



**NORTHERN  
LAND COUNCIL**

*Our Land, Our Sea, Our Life*

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Committee Secretary  
Joint Select Committee on the Aboriginal and Torres Strait Islander Voice Referendum  
PO Box 6201  
Canberra ACT 2600

Dear Committee Secretary,

Thank you for the opportunity to provide comment on the Constitutional Alteration (Aboriginal and Torres Strait Islander Voice) 2023 (Bill).

The Northern Land Council's (NLC) submission (attached) strongly supports the proposed constitutional amendments in full, as agreed by the Prime Minister on 23 March 2023 and agreed by the Referendum Working group and the Government.

In particular, we regard as **absolutely critical and fundamental** to the Voice, the insertion in subsection 129 (ii) that:

*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;*

The Northern Land Council has been a part of the development of the Uluru Statement over many years and recognises the Australian Government support of the proposal and bring forward a referendum to establish a Voice to Parliament.

We strongly recommend the proposed wording related to both Parliament and the Executive Government be retained.

Yours sincerely,

**Joe Martin-Jard**  
Chief Executive Officer

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## Northern Land Council Submission Joint Select Committee on the Aboriginal and Torres Strait Islander Voice Referendum

### SPECIFIC COMMENTS ON THE PROPOSED AMENDMENTS

Subsection 129(i): There shall be a body, to be called the Aboriginal and Torres Strait Islander Voice

The NLC strongly supports the inclusion of the Voice in the Constitution, for the following reasons:

- The ability for Aboriginal people to interact with the government is an important structural issue that can only be properly addressed by enshrining it in the Constitution. The establishment of a Constitutional Voice provides a formal avenue through which Aboriginal people can interact with government.
- The Aboriginal and Torres Strait Islander Voice needs to be recognised in the Constitution, to provide long-term certainty, ensure its independence, and safeguard it from abolition as has happened in the past to representative bodies by the government of the day.

Subsection 129(ii): 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

The NLC consider it is **absolutely critical and fundamental** to the Voice that it be capable of making representations to both Parliament and Executive Government, for the following reasons:

- The Constitution sets the rules by which Australia is governed, establishes the composition of Parliament and what powers it has, and how power is shared between the Parliament, the Executive Government and the judiciary.
- The constitutional amendment will provide the architecture for First Nations peoples to interact with the Parliament and Executive Government on laws and policies that directly impact on them. The Constitution is the appropriate document to define this relationship and to make this a permanent fixture in Australia's governing arrangements.
- Without the ability to engage directly with policymakers, decision-makers and Parliamentarians during the formative stages of policy design and development, the opportunity will be lost to potentially influence outcomes in a way that may be beneficial for Aboriginal and Torres Strait Islander people.
- It is consistent with and facilitates the separation of powers between the Parliament (which makes and amends the law), the Executive (which puts laws in action via policy instruments), and the judiciary (which makes judgements about the law).
- Voice representations to the Parliament will enable systematic input that may be reflected in in advice and debates which support decision-making about legislation and policy.

- Representations to the Parliament will also enable the Voice to have a role in keeping the Executive Government to account, for example via scrutiny through Senate Estimates and parliamentary inquiries.
- It is vital that Aboriginal people, via the Voice, have the ability to have input into and influence the content and design of legislation and related policy instruments before they are finalised to go to Parliament for approval. For this to occur, the Voice must be able to make representations to the Executive Government. Advice must be received early in the policy development process in order to effectively shape design parameters.
- Executive Government is also where programs and funding options are developed. Representations to the Executive Government have the potential to inform and guide decisions made by government. For this to occur, it is absolutely critical that advice be provided as part of the development of programs in order to shape proposals before they reach decisionmakers.
- The lack of a mechanism through which Aboriginal people can meaningfully influence policy that affects them has resulted in a failure to deliver positive outcomes for Aboriginal people over more than 250 years. This has been starkly illustrated through the repeated failures over many decades to reduce long-standing, recognised gaps between Aboriginal people and the rest of the Australian population. As the Uluru Statement from the Heart and many reports suggest, a new approach, starting with a new constitutional entity (the Voice), is clearly needed.

Subsection 129(iii): 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

- This submission has stated the need for Aboriginal people to inform the development of legislation and policies that affect them. This applies to laws relating to the Voice. It is essential that Aboriginal constituents inform the development of all aspects, including composition, function, powers and procedures of the Voice structure.
- While the power to make decisions on laws relating to the Voice rests with Parliament, it is critical these decisions are informed by Aboriginal and Torres Strait Islander people.
- The NLC, through its constituents, understand the composition of the Voice is a critical key to the success of the Voice. The composition must reflect the views of community members with representations made by community members.
- We note the following quotes from Robert French from his presentation to the NSW Law Society entitled 'The Voice — A Step Forward for Australian Nationhood' (February 2023)<sup>2</sup>:

*“The Voice proposal is a once in a lifetime opportunity for Australia to fill a gaping hole in our Constitution — to recognise our first history and the First Peoples who bear it and the painful legacy of its collision with the second history of colonisation. The high return against low risk is that The Voice will provide a practical opportunity for First Peoples to give informed and coherent and reliable advice to the Parliament and the Executive to*

*assist them in law and policy making in one of the most difficult areas of contemporary government. It empowers First Peoples and the Australian people as a whole to acknowledge, address and move forward from the legacy of their colliding histories.”*

- The NLC believes that the current approach to addressing long-standing Aboriginal issues is not working and a new approach is needed. We believe the proposed changes to the Australian Constitution represent a very important first step, in asking the Australian people to walk with Aboriginal people, to develop a more inclusive way to understand and respond effectively to the needs and aspirations of Aboriginal people.

## ABOUT THE NLC AND OUR ROLE

Since our establishment in 1973, the NLC has been protecting and advocating for the rights and aspirations of Aboriginal people.

The NLC is an independent statutory authority responsible for assisting Aboriginal people in the northern region of the Northern Territory to acquire and manage their traditional lands and seas. A key function of the NLC is to express the wishes and protect the interests of Traditional Owners throughout its region. The NLC represents more than 51,000 Aboriginal people. The NLC’s vision is for a Territory in which the rights and responsibilities of every Traditional Owner are recognised and in which Aboriginal people benefit economically, socially and culturally from the secure possession of their lands, seas and intellectual property.