



Reconciliation
NSW

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Committee Secretary
Joint Select Committee on the
Aboriginal and Torres Strait Islander Voice Referendum
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**Submission to the Joint Select Committee on the Aboriginal and Torres Strait Islander
Voice Referendum inquiring into the Constitution Alteration (Aboriginal and Torres Strait
Islander Voice) 2023 (Bill)**

Submission in support

Reconciliation NSW strongly endorses the current wording and intention of the proposed amendment to the Australian Constitution to introduce an Aboriginal and Torres Strait Islander Voice, as set out in the referral on 30 March 2023 to the Joint Select Committee regarding the Aboriginal and Torres Strait Islander Voice Referendum (the Proposed Constitution Alteration).

Reconciliation NSW is a member of the Australian Reconciliation Network, a grouping of national, State and Territory reconciliation bodies. For 26 years, Reconciliation NSW has worked to support, educate and inspire the people of NSW to advance reconciliation. We amplify Aboriginal and Torres Strait Islander voices and educate allies. The vision of Reconciliation NSW is to create a reconciled, just and equitable community for Aboriginal and Torres Strait Islander peoples and other Australians in NSW. We work to support, educate and inspire the people of NSW to engage in reconciliation.

Reconciliation NSW believes that answering the call for a Voice to Parliament in the 2017 Uluru Statement from the Heart (“the Uluru Statement”) is a critical step on the path to reconciliation. Specifically, the Uluru Statement calls for recognition through a constitutionally enshrined Voice to Parliament.

In our view, the Proposed Constitution Alteration to introduce an Aboriginal and Torres Strait Islander Voice to Parliament, *in the form of words currently proposed in the Constitutional Alteration Bill*, is a full and complete answer to this call. Inclusion of the proposed new Chapter, in its entirety, would remedy the glaring omission that currently afflicts our Constitution, which is unacceptably silent in relation to Aboriginal and Torres Strait Islander peoples, the First Peoples of this land and oldest living culture, who have been here for over 65,000 years.

In relation to the details of the Proposed Constitution Alteration, Reconciliation NSW makes the following submissions:

1. **New chapter heading – “Chapter IX Recognition of Aboriginal and Torres Strait Islander Peoples”:** We strongly endorse the proposed introduction of a new Chapter IX in the Constitution with the title “Recognition of Aboriginal and Torres Strait Islander Peoples.” This makes crystal clear the overarching purpose of the constitutional amendment which is to recognise over 60,000 years of occupation and continuing connection of this continent by Australia’s First Nations peoples.
2. **Introductory words to section 129:** For the same reasons, we strongly endorse the proposed introductory words to section 129, namely the words “In recognition of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia.”
3. **Subsection 129 (ii) – “Executive Government”:** We strongly endorse retaining the words “Executive Government” in sub-section 129(ii). In our view, it is of critical importance that the Voice should be able to speak directly to the Executive Government of the Commonwealth, for the reasons set out below.

It is the administrative decisions of the Executive Government – Ministers, heads of Departments and the public service - which for so many years have directly affected and often controlled the lives of many Indigenous Australians and their communities – and it is in this very area where there is a real chance for the Voice to make a difference. Policy areas where the Voice should be empowered to speak to Executive Government include social security, the criminal justice system, family matters

including the removal of children, education, and healthcare. Being able to speak to Executive Government will mean that Ministers, Department heads and public servants will be better and more fully informed about what is happening on the ground to Indigenous people, and what the effect of their decisions might be. Communication at this level will also ensure that funding can be directed more efficiently and effectively.

Ensuring that the Voice can speak to Executive Government is also in accordance with Article 18 of the *United Nations Declaration on the Rights of Indigenous Peoples* (2007)¹ which provides that:

“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...”

In our view, a Voice which can only speak to Parliament, but which excludes Executive Government, would significantly reduce the likelihood of the Voice being able to make a difference to Aboriginal and Torres Strait Islander peoples’ lives.

4. **Subsection 129(iii) – “power to make laws with respect to matters relating to the ... Voice”:** We strongly support the retention of these words. In our view, this phrase will ensure that the principle of parliamentary supremacy is respected. It will ensure that the Parliament of Australia retains complete control over the way in which the Voice can operate. Most importantly, this provision will ensure that Parliament can stipulate when Executive Government must or may seek representations from the Voice, as well as stipulating the legal effect, if any, of those representations. This will ensure that the Voice will not generate “a decade or more of legal challenges” as has been asserted by some commentators. It follows that this provision will also empower the Parliament to amend the legislation that will give effect to the Voice, should the Parliament determine that this may be necessary.

¹ Endorsed by Australia in 2009.

We sincerely thank the Committee for the opportunity to make this submission on the proposed form of words for the Proposed Constitution Alteration for the referendum. Reconciliation NSW is firmly of the view that recognition of our First Nations peoples through a constitutionally protected Voice to Parliament is a critical and long overdue step on Australia's pathway to reconciliation.

Yours Faithfully,



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