



Committee Secretary

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

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17 April 2023

Dear Secretary,

We make this submission strongly endorsing the proposed constitutional amendment in the *Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023* (Bill).

We provide input on this most important reform from our lived experience and on the ground perspectives from across 10 diverse urban, regional, and remote regions of Australia.

The amendment should not be watered down or weakened. It reflects what is needed and desired by the vast majority of Indigenous Australians. It is already legally sound, as demonstrated by the volume of highly credible legal expert opinion supporting the proposed change.

Our experience provides practical on the ground evidence of why the amendment proposed is entirely appropriate and vital to future success, including to Close the Gap. We can tell you firsthand, benefits will flow from ensuring Aboriginal and Torres Strait Islander people's voices are heard at every level, including by the Executive Government. In this submission we focus on two examples showing the positive changes Voice input can provide to:

- increase the productivity of resources allocated in the name of Indigenous people which are not effectively delivering results currently
- tackle Indigenous joblessness and promote regional economic development more effectively.

ABOUT US

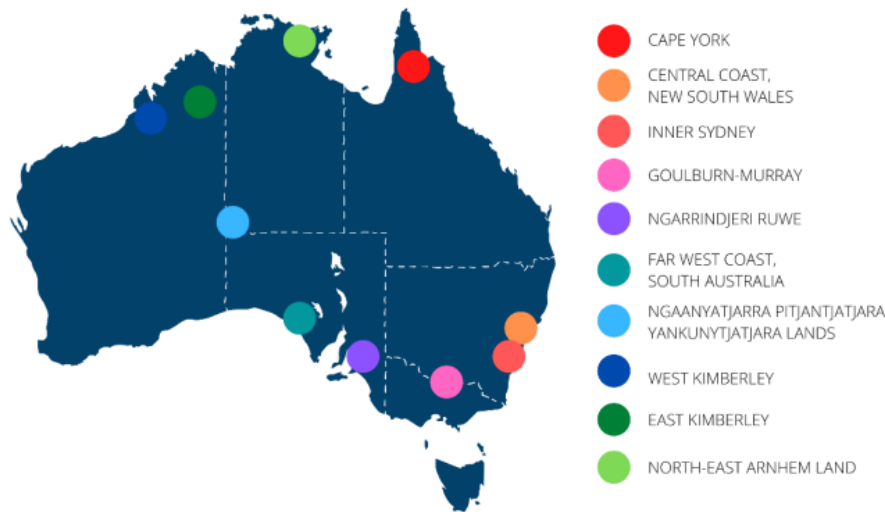
Across our regions, for more than eight years Empowered Communities has pursued new empowering ways of working in partnership on the ground with government. For more effective and productive approaches it is Indigenous people themselves, those whose lives are directly affected, that should be empowered to have greater influence and control over the decisions impacting on their lives.

We are proud of the progress we have made since Indigenous leaders from eight remote, regional and urban areas first came together. We identified a common vision and proposed a comprehensive set of transformational reforms to get us there.

We achieved broad bipartisan political support for Empowered Communities at the federal level and secured the government's agreement to work at the regional level to take a new partnership approach to place-based development. It is important to note our success continues to be constrained as we did not get support for the broader national structural reforms which we argued from the outset are needed to truly embed momentum for transformational change.



We continue to work hard on implementation. And we have had the Ngarrindjeri Ruwe and Far West Coast regions in South Australia join the initiative.



OUR VISION

“We want for our children the same opportunities and choices other Australians expect for their children. We want them to succeed in mainstream Australia, achieving educational success, prospering in the economy and living long, safe and healthy lives. We want them to retain their distinct cultures, languages and identities as peoples and to be recognised as Indigenous Australians.”

Empowered Communities will undergo change and transition when the Voice is established. But empowering reforms have been co-designed, tried and tested over the past eight years and provide ‘proof of concept’ examples to inform the new broader Voice partnership across the nation. These empowering reforms provide practical examples of what can be scaled and expanded further for all Indigenous places and people to improve outcomes when we have constitutional recognition through Voice.

AMENDMENT SHOULD NOT BE WEAKENED

The proposed constitutional amendment is straightforward yet meaningful. It achieves constitutional recognition of Aboriginal and Torres Strait Islander peoples by guaranteeing our communities a Voice in those matters of most importance to us, so practical outcomes over time will improve. The whole point of the Voice is to have the symbolism of recognising Indigenous peoples in the constitution while instigating real practical change. This practical and substantive change makes the symbolic aspect of recognition more powerful and will further help to progress reconciliation with us, the First Nations of Australia.

The amendment has already benefitted from nine years of discussion and refinement. The idea of constitutionally guaranteed advice to both Parliament and the Executive was considered and endorsed by Indigenous Australians through the *Uluru Statement from the Heart* in 2017. To



remove reference to the Executive would disrespect the Uluru Statement and disregard Indigenous community wishes.

The amendment has been further refined in the recent change which expands Parliament's power under clause 3, confirming that Parliament can legislate on "matters relating to the Voice"—including how it interacts with Government and what obligations (if any) apply to Government. We agree with the many experts who have confirmed the amendment is sound in its current form.

It would be ludicrous and ineffective for the Voice's remit to be limited to Ministers, as some have suggested. As our practical on the groundwork demonstrates, constitutionally guaranteed engagement with departments and bureaucrats is essential to improve practical outcomes. If it's not in the Constitution, it will not happen. Good intentions and promises to do things differently are not enough.

Any suggestion of removing clause 2 of the proposed amendment which relates to advice being provided to the Executive must also be categorically rejected. This would mean there is no constitutionally guaranteed role for the Voice. There would be no constitutional guarantee that the Voice could have a say in anything. A future Parliament could give the Voice no advisory function whatsoever or could even ban the Voice from speaking, which would defeat the whole purpose of having a new and enduring Voice partnership through constitutional enshrinement. Such an approach fails to recognise that Indigenous people seek a constitutional guarantee that the future will be fairer than the past.

It is inconsistent to argue both that the Voice must achieve practical results, and that its constitutional role in giving advice on policy must be restricted or removed. Such an approach undercuts the practical substance of the Voice proposal. The Executive is where most of the important decisions impacting Indigenous communities are made. The Voice's advice is non-binding. There is no veto. So why shouldn't Indigenous communities have a constitutionally guaranteed role in policy development that impacts their lives? This is how we ensure improved practical outcomes flow from the Voice.

Much of what we have done under Empowered Communities has required us to work in partnership and give advice from the local and regional level to Executive Government. In fact, it is only relatively rarely we have had occasion to provide advice to the Parliament (although we have also done this regularly when necessary).

Of course, the Voice must be able to provide advice to Executive Government, this is what putting in place a new empowering and productive partnership demands. It is something to be embraced rather than be frightened of.

A VOICE FOR RESPONSIBILITY

Supporting people to drive solutions to their own problems is what self-determination and taking responsibility is all about. Through Voice Indigenous people are asking to be empowered to drive positive changes for their families, communities, and regions.

We all know the top-down, government-led approach to closing the gap does not work. This is precisely why all Australian governments have committed to empowering approaches and have



agreed that structural reforms are necessary to achieve the changes we all want to see. We have decades of poor results under successive governments of all persuasions, demonstrating decision making in the current 'Canberra/ Brisbane / Adelaide/ Perth/ Sydney/ Melbourne/ Darwin etc bubble' by politicians and bureaucrats, is ineffective even though it is generally done with the best of intentions. There can be no dispute—input, and shared ownership of decisions by those who are to be affected by them, will lead to better results across our diverse First Nations regions and communities. This will ensure the significant level of existing government expenditure on Indigenous matters is more effective in achieving its purpose and will help to close the gap.

This is exactly why the *National Agreement on Closing the Gap* made empowerment and structural reform a clear and shared priority. **The proposal for constitutional recognition to guarantee us a Voice in decisions made about us is precisely the structural change needed to build a new enduring partnership between Indigenous Australians, government, and the Australian people.**

We all know the best way to support people is to listen to what they say they need. But as only around 3% of the population, we struggle to be heard when decisions are made affecting our lives and futures.

The Coalition have been the 'Canberra Voice' for Indigenous people because they have had 21 of the last 26 years in power in Canberra. Their Canberra Voice has not worked for us, so it is bitterly disappointing they now wish to maintain the top-down system of 'Canberra knows best' that continues to fail.

We need a Voice to ensure local Indigenous communities across all of Australia's diverse regions can be heard. To close the gap, we need an effective partnership between Indigenous people and governments integrated at every level, local, regional and national, which is precisely what a constitutionally guaranteed Voice will put in place.

A true empowering partnership with First Nations people will not happen without a constitutional commitment putting the foundation stone required to build it in place. It is our experience that we cannot rely on goodwill, good intentions, or even strong high-level policy commitments of government to achieve the empowering partnership approach needed to see transformational change. This is why the gap doesn't close, because there is no rigour in the system and a culture of partnership is not structurally supported and mandated as it would be with constitutional recognition through Voice.

It is also the case that all Australian governments, including the last Coalition government, accept the need to set Closing the Gap targets with long timeframes for resolution. In some areas the gap is not expected to close for two to three generations because disadvantage is intergenerationally entrenched. This means an enduring Voice partnership between all levels of government and Indigenous people from the ground up is needed to achieve this change over time.

Closing the gap timeframes in areas such as juvenile detention, incarceration, child protection, domestic violence, crime and safety, are multigenerational and very clearly require a sustained strategic effort by both Executive Government and Indigenous people working in partnership. This means enshrining the Voice to Executive Government in the Constitution is crucial, so joint effort is consistently maintained, and learning occurs over time to improve place-based strategies, until gaps are properly closed.



Simply legislating local and regional voices to work with Executive Government would still leave efforts to close the gap open to suffer the lack of continuity and learning that currently occurs with chopping and changing of top-down, one-size-fits-all policy and program approaches imposed anew with every electoral cycle.

This approach leaves too much to the political whim of a government and politicians of the day in Canberra. History shows that if all we have is a legislative or policy commitment then once a new government is in place, it will want to change tack on the strategy being progressed to close the gap. This constant pendulum swinging and reinventing of the wheel means makes us on the ground feel we are constantly trapped repeating a 'Groundhog Day' cycle and makes it almost impossible to maintain traction to make progress over the long term.

In contrast, we are in it for the long haul. It is our lives and futures at stake. We want to be able to take responsibility and be held to account in a proper enduring partnership.

Across our diverse regions there are many examples demonstrating the benefits that will flow from ensuring Aboriginal and Torres Strait Islander people's voices are heard at every level, including by the Executive Government.

Under the amendment the Voice will ensure the decisions made by government that impact on our lives and futures can be made through a stronger partnership approach—so decisions are informed by the perspectives and knowledge of Indigenous people, drawn from real lived experience at the local level—rather than through the business-as-usual, top-down, one-size-fits all approach.

By addressing the lack of coherent First Nations representative structures across our federal institutional architecture, the Voice will mean we have one cohesive and empowering representative system devised from the ground up by Indigenous people in line with the already agreed principles. This will link in a permanent dialogue our local voices across Voice regions, with state and national governments and parliaments for the first time.

Two important examples showing the positive changes that will flow from this reform relate to:

1. Increasing the productivity of resources allocated in the name of Indigenous people.
2. The need for more effective approaches to tackle Indigenous joblessness and promote regional economic development.

A VOICE FOR PRODUCTIVITY

We want a Voice in the decisions made about us including so we can help reduce waste and duplication by ensuring existing funding is better directed to meet community needs. It's a fact that shared decision making and working in partnership with Indigenous people can lead to more productive use of the available resources. How can Executive Government decision makers in Canberra know what's needed and what will work best without our input from places as diverse as Kununurra, Broome, Redfern, Aurukun, Ceduna and Shepparton? The current system is fundamentally flawed.



Those fearmongering about constitutionally mandated advice to the Executive Government have overblown their concerns and vastly overstate the risks. For example, the Opposition Leader Mr Peter Dutton is fearmongering when he claims the Voice as proposed will cost billions of dollars and thousands of public servants, and that our system of government will “grind to a halt”. This is not true and is reminiscent of the scaremongering that took place in the wake of the *Mabo* decision, which the passing of time has confirmed was patently untrue.

The fact is it won’t cost ordinary Australians anything to vote ‘Yes’ at the referendum, and the Parliament will continue to have complete control of the Voice budget and how the public service interacts with the Voice. Let us be very clear, the Voice isn’t about more money and public servants—rather the fundamental the idea is that over time the Voice will increase productivity of the substantial resources already committed to Indigenous Affairs and improve progress to Closing the Gap targets.

We’ve had hundreds of years of non-Indigenous people and bureaucrats deciding what’s best for us. We have seen this increase government bureaucracy and their control over our lives, and it is clear this has not worked. It’s a fact that politicians and public servants in Canberra acting alone don’t know what we need on the ground in our diverse regions and communities. A Voice can help remove the useless and ineffective layers of bureaucracy we have now and lead to better use of resources.

Mr Dutton and the Liberals are saying “No” to using the substantial amount of funding and resources currently allocated in the name of Indigenous people more productively.

We know a lot of funding currently said to be spent in the name of Aboriginal and Torres Strait Islander people never hits the ground to help families in the communities in our regions. We see this firsthand. Having decisions made in far off places by politicians and public servants is not the most effective and productive approach to bring about place-based changes. In many cases we have seen these decisions do more harm and make the job of closing the gap even harder. Let’s create a Voice partnership to help cut out the ‘middlemen’ and deliver support as directly as possible to those intended to benefit from it.

Empowered Communities experience demonstrates giving people with on the ground knowledge a say in funding decisions made by government, leads to better decision making about spending. These decisions do not involve the Parliament but the Executive. They are critical decisions impacting our lives and futures which can be improved by taking a partnership approach.

JOINT DECISION MAKING WITH GOVERNMENT LEADS TO BETTER, MORE EFFICIENT USE OF FUNDING

In addition to place-based funding transparency, one of the reforms we originally proposed involved having panels of local people acting in the role of purchaser or co-purchaser of services, rather than far off governments always filling the roles of both funder and purchaser. Subsequently Inner Sydney initiated the first Joint Decision-Making process to provide local people with some shared decision-making power over ceasing grants from the Indigenous Advancement Strategy (IAS) (see textbox). Joint Decision-Making has since been expanded and applied in all other Empowered Communities regions and is beginning to be applied to other ‘buckets’ of funding.

In our regions, Joint Decision-Making about funding of services and programs has helped to reduce waste and duplication and ensure resources are better targeted to meet local needs.



Under Joint Decision-Making, panels of local people work with government to inform the funding decisions made by government, rather than decisions being made just by government in Canberra without any firsthand understanding of our communities, the gaps, and opportunities needed. **The advice of Joint Decision-Making panels is non-binding but has proven to be very valuable.**

More than \$147 million dollars' worth of funding flowing into our regions has now been considered through local Joint Decision-Making panels and this has led to more productive use of resources on the ground.

Joint Decision-Making has been more effective at making tough decisions to cease funding and to redirect it to local priorities, than is the case when government tries to make these decisions alone without local input. Too often public servants find it too challenging to make changes once funding has been approved, leading to a culture of 'set and forget' regardless of how effective these existing projects might be.

First Joint Decision Making in Inner Sydney demonstrates productivity improvements

Inner Sydney led the development of the first Joint Decision-Making process in partnership with the then Department of the Prime Minister and Cabinet (PMC) from 2017, allowing community panels input into discretionary regional funding decisions. Through Joint Decision-Making, activities of government funded organisations can increasingly be aligned with the priorities of the Indigenous communities of the region.

In its first year more than half of the funding considered was found to be duplication and misdirection, an amount of \$1.01 million out of \$1.98 million.

Under Empowered Communities people have wanted to go further than simply taking a contract-by-contract approach and making incremental changes to improve productivity. The East Kimberley Joint Decision-Making process took a 'whole of sector' approach to IAS funds around children and schooling, for example (see textbox), which demonstrates the benefits of taking a more holistic approach.

East Kimberley demonstrates potential of a systems change approach

The East Kimberley sought to drive more transformational systems change, by grouping contracts by sector into a Joint Decision-Making process to take a more strategic view. All children and schooling sector IAS funding contracts administered by the NIAA were considered in a single process—totalling \$3.25 million. The process was guided by community priorities set out in a local education development plan.

Substantial changes resulted, ensuring the better alignment of the region's child and education focused services with locally-led strategy, needs and priorities:

- funding for 'low dose' initiatives was combined to support a new intensive family support program
- local Language Nest funding was increased
- some funds were redirected to support an Early Years initiative.



While the Joint Decision-Making process has made a start and provides important proof of concept, it is relatively small scale in contrast to the great potential for productivity improvements with supporting structural changes embedded through the Voice. It has been a struggle for Empowered Communities to put in place new ways of working such as Joint Decision-Making with government at the local and regional level, and to expand on the productivity gains able to be made, without structural changes needed to embed a new empowering partnership approach.

Progress remains limited as we can only work with areas of government that are willing to try this new approach. We continue to rely on the goodwill of individuals with whom we work in the Executive Government and the approach remains vulnerable given the frequent changes in Executive Government personnel. Getting whole departments or multiple departments across government to work together to take a more holistic approach would yield further productivity gains.

Stronger productivity gains could be delivered if other funding streams outside of the IAS funds administered by NIAA were also included in a streamlined form of Joint Decision-Making or considered in regional pooled funding processes. Large proportions of funding flowing into our regions includes Indigenous funding administered by Housing, Health, Education and Social Services, for example.

Empowering partnership approaches like Joint Decision-Making under Empowered Communities, would be supported to expand, and would become the norm rather than the exception through a constitutionally enshrined Voice. These kinds of effective approaches must be scaled, to build and expand the productivity benefits.

A VOICE FOR JOBS

Having a coherent representative Voice system in place for the first time means approaches can be co-designed at the regional level to ensure place-based circumstances, opportunities and development priorities are taken into account, and every region can be held accountable for improving its results over time. In this way the Voice will mean responsibility for Closing the Gap on outcomes for Aboriginal and Torres Strait Islander people—such as employment outcomes—can be shared between governments and Indigenous people on the ground for the first time.

Too many Indigenous Australians are still left behind and remain without all the crucial opportunities enabled by a job. Indigenous joblessness should not be considered inevitable, or acceptable. To prosper, we know it is essential Indigenous Australians in remote communities have real work opportunities, and support so they are ready to take up the job opportunities available. But currently in remote Australia, Indigenous people are excluded and confined to participating in one-size-fits all programs that provide 'work-like' for the dole activities and endless training and skills building, without any realistic prospect of a real job.

Successive federal governments have redesigned and replaced employment services programs delivered across remote Indigenous communities, yet they continue to fail. All these changes have been made not through the Parliament and legislative change, but through Executive Government action to devise the new policy and program 'fix'. These overhauls were not



designed in partnership with the Indigenous communities involved, and none has successfully addressed unemployment.

Through Voice, government will be able to easily partner with Indigenous people to move away from one-size-fits all approaches devised by government alone in Canberra so real jobs and economic development can be better tailored to the needs and opportunities of our diverse regions and communities.

Voice partnership with government will enable a move from one-size-fits-all approaches, so Indigenous people have real job opportunities

The longstanding Community Development and Employment Projects (CDEP) transitioned to Job Network, then Job Services Australia (JSA), then the Remote Jobs and Communities Program (RJCP) in 2013, which in turn was replaced by the current Community Development Program (CDP) in 2015.

Then in 2021, the 'mutual obligation' participation requirements in remote communities were abruptly removed from CDP by a change in policy decided by the previous Coalition government without any engagement informing the change or transition. As a result, many participants in remote regions who were no longer under any obligation to attend CDP, simply ceased participating in any meaningful community activity.

Meanwhile, CDP providers continue to be paid despite the lack of improved outcomes.

CDP costs more than \$300 million per year, with 70 cents of every dollar spent on administration.

Vast quantities of CDP money flows not to jobseekers and their families and communities, but into the hands CDP providers, who continue to profit from Indigenous disadvantage. The sad reality is that the greatest beneficiary of these programs are the providers, most of whom are large, non-local businesses, making substantial profits without delivering any real progress in lowering unemployment in remote communities.

Both the previous Morrison Government and the current Albanese Government acknowledge the current CDP program has failed, and yet another government-led overhaul is planned to replace it.

TAKING A POSITIVE STEP FORWARD TOGETHER

We want to be part of Australia, formally and permanently through recognition in the Constitution, our nation's legal foundation. We do not think it is asking too much to ask for a say in the decisions made about us.

Supporting Indigenous people to have a constitutionally guaranteed Voice in the decisions made about them is a positive thing that every Australian can do. This will support the country to move together beyond any rancour associated with the past, and so Indigenous people's lives



and futures do not continue to remain constrained and trapped by history and circumstance but can reach their full potential.

We are very disappointed this opportunity for real change and improvement to transform the current broken system has not been embraced through productive engagement by all sides of politics, and by all who profess to want to improve outcomes for our families and communities. Indigenous people have been through enough. We do not want our lives and futures used as a political football.

We are completely confident that as a country and as a system of government, we have the nous required to establish an effective and empowering Voice through legislation after a successful referendum that will ensure that successes can endure and be built on. We highlight the two key reasons underscoring our confidence.

Firstly, as First Nations people we have more than 65,000 years of learning and experience we can draw upon in building our new Voice partnership once it is enshrined in the constitution. The partnership proposed is one in which we will be able to provide advice, negotiate and reach agreements at the local and regional level and ensure that this informs the advice from a National Voice to the Executive Government and Parliament, so we can play an active role in shaping our lives and futures. Such a partnership is consistent with the high value our Indigenous cultures and traditions place on dialogue. Our unique worldviews, values of connectedness, systems of authority, and approaches to healing and wellness, will enrich the new partnership we build together on the foundations of constitutional recognition through Voice. We have no doubt that ultimately such unique partnership will ultimately benefit all of Australia.

Secondly, we also have lessons learnt by government and Indigenous people together over the past 235 years to draw upon. The Voice will provide a conduit that directly connects our local Voices from the ground with the centralised top-down Westminster model. Principles have already been agreed, and it is for local communities to determine their empowering Voice representation. This is what Indigenous people have clearly and consistently demanded from the outset—that the voices of our people on the ground where change must occur must be empowered. The new Voice partnership will apply the lessons learnt from previous efforts such as the Aboriginal and Torres Strait Islander Commission (ATSIC) and Indigenous Advisory Council, for example, to ensure the Voice provides the enduring and transformative partnership required.

If the referendum succeeds, the fact of constitutional recognition Indigenous Australians through a new Voice partnership will be permanent. But Australia can continue to perfect its new Voice partnership using the Parliament to make any legislative changes needed over time—changes could be made as required for 65,000 years if we have that sort of timescale yet before us. Amending legislation is the job Parliament is paid to do.

While it is the goodwill of the Australian people that will ensure the success of the 2023 referendum so we can build a new empowering Voice partnership with First Nations people, all sides of politics can still have valuable and constructive role to play so that together we create a future version of our great nation in which we can all be proud.

To this end, we continue to urge the Liberals and the Nationals to work with Aboriginal and Torres Strait Islander people to support this most important reform so that we can realise our dream of a future Australia in which we have moved beyond the mutually felt burdens of the past. One in which Aboriginal and Torres Strait Islander people are succeeding on par with



other Australians—achieving education success, prospering in the economy, and living long, healthy, safe and crime free lives. And a future in which the lives of all Australians can be enriched and sustained by 65,000 years of First Nations cultures, languages and identities inextricably linked to this continent.

Across our various regions, we would be pleased to appear before the Committee hearings to discuss our views further and answer any questions.

Yours sincerely,



Ian Trust
Chair Empowered Communities Leaders Group
18 April 2023

On behalf of Empowered Communities leaders:

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