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Uniting First Peoples Network and UnitingCare Australia Submission – Indigenous Voice Co-design Interim Report

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APRIL 30, 2021



30 April 2021

Voice Secretariat
National Indigenous Australians Agency
Commonwealth Government
Canberra ACT 2600
Via email: Co-designVoice@niaa.gov.au

Uniting First Peoples Network and UnitingCare Australia Submission – Indigenous Voice Co-design Interim Report

Dear Voice Secretariat

The Uniting First Peoples Network, the Uniting Aboriginal and Islander Christian Congress (UAICC), and UnitingCare Australia welcomes the opportunity to respond to the Indigenous Voice Co-design process and Interim Report.¹ Our submission is grounded in the Uniting Church of Australia's commitment to the Uluru Statement from the Heart and reiterates the views expressed in the UAICC and Uniting Church in Australia Assembly submission (#1328) to this co-design process.

We acknowledge the complexity of the task the co-design groups have been appointed to undertake and commend the immense work that has gone into the development of the Interim Report. However, it is critical this co-design process does not distract from, nor serve as a substitute for, constitutional enshrinement of a First Peoples Voice. Accordingly, our submission does not address the full breadth of issues raised in the Interim Report. Instead, we focus on the need for the Government to proceed with a referendum for a constitutionally enshrined Voice to Parliament and to introduce enabling legislation for a Voice after a referendum. We also emphasise the need to ensure the membership model for the Voice is diverse and inclusive.

The need for constitutional enshrinement of the Voice

A First Peoples Voice that is enshrined in the Constitution was an unambiguous collective call of the Uluru Statement. A constitutional guarantee will ensure the Voice endures and is not reliant on the mere goodwill or whim of the government of the day. The experience of previous representative or advisory bodies, such as the Aboriginal and Torres Strait Islander

Commission (ATSIC) and the National Indigenous Council, demonstrate that legislation alone is not sufficient to provide durability and certainty. As is noted in the Interim Report, advisory or representative bodies created by legislation alone or administrative fiat have historically been subject to political pressure and interference, thereby undermining their independence:

A recurring issue with which all historical bodies have had to confront, is the extent of their independence from government to represent Aboriginal and Torres Strait Islander peoples in the first instance. The 2008 report of the Aboriginal and Torres Strait Islander Social Justice Commissioner found that most previous bodies have to varying degrees, and for various reasons, tended to prioritise the objectives of the Australian Government of the day first, and those of Aboriginal and Torres Strait Islander peoples second.²

A constitutional guarantee overcomes the inherent vulnerability of an institutional voice that is merely legislated. It will make it clear that the Voice is not beholden to the ‘Government of the day’ or the politics of the moment. It will, instead, provide the enduring structural change needed to overcome the “torment of powerless” spoken of in the Uluru Statement.

Constitutional entrenchment of the Voice is also important because it would be achieved with the support of the Australian people at a referendum. This would in turn give it greater legitimacy and moral authority in the eyes of the public when compared to an entity merely created via statute. As a result, its advice to Parliament is more likely to be given greater weight.

Enabling legislation for the Voice must be passed after a referendum

We firmly believe the Voice the Parliament should be enshrined in the Constitution *before* supporting legislation is enacted. Implementing the National Voice through legislation prior to a referendum will undercut its legitimacy and leave it vulnerable to political compromise and pressure. This approach risks creating confusion among the Australian public, undermining the momentum for a successful referendum, and creating the conditions for yet more delay, deferral and prevarication. Constitutional entrenchment of the Voice will provide the essential scaffolding and long-term security needed, ensuring that the details of the Voice model can be subsequently set out in legislation and fine-tuned as necessary over time, without fear of the Voice’s abolition when a government changes hands into the future.

Inclusive of the diversity of First Peoples

The membership model for the National Voice should ensure representation of the diverse populations and needs of First Peoples. This submission does not consider the details of the preferred membership structure, methods of election, or other specific aspects of the model for the National Voice (or for the Regional and Local Voices). In determining these details, the views of First Peoples should have primacy. However, it is imperative that the Voice has the necessary capability and legitimacy to undertake its function as an institution that captures and represents the diverse voices, priorities and aspirations of First Peoples. This includes

structural opportunities for the inclusion of voices that may have been previously unheard in national-level deliberations, including First Peoples embedded in local communities and frontline organisations.

Sufficient scale of membership will be necessary for a Voice that is inclusive of this rich diversity. Limiting membership to two representatives per state, as proposed in the Interim Report, may not be sufficient to achieve this and may risk an outcome where only people with existing profile and authority are selected. Critically, the membership of the National Voice must be determined by First Peoples, and should not be determined by government appointment.

In conclusion, we urge the Federal Government to support the collective aspiration of the Uluru Statement of the Heart, and to commit to a referendum to create an enduring and constitutionally guaranteed First Peoples Voice to Parliament. As our submission has emphasised, the Voice to Parliament should be enshrined in the Constitution before it is implemented and supporting legislation is enacted. We believe this is a fundamental first step in addressing the unfinished business of our nation's relationship with First Peoples. It is a necessary and essential step whose time has come.

Yours sincerely,

Gavin Mackey
Co-Chair
Uniting First Peoples Network

Alison Overeem
Co-Chair
Uniting First Peoples Network

Mark Kickett
Interim Chair
Uniting Aboriginal and Islander Christian Congress

Claerwen Little
National Director
UnitingCare Australia

¹ The Uniting First Peoples Network comprises Aboriginal and Torres Strait Islander leaders from the Uniting Aboriginal and Islander Christian Congress (UAICC) and from the Uniting Church and its service agencies.

The Uniting Aboriginal and Islander Christian Congress (UAICC) consists of Aboriginal and Islander members of the Uniting Church in Australia and members in fellowship who may also be members of other denominations.

UnitingCare Australia is the national body for the Uniting Church’s community services network in Australia, supporting 1.4 million people every year across urban, rural and remote communities.

² Indigenous Voice Co-Design Process, (2020). *Interim Report to the Australian Government*, October 2020, p.118.

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As an agency of the Uniting Church in Australia we affirm that the First Peoples of Australia, the Aboriginal and Islander Peoples, are sovereign peoples in this land.

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