

Interim Report to the Australian Government on Indigenous Voice Co-Design Process

Submission by Holding Redlich

APRIL 2021

Executive summary

Holding Redlich is a large national commercial law firm. We have the expertise of more than 470 staff, including over 200 lawyers and 65 partners, across our Melbourne, Sydney, Brisbane and Cairns offices.

We provide a full range of services to organisations and individuals across a wide range of industries, governments and not for profit sectors.

Since our firm was established in the early 1960s, social justice and contributing to the community has been central to who we are. Our commitment to social justice has included our support for First Nation peoples seeking to vindicate their legal rights.

Holding Redlich is proud to have publically supported the Uluru Statement from the Heart together with 17 other leading Australian law firms¹. The Uluru Statement represented a substantial consensus of Aboriginal and Torres Strait Islander Peoples. It called for constitutional underpinning of a First Nations Voice to be enshrined through a referendum.

We support the call for the establishment of a Voice to Parliament, enshrined in our Constitution. We also support memberships of the Voice being determined by Aboriginal and Torres Strait Islander peoples.

Holding Redlich recognises and thanks the Senior Advisory Group and the national, local and regional co-design groups for their considered Interim Report and the opportunity to provide these submissions on this important issue of national significance.

Ian Robertson AO

National Managing Partner
Holding Redlich

¹ Australian Financial Review, Law firms back Uluru Statement, 22 March 2019, <<https://www.afr.com/companies/professional-services/law-firms-back-uluru-statement-20190320-h1cm9x>>.



1. VOICE REPRESENTATION

- 1.1 The Interim Report to the Australian Government on the Indigenous Voice Co-Design Process (October 2020) (Interim Report) proposes that membership of the Voice be determined by Aboriginal and Torres Strait Islander peoples, not by the government². Holding Redlich supports that proposal. Independence from government is an important pre-requisite to self-determination and underpins the model of free and informed advice to Parliament and the government.
- 1.2 We also agree with the National Co-Design Group's position that the detail of the design and function of the Voice should be established by legislation, giving the flexibility for amendment to ensure the ongoing effectiveness of the Voice³.
- 1.3 It is acknowledged that First Nations peoples are culturally and geographically diverse. We consider it is important, for legitimacy and transparency of process, that there be opportunities for the appointment of all eligible First Nations peoples to the Voice. In particular, we support a model that provides regional and remote representatives with an equal opportunity for appointment to the national, local and regional voice, as established leaders.
- 1.4 We support the proper resourcing, including financial resourcing, of the national, local and regional voices to ensure that they can operate and engage effectively.
- 1.5 The Voice should not replace existing organisations or bodies. There are, in our experience, many existing community based bodies providing important front line services to First Nations peoples. We agree with the National Co-Design Group's proposal that the Voice engage and intersect with existing bodies and organisations when developing advice to the Parliament⁴. The existing bodies should have the opportunity to be heard through the regional and remote representatives to the National Voice.

2. CONSTITUTIONAL RECOGNITION

- 2.1 We acknowledge that the Terms of Reference to the Senior Advisory Group for the co-design process did not include making recommendations about constitutional recognition. However we consider it is important to re-confirm our views on this issue⁵.
- 2.2 In its final report to the Prime Minister and leader of the Opposition in June 2017, the Referendum Council recommended 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.
- 2.3 In our submission, the enshrinement of the Voice in the Constitution:
 - (a) Supports the Government's commitment, as recognised in the Interim Report, to doing things with and not to Aboriginal and Torres Strait Islander Peoples⁶.
 - (b) Implements a substantial consensus of Aboriginal and Torres Strait Islander Peoples through the Uluru Statement from the Heart.
 - (c) Provides bipartisan support for the meaningful recognition of the Voice to Parliament. Without constitutional enshrinement, there is a risk that a future Parliament could legislate to abolish the Voice.
 - (d) Provides a meaningful opportunity for First Nations peoples to assist Parliament in its performance of its functions, not as a separate chamber of Parliament but to advise Parliament and government about reforming and refining policy and legislative settings.
 - (e) Provides Legitimacy for the Voice. The process of Constitutional recognition by referendum legitimises and endorses the national significance of the Voice. The referendum mechanism also provides an important opportunity to educate the public about the Voice.
 - (f) Affords the highest expression of political respect to our First Nations peoples.

2 Indigenous Voice, Indigenous Voice Co-Design Process, Interim Report to the Australian Government, October 2020, page 33.

3 Indigenous Voice, Indigenous Voice Co-Design Process, Interim Report to the Australian Government, October 2020, page 31.

4 Indigenous Voice, Indigenous Voice Co-Design Process, Interim Report to the Australian Government, October 2020, page 10.

5 Referendum Council, Final Report of the Referendum Council, June 2017, page 2.

6 Indigenous Voice, Indigenous Voice Co-Design Process, Interim Report to the Australian Government, October 2020, page 22.





- 2.4 Holding Redlich supports a referendum to be held once the Voice model is resolved, after appropriate public consultation and education, to ensure the best possible opportunity for a successful vote. This is an important step towards reconciliation.
- 2.5 In summary, Holding Redlich supports the Referendum Council's recommendation and continues to support the Uluru Statement from the Heart, for a referendum to be held to amend the Constitution to enshrine a First Nations Voice to Parliament.
- 2.6 We support the development of legislation to detail the design of the Voice. This enabling legislation should be passed after a successful referendum, so as not to undermine the importance of the referendum process and Constitutional enshrinement.



CONTACT US

MELBOURNE

Level 8
555 Bourke St
Melbourne
VIC 3000
GPO Box 2154
Melbourne
VIC 3001
T +61 3 9321 9999
F +61 3 9321 9900

SYDNEY

Level 65
MLC Centre
19 Martin Place
Sydney NSW 2000
GPO Box 4118
Sydney
NSW 2001
T +61 2 8083 0388
F +61 2 8083 0399

BRISBANE

Level 1
300 Queen St
Brisbane
QLD 4000
GPO Box 490
Brisbane
QLD 4001
T +61 7 3135 0500
F +61 7 3135 0599

CAIRNS

Level 1
Cairns Corporate
Tower 15 Lake St
Cairns QLD 4870
PO Box 4766
Cairns
QLD 4870
T +61 7 4230 0400
F +61 7 4230 0499