
REFERENDUM COUNCIL RECOMMENDATIONS

The Council recommends:

- 1. That a referendum be held to provide in the Australian Constitution for a representative body that gives Aboriginal and Torres Strait Islander First Nations a Voice to the Commonwealth Parliament. One of the specific functions of such a body, to be set out in legislation outside the Constitution, should include the function of monitoring the use of the heads of power in section 51 (xxvi) and section 122. The body will recognise the status of Aboriginal and Torres Strait Islander peoples as the first peoples of Australia.**

It will be for the Parliament to consider what further definition is required before the proposal is in a form appropriate to be put to a referendum. In that respect, the Council draws attention to the Guiding Principles that emerged from the National Constitutional Convention at Uluru on 23–26 May 2017 and advises that the support of Aboriginal and Torres Strait Islander peoples, in terms of both process and outcome, will be necessary for the success of a referendum.

In consequence of the First Nations Regional Dialogues, the Council is of the view that the only option for a referendum proposal that accords with the wishes of Aboriginal and Torres Strait Islander peoples is that which has been described as providing, in the Constitution, for a Voice to Parliament.

In principle, the establishment by the Constitution of a body to be a Voice for First Peoples, with the structure and functions of the body to be defined by Parliament, may be seen as an appropriate form of recognition, of both substantive and symbolic value, of the unique place of Aboriginal and Torres Strait Islander peoples in Australian history and in contemporary Australian society.

The Council recommends this option, understanding that finalising a proposal will involve further consultation, including

steps of the kind envisaged in the Guiding Principles adopted at the Uluru Convention.

The Council further recommends:

- 2. That an extra-constitutional Declaration of Recognition be enacted by legislation passed by all Australian Parliaments, ideally on the same day, to articulate a symbolic statement of recognition to unify Australians.**

A Declaration of Recognition should be developed, containing inspiring and unifying words articulating Australia's shared history, heritage and aspirations. The Declaration should bring together the three parts of our Australian story: our ancient First Peoples' heritage and culture, our British institutions, and our multicultural unity. It should be legislated by all Australian Parliaments, on the same day, either in the lead up to or on the same day as the referendum establishing the First Peoples'Voice to Parliament, as an expression of national unity and reconciliation.

In addition, the Council reports that there are two matters of great importance to Aboriginal and Torres Strait Islander peoples, as articulated in the Uluru Statement from the Heart, that can be addressed outside the Constitution. The Uluru Statement called for the establishment of a Makarrata Commission with the function of supervising agreement-making and facilitating a process of local and regional truth telling. The Council recognises that this is a legislative initiative for Aboriginal and Torres Strait Islander peoples to pursue with government. The Council is not in a position to make a specific recommendation on this because it does not fall within our terms of reference. However, we draw attention to this proposal and note that various state governments are engaged in agreement-making.