

MULTICULTURAL AUSTRALIA FOR THE VOICE REFERENDUM



Why should we have a constitutionally guaranteed First Nations Voice?

This information sheet explains the upcoming Voice referendum and answers the most frequently asked questions

Background

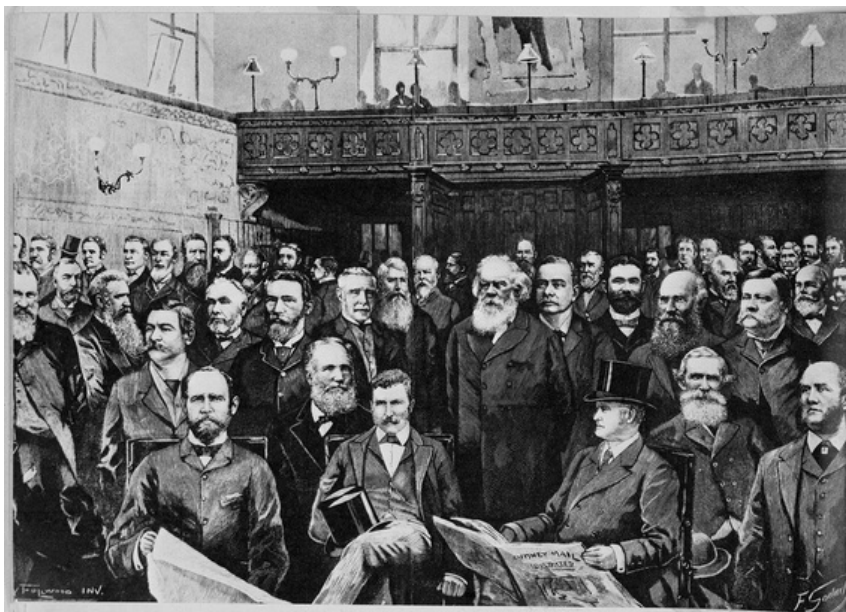
What is the Constitution?

The *Constitution* is Australia's highest legal rule book. It was created in 1901 when the six colonies united to form the Commonwealth of Australia.

The *Constitution* is our power-sharing compact that established the federal Government, Parliament and the High Court of Australia. It contains the basic legal and political rules that dictate how Australia is governed.

What is a referendum?

The *Constitution* can only be amended by a 'double majority' approval at a referendum. This means that a majority of voters in at least four states, and a majority of voters nationally, must vote 'yes' in favour of the change.



NAA: A6180, 30/11/83/23

*Delegates at the National Australasian Convention in Sydney
2 March – 9 April 1891*

What is constitutional recognition?

Indigenous peoples were not given a say in the *Constitution* that was written in 1901. In fact, the *Constitution* originally contained clauses that specifically excluded them. Consequently, Indigenous peoples have endured many unjust laws and policies made about them.

In 1967, a referendum amended the *Constitution* to give Parliament power to make special laws about Indigenous peoples, like native title and heritage protection.

However, this amendment did not empower Indigenous peoples with a specific say in the making of those laws and policies. Rather, it maintained a top-down relationship.



National Gallery of Australia/AAP

Indigenous peoples make up only 3% of the population which means they struggle to be heard when Parliament make laws and policies about them.

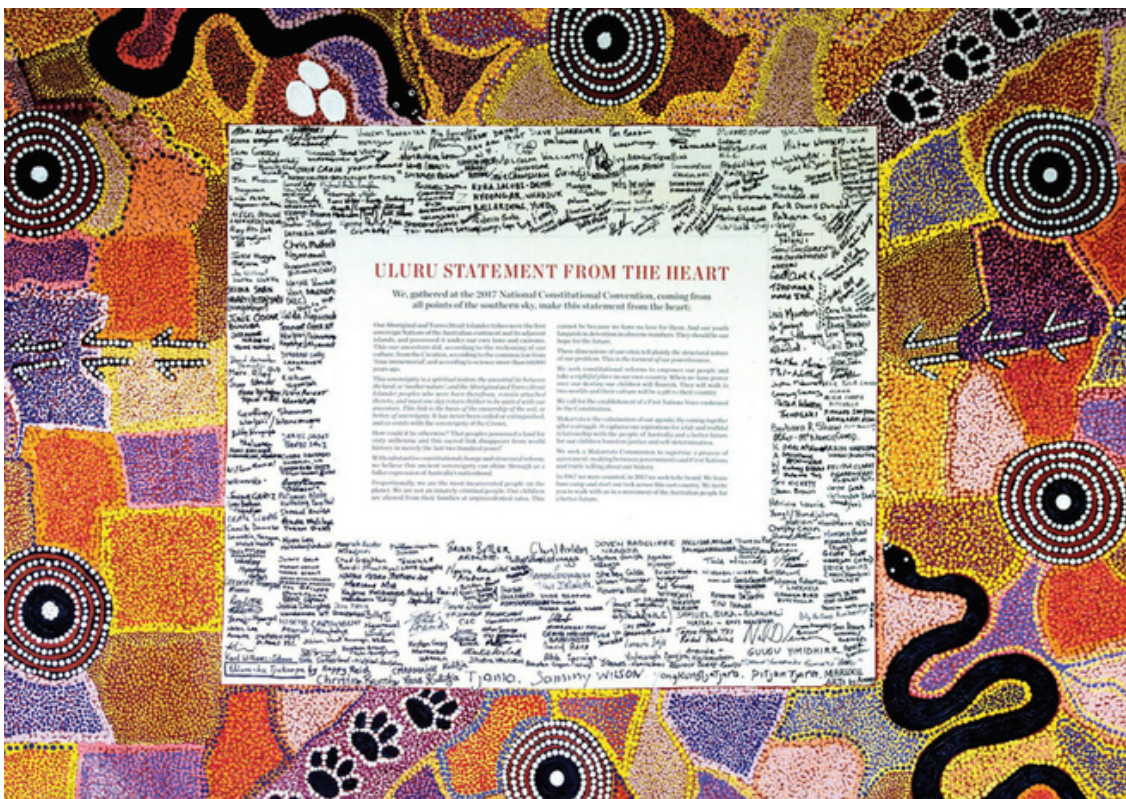
For decades, Indigenous Australians have been calling for constitutional reform to empower them with a Voice. Since 2007, both major parties have supported changing the *Constitution* to recognise Indigenous peoples.

What is a constitutionally guaranteed First Nations Voice?

In 2017, Indigenous peoples came to a historic national consensus on how they want to be constitutionally recognised. This was articulated in the Uluru Statement from the Heart, which called for a constitutionally guaranteed First Nations Voice.

The proposal would amend the *Constitution* to require Parliament to establish an Indigenous advisory body. This body would advise Parliament and the Executive Government on laws and policies relating to Indigenous peoples. The First Nations Voice would be consultative and its advice would be non-binding. This means that it would have no veto power.

This proposal would respect parliamentary supremacy and uphold the *Constitution*, while empowering Indigenous communities with a Voice in their own affairs.



The Uluru Statement from the Heart was signed by more than 250 delegates representing Indigenous communities across Australia

Why do we need to change the Constitution?

In the last 50 years, four Indigenous advisory bodies have been created and later abolished by different governments. Abolishing these bodies was not a constructive solution. Instead, Parliament should have improved these bodies.

This is why the *Uluru Statement from the Heart* calls for the First Nations Voice to be enshrined in the *Constitution*. The constitutional guarantee means that the First Nations Voice could not be abolished simply by changing the law.

This protection would ensure that Parliament and the Government work with, and invest in, the First Nations Voice. It also ensures that Parliament can pass laws that allow the body to change over time, so that it can evolve as needed.

This proposal therefore balances stability and flexibility.



The Uluru Statement from the Heart was a 'radical centre' solution that appealed constitutional conservatives as well as Indigenous peoples

The Referendum

On 23 March 2023, the Government announced the referendum question:

A Proposed Law: to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice. Do you approve this proposed alteration?

The proposed addition to the Constitution is **Chapter IX Recognition of Aboriginal and Torres Strait Islander Peoples**. The new s 129 would read:

In recognition of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia:

- 1. There shall be a body, to be called the Aboriginal and Torres Strait Islander Voice;*
- 2. 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;*
- 3. The Parliament shall, subject to this Constitution, have power to make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, including its composition, functions, powers and procedures.*

Parliament would design the legislative framework which would adhere to the following 8 principles:

1. The Voice will give independent advice to parliament and government.
2. The Voice will be chosen by Aboriginal and Torres Strait Islander people based on the wishes of local communities.
3. The Voice will be representative of Indigenous communities, with a gender balance and youth.
4. The Voice will be empowering, community-led, inclusive, respectful, and culturally informed.
5. The Voice will be accountable and transparent.
6. The Voice will work alongside existing organisations and traditional structures.
7. The Voice will not have a program delivery function.
8. The Voice will not have a veto power.

Frequently Asked Questions

How would this improve practical outcomes?

To ‘close the gap’, policies must be guided by consultation with local Indigenous communities. These communities know their needs and interests best. This is very important for remote communities as they typically have different needs to the wider population. For example, some remote communities in Queensland and the Northern Territory want community-specific alcohol bans.

Similarly, needs relating to health services, traditional lands, and languages are influenced by unique locational, historical, cultural and factors.

Effective policy requires a framework for dialogue between communities and government, which is what the First Nations Voice would provide. If policy-makers listen to local Indigenous communities, this will help improve policies and practical outcomes.

Where is the detail about how this will work?

The Constitution is about principle. The Referendum will be about the principle of a Voice. The detail is for Parliament to determine and evolve over time.

This proposal has been the subject of a decade of deliberation, including four separate government inquiries. The Final Report of the Co-Design Process provides detailed options for the structure and operation of the First Nations Voice across local, regional and national levels.

What matters would the First Nations Voice advise on?

The First Nations Voice would advise on matters relating to Indigenous peoples. This would likely include:

- ‘Closing the Gap’ targets
- Health and social services in remote Indigenous communities
- Suicide prevention in Indigenous communities
- Drug and alcohol regulation in Indigenous communities
- Indigenous incarceration rates
- Land rights and native title
- Preservation of Indigenous cultures and languages

The Voice could also raise any issue that it considers to be important for Indigenous peoples. This might include, for example, advice on how environmental legislation impacts Indigenous economic development.

Would this be a third chamber of Parliament?

No. The proposed function of the First Nations Voice, which is strictly advisory and non-binding, is completely different to the law-making powers of Parliament. Parliamentary supremacy would be unchanged. Parliament would control and oversee the operation of the Voice.

The proposed body would have no veto power and would not possess the power to make laws. There would be no change to the Houses of Parliament whatsoever.

Both former Prime Minister Malcolm Turnbull and Nationals MP Barnaby Joyce, who incorrectly called this proposal a 'third chamber' in 2017, have since admitted that this was wrong. Turnbull has now said that he will vote 'yes' in the First Nations Voice referendum.

Will this divide us by race?

No. The *Constitution* already contains racially discriminatory provisions and has presided over much discrimination in relation to Indigenous peoples.

A constitutionally guaranteed First Nations Voice will mean Parliament and Government can hear Indigenous voices when making laws and policies specifically about them. This will help prevent discrimination and injustice. This proposal would bring us closer together through productive dialogue.

The *Constitution* already empowers Parliament to make special laws in relation to Indigenous peoples. Section 51(xxvi), the 'race power', has only ever been used to make laws in relation to Indigenous affairs.

A constitutionally guaranteed First Nations Voice will ensure that Indigenous people get a fair say in those laws and any other laws and policies made about them. This is about unity, not division. Better dialogue with Indigenous people can only improve policies and laws to better address Indigenous disadvantage.

Does this reform contradict democratic equality?

No. The Voice would only have advisory powers. This will enhance democratic equality, not undermine it. Historically, Indigenous people have not been heard in decisions made about them.

There were even laws and policies denying them the right to vote. A constitutionally guaranteed First Nations Voice will help ensure these past discriminatory policies are not repeated. This proposal would help remedy the unfairness of the past.

Would this body have a veto power?

No. The First Nations Voice would not have any veto power. Some critics argue that the Voice would possess a 'virtual veto' because its advice would be difficult for governments to ignore. However, that is not a 'virtual veto' but rather an example of listening, which is indispensable for meaningful consultation.

Advice that makes governments pause is probably advice worth hearing. However, it is also inevitable that sometimes advice will not be followed.

Is it dangerous to make this body permanent?

To be effective, a First Nations Voice must be a permanent body. There must be a constitutional promise that Indigenous peoples will be heard in decisions made about them. However, Parliament will retain authority to improve, change and evolve the body over time, as needed.

Don't Indigenous members of Parliament already provide a voice for Indigenous people?

The First Nations Voice would serve a different purpose to Indigenous members of Parliament. The Voice would ensure that uniquely affected Indigenous communities have the opportunity to be heard when Parliament and Government make laws and policies about them.

In contrast, members of Parliament represent all the Australians in their electorates, and their political parties. Both Indigenous and non-Indigenous members of Parliament will benefit from the advice of Indigenous communities when making policies and laws about them.

Do all Indigenous people support this idea?

Over 97% of delegates at the Uluru National Convention endorsed the *Uluru Statement from the Heart*. Only 7 out of more than 250 delegates dissented. The opposing delegates were worried that this Statement would give up Indigenous sovereignty. Since then, polls show that 80% of Indigenous Australians support a constitutional Voice.

It is unrealistic to expect a 100% consensus among Indigenous people, but the *Uluru Statement from the Heart* represents an unprecedented national Indigenous consensus. This deserves to be acknowledged and respected.

Is this just virtue signalling?

No. Effective Indigenous policy requires consultation with Indigenous communities. The First Nations Voice will improve policy to produce practical outcomes that benefit Indigenous peoples.

This is about more than symbolism. In fact, the *Uluru Statement from the Heart* rejected mere symbolism in favour of practical reform.

Is this just a Labor Voice? Is it a left-wing idea?

The proposal for a constitutionally guaranteed Indigenous advisory body transcends left and right. It is about all Australians. In fact, the concept originated from engagement between Indigenous leaders and constitutional conservatives in 2014.

Liberal MP and constitutional conservative, Julian Leeser, has long been a supporter of a First Nations Voice, even before the Labor Party. This proposal deserves the support of all political parties and all Australians across the political spectrum.

Won't this be just another ATSIC?

The Aboriginal and Torres Strait Islander Commission (ATSIC) was an Indigenous representative and consultative body. This body was created by legislation and was not guaranteed in the *Constitution*. This meant that the federal Government could abolish the body at any given time.

ATSIC had both strengths and weaknesses. The Government should have improved the areas of weakness, but instead the body was abolished.

This demonstrates why a constitutional guarantee that still allows for legislative flexibility is important. A First Nations Voice would have both. It would be a permanent body that could improve and evolve over time.

Unlike ATSIC, the Voice would not have a service delivery function. The Voice's function would be to provide advice to Parliament and the Government.

When have Indigenous people not been properly consulted?

Even today, well-meaning policies often lack proper consultation. In June 2022, mandatory alcohol restrictions in the Northern Territory were lifted, against the wishes of some remote Indigenous communities.

It is crucial that Indigenous people are empowered so they can advise the federal Government on policies and solutions that benefit their communities.

How will the First Nations Voice reflect the diversity of Indigenous groups across Australia?

A First Nations Voice needs to reflect the diversity of remote, regional and urban Indigenous communities. It is especially important that the needs of local and regional Indigenous communities are heard.

The Co-Design Report recommended a First Nations Voice consisting of local and regional representative bodies that collaborate with a 'National Voice'. The Voice design principles show the Voice will be anchored in, and chosen by, local Indigenous communities.

This would establish two-way dialogues between local Indigenous communities and governments. The First Nations Voice aims to streamline meaningful consultation with diverse Indigenous communities, in contrast to the top-down, 'one-size-fits-all' approaches that the Government has historically adopted.





HOW CAN YOU GET INVOLVED?

To check out the ways you can get involved, please visit:
www.multiculturalforvoice.org/get-involved

Educate your community on the Voice referendum



If you would like any support in raising awareness of the Voice referendum within your community, please do not hesitate to contact us.

Sign the Joint Resolution of Multicultural Community Organisations



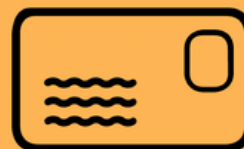
Become a signatory to the Joint Resolution to unite with the other multicultural community organisations supporting the Voice referendum.

Join the Events



Get involved in upcoming events in order to learn more about the Voice referendum and show your support.

Write to your Local MP



Write to your Local Member of Parliament to urge bipartisan co-operation on a First Nations Voice referendum.