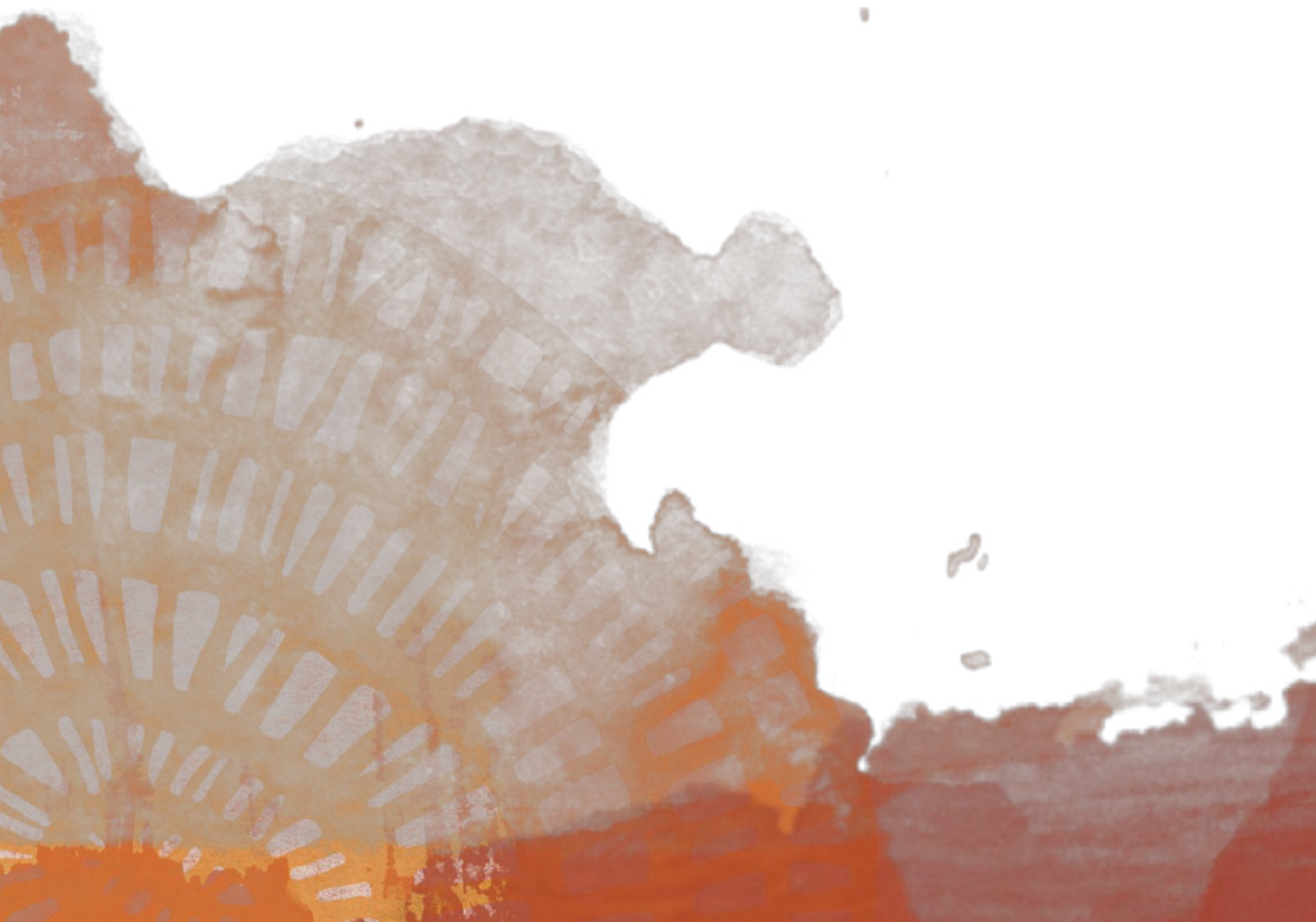


Indigenous Voice Co-Design Process

Submission to stage two of consultation

Reconciliation Australia

March 2021



Indigenous Voice Co-Design Process

Tuesday, 9 March 2021

RE: Reconciliation Australia's submission to Indigenous Voice Co-design process

Dear Indigenous Voice Co-Design Groups,

Reconciliation Australia welcomes the opportunity to make a submission to the Indigenous Voice Co-design process and in response to the interim report released in October 2020.

We acknowledge the complexity of the work that the Co-design groups have been appointed to undertake and look forward to reading the final proposals for national and regional Indigenous representation model/s.

This submission includes comments and recommendations in relation to the overall approach to this work, as well as recommendations for implementation of proposals and next steps.

Reconciliation Australia is able to provide further information, either verbally or in writing, regarding our submission should you wish to clarify any of the issues raised.

Yours sincerely,



Karen Mundine
Chief Executive Officer

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1. About Reconciliation Australia

Reconciliation Australia is the national organisation promoting reconciliation between the broader Australian community and Aboriginal and Torres Strait Islander peoples. Our vision is to build an Australia that is reconciled, just, and equitable for all. To do so, we are dedicated to building relationships, respect and trust between Aboriginal and Torres Strait Islander peoples and other Australians. We believe a reconciled Australia is one where:

- Positive two-way relationships built on trust and respect exist between Aboriginal and Torres Strait Islander people and non-Indigenous Australians throughout society.
- Aboriginal and Torres Strait Islander people participate equally and equitably in all areas of life, and the distinctive individual and collective rights and cultures of Aboriginal and Torres Strait Islander peoples are universally recognised and respected. That is, we have closed the gaps in life outcomes, and Aboriginal and Torres Strait Islander peoples are self-determining.
- Our political, business and community institutions actively support all dimensions of reconciliation.
- Aboriginal and Torres Strait Islander histories, cultures and rights are valued and recognised as part of a shared national identity and, as a result, there is national unity.
- There is widespread acceptance of our nation's history, and agreement that the wrongs of the past will never be repeated.

2. Our work

1. Reconciliation Australia was established in January 2001 following a national engagement process on reconciliation led by the Council for Aboriginal Reconciliation (CAR).
2. In 2016, Reconciliation Australia developed the first State of Reconciliation Report to mark 25 years of a formal reconciliation process in Australia through both the Council for Aboriginal Reconciliation (CAR) and Reconciliation Australia and to frame the task ahead on the road to reconciliation.
3. In 2021, Reconciliation Australia is celebrating our 20th anniversary. The 2021 State of Reconciliation Report entitled 'Moving from Safe to Brave' frames the next chapter of the work of Reconciliation Australia and the work ahead for the nation. It provides a roadmap for our nation's Parliament, corporate organisations, civil society, and the broader community for taking braver action on the path to reconciliation.
4. Reconciliation encompasses a breadth of areas identified for progress in the Report, which noted that:

For reconciliation to be effective, it must involve truth-telling, and actively address issues of inequality, systemic racism and instances where the rights of Aboriginal and Torres Strait Islander people have been ignored, denied or reduced. That is, we need to move more of our effort from focusing on the preconditions for reconciliation, to focusing on more substantive change.¹

¹ Reconciliation Australia, *The State of Reconciliation in Australia Report (2021)*, available at https://www.reconciliation.org.au/wp-content/uploads/2021/01/state-of-reconciliation-2021-full-report_web.pdf, pp 1.

5. The five dimensions of reconciliation identified in the report – Historical Acceptance, Race Relations, Equality and Equity, Institutional Integrity and Unity – provide a holistic and comprehensive picture of reconciliation and how to measure progress.
6. The dimensions do not exist in isolation; they are interrelated. The 2021 Report notes that Australia can only achieve reconciliation if progress is made in all five areas:

The dimensions – Historical Acceptance, Race Relations, Equality and Equity, Institutional Integrity, and Unity – continue to form the basis upon which we understand the reconciliation effort, track progress and identify areas of greater need. These dimensions are interdependent, meaning sustained progress towards reconciliation can only occur when advancements are made in every dimension².

7. This is why Reconciliation Australia is engaged across a breadth of issues. We have led engagement on national reform processes, including constitutional reform. We are a member of the Close the Gap Campaign Steering Committee for Indigenous Health Equality, the Change the Record Campaign Steering Committee focused on incarceration and family violence, the National Anti-Racism Partnership and Strategy, and a supporting organisation of the Family Matters Campaign.
8. We engage across a range of other policy and research issues – releasing, for example, the Australian Reconciliation Barometer every two years to measure the attitudes and perceptions of the Australian public towards reconciliation. The State of Reconciliation Report is released every four years.
9. As the lead body for reconciliation in Australia, we engage across the community in a number of ways.
10. We lead National Reconciliation Week, which this year will involve events in corporate, community and government organisations focusing on the theme of ‘More than a word. Reconciliation takes action’.
11. Our Reconciliation Action Plan Program (RAP Program) has seen more than 1,100 corporate, government and non-government organisations commit to actions to progress reconciliation, including demonstrating support for constitutional reform. More than two million people are employed by RAP organisations with 825,550 students studying at an institution with a RAP. Over two billion dollars in goods and services were procured from Aboriginal and Torres Strait Islander businesses in the July 2019 – June 2020 reporting period.
12. Our Narragunnawali: Reconciliation in Education Program (Narragunnawali Program) supports the development of environments that foster a high level of knowledge and pride in Aboriginal and Torres Strait Islander histories, cultures and contributions. The program provides professional learning and curriculum resources to Australian teachers and the RAP development process for schools and early learning services across the country. It currently supports more than 76,989 teachers, educators and community members. 1337 schools and early learning services, representing eighteen per cent of all schools and early learning services have a current RAP.

² Ibid, pp 2.

13. Our Indigenous Governance Program aims to progress reconciliation through recognising, supporting, and celebrating strong Aboriginal and Torres Strait Islander governance and self-determination. The program objectives are to build the capability of Aboriginal and Torres Strait Islander organisations to create better outcomes for the communities they serve. It helps positively reframe the wider community and policy discourse around Aboriginal and Torres Strait Islander governance and success. The program directly addresses three of the five dimensions of reconciliation — equality and equity, institutional integrity and unity — and indirectly influences race relations and historical acceptance.

3. Introduction

14. We recognise that, to date, a lot of work has been undertaken to consider national and regional representation models. Reconciliation Australia supports the intent of the development of the models proposed in the interim report.

15. We believe that the way in which a model is implemented is as important as the model itself. The success, credibility, and legitimacy of national and regional representative models is reliant on Aboriginal and Torres Strait Islander people's participation, and the way in which government engages with the bodies.

16. Comments and recommendations included in this submission are in relation to the overall approach to the development and implementation of these representative models.

4. Recommendations

Reconciliation Australia recommends:

Recommendation 1: Models for Aboriginal and Torres Strait Islander representation emerging from this process, not be referred to as the Voice so as not to confuse them with the calls in the Uluru Statement for a constitutionally enshrined Voice to Parliament.

Recommendation 2: The Government and co-design groups ensure that Aboriginal and Torres Strait Islander voices are given primacy in deliberations regarding the development of final models and their implementation.

Recommendation 3: Following the Indigenous representation co-design process, the Australian Government consider, in a deliberate and timely manner, the legislative and constitutional processes needed to establish a constitutionally enshrined Voice to Parliament.

Recommendation 4: Following the Indigenous representation co-design process, the Australian Government set out a pathway to realise the bipartisan commitment to constitutional reform, and enshrine the Voice in the Constitution.

Recommendation 5: The Indigenous representation co-design groups reflect Indigenous Governance principles in the establishment of representative models and embed a 'Culture-smart' governance approach. This should be determined locally, ensure gender equity, be based on local priorities, and resonate with the cultural values of local communities.

Recommendation 6: The Indigenous representation co-design groups develop an implementation roadmap or plan for the national and regional framework. In doing this, the co-design groups should consider how the impact and effectiveness of national and regional representation models will be measured.

5. Response to Interim Co-Design Process

Primacy of Aboriginal and Torres Strait Islander input into Co-design process

17. Reconciliation Australia notes that the Indigenous representation co-design process is a response to recommendation one of the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples Joint Select Committee. That recommendation called for the Australian Government to start a process of co-design to 'achieve a design for The Voice'.
18. We also note that consideration of constitutional reform is out of scope for the Indigenous representation co-design process. This is regrettable, given that it is not consistent with the Uluru Statement from the Heart, which called for the establishment of a First Nations' Voice enshrined in the Constitution.
19. Co-opting the language of the Uluru Statement from the Heart, but not the full ambition, creates confusion, and runs the risk of being seen as deceptive, and undermining the critical and necessary support of Aboriginal and Torres Strait Islander people and communities.
20. Reconciliation Australia recommends that models for Aboriginal and Torres Strait Islander representation emerging from this process not be referred to as the Voice so as not to confuse them with the calls in the Uluru Statement for a constitutionally enshrined voice to parliament.
21. Reconciliation Australia believes that the development of detailed proposals for how a national and regional representation framework can be implemented, including enshrinement in the Constitution, is critical and we support work undertaken to do this.
22. Aboriginal and Torres Strait Islander peoples' views in how they are represented must be central to the process and we encourage broad participation in the representation co-design process.
23. We believe that Aboriginal and Torres Strait Islander people's views should have primacy over those of the broader community, given these bodies will act as their representatives to government.
24. Reconciliation Australia recommends that Aboriginal and Torres Strait Islander voices are given primacy in deliberations regarding the development of a final model/s.

Implementation of the preferred model/s

25. Reconciliation Australia notes that bipartisan support for constitutional reform has been maintained for more than a decade and that there have been multiple processes extending over that period.
26. The lack of progress on constitutional reform of Aboriginal and Torres Strait Islander peoples is not due to an absence of a collective Aboriginal and Torres Strait Islander view being put to the government/parliament. The Uluru Statement and Referendum Council Report are clear indications of the views of Aboriginal and Torres Strait Islander people.
27. Aboriginal and Torres Strait Islander people have engaged in these processes consistently, with energy and intent, and in good faith, with an expectation that government and the parliament will act with them to progress the issue. Failure to do so will not only stand in the way of progress on reconciliation, it will set back progress made today.
28. With the Indigenous representation co-design process, there will be options put to government regarding the detail of how the framework for both national and regional representation will be implemented.
29. It is critical that these views be actively heard, and that the steps taken following this process are decisive, time-bound, clear, and offer a pathway to realise the bipartisan goal of constitutional reform.
30. Consistent with recommendation two of the Joint Select Committee's Final Report,³ Reconciliation Australia recommends that, following the process of co-design, the Australian Government consider in a deliberate and timely manner the legislative and constitutional processes needed to establish a Voice to Parliament enshrined in the Constitution.

Community Support for First Nations Voice/Representation

31. The right of Aboriginal and Torres Strait Islander people to have a voice in the decisions and policies that affect them—as articulated in the UN Declaration on the Rights of Indigenous Peoples (UN Declaration)—leads to better outcomes, and is a principle supported by the broader community.
32. Government approaches to working with Aboriginal and Torres Strait Islander people must support self-determination and be consistent with the Declaration. These approaches must be underpinned by clear, structured, and mandated engagement with Aboriginal and Torres Strait Islander people that ensures their voices are heard in the development and application of legislative and policy processes.
33. The 2020 Australian Reconciliation Barometer—Reconciliation Australia's biennial nationally representative survey of attitudes and perceptions towards reconciliation— indicates that there is clear public understanding of the importance of Aboriginal and Torres Strait Islander people having a voice:⁴

³ Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples 2018, Final Report, Commonwealth of Australia

⁴ Reconciliation Australia, Australian Reconciliation Barometer, 2020

- *95% of the general community and 94% of Aboriginal and Torres Strait Islander people believe it is important for Aboriginal and Torres Strait Islander people to have a say in matters that affect them*
34. A high proportion—86% of the general community and 91% of Aboriginal and Torres Strait Islander people— further believe that it is important to establish an Aboriginal and Torres Strait Islander representative body to provide that representative voice.⁵
35. The failure of successive Australian Governments to bring about social and economic inclusion for Aboriginal and Torres Strait Islander people and enable self-determination illustrates the clear need for a permanent mechanism for Aboriginal and Torres Strait Islander peoples to advise the Government on policies and decisions affecting them.
36. The Uluru Statement from the Heart speaks to this need, and calls for an end to the structural nature of exclusion:
- We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.*
- We call for the establishment of a First Nations Voice enshrined in the Constitution.*
37. Again, there is strong public support for this principle. The 2020 Australian Reconciliation Barometer, found that:⁶
- *81% of the general community and 88% of Aboriginal and Torres Strait Islander people believe it is important to protect an Indigenous Body within the Constitution, so it can't be removed by any government.*

Embedding Indigenous governance principals

38. As noted in the final report from the Joint Select Committee on Constitutional Recognition in relation to Aboriginal and Torres Strait Islander people, top-down approaches to Indigenous policy and program design do not work.⁷
39. Evidence collected as part of a five year project undertaken by the Australian Indigenous Governance Institute demonstrates that:⁸

⁵ Ibid

⁶ Ibid.

⁷ Joint Select Committee on Constitutional Recognition relation to Aboriginal and Torres Strait Islander people, *Final Report*,

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/Constitutional_Recognition_2018/ConstRecognition/Final_Report/section?id=committees%2Freportjnt%2F024213%2F26672

⁸ Joint Select Committee on Constitutional Recognition relation to Aboriginal and Torres Strait Islander people, *Final Report*, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/Constitutional_Recognition_2018/ConstRecognition/Final_Report/section?id=committees%2Freportjnt%2F024213%2F26672

- *...when governments engage Indigenous peoples and communities as equal partners, vesting real decision-making powers in Indigenous communities and Indigenous-led organisations, meaningful improvements in the health, wellbeing and general livelihoods of Indigenous peoples and communities are realised.*
40. One of the keys to the success of Indigenous representation at a national and regional/local level is how governments interact with these bodies, as well as how these bodies engage with existing arrangements at the regional and national level.
 41. Reconciliation Australia supports the Indigenous representation co-design groups' proposal that there is no one set structure for a local and regional representation. This allows consideration be given to the differences between regions and individual Indigenous communities and encourages flexibility in how the models are implemented. It is important that governance structures tailor regional representation based on what works best for their local communities.
 42. It is also our experience that Indigenous community needs vary over time, and are often dependent on location and individual community circumstances. Recognising the unique context/s within which Aboriginal and Torres Strait Islander peoples live is essential in identifying the needs of these communities and in understanding how a policy or program may affect them.
 43. Flexible arrangements that build on existing structures is vital. There are examples across the country of existing arrangements working well in Aboriginal and Torres Strait Islander communities. Building on existing arrangements will enhance decision-making capabilities and encourage partnerships between different levels of government and local and regional representatives.
 44. Indigenous-led organisations and initiatives with strong Indigenous governance practices are essential instruments for self-determination. These organisations provide a means for Aboriginal and Torres Strait Islander peoples to have meaningful control over their own lives and cultural wellbeing.
 45. Reconciliation Australia recommends the Indigenous representation co-design groups reflect Indigenous governance principals in the implementation of the framework for representative structures. The establishment of a representative body should reflect 'Culture-smart' governance solutions that are determined locally based on local priorities, and resonate with the cultural values of local communities. This ensures genuine decision-making power for Aboriginal and Torres Strait Islander peoples over their lands, relationships and affairs.⁹
 - *'Culture-smart' governance solutions have the potential to mobilise support from group members, boost internal accountability and legitimacy, and enhance the overall performance of an organisation or project. In such ways, culture is a governance strength, not a problem*

⁹ Australian Indigenous Governance Institute and Reconciliation Australia. 2018. *Strong Governance Supporting Success: Stories and Analysis from the 2016 Indigenous Governance Awards*. Prepared by A. Wighton. Canberra: Australian Indigenous Governance Institute, https://www.aigi.com.au/wp-content/uploads/2019/10/Strong_Governance_Supporting_Success_Full_Report_Print.pdf

Measuring effectiveness and assuring integrity and credibility

46. Reconciliation believes that engaging Aboriginal and Torres Strait Islander people is not only the key in the development of the frameworks for regional and national representation, but is equally critical throughout implementation of this framework and in the evaluation of models.
47. Sustained and respectful engagement through implementation and evaluation of national and regional structures will demonstrate commitment to building strong ongoing relationships and an assurance that government will work together with Aboriginal and Torres Strait Islander peoples to maintain the integrity and credibility of national and regional representation.
48. Measuring the impact of the framework for regional and national representation is essential to support government, Aboriginal and Torres Strait Islander peoples, and the wider community, to understand the difference made to the lives of Aboriginal and Torres Strait Islander peoples. Effective planning for evaluation should therefore be built into the design and implementation of the framework and carefully planned to ensure the criteria and methodology is culturally appropriate and provides an adequate evidence base for assessment.¹⁰
49. Reconciliation Australia recommends that the Indigenous representation co-design groups develop a roadmap or plan for the implementation of both the National and Regional framework. This should include plans for how the impact and effectiveness of national and regional representation will be measured, and include input from Aboriginal and Torres Strait Islander peoples.
 - *To achieve better outcomes, what Aboriginal and Torres Strait Islander people value, their knowledges, and lived experiences, need to be reflected in what is evaluated, how evaluation is undertaken, and the objectives of policies and programs.*¹¹
50. In developing a roadmap or plan for the implementation of a national and regional representation framework, the co-design groups should consider the principles for Indigenous evaluation outlined in the Indigenous Evaluation Strategy. Plans for evaluation and monitoring of the framework should align to the proposed governance arrangements outlined in the Strategy, including the establishment of an Office of Indigenous Policy Evaluation and an Indigenous Evaluation Council (with all Aboriginal and Torres Strait Islander members).¹²

¹⁰ Australian Institute of Family Studies (February 2017), *Evaluating the outcomes of programs for Indigenous families and communities*, <https://aifs.gov.au/cfca/publications/evaluating-outcomes-programs-indigenous-families-and-communities>

¹¹ Productivity Commission (2020), *Indigenous Evaluation Strategy, Background Paper*, page 2, <https://www.pc.gov.au/inquiries/completed/indigenous-evaluation/strategy/indigenous-evaluation-background.pdf>

¹² Productivity Commission (2020), *Indigenous Evaluation Strategy, Background Paper*, page 2, <https://www.pc.gov.au/inquiries/completed/indigenous-evaluation/strategy/indigenous-evaluation-background.pdf>