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20 April 2021

Submission on the Indigenous Voice Co-Design Process Interim Report

The South Australian Council of Social Service Inc. (SACOSS) welcomes the invitation of the Uluru Statement from the Heart with gratefulness and we are committed to work with First Nations, all Federal and State politicians, local and city authorities, religious, ethnic and business leaders, along with like-minded civil society organisations and our fellow citizens, in moving together towards a better future.

SACOSS is the peak body for the non-government health and community services sector in South Australia working to address poverty and disadvantage with an ambition to create an inclusive, just and equitable society. We advocate for social and economic change to improve the wellbeing of South Australians, and to strengthen the community services sector that provides vital support to citizens struggling with poverty and inequality. SACOSS is proud to be part of a network consisting of National, State and Territory Councils of Social Service, all of whom are working to advance the interests of people confronted with poverty and who are often made vulnerable by the inadequate systems in place.

We note at the outset that this submission is drawn from and hopefully builds upon the submission from our colleagues at WACOSS and we express our appreciation for their work in preparing their original submission.

As the peak body for the health and community services sector in South Australia, SACOSS seeks to support and work alongside Aboriginal peak and representative bodies, to include the voices of Aboriginal Community Controlled Organisations (ACCOs), Aboriginal services users, advocates and those with lived experience in our consultative and advisory processes. We do not however presume to represent them or speak on their behalf. We advocate strongly for greater investment in ACCO services and for resources to support Aboriginal community service peak bodies, particularly in those areas of greatest historic disadvantage and injustice.

We also note at the outset that SACOSS supports the recommendations made by the *From the Heart* campaign in response to the *Interim Report to the Australian Government: Indigenous Voice Co-Design Process*.

With that in mind, specifically we ask that:

1. The government honour its election commitment to a referendum once the model for the Voice has been settled

SACOSS firmly supports the development of a First Nations' Voice that is enshrined in the Constitution as defined in the Uluru Statement from the Heart.

We believe a *Voice to Parliament* must be constitutionally enshrined, in order to differentiate it from already existing *voice to government* processes, and to ensure it remains independent of, and protected from possible dissolution by any Government of the day.

Previous First Nations' representative bodies, such as the National Aboriginal Consultative Committee (1972-1977), the National Aboriginal Conference (1977-1985), preferably referred to as the National Aboriginal Congress, or the Aboriginal and Torres Strait Islander Commission (ATSIC) (1989-2005), that were set up administratively or by legislation have all too easily been abolished by successive governments. Creating and then subsequently abolishing, representative bodies for Aboriginal and Torres Strait Islander people, "cuts across progress, damages working relationships and wastes talent that could be used to solve complex problems."¹

Having drawn lessons from the history and demise of both the National Aboriginal Congress and ATSIC, the enshrinement of a First Nations Voice in the Constitution must necessarily be accompanied by an Appropriation Bill or Funding Deed that is guaranteed and that sets out the requisite ongoing resourcing for the operationalising of the Voice to Parliament as well as associated penalties in the event that the recognition and funding of the Voice is not honoured by current or subsequent governments.

SACOSS believes that a constitutionally enshrined Voice to Parliament, accompanied by legislated resourcing, is more likely to help protect this important reform from the vagaries of changes in government or partisan politics. As important, is the fact that it is also likely to better safeguard the Voice to Parliament as a distinct mechanism of Indigenous recognition and as a forum of representation that can engage in fearless and frank public dialogue with Parliament.

In particular, we support the proposal to create a national body made up of Aboriginal and Torres Strait Islander people that:

- will provide advice to the Australian Parliament and Government on relevant laws, policies and programs;
- will engage early with the Australian Parliament and Government in the development of relevant policies and laws.²

¹ The Uluru Statement (2021) [Frequently Asked Questions](#)

² We agree with our colleagues at WACOSS that its desirable to use a more positive and proactive formulation in the proposed wording of the National Voice Proposal. We argue for 'will' rather than 'can' or 'could' because it emphasises the intent of the body to proactively engage on the issues and priorities it chooses, rather than being merely responsive to an agenda set by Parliament and Government.

SACOSS believes there is strong public support for a constitutionally enshrined Voice to Parliament and this has been reflected in discussions with our members and with the broader non-government health and community services sector.

We also note that public support remains very high. In fact, in 2020, the Australian Reconciliation Barometer found that “nearly all Australians (95%) want Aboriginal and Torres Strait Islander people to have a say in their own affairs, and more than 80% of the general community believes it is important to protect a First Nations’ representative body within the Constitution”.³

Importantly, as Dr Dani Larkin, public lawyer and representative of the Senior Dialogue Leadership group for the Uluru Statement from the Heart states, “constitutional enshrinement of a First Nations Voice is the only form of recognition that garnered the collective endorsement of Aboriginal and Torres Strait Islander peoples”.⁴

It is very clear that as outlined in the Uluru Statement from the Heart, the Referendum Council process and Constitutional Convention, the National Voice has not ever been envisaged as a ‘third chamber’ of Parliament or to be a new voice within Parliament. It does not have power of veto, cannot introduce or debate legislation, and it cannot challenge the legitimacy of a failure to consult through the courts.

Ultimately, this power rests with the Parliament – but Parliament can also choose to engage with the Voice in a way that treats it seriously and with respect, that recognises and ultimately enhances its value.

Once the model of the Voice is settled, SACOSS calls on the Government to honour its commitment and move quickly to hold a referendum on constitutional recognition as soon as possible acknowledging that the referendum should be timed so as to enable adequate time to prosecute the arguments in support of establishment of the Voice.

SACOSS also believes it is essential that in addition to working on a referendum, the government must move quickly to support the emergence of key complementary elements that will enable and give strength to this National Voice, namely the structures and necessary mechanisms for capacity building that also enable local and regional voices to emerge and contribute to the National Voice. And that subsequently lead to and support action and dialogue in the regions and across the community.

2. Enabling legislation for the Voice must be passed as soon as possible after a referendum has been held.

SACOSS believes that the strong, positive support from the Australian community provides a very strong foundation for the Government to move quickly and take affirmative action on stage two of the Voice establishment process, namely, “constitutional, legislative and executive enactment of the Voice” once the form and function of the Voice have been established.

³ Reconciliation Australia (2020) [2020 Australian Reconciliation Barometer](#)

⁴ Mirage News (2021) [‘It’s time to walk together towards a referendum’: Indigenous Law Centre](#)

It is critical that enabling legislation for the Voice follows as swiftly as possible from a successful referendum. We are sincerely concerned that any effort to implement the Voice through legislation prior to holding a referendum may create confusion among the Australian public, obfuscate the referendum process and undermine the Government's current social license to progress this reform.

3. The membership model for the National Voice must ensure previously unheard Aboriginal and Torres Strait Islander people have the same chance of having their voices heard.

SACOSS recognises that while Local and Regional Voices will work to provide local views to the National Voice, we support *From the Heart's* position that scope of expertise must be appropriately represented in the National Voice, and of a sufficient scale of membership as is necessary to achieve this.

Putting aside the complexities involved, the National Voice must be established in a manner that actively ensures it is representative of the diverse populations and needs of Aboriginal and Torres Strait Islander peoples. It also needs to be acknowledged that the call for a Voice arises in a context where there are considerable differences in the levels of organisation and capacity amongst and across communities in Australia. To settle on membership will require the creation of structural opportunities for Aboriginal people embedded in local communities and frontline organisations to be directly engaged in national-level deliberations. This will ensure that the Voice is enabled to capture diverse voices and views so as to legitimately represent the general will of First Nations Australians in majority while always ensuring unheard, marginalised and minority views are also shared and appreciated.

Whatever the structure and model chosen for the National Voice (and Regional and Local Voices), we consider that it is critical that it has the necessary *capability* and *legitimacy* to undertake its function as an institution that captures and represents the voices, priorities and aspirations of Australia's First Nations peoples.

SACOSS notes that limiting membership of the National Voice to a 16- or 18-person State/Territory equalisation model may run the risk of those with existing authority and profile being selected/elected to the National Voice, while other less audible voices may remain marginalised. Importantly, an overly limited membership model may also fail to adequately account for the uneven distribution of Aboriginal and Torres Strait Islander populations across the country.

We note that effective representation probably needs to balance population, circumstances and diversity (including age and gender), such that there is an adequate cross-section of First Nations members who can both capture and express the needs and challenges of regional and remote communities, as well as reflecting the views of significant Aboriginal populations concentrated in urban areas.

SACOSS believes that the political issues and concerns driving the formation of a National Voice are considerably different to those at play during Federation, hence a model based on balancing the power of states and territories is not directly relevant. Similarly, the current ways in which 'regional' and 'local' are defined do not necessarily map well onto historic responsibilities for stewardship of the land and traditional cultural groupings. There is also a very real challenge in reflecting the lived reality of Aboriginal families and communities in regional centres and metropolitan areas where

different language and cultural groups have been brought together principally as a result of colonisation and dispossession.

Additionally, it is imperative that the structures and processes to support Local and Regional Voices to undertake inclusive collective decision making are developed, resourced and supported in order to ensure a National Voice is representative, authoritative and successful. This will require a commitment to the longer-term development of representative processes under First Nations leadership, accompanied by appropriate timeframes and a pace that enables broad and deep engagement across all communities.

In conclusion

For the National Voice to receive broad community support it will need to be *seen to be* a body that is influential and compelling – a body that is taken seriously as a representative voice and a legitimate source of policy, advice and strategic direction by our Governments and Parliaments. To that end, the manner in which it gives advice to Parliament and Government *and* the manner in which that advice is received will be crucial.

Done properly, well-resourced and with support for an enabled leadership, an effective National Voice will add significant value to public policy, services, investment and building reconciliation. Further, it is likely to be an essential mechanism for closing the gap of disadvantage in wellbeing and life outcomes and to reduce the growing cost of tertiary services in our health, child protection and justice systems.

If you would like to discuss this submission further, please contact SACOSS CEO, Ross Womersley ross@sacoss.org.au or 8305 4223.

Yours sincerely,

Ross Womersley
CEO