous body proposal, and in a separate meeting, without Pearson, [he] described it as an ‘elegant solution’.*” The inference is that I supported in two meetings the specific proposal of the type put in the Uluru declaration, notably; for a constitutionally enshrined additional parliamentary process meant to scrutinise all legislation relevant to indigenous Australians, by indigenous Australians.

I have never offered support for such a specific model either publicly or privately.

Based on my recollection and an examination of my diary and meeting notes the meetings at which it appears you assert I offered the relevant support would appear to have occurred on 22 June 2015 and 19 April 2016.

A meeting on 22 June 2015 did occur with you in my office when I was relevantly a Parliamentary Secretary to then Prime Minister Abbott, and was also attended by Mr Noel Pearson. This meeting was obviously years before the Uluru declaration and I do not recall that anything as specific as a constitutionally enshrined additional parliamentary process

Electorate Office

Street: 3/28 Main Street
Ellenbrook WA 6069
Postal: PO Box 2226
Ellenbrook WA 6069
Phone: (08) 6296 7255
Fax: (08) 9297 3244
Email: christian.porter.mp@aph.gov.au
Web: www.christianporter.com.au

Ministerial Office

Suite MG 51
Parliament House
Canberra ACT 2600
Phone: (02) 6277 7560
Fax: (02) 6273 4122
Email: minister@dss.gov.au
Web: <http://christianporter.dss.gov.au>

meant to scrutinise all legislation relevant to indigenous Australians, by indigenous Australians was proposed at that meeting. I recall the meeting was brief and extended to some general discussion about the need to define a position which would be acceptable to constitutional conservatives generally. And further, that the discussion canvassed the notion that recognition could be achieved by a combination of constitutional textual changes but also non-constitutional statements and processes. In this regard I noted the work with which I had previously been engaged in devising the architecture of the Single Noongar Native Title claim, which process involved an act of recognition passed by normal parliamentary processes.

A further meeting occurred on 19 April 2016, at which both yourself and Mr Damien Freeman were present, to discuss recognition. Mr Freeman requested the meeting because, in his words, I was one of the few politicians who had a deep appreciation of the range of issues involved, and the need to find an appropriate resolution.

I recall this meeting well. In this meeting the discussion about potential paths forward for indigenous constitutional recognition were in my recollection still relatively general in nature and did not go as far as specific details for a textual model for indigenous recognition, which would establish a specific proposal for a constitutionally enshrined additional parliamentary process. Rather, the discussion was about the potential for recognition to be both part constitutional but also to be contained in part in an ordinary Act of Parliament. In this regard I again noted the work with which I had previously been engaged in devising the architecture of the Single Noongar Native Title claim, which process involved an act of recognition passed by normal parliamentary processes. It seemed to me then (as it does now) that a live and elegant option for indigenous recognition might be minimalist textual change to the constitution coupled with more substantive statements about recognition being made in a non-constitutional way by an Act of Parliament or some other commensurate non constitutional means. Indeed, I further recall noting that one idea that had been put was additional scrutiny of Bills for their effect on Indigenous Australians by non-constitutional means including adaptations of existing parliamentary systems in a way similar to the means by which Parliamentary Committees scrutinise Bills for their effects on human rights issues. However, describing this type of dualist approach to recognition as an elegant solution is something quite distinct from offering support for a model, which explicitly seeks to specifically enshrine an additional Parliamentary process in the Australian Constitution. That constitutional enshrining of an additional parliamentary process is not something I have ever supported or would ever likely support.

On this point, I might make note of the second assertion above that somehow after March 2017 I failed to respond to correspondence or contact with my office requesting assistance on the refining a specific model for constitutional recognition. I have searched all relevant correspondence and cannot locate any request to assist you refine any specific proposal. Again based on my recollection and diary entries and notes, I was asked by Mr Freeman to write a chapter for a book of essays on indigenous constitutional recognition by Australian conservative thinkers as a means of attempting to have constitutional conservatives devise an agreeable and appropriate model for recognition. Between being first asked and publication I was appointed as a Minister and noted to Mr Freeman that such a change in circumstances

made time factors prohibitive to providing a chapter for this book. By telephone Mr Freeman asked if instead I would consider providing a forward to the book, which I did. Later, I was also asked to attend and act as a guest speaker at the Perth launch of this book and indeed, I was asked to encourage the other guest speakers Mr Ben Wyatt and Mr Andrew Forrest to likewise attend. I did both of these things.

With respect to the second of your statements above that you or Mr Freeman never heard back from me a few further comments are relevant. The assertion that after March 2017 I failed to respond to correspondence or requests for support in the process of attempting to have constitutional conservatives devise an agreeable and appropriate model for recognition is unfair and inaccurate. Indeed, what is particularly difficult to accept about this criticism is that it seems unlikely that you would have been unaware about my reservations about the model now in question or my efforts in attending to speak at the book launch at UWA on 23 February 2017, given that you were at that event. Further, at that event I recall clearly and publicly setting out my views as to the variety of difficulties that would accompany any model that constitutionally enshrined an additional parliamentary process.

I understand that some disappointment might accompany the fact that the specific model set out in the Uluru declaration has not garnered widespread support amongst constitutional conservatives or others. However, the best response surely is not to misrepresent the positions and efforts that people who have tried to assist in good faith have made. I have always been clear that as a conservative I am supporter of constitutional recognition for indigenous Australians' and that I support constitutional change to effect that outcome and that I am also willing to consider a variety of models to bring about that recognition. However, that does not mean that I am committed to agreement with every model or drafting proposal that has been advanced in this area. My sense of these events is that your article represents a general and understandable frustration that you have experienced, being expressed in a way that likely warranted a more thorough and arm's length reflection of the actual details of the interactions we have had. The difficulty in these types of situations is that complicated ideas pertaining to constitutional change are a prime example of ideas that people need to be convinced of rather than cajoled into supporting. Ultimately, however, I am very disappointed in the way that you have determined to characterise our dealings on this important matter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'C.P.', with a stylized flourish at the end.

Hon. Christian Porter MP
Federal Member for Pearce