



THE UNIVERSITY OF
MELBOURNE

Committee Secretary
Joint Select Committee on Constitutional Recognition
Relating to Aboriginal and Torres Strait Islander People
PO Box 6021
Parliament House
Canberra ACT 2600

By e-mail: jscqr@aph.gov.au

15 June 2018

Dear Secretary

Thank you for the opportunity to make a submission to this Committee.

We make this submission in our capacity as members of the Centre for Comparative Constitutional Studies ('CCCS') and academic staff of the Melbourne Law School, University of Melbourne. We are solely responsible for its content.

This submission has been prepared on behalf of CCCS by the Directors, Professor Adrienne Stone and Associate Professor Kristen Rundle, together with Professor Kirsty Gover, Dr Shireen Morris, Professor Cheryl Saunders AO and with the assistance of Gary Hansell.

If you have any questions relating to the submission, or if we can be of any further assistance, please do not hesitate to contact us.

Yours sincerely

Adrienne Stone
Redmond Barry Distinguished Professor
Director, Centre for Comparative Constitutional
Studies

Kristen Rundle
Associate Professor
Co-Director, Centre for Comparative Constitutional
Studies

Centre for Comparative Constitutional Studies

Submission to the Joint Select Committee Inquiry into Constitutional Recognition
Relating to Aboriginal and Torres Strait Islander Peoples

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Introduction

The Centre for Comparative Constitutional Studies ('CCCS') is a research centre of Melbourne Law School at the University of Melbourne. CCCS undertakes research, teaching and engagement in relation to the Australian constitutional system as well as comparative constitutional law.

We welcome the opportunity to make this submission to the Joint Select Committee on Constitutional Recognition of Indigenous People ('the Committee'), in accordance with the Committee's Terms of Reference.

Summary

We submit that the proposal for a constitutionally enshrined Voice to Parliament, contained within the *Uluru Statement from the Heart (Uluru Statement)* and recommended by the Referendum Council, should be **supported and endorsed by the Committee** as the best approach to constitutional reform for Indigenous recognition.

We note that, in accordance with our expertise, our submissions are directed towards the *constitutional* aspects of the *Uluru Statement*. However, we acknowledge the importance of other *non-constitutional* proposals that could complement, but not replace, a constitutionally guaranteed Voice to Parliament. These include a Makarrata Commission set up in legislation

as called for in the Uluru Statement, and an extra-constitutional Declaration as proposed by the Referendum Council.

We advance our submission in **seven parts**:

- **First**, we point to the essential part that constitutional **recognition** plays in creating a more a just and durable relationship between Indigenous and non-Indigenous Australians, and in creating a fairer relationship between Indigenous peoples and the Australian state.
- **Second**, we outline the uniqueness and integrity of the **process** that culminated in the *Uluru Statement from the Heart*.
- **Third, in support of the Voice to Parliament proposal**, we submit as follows
 - The Uluru Statement from the Heart is an expression of Indigenous self-determination, and the Voice to Parliament is a crucial component of just recognition (section 3.1).
 - The Voice to Parliament is consistent with Australian constitutional culture and design (section 3.2).
 - The Voice to Parliament will assist in the achievement of structural change and in closing the gap and improving outcomes in Indigenous affairs (section 3.3).
 - The Voice to Parliament provides an effective way to supervise the ‘race power’, s 51(xxvi), and the ‘territories power’, s 122, of the *Constitution* (section 3.4).
- **Fourth**, in relation to the **design** of the Voice to Parliament we
 - emphasise the principles relevant to the legislative design of the Voice to Parliament (section 4.1).
 - outline constitutional arrangements for indigenous peoples in New Zealand and Canada (section 4.2).
- **Fifth**, we address the proposal that the Voice to Parliament constitutional amendment should be **non-justiciable**.
- **Sixth**, we address **other proposals** for constitutional change and explain the case against them.

- **Seventh**, we explain how the Voice to Parliament meets the Committee’s **criteria for referendum success**.

1. The Importance of Substantive Recognition

1.1 *Recognition Requires Substantive Change*

‘Recognition’ refers to the realisation of a just relationship between Indigenous and non-Indigenous Australians, and between Indigenous peoples and the Australian state. Recognition aims to address the damage done to that relationship over the course of colonisation and sets in place a foundation for fair and responsible relations in the future.

For decades, the First Nations of Australia have sought substantive constitutional recognition. From Yorta Yorta Elder William Cooper’s letter to King George VI (1937), to the Yirrkala Bark Petitions (1963), the Larrakia Petition (1972) and the Barguna Statement (1988), Australia’s First Nations have sought “a fair place in our country.”¹ Much of this historical advocacy has included calls for structural empowerment. Having a voice within Australia’s political arrangements has long been associated with Indigenous self-determination and empowerment. The *Uluru Statement* should therefore be viewed as the culmination of generations of hard work and reasoned appeals by Indigenous leaders.

1.2 *Recognition Requires Listening to Indigenous Voices*

The *Uluru Statement* represents a unique moment in Australian history. It marks a constitutional moment. Never before have Indigenous Australians organised and expressed their aspirations, ideals and demands collectively in a single, nationally unified Indigenous statement. The Indigenous advocacy of the past has tended to emanate from different clans and First Nations in disparate geographical localities. For the first time, the *Uluru Statement*

¹ Pat Anderson and Mark Leibler, ‘Forward from the Co-Chairs,’ *Final Report of the Referendum Council* (30 June 2017) iii. Available at https://www.referendumcouncil.org.au/sites/default/files/report_attachments/Referendum_Council_Final_Report.pdf

expresses the aspirations of a national Indigenous consensus. Thus, the *Uluru Statement* should be considered by the Committee as a unique constitutional moment in Australian history that must be respected.

2. The Uluru Process

The unique nature and integrity of the process leading to the *Uluru Statement* warrants considerable weight in determining whether to adopt the proposals of the Statement.

2.1 *The Uluru Process was participatory and democratic*

The design of the process leading to the Constitutional Convention at Uluru ensured that Indigenous Australians articulated their concerns, aspirations and ideals in a participatory and democratic manner that carefully weighed up all the options and chose the best way forward.

- The 13 Regional Dialogues leading up to the Convention at Uluru engaged 1200 Aboriginal and Torres Strait Islander delegates out of a national population of approximately 600,000 Indigenous people. On average, 100 delegates from each Dialogue were present during the Convention. This is “the most proportionately significant consultation process that has ever been undertaken with First Peoples”² in Australia.
- This engagement involved an even greater proportion of the Indigenous population than the proportion of the Australian population that was involved in the Australian constitutional convention debates of the 1890s (from which First Nations were of course excluded).
- The Uluru Convention built on nation-wide First Nations Regional Dialogues run by the Referendum Council, at which Aboriginal and Torres Strait Islander delegates considered five options for constitutional change. Dialogues were held in Hobart, Broome, Dubbo, Darwin, Perth, Sydney, Melbourne, Cairns, Ross River, Adelaide, Brisbane, Thursday Island, and Canberra.

² *Final Report of the Referendum Council* 10.

2.2 *Deep, broad consensus was achieved at Uluru*

The consensus achieved at the Uluru Convention is remarkable. This is especially so when one considers the diversity of Indigenous Australia. Indigenous Australians are a population made up of peoples from all parts of the continent and the Torres Strait, who live in the full range of rural and urban settings from cities to remote communities, in hundreds of different language and kinship groups, in accordance with different traditions and values, and who have widely varied political views and aspirations. The level of engagement with the process leading to the Uluru convention, and the degree of support for the Statement itself, is truly momentous and speaks to the legitimacy and skill of Indigenous leaders. The *Uluru Statement* accordingly offers an unprecedented opportunity to show respect for Indigenous peoples and their efforts to build a just relationship with other Australians.

In short, the level of consensus reached by Indigenous representatives at Uluru and the degree of Indigenous involvement in the Regional Dialogues and the Convention were extraordinary. The depth of support secured for the *Uluru Statement* easily meets any measure of majoritarian legitimacy, at the same time as it represents the breadth of different groups and interests from Indigenous Australia.

2.3 *International experience demonstrates the strength of consensus at Uluru*

International comparison demonstrates the strength of consensus reached at Uluru by Indigenous representatives. The process to reach consensus in South Africa and Northern Ireland provide useful indicators of the factors necessary to reach a '**sufficient consensus**' on highly complex issues. This concept of sufficient consensus requires that a sufficiently "large grouping of parties agree in order for an issue to be decided."³

³ Nicholas Haysom and Sujit Choudhry, 'Mechanisms for Resolving Divisive Issues in Constitutional Negotiation,' *Interpeace* (2010) 5: http://constitutionmakingforpeace.org/wp-content/uploads/2015/04/InFocus_HaysomChoudhry_FINAL.pdf (cited with permission).

- In **South Africa**, the Multi-Party Negotiating Process that produced the Interim Constitution of 1993 consisted of many parties from across the country - large, small, national and local. In practice, if the African National Congress or the National Party, as the two largest parties, did not agree on an issue, sufficient consensus was not reached. If one or two of the smaller parties were holdouts, however, then sufficient consensus was reached and the issue was agreed upon.
- In **Northern Ireland**, for sufficient consensus to be reached on any term of the 1998 Good Friday Agreement “not only did a majority of the parties at the negotiations have to agree to the term, but a majority within each broad faction of unionist and national would also have to agree.”⁴

2.4 *Sufficient consensus was achieved at Uluru*

Judged by both experience and relevant standards it is unequivocal that sufficient consensus among Indigenous representatives was achieved at Uluru.

- At Uluru, 243 of the 250 Indigenous delegates to the Convention **agreed** to the Statement.
- There were just 7 dissenters.
- The breadth of engagement from delegates truly encompassed the **diverse range of interests and experiences** across Indigenous Australia.
- A substantial majority of delegates from within each State and Territory agreed to the proposal. This satisfies any requirement for a majority within competing interests

For these reasons, we submit that the fact that some subsequent disagreement among Indigenous people has emerged should not be taken to undermine the authority of the Uluru process. Disagreement is natural. Given the degree of consensus reached at Uluru, and the long and participatory process leading up to the Constitutional Convention, the uniqueness and integrity of the Uluru process merits the Committee’s highest respect.

⁴ *Ibid.*, 6.

3. Analysis of and support for the Voice to Parliament proposal

3.1 *The Voice to Parliament as Recognition*

We submit that the *Uluru Statement* is an act of Indigenous self-determination and that the Voice to Parliament is the participatory mechanism chosen by Indigenous peoples for the future expression of their collective self-determination. Given the longevity of the movement for recognition, the clarity with which the proposal is articulated and the degree of consensus reached at Uluru, the consequences of not heeding the requests and proposals of the *Uluru Statement* are serious. Not accepting this act of self-determination will further erode trust between Indigenous and non-Indigenous Australians.

3.2 *The Voice to Parliament and the Australian Constitution*

We submit that the Voice to Parliament proposal aligns with Australia's constitutional history and is keeping with, and strengthens, Australian constitutional traditions.

3.2.1 *The Voice to Parliament is a modest proposal*

The Voice to Parliament proposed in the *Uluru Statement* is a modest reform. The new body would have only consultative and advisory powers to feed into the political process. No "third chamber of Parliament" is proposed. This reform is consistent with Australian constitutional culture and tradition in the following ways:

- Our constitutional traditions value **pragmatism over symbolism**. As our history shows, Australians do not typically regard our Constitution as the forum for grand or poetic statements about national values or identity. The proposal for the Voice therefore accords with this constitutional tradition as it enshrines a pragmatic, practical change in the constitutional machinery, without introducing uncertain words of only symbolic value.
- Our constitutional traditions value political **procedures over rights**. Our constitutional and political history, in particular the unique treatment of rights in the Australian

constitution, attests to an Australian preference to work out our differences through political deliberation rather than in the courts. The proposed Voice to Parliament complements, and in many respects, strengthens, this feature of our constitutional system.

- In contrast to providing a statement commanding that Parliament shall or shall not perform a specific action or function, the proposal *invites* Parliament to create a Voice to Parliament. In this way, this proposal leaves the essential structures of how Parliament currently operates intact.
- The Australian preference for procedures has advantages of **flexibility**. The proposed Voice to Parliament strengthens this component of our constitutional tradition. It is highly likely (and entirely reasonable) that the aspirations, preferences and ideals of Indigenous Australians will change over the course of time. In seeking to institute a process, rather than a fixed solution, the proposed Voice to Parliament ensures that these changes can be addressed in future Parliamentary debates.

3.2.2 *The Voice to Parliament is unlike ATSIC*

The creation of a Voice to Parliament need not lead to the same problems that arose with the Aboriginal and Torres Strait Islander Commission ('ATSIC'). Discussion of the proposal provides an opportunity to learn from the strengths and weaknesses of ATSIC.

- First, unlike ATSIC, the Voice to Parliament, as we understand it, is **intended to facilitate Indigenous participation in the processes of democracy** rather than to create an administrative bureaucracy tasked with multiple mandates, such as service delivery. It would be up to Parliament to determine its functions in consultation with Indigenous peoples.
- Second, the design of the Voice to Parliament could ensure that it **operates in a genuinely decentralised way**, by remaining connected to and accountable to Indigenous peoples at a local and regional levels.
- Third, the Voice to Parliament would set in place a **constitutionally established procedure** for the Indigenous body to engage with Parliament. This would address the

concern that ATSIC did not have clear mandated procedures for effective government engagement.

- Fourth, the way ATSIC was easily extinguished underlines **the importance of the Voice to Parliament having a constitutional imperative**. The body's incorporation into the Constitution would ensure that it has the institutional grounding to stand the test of time and the durability to withstand any internal institutional challenges it faces. At the same time, the constitutional anchoring of the Voice to Parliament allows legislative flexibility for the institution to improve and evolve over time, as needed.

3.3. *The Voice to Parliament as respectful structural change*

The *Uluru Statement* describes the “torment of powerlessness” experienced by Indigenous Australians in their relations with the Australian governments. The Statement then calls for a Voice within the constitutional system to address this “torment of powerlessness”. This request grasps the fundamentally structural character of the problem, and highlights the necessity of structural change to address it.

In seeking to secure a constitutionally-guaranteed channel for Indigenous political participation in our lawmaking institutions, the Voice to Parliament proposal demonstrates that Indigenous Australians value parliamentary democracy and want to increase the efficacy of their participation within it. It is a respectful request to be included and to be heard in the making of laws that directly affect them. The Voice to Parliament will augment current channels for discussion and refinement of legislative detail in a way that respects and responds to the unique position of Indigenous peoples within the Australian polity. It will help to foreclose the possibility that parliamentary processes will be used to act upon Indigenous Australians rather than to engage with them. In doing so, the Voice to Parliament stands to effect meaningful structural change in the relationship between Indigenous Australians and our governing institutions, remedying the “torment of powerlessness” described in the *Uluru Statement*. This change can only strengthen the quality and authority of the practice of the rule of law that is guaranteed by our Constitution.

These structural considerations provide further reasons for ensuring the Voice to Parliament proposal has a constitutional rather than merely legislative anchoring.

3.4 *The Voice to Parliament as supervising the 'race' power [s 51(xxvi)]*

The Voice to Parliament eliminates, as a practical matter, the need for further constitutional change to s 51(xxvi) or through a proposed new s 51A.

- The Voice to Parliament would **operate as a check** on any potential parliamentary efforts to implement legislation adverse to the interests of Indigenous Australians by including Indigenous voices in the law-making process. It ensures that debates relating to **the use of s 51(xxvi)** to impose discriminatory burdens on Indigenous Australians will be properly informed by the views of those bearing the costs of such burdens.
- The Voice to Parliament would further operate to **influence the use of other legislative powers such as s 122** of the Constitution which enables the Federal Parliament to make and override laws of the Territories. As evidenced by the Northern Territory Intervention, the use of this power disproportionately impacts on Indigenous peoples in the Northern Territory (who make up 33% of the Territory's population). The Voice to Parliament would provide a mechanism to ensure that Indigenous views on legislation enacted under this power are properly taken into consideration.
- In this last respect, the Voice to Parliament is a *stronger* supervisory mechanism than an amended version of s 51(xxvi) or a proposed new s 51A. Depending on its formulation, an amended or new version of s 51(xxvi) may not limit the Parliament's power at all. In rare circumstances that preambular words in a new s 51A may limit the power's operation, it would likely limit the Parliament only when it is relying on that power and may have no effect where the Parliament relies on other powers. Moreover, the Voice to Parliament would empower Indigenous peoples to proactively and pre-emptively have a voice in laws and policies made about them, rather than requiring them to reactively challenge already-enacted discriminatory laws through subsequent litigation. Early Indigenous engagement and input will help to prevent discrimination.

4. The Legislative Design of the Voice to Parliament

We support the proposal of a constitutional amendment providing Parliament with the power to enact legislation to set up the structures, functions and procedures of the Voice to Parliament, in consultation with Indigenous Australians.

We are reluctant in this submission to elaborate on the possible institutional design of the Voice to Parliament in the absence of further consultation with Indigenous groups on this question. We note, however, that certain key operating principles should be constitutionally embedded within any proposed Indigenous representative body.

4.1 *The legislative design of the Voice to Parliament: some principles*

Key operating principles for the Voice to Parliament include:

- **No power of veto:** any advice given by the representative body should be non-binding;
- **Independence from Parliament:** the body's ability to govern its internal composition and procedures without interference from Parliament should be guaranteed;
- **Non-justiciability:** the non-justiciability of any issue raised by the representative body and the non-justiciability of any issue related to the funding of the representative body should be made clear;
- **Appropriate funding stability:** the representative body should be legislatively guaranteed an annual allocation of monies with which to govern its affairs;
- **A proactive, not merely reactive, voice:** the representative body's ability to raise issues and provide opinions on any matter within its remit should be guaranteed.

Beyond fundamental principles of this kind, we submit that the design and details of the body are matters for Parliament to decide democratically in partnership with Indigenous Australians.

This kind of deferral of institutional detail is common within Australian constitutional law, which defers many electoral and institutional details for Parliament to determine. It is also common around the world. This reflects the understanding that it is not appropriate for all institutional details to be set out in a Constitution. Such details need to be flexible so they can evolve as needed. This flexibility is provided by legislation.

4.2 The Voice to Parliament in comparative perspective

Australia is the only country of the four ‘western settler states’ (Canada, New Zealand, the United States and Australia) that has not concluded treaties with Indigenous peoples and which does not recognise and represent Indigenous peoples in its constitutional framework. We submit that the experience of Indigenous recognition and representation in Canada and New Zealand is instructive.

- In **Canada**, recognition of Aboriginal peoples and protection of their interests is provided by s 35 of the *Constitution Act 1982*. This section protects existing Aboriginal property and treaty rights. The Supreme Court of Canada has found that this section supports the “Honour of the Crown”, which requires Canadian governments to consult with First Nations and accommodate their rights where their interests are affected by proposed legislation. Canada also has the assembly of First Nations, which is a representative institution for Indigenous people.
- In **New Zealand**, there is no entrenched written Constitution. The *Treaty of Waitangi* has been recognised as New Zealand’s founding document and many references to its principles have been enacted in legislation. Courts have held that the Treaty principles require the Crown to act in good faith, reasonably and with honour, and to make informed decisions, when acting in ways that impact on the Treaty relationship. New Zealand’s approach to the protection of Maori rights and interests has been particularly practical and process-driven. Bills presented to Parliament must be accompanied by a statement explaining their impact on Treaty principles. Maori also have reserved seats in Parliament, and a national representative body called the New Zealand Maori Council that provides a national Maori voice. Negotiation and

consultation processes with particular tribal groups are set out in Deeds of Settlement and Statutes addressing Maori claims under the *Treaty of Waitangi*, and the Waitangi Tribunal investigates these claims and provides recommendations to government ahead of direct treaty settlement negotiations.

The proposals contained within the *Uluru Statement* contain the best of both experiences.

5. The Non-justiciability of the Voice to Parliament

We submit that it is not necessary for the constitutional amendment requiring Parliament to establish a Voice to Parliament to be subject to judicial review for constitutional compliance. The amendment can be appropriately drafted to be **non-justiciable**.

It would be wrong to assume that a judicially adjudicated constitutional amendment would automatically carry more authority and weight than a non-justiciable amendment. Many integral institutions of the Australian constitutional order, such as the Senate in s 7, the House of Representatives in s 24 and the High Court in s 71, maintain their existence and legitimacy only through **popular and political support**. There is no role for judicial oversight. Moreover, judicial oversight of itself provides no guarantee that the Voice to Parliament will be maintained. It will be the responsibility of all parliamentarians, and all Australians, to ensure the Voice operates effectively.

The proposed Voice to Parliament can be readily distinguished from the **Inter-State Commission**. Section 101 of the *Constitution* mandates the existence of an Inter-State Commission with adjudicatory powers. Despite this constitutional imperative, no Inter-State Commission has existed for most of Australia's history. The key lesson from the Inter-State Commission is that the existence of a Constitution does not always entail the existence of the institutions mandated by it. Similarly, constitutional clauses do not always guarantee that Parliament will follow the rules contained within them. Rather, **constitutional institutions and the authority of constitutional provisions all depend upon political will**.

We therefore emphasise the following:

- The **political mandate and endorsement** reflected in a successful referendum by the Australian people would place a high onus on Parliament to follow the constitutional imperative and ensure that the Voice to Parliament is given concrete institutional expression through legislation.
- It would be **unthinkable** that Parliament would ignore this powerful political, moral and constitutional imperative, as reflected in the constitutional amendment. Yet should this occur, Indigenous Australians would demand the constitutional imperative be respected and the institution operate. Additionally, the Australian people would demand Parliament adhere to their popular will, as expressed through the constitutional mandate.
- These circumstances bear **little resemblance to the Interstate Commission**. This body had adjudicatory powers. Its existence was opposed by the High Court, the States and the Commonwealth. There was no political constituency demanding that the institution exist.

6. Other constitutional proposals

In expressing our support for a constitutionally guaranteed Voice to Parliament, we also wish to make clear that we do not support other proposals to alter the Constitution that were not advanced in the *Uluru Statement*.

The other constitutional proposals most commonly advocated are the removal of the ‘race’ clauses, ss 51(xxvi) and 25 of the Constitution, the insertion of a non-discrimination clause into the Constitution, and a new section 51A, limiting the Commonwealth’s legislative power and incorporating symbolic statements recognising Indigenous Australians.

In considering these other constitutional proposals:

- The Committee should have special regard to the decision made by Indigenous representatives at Uluru. These **other constitutional proposals were not endorsed**.

The Voice to Parliament was *universally endorsed* at all Regional Dialogues and was the *most popular* option selected at the Constitutional Convention at Uluru.

- In the face of this support, adopting any other proposal would run counter to the expressed preferences of Indigenous Australians at Uluru. They would likely be opposed by Indigenous people and would not succeed at referendum.
- As earlier explained, the insertion of a **non-discrimination clause** into the Constitution is at variance with our constitutional tradition in its preference for political procedures over judicially adjudicated rights-based protection. The proposal would also face trenchant opposition from constitutional conservatives, many of whom expressly support the proposals contained within the *Uluru Statement*, because it does not empower the High Court.
- We have addressed the proposal for a **new s 51A** in supervising Commonwealth in section 3.4 of this submission. We reiterate here that we do not consider that proposal to offer an effective and technically sound way of supervising the exercise of Commonwealth legislative power.
- Any attempt to insert a symbolic statement acknowledging Indigenous Australians' contribution to the nation would fail to tackle the substantive concerns expressed by delegates at Uluru. Such a proposal failed in 1999. A similar purely symbolic proposal would meet resistance both from Indigenous groups and constitutional conservatives.

7. The Voice to Parliament and the criteria for referendum success

The Voice to Parliament can meet the key criteria set out by the Referendum Council (reproduced in the Committee's Terms of Reference) to be successful at referendum.

The Voice proposal already has historic and unprecedented Indigenous support. Indeed, it is the only proposal for constitutional reform that has the backing of Indigenous consensus. This speaks directly to the requirement of the Committee's Terms of Reference that any proposal for constitutional change "be of benefit to and accord with the wishes of Aboriginal and Torres Strait Islander Peoples" [para 1(d)(ii)]. The proposal is also modest, substantive, reasonable,

unifying, and capable of attracting the necessary support of the Australian people [para 1(d)(iii)].

- The Voice is **modest**. It would not interfere with parliamentary supremacy, it would not be justiciable, and its details and structures would be established by Parliament through legislation and could therefore be changed by Parliament over time as needed.
- The Voice is **substantive**. It would put into the supreme law of our Commonwealth a Voice that enables Indigenous Australians to speak to Parliament and the nation about laws and policies that relate to them.
- The Voice is also **reasonable**. It was the first preference of Indigenous Australian delegates at the First Nations Regional Dialogues and was the consensus position coming out of the National Constitutional Convention at Uluru. The Dialogues and the Constitutional Convention at Uluru took account of the objections raised against the alternative option of inserting a non-discrimination protection into the Constitution. The participants of the Dialogues and the delegates at Uluru were cognizant of these concerns and instead opted for an institutional alternative that has greater chance of success at referendum.
- Furthermore, the Voice is **unifying** for the nation. As the Referendum Council highlights, “constitutional inclusion is fundamental to a reconciled future.”⁵ The symbolic and practical effects of the Voice will enable greater dialogue and inclusion, which will positively impact future legislation and policies.
- Finally, the Voice can attract the **necessary support of the Australian people**. Apart from being supported at Uluru, it was the most popular proposal supported in submissions from the general public. Polling by Newspoll and OmniPoll respectively shows 57% and 61% support for the Voice, despite previous government opposition to the proposal.⁶ There is strong and growing support for this reform across the political spectrum.

⁵ *Final Report of the Referendum Council* 38.

⁶ <http://www.abc.net.au/news/2017-10-30/australians-would-support-referendum-indigenous-voice-parliament/9101106>; <https://www.theaustralian.com.au/national-affairs/indigenous/bill-shorten-raising-voice-a-winner-with-voters-newspoll/news-story/3d6ee299780b7ac6901df9ccdfa16cc5>.

We therefore submit that the proposal for the Voice to Parliament should be supported by the Committee as a modest, substantive, reasonable, and popular proposal, initiated by Indigenous Australians, that has the potential to unify our nation and ensure a just relationship between Indigenous and non-Indigenous Australians that endures for generations to come.