



14 April 2021

Voice Secretariat
National Indigenous Australians Agency

By email to: co-designVoice@niaa.gov.au

Dear Voice Secretariat

Re: Indigenous Voice Co-Design Process - Indigenous Report to the Australian Government.

The Federation of Victorian Traditional Owner Corporations (**the Federation**) is a state-wide body advocating for the rights and interests of Traditional Owners in Victoria. Our members are Victorian Traditional Owner Corporations (**TOC**) recognised as cultural custodians of their Country. We work with our members and other Traditional Owner groups across Victoria.

We welcome the opportunity to contribute to the Indigenous Voice Co-Design Process (**Indigenous Voice**) and acknowledge the comprehensive work that has been undertaken by the three co-design committees. On this basis we make the following comments. Our comments are not comprehensive in scope. Our comments do not address all issues relevant to Victorian TOCs, nor do they answer all questions posed by the Review. Rather, our comments focus on the areas of particular interest.

We note that the Stage two of the co-design process is now underway, and that individuals, communities and organisations are being engaged and consulted with on the proposals for Local and Regional Voices and a National Voice. We appreciate that the co-design groups will continue to implement the recommendations and feedback received at these consultations sessions in line with the United Nations Declaration on the Rights of Indigenous Peoples.

Overview of Submission

The general basis of our submission is that Traditional Owners in Victoria already operate through sophisticated modes of representation, with many Traditional Owner nations constituted as TOCs, who routinely and actively engage with State government processes. In addition, Victoria is in the process of potentially fundamental and wide-ranging reform through the Treaty process. Taking the above into account, it is the Federation's view that:

- The design of Victorian participation in the national Indigenous Voice must take account of, and compliment, pre-existing local representative structures; and
- Given that Victoria is in the midst of significant reform, it may be more practical to allow these reforms to be completed before designing compatibility with national structures.

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The situation in Victoria

Victoria has, and continues to develop, a vibrant and very active landscape of Traditional Owner representation. This can be seen in the 11 Traditional Owner groups that have achieved recognition from the State through the *Native Title Act 1993 (Cth)*, the *Traditional Owner Settlement Act 2010 (Vic)* or the *Aboriginal Heritage Act 2006 (Vic)*.

While Traditional Owner groups exist independent of State recognition, each statutory regime noted above requires the Traditional Owner group to establish, or nominate, a corporation to represent their interests. It is then this corporate representative that holds the rights or carries out the relevant statutory obligations.

In Victoria, these TOCs already work with all levels of the State government, and are routinely engaged to provide advice about priorities, policies, programs, and service delivery within their respective Country. While these systems are imperfect, they are well established, and routinely provide Traditional Owners a seat at the table when decisions are being made. Where insufficiencies arise, Traditional Owners continue to advocate, either directly or often through organisations such as the Federation, to have the fullness of their rights and role recognised by the State.

In addition, Traditional Owners in Victoria are also currently engaged in a Treaty process pursuant to *Advancing the Treaty Process with Aboriginal Victorians Act 2018 (Vic)*. This process has the potential to develop and reform the representation of Traditional Owners and Aboriginal people in this State, and potentially provide more direct pathways in relationships with government.

As recognised in the Interim Report, the Treaty process has already resulted in the establishment of the First Peoples' Assembly of Victoria (the **Assembly**) to act as the sole representative of Victorian Traditional Owners and Aboriginal Victorians for the purpose of setting up the structures to support future State Treaty negotiations. The Assembly's structure includes 32 Traditional Owner member seats, made of 11 reserved member seats representing each formally recognised Traditional Owner group and 21 general member seats. The Assembly was designed based on recommendations from Victorian Traditional Owners and Aboriginal Victorians after extensive engagement and is the first time a State-wide representative body has been established in Victoria.

Local and Regional Voice

Taking account of the above, we make the following comments with respect to the Local and Regional voice:

- It is unclear how the Local and Regional Voice will build on existing representative structures or take into account current reforms around representation in Victoria.

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- If the Local and Regional Voice is not designed to complement these structures, they may unintentionally operate in competition with each other, and threaten the authority and legitimacy of both.
- The proposed Local and Regional Voice model allows for 2 regions across Victoria. This would seem inadequate, and incapable of reflecting the complexity and diversity of Aboriginal and Traditional Owner interests and views across the State.

On the basis of the above we take the view that more work needs to be done on the Local and Regional voice model. Given that the Assembly, a democratically elected body of Victorian Traditional Owners are already doing extensive work in this area, we suggest it would be better to await the resolution of their work before any national processes (in so far as they relate to Victoria) are finalised.

National Voice

Taking account of the above, we make the following comments with respect to the National voice:

- As above, we would suggest that structures are not finalised until the Treaty process has settled methods of representation in Victoria, however, would support an interim and initial process allowing for the representatives to be directly elected.
- Once Victoria has undergone the Treaty process and established representative structures that are consistent with Victorian standards of self-determination then the National Voice could potentially be structurally linked through membership, with membership drawn from the state representative assemblies.
- The Federation support equal representation on the National Voice. The Federation agree that having two members will put all states, territories and the Torres Strait Islands on an equal footing and provide more diversity on the National Voice.
- The Federation does not support ministerial appointment to the National Voice. The Federation note that the National Co-design group suggested appointments could be used to fill skills gaps and resolve issues of demographic balance, for providing additional representation for remote areas if needed. However, the Federation believe that this role could more appropriately be filled by independent entities or experts.



Constitutional Recognition

Finally, we acknowledge and applaud the comprehensive and considered work that the co-design groups have undertaken, however we also note that the Uluru Statement's call for constitutional enshrinement should not be overlooked.

As the Interim Report identifies, funding has been a reoccurring issue for historical representative bodies. The expectation of appropriate funding from the Australian Government will be particularly important and sensitive consideration in establishing the Indigenous Voice. The Australian Government needs to provide surety that the Local and Regional Voices and the National Voice will be adequately funded.

Yours sincerely



Paul Paton
CHIEF EXECUTIVE OFFICER

Federation of Victorian Traditional Owner Corporations