

THE ULURU STATEMENT

The Uluru Statement from the Heart is a generous invitation to all Australians from First Nations peoples to walk together towards a better future. Having a referendum on a First Nations Voice to Parliament is the first step on that walk; a chance to change the Constitution to enable First Nations people to be heard in matters that affect them.

STATEMENTS PUT FORWARD BY THOSE WHO ADVOCATE VOTING NO IN THE REFERENDUM

Statement 1

It will amount to a third chamber of Parliament and therefore impact parliamentary sovereignty, a fundamental element of our constitutional system of government.

What is proposed is a Voice *to* Parliament, not a Voice *in* Parliament. It will have no role in passing legislation; that will continue to be left to our elected representatives in the House of Representatives and the Senate, as currently prescribed by the Constitution.

The proposed Constitutional amendment states that the Voice “may make representations” to Parliament. It will be up to Parliament to decide what it does with those representations. Indeed, the proposed Voice to Parliament is a very conservative change to our Constitution.

Statement 2

It will be a lawyers’ picnic, and lead to lots of High Court challenges.

How Parliament responds (or does not respond) to any representations made by the Voice would be non-justiciable – that is, it could not be subject to any court challenge. This is because the courts have always been reluctant to interfere with the internal workings of Parliament.

Statement 3

It will not help to close the gap or have a positive impact on the lives of First Nations peoples.

The Voice will provide advice to the Parliament on proposed laws affecting First Nations peoples. Accordingly, Parliament will be better-informed about the impact of the proposed laws on First Nations peoples, and can amend where appropriate. A better-informed Parliament is likely to lead to better laws that will have a positive impact on First Nations lives. There is clear evidence that mainstream government services have failed to improve outcomes for Aboriginal and Torres Strait Islander populations, over decades. In fact, there is also evidence that many of these policies cause harm. Take, for example, the Northern Territory Emergency Response initiated by the Howard government in 2007 known colloquially as the Northern Territory Intervention. It aimed to reduce Indigenous child sexual abuse in response to the Little Children are Sacred Report. Instead, it has resulted in increases in child sexual abuse in the Northern Territory every year since then, according to data from the Australian Institute of Health and Welfare (AIHW).

Most state, territory and federal government services for Indigenous peoples have been very expensive, based on inappropriate data and have ignored vital Aboriginal knowledge. However, those programs that are initiated and implemented by Indigenous experts, or in close collaboration with them, are trusted and effectively used by Indigenous communities and organisations. They are based on the local personal, geographic and social circumstances about which Indigenous experts are fully informed, and they enhance the self-esteem and mental health of the community. These examples have been put forward by Professors Marcia Langton and Fiona Stanley

COVID

All colonised indigenous populations around the world are at high risk from pandemic such as Covid because of chronic disease and living in overcrowded housing and so more susceptible to viral infection's people were very surprised that in actual fact the indigenous population in Australia has six times fewer cases than non-indigenous groups this extraordinary and totally unexpected outcome. This was due to indigenous leadership taking control of all activities for prevention diagnosis and treatment as well as housing social and medical support was driven by aboriginal expertise and knowledge of the community'

BIRTHING

Original birthing studies from around the world in Australia show that aboriginal doulas improve all birth outcomes for babies and their mothers due to attendance for antenatal centres for good preventative and cultural activities. By 2015 there were a number of aboriginal controlled early childhood centres which provided safe services for parents and children . This meant young children were more ready to attend school and more were completing year 12 and less children with suffering poor mental health. These were closed down when the Coalition Government came into power. This led to an increase in youth incarceration.

KOORI COURTS

Incarcerating an indigenous youth costs \$500,000 per year. The Koori Courts, established in 2002, are a radical departure from the typical Magistrates and County Courts that implement the legal system with a view to imposing a punishment on offenders for committing crimes. The matters before the Koori Courts are largely violence-related, including family violence. Their purpose is to provide a therapeutic style of justice that encourages people not to re-offend. They involve the Aboriginal community, particularly suitable Elders, to achieve better outcomes from the normal court system because offenders require more than punishment to enable them to behave in socially acceptable ways. The outstanding feature of the Koori Courts is the service given to the courts by Elders. They are appointed to serve with the presiding magistrate to hear cases, counsel offenders and victims, offer advice on support services, and identify solutions beyond mere punishment to gain longer term beneficial outcomes for perpetrators, victims and the wider community. A Court Officer in Victoria, speaking about her experience with the Koori Court, said: 'It works because it's actually giving a chance for the Indigenous people to have a voice. It gives a chance for our Elders to give the people who are coming through the courts the

chance to put their point of view ... growing up, being an Aboriginal person, you're taught to respect your Elders, and having the Elders on the court makes a big difference to know that you'll be able to express yourself and not only have a conversation with the magistrate but also have conversations with the Elders.'

Statement 4

It will give First Nations peoples special rights.

The Constitutional Expert Group comprising nine experts (including former High Court judge Kenneth Hayne) and chaired by the Commonwealth Attorney-General has advised that a First Nations Voice will not give First Nations peoples special rights. All Australians have the right to make representations to Parliament, which is guaranteed by the constitutional Implied Freedom of Political Communication. The First Nations Voice is simply a permanent one.

Statement 5

Australians should be allowed to see all the proposed legislation establishing the Voice before voting in the referendum.

Too much detail will lead to confusion, and many people will likely not want to read a lengthy document. There's already a detailed report that sets out what a legislated Voice could look like: Indigenous Voice Co-design Process Final Report.

Demanding to see draft legislation ahead of the referendum suggests a lack of trust in Parliament, given that the proposed constitutional amendment gives Parliament the power "to make laws with respect to the composition, powers, functions and procedures" of the Voice.

It's sufficient to have a detailed set of principles on which the Voice will be based. The Uluru Statement from the Heart website also contains a set of design principles.

Statement 6

There's no need to enshrine the Voice in the Constitution.

By enshrining the Voice in the Constitution, it will not be able to be abolished at the whim of Parliament/the government, in contrast to ATSIC (and just about every other Indigenous advisory body set up by the government). It will also not be afraid to give frank and fearless advice. Its composition, powers and procedures will, however, be able to be amended by Parliament to ensure its effectiveness.

Statement 7

It will divide the nation

The Voice to Parliament will unite the nation, because it will be a big step towards reconciliation. A successful referendum on the Voice to Parliament will mean the Australian people have

emphatically said that we want Parliament to listen to First Nations people, thereby signalling that we have accepted the invitation in the Uluru Statement from the Heart to walk together for a better future.

Statement 8

It offends the notion of equality that underpins the Constitution and our democracy.

Our Constitution does not protect equality, and actively allows for racially discriminatory laws by virtue of s 51 (xxvi) (the race power). Further, the race power has only ever been used to make laws for Aboriginal and Torres Strait Islander peoples, laws that are not required to be beneficial laws.

The structure of our Parliament is also not equal – the Constitution requires the Senate to have the same number of senators from each state (12). This means that Tasmania, with a population of approximately 571,500, has the same number of senators as Victoria, which has a population of 6,613,700.

Amending the Constitution to provide First Nations peoples with a Voice to Parliament does not offend notions of equality; rather, it is acknowledging the finding of the High Court in *Mabo v Queensland (No. 2)* that “Their dispossession underwrote the development of the nation”.

Statement 9

The history of referendums in Australia means that it is likely to fail.

The most successful referendum in Australia’s history of referendums was in relation to Aboriginal people (1967). More than 90% of Australians voted ‘yes’ to amending two sections of the Constitution to ensure that Aboriginal and Torres Strait Islander peoples would be counted as part of the population, and that the Commonwealth would be able to make laws for them. This bodes well for a referendum on the Voice.

Also, social media has changed the landscape; times are different; polling shows relatively consistent support; and approximately 90% of the first 2554 submissions to the Co-design Process were in favour of the Voice being constitutionally enshrined.

And although bipartisan/multi-party support would be preferable (and has been crucial to the success of previous referendums), it’s arguably no longer a determinative factor due to the changing political and social media landscape. The result of the marriage equality postal survey, where Australians voted “Yes” despite a lack of bipartisan support, is indicative of this.

Statement 10

The Voice referendum would amend the Constitution to add that “the Aboriginal and Torres Strait Islander Voice may make representations to the Parliament and the Executive Government of the Commonwealth on matters relating to Aboriginal and Torres Strait Islander peoples”. Isn’t that a clear distinction based on race?

First, the Australian Constitution and whole corpus of Australian law already make distinctions that apply to Aboriginal and Torres Strait Islander people. In the Constitution as it exists, section 51, clause 26 says the parliament shall have power to make laws with respect to “the people of any race for whom it is deemed necessary to make special laws”. This is the so-called race power. There is range of laws which already applies only to Indigenous Australians, eg including the native title laws governing land use which emerged after the High Court’s Mabo verdict, It showed traditional Aboriginal custom and tradition can co-exist successfully with colonial-era land title.

Statement 11

The Voice will re-racialise our nation. The nation will be divided on race

It is a misnomer to say the Voice would make a distinction based on race. It’s not about race, but indigeneity ie the original people in a country. Australia is home to many ethnic groups from across the world but has only one Indigenous people. They were here first. That’s why they’re called First Nations. They have a unique suffering . Because the British wanted the land and resources of the land they colonised in 1788 the Aboriginal and Torres Strait Islander people were dispossessed of their own land . It was done through might not right. This has not happened to any other ethnic group so their situation is unique. Attorney General Mark Dreyfus has explained: “And that is because the proposed alteration would recognise Aboriginal and Torres Strait Islander peoples not as a race but as the First Peoples of Australia.

The concept of indigeneity is explained this way in the Uluru Statement “Aboriginal and Torres Strait Islander tribes were the First Nations of the Australian continent and its islands, possessed under ancient laws and customs, according to the reckoning of culture, from the Creation, according to the common law, from time immemorial, and according to science for more than 65 millennia.

“This is a spiritual notion: the ancestral tie between the land, or mother nature, and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with their ancestors.”

Australia’s many ethnic groups have no trouble grasping the unique status of Australia’s Indigenous people. More than 120 organisations have signed a joint letter pledging to “steadfastly support” the Voice referendum, encompassing Australian Italians and Indians, Irish and Iranians, Sri Lankans and Sikhs, Chinese and Pacific Islanders, and scores of others.

Statement 12

This is a Canberra Voice

The idea of The Voice does not come from middle-class civil servants in but from 250 Indigenous leaders kneeling in the red dust of Uluru to put their names to a plea for “a rightful place in our own country”.

Statement 13

The Voice will trample Australia's institutions of governance and grind our system to a halt from the resulting years of litigation, and the High Court – not the parliament – will make the final judgment on a disputed matter

Text of the constitutional amendment approved by the House as the basis for the referendum is very clear that the Voice would have only the power to “make representation” to the government and parliament. The parliament remains paramount. Dutton’s former shadow attorney-general, Liberal MP Julian Leeser, dismissed his leader’s scaremongering. “The Voice will advise – just like the security services, the chief medical officer, the chief scientist, DFAT and other agencies advise, “The parliament will still be supreme in matters of law and policy.”

Statement 14

The Voice will not really be representative of Indigenous people

The Dialogue process was the most proportionately significant consultation process that has ever been undertaken with First peoples. Every regional dialogue ranked the Voice as a priority in their region –

Statement 15

The Voice is has been initiated and driven by Albanese

The Voice is the result a long term process

- John Howard who promised a form of constitutional recognition 15 years ago,
- Tony Abbott as prime minister promised to redress “the echoing silence in the constitution” – even if his preference was for symbolic recognition.
- Prime minister, Malcolm Turnbull established the Referendum Council to help right “a great wrong”, Turnbull stated a fear the Voice would be “seen as a third chamber of parliament”. However Turnbull now supports The Voice stating “the proposed constitutional amendment only empowers the voice to give advice and make representations”.

Statement 16

It is misleading that Indigenous people have not Voice. Indigenous Australians, like all Australians, have many voices to parliament already.

- ***Each Indigenous Australian has an equal vote to anyone else and, importantly,***
- ***each state and territory has a minister for Aboriginal affairs***

- ***, federally there is a minister for Indigenous Australians. These portfolios liaise directly with many Indigenous stakeholders.***

The Uluru statement is the end product of a long process undertaken the Indigenous people . It is clear they do not feel what is in place is effective

Statement 17

The Voice to Parliament will divide Australia

Australians have everything to gain and nothing to lose by recognising Indigenous peoples with the fairness of a Voice. Symbolically, the constitutional recognition of Indigenous peoples would formally unite Australians with the richness of Indigenous culture and heritage. We would become a nation that can boast over 60,000 years of continuous civilisation, walking together with the strength of our diverse backgrounds and cultures. An Aboriginal and Torres Strait Islander Voice would be of practical and moral benefit to all Australians as well.

Statement 18

Not all Indigenous people are supporting a Voice to Parliament

It is true there are some high-profile Indigenous Australians who do not at this point in time support the Voice (such as Jacinta Nampijinpa Price, Warren Mundine and Lidia Thorpe), a significant proportion of First Nations people do support the Voice. This is because , like any other group of people ,Aboriginal and Torres Strait Islander peoples have diverse opinions.. It would be unrealistic to expect 100 per cent support from over 800,000 people on any matter. However it is known that a majority of Indigenous peoples support a constitutionally enshrined Voice. We know this because of the national consensus reached when the Uluru Statement from the Heart was overwhelmingly endorsed after exhaustive community discussions. Subsequent bipartisan processes involved consultations with Indigenous peoples across the country, in remote, rural and urban communities. In 2018, there was the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples, co-chaired by Liberal MP Mr Julian Leeser and Labor Senator Patrick Dodson. Then in 2021, the Indigenous Voice Co-design Process, co-chaired by Professor Marcia Langton AO and Professor Tom Calma AO, produced the Indigenous Voice Co-design Process Final Report to the Australian Government. Both these processes recorded high levels of Indigenous support.

Statement 19

Indigenous peoples already have a voice if they have the right to vote, just like the rest of us?

While it is true that Indigenous peoples have the right to vote now, they are still seriously unrepresented when it comes to influencing the decisions that Parliament makes about them.

While once making up 100 per cent of the population of our continent, Aboriginal and Torres Strait Islander peoples are now less than 4 per cent of the Australian population. They are spread throughout our vast land, across 151 electorates, so their votes have very little influence on who is elected to Parliament or the policies that emanate from it.

Statement 20

There are already eleven Indigenous Members of Parliament, so why do we need an Aboriginal and Torres Strait Islander Voice?

Indigenous politicians necessarily prioritise what the voters in their electorates want, not the specific priorities of Indigenous peoples. If they are members of a political party, they will represent the policies of their party, such as Labor, Liberal, National or the Greens, none of which has a significant number of Indigenous members. The same would apply if they were independents. Also, while there are eleven Indigenous parliamentarians today, the next election could easily reduce those numbers, based on the mood of electorates, dominated by non-Indigenous voters, for reasons that have nothing to do with the Member of Parliament's Indigenous identity. By constitutionally enshrining an Aboriginal and Torres Strait Islander Voice, Indigenous peoples will be guaranteed a capacity to make suggestions to the government and the Parliament, whatever the attitude of the government of the day is towards them, and even when there are few or no Indigenous parliamentarians.

Statement 21

There is not enough details about the Voice to vote 'Yes' in the referendum

The 'No' case is asking questions about details that are not matters for the referendum, such as the technicalities of how Indigenous representatives will be elected to the Voice, and what the Voice may make representations on. Remember, the referendum is only about establishing the principle that Aboriginal and Torres Strait Islander peoples should have a Voice. The rest will be determined by the Parliament. Throughout the campaign, keep in mind that some people will ask irrelevant questions to give a false impression that there is not enough information for you to make an informed decision. That is why you will hear 'No' case supporters say, 'If you don't know, vote "No"'. It might be effective as a simple slogan, but that doesn't make it right.

The Australian Constitution does not require or reflect 'details', in the way that 'details' have been called for by the 'No' case in this referendum. For example, the Constitution grants the Commonwealth the power to impose taxes and laws regarding the collection and administration of taxes, but it does not detail how the Taxation Commissioner is selected, where the tax office will be based, or how much will be spent on tax collection efforts. A similar example is how the Constitution grants the Parliament the power to establish our naval and military defence, but it does not contain the details about how many generals will be appointed, nothing about where military bases should be situated or what resources the government should provide.

The Constitution establishes the institutions and defines the separation of power between the judicial, parliamentary and executive arms of government. It does not establish all of the detail about how things are done. We elect Parliament to make laws in accordance with the Constitution, and the judicial arm and public opinion, including through media discussion and analysis to guide them and hold them to account. It will be the same for the Voice to Parliament. How representatives are elected, how many there will be, and from which parts of the country they come, among many other details for such a body, will be decided by the Parliament after the referendum, as is normally done.

Statement 22

The Voice representative body would just add another layer of bureaucracy

The Aboriginal and Torres Strait Islander Voice would not be another layer of bureaucracy. Rather, it would hold the existing bureaucracy to account, and make representations to the government and the Parliament in pursuit of better outcomes for Indigenous peoples and better targeting of government spending.

Statement 23

The Voice will divide Australians by race, giving special treatment to Indigenous people.

. A Voice to Parliament is about recognising Aboriginal and Torres Strait Islander peoples' distinct culture, heritage, history, and their unique connection to the Australian continent that spans over 60,000 years. This would be a force for unity and nation building, rather than division. A Voice to Parliament would also implement Australia's commitment to the United Nations Declaration on the Right of Indigenous Peoples in domestic law, in particular Article 18, which states: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.