



Kimberley Land Council

## Kimberley Land Council Submission

### Indigenous Voice Co-Design process interim report to the Australian Government 2020.

The Kimberley Land Council (**KLC**) acknowledges and appreciates the opportunity to make a submission on the Indigenous Voice Co-design process Interim Report 2020 (**Report**) and the Commonwealth proposals for “an Indigenous Voice” intended to “provide a way for Indigenous Australians to provide advice and input on matters that are important to improve their lives” National Indigenous Australians Agency (**NIAA**).

The KLC provides this submission in our capacity as the peak body representing Traditional Owners in the Kimberley Region of Western Australia. The KLC requests that this submission is published by NIAA on the website established for the consultations on the Commonwealth’s Voice proposals: [www.voice.niaa.gov.au](http://www.voice.niaa.gov.au).

#### The Kimberley Land Council

*“Land is very important. It is in here, in my heart. People walked the land without carrying a map because they knew their land, they walked in this land for generations, they loved their land. Without land we are nothing, without our culture we are nothing.*

*Sitting down with the elders listening to their stories about the land and what is right and wrong, and everything that is what it is. That is how it came to make me somebody – I am somebody.*

*It is this true history that Europeans [must] understand today. A long time I didn’t like white fellas, I was scared of them, I was treated rough by Europeans. Each and every one of us came [to Noonkanbah] together and that’s what makes the difference. It is a history for the Kimberley Land Council and for me too. I done it with my heart because I have rights with my land. It was very important.*

*Government has to understand we have to walk together on the same road. That is how I feel. It’s a struggle. Thinking and walking together on one road for the future for our country.”*

[Mark Moora, Balgo, November 2018 – Founding member of the Kimberley Land Council and member of first board of directors]

1. The KLC is a grass-roots community organisation established in 1978 for the purpose of getting ownership and control of land back for Traditional Owners. The KLC’s mandate is driven by its 1,500 strong membership of Kimberley Aboriginal people, and delivered by its board of directors. The links between traditional authority for country, reinforced by the support of all Kimberley Aboriginal people working together, is reflected in the culturally representative structure of the KLC board. The inherent link between land, law and language is also represented in the sisterhood between the KLC, the Kimberley Aboriginal Law and Culture Centre (KALACC) and the Kimberley Language Resource Centre (KLRC). Land, law and

language are the touchstones of life and culture for Kimberley Aboriginal people, and the KLC's mandate is to deliver recognition and protection of interests in land.

2. Since 1998 the KLC has also been the recognised native title representative body for the Kimberley region pursuant to consecutive legislative instruments made under s203AD of the *Native Title 1993 (Cth) (NTA)*. More than 95% of the Kimberley region is now subject to determinations of native title. Twenty-two prescribed bodies corporate have been established in the region to hold or manage the recognised native title rights, and Aboriginal people are the largest land-owning demographic in the region. The KLC also supports 16 Aboriginal ranger groups in the Kimberley region through the Kimberley Ranger Network, and facilitates economic development opportunities through activities such as carbon farming and fee-for-service land management, providing essential and culturally aligned remote area employment.
3. All of these activities are done to recognise, protect, respect, and pass on to future generations the cultural heritage of the thousands of generations which came before us.
4. It is in the context of this history and current circumstances that the KLC makes the following submission on the Indigenous Voice Co-Design process interim report to the Australian Government 2020.

#### **First Nations Constitutional dialogues and enshrined Voice**

5. The KLC hosted the Regional Dialogue that was hosted in Broome (January 2017) as a part of the Referendum Council's First Nations constitutional dialogues.
6. Kimberley Traditional Owners participated in the Broome regional dialogue and the national convention at Uluru.
7. The KLC strongly believes that the Uluru Statement from the Heart is the outcome of a robust, culturally legitimate process that represents a consensus view of First Nations across Australia. The recommendation for a constitutionally protected Voice to Parliament was the first law reform proposal in that process.
8. KLC is committed to the Uluru Statement, and the calls for a constitutionally enshrined Voice.
9. Only a constitutionally enshrined Voice will meet the aspirations of the delegates at the Regional Dialogues, and only a constitutionally enshrined Voice will be able to reset the relationship between First Nations and the Australian State.
10. The KLC will not support a legislation-first Voice or legislation-only Voice. The Voice must be established in the Constitution so that it can be established with the best prospects of success.
11. The KLC is concerned that the current Co-Design process has been rushed, lacking in transparency, and has not incorporated a self-determined process particularly with respect to determining membership of the national Voice. The KLC would be happy to work with Government to assist in this future process to ensure it meets the requirements of self-determination; that is, it is First Nations led and fully informed.
12. The KLC recommends a dialogue process that allows participants to be fully informed before making decisions about their lives. The dialogues will allow the community to drive the process, which is more likely to result in bottom-up grass roots consensus.
13. The KLC is also concerned that the proposal confuses the role of the Voice in its relationship with the Legislature. KLC submits that the Voice model should instead have a stronger and

more direct relationship with Parliament so as to fulfil the aspirations of the delegates at Uluru for a Voice to the national Parliament as the ultimate law making authority in the constitutional system. There is a distinct difference between the bureaucracy and the Legislature, and this difference is fundamentally import to our system of government based on the principle of separation of powers. The Interim Voice appears to blur this distinction and separation, and ignores the very real role Parliament has in keeping the government of the day accountable.

14. The KLC endorses the submissions of the Central Land Council.
15. The KLC endorses the submission of the New South Wales Land Council with the exception that the KLC does not support the establishment of a Voice to government in legislation.

Anthony Watson  
Chairman  
Kimberley Land Council  
30 April 2021