

25 April 2021

Minister Ken Wyatt  
Members of the Voice Co-Design Groups

Dear Minister, dear Members,

We are writing to you today in our personal capacities as two non-Indigenous Australians who have worked at senior levels of local and international law and policy. **We strongly support the desire, and acknowledge the right, of the Aboriginal and Torres Strait Islander peoples of Australia to be accorded constitutional recognition and the constitutional protection of a First Nations Voice to Parliament, in line with the Uluru Statement.**

Two decades ago, we both worked under the Howard Government in the Commonwealth Attorney-General's Department, one of us in the Indigenous Law and Justice team. One of us was also an associate to Justice Dyson Heydon on the High Court. Since then, we have lived and worked overseas, focusing on human rights issues. We have provided human rights briefings and advice to numerous international bodies and officials including: the OECD, the UK Prime Minister, the EU Council, the OSCE and numerous United Nations bodies – the Security Council, General Assembly, Human Rights Council, Secretary-General, High Commissioner for Human Rights, Special Representatives of the Secretary-General, and the UN Permanent Forum on Indigenous Issues.

We have recently returned to live in Australia. We are grateful to be back in a society where we have immediate access to a robust social and public health safety net, where we can feel heard in local and national political life and where we feel welcome and safe as part of the community. That is, in no small part, because we are white. We acknowledge that many other Australians do not necessarily feel this way. For them, the promise of Australian sovereignty and the Australian Constitution has not yet been fully realized and the famous Australian 'Fair Go' remains elusive. This is especially the case for Australia's First Nations peoples, whose own sovereignties, cultures and strength offer so much to Australia's national life – if we make appropriate space for First Nations voices and commit to respectfully hear and engage with them.

We recognise the ongoing, severe impacts of colonisation on this country's First Nations peoples, including impacts at the legal, cultural, socio-economic and personal levels. We believe that all non-Indigenous Australians have a clear responsibility to address these impacts, if Australia is to meet its Constitutional and international human rights commitments and live up to its stated values.

We also believe that Australia now has a unique opportunity, thanks to the vision and generosity of Indigenous Australians in the Uluru Statement from the Heart, to enrich our sovereignty. Nothing in the Uluru Statement is at odds with who we are as a nation. As law students twenty-five years ago (at the University of New South Wales and University of Sydney

respectively), we watched as the Australian legal system began to correct historical wrongs relating to native title. The *Mabo* case, and the Commonwealth Parliament's legislative response to it, demonstrated the capacity of Australia's legal and political system to accommodate the experiences, realities and voices of our First Nations peoples.

As human rights lawyers, we have also witnessed the benefits countries around the world have enjoyed from affording their Indigenous peoples constitutional protections, especially those protecting the right to self-determination and other rights recognised by governments, such as Australia, in the UN Declaration on the Rights of Indigenous Peoples.

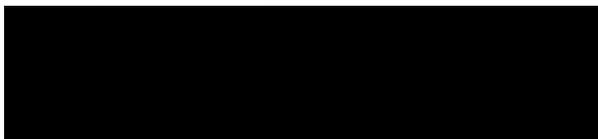
**We believe that constitutional protection of a First Nations Voice is an essential foundation for any model of the Voice, and that a constitutional referendum on this question would be the most appropriate next step.** Indeed, this would make good on the Government's own commitment at the last election. A referendum should be followed promptly by the passage of enabling legislation in the next term of Parliament.

**First Nations peoples themselves should determine who they want to represent them in the Voice.** This means that all First Nations individuals should have equal opportunity to be appointed to the Voice, and selection processes should not privilege established leaders, as important as their roles have been and will continue to be.

In conclusion, we believe that now is the time for the Australian political system to embrace the opportunity being offered to our country by First Nations peoples. This is a unique chance to walk together towards a more respectful, constructive and mature Australia, based on dialogue and cooperation. We welcome their invitation, strongly support their proposals, and look forward to living in an Australia that offers all Australians the same opportunity to determine their own fate that we have enjoyed.

Thank you for your hard work to also advance this vision.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

Rachel Davis and James Cockayne

Byron Bay  
NSW 2481