





























# Referendum Working Group

## Enshrining an Aboriginal and Torres Strait Islander Voice in the Constitution

FOR DISCUSSION PURPOSES ONLY

### Regional Voices: Co-design report and work to date

On 28 October 2022, the Referendum Working Group (RWG) requested briefing on progress on implementation of regional voice arrangements. This paper provides an overview of progress to date, noting the approach is now being considered within the broader context of the Government's commitment to the Uluru Statement from the Heart.

#### Context

On 17 August 2022, the inaugural Indigenous Affairs Minister's Meeting (IAMM) was held. Ministers confirmed their collective support for an Aboriginal and Torres Strait Islander Voice enshrined in the Constitution and discussed steps for implementing arrangements at the regional level.

#### Indigenous Affairs Minister's Meeting

*'The Ministers discussed some of the practical steps for implementing voice arrangements, including at a regional level, that would enable First Nations people to work in partnership with all levels of government to improve policies, programs and service delivery in their regions. This work will build on and align with existing and emerging arrangements currently supported by states, territories and the Commonwealth.'* Communique – 17 Aug 2022.

While all governments (Commonwealth, States and Territories and Local) are progressing a range of initiatives to boost the involvement of First Nations citizens in decisions affecting them, **s 47C**

In addition to the key principles discussed by the Referendum Working Group on 29 September, other key features which have been identified in a range of processes, including through the Final Report of the Indigenous Voice Co-design process (the Report), were:

#### 1. Full geographic coverage

- Since the abolition of ATSIC, First Nations regional governance arrangements have been patchy and ad hoc, leaving many First Nations people with no ability to have a say in programs and policies affecting them locally.
- National coverage would allow for reform across government agencies' systems and administrative structures to support genuine place-based partnership with First Nations communities.

#### 2. Bring together all agencies and levels of government

- A large proportion of services delivered in communities are the responsibility of states and territories and local governments. Bringing together all levels of government into a collaborative arrangement would streamline the complexity of engagement for communities and foster a more strategic approach to investment planning across governments – helping to address duplication.

### What was proposed under the Final Report of the Indigenous Voice Co-design process and how does it work?

The Final Report of the Indigenous Voice Co-design process (the Final Report) was completed in July 2021 and released in December 2021. The Final Report recommended an integrated approach to the Voice with two tiers. Its purpose was to

## Referendum Working Group

enable Aboriginal and Torres Strait Islander people in every community to have a greater say in public policy, programs and service delivery affecting their lives through shared decision-making in partnership with all levels of government.

A Local and Regional Voice tier focussed on partnership and shared decision-making and a National Voice to provide advice to Government were a part of this integrated approach. These tiers were linked through members of the Local and Regional Voice being drawn upon to form the National Voice.

Functions under the proposed model include: community engagement, advice to governments and others, 'shared decision-making' with governments and engagement with a Voice to Parliament at national level (and state level where similar bodies exist).

The Report proposed regional voice arrangements would enable decision-making to occur as close as possible to the level of impact.

The Report proposed regional voice arrangements be established under a flexible principles-based framework intended to accommodate the diversity of communities. There would be a strong focus on capability support and resourcing to ensure communities are appropriately positioned to engage in shared decision-making with governments, and are set up for success from the start.

Non-government backbone structures would be resourced at the regional level to support and facilitate all aspects of regional voice work, including assisting local level groups and arrangements as needed. There remain significant gaps in capability support and resourcing for First Nations people to come together to partner with all levels of government on practical work at the local and regional level.

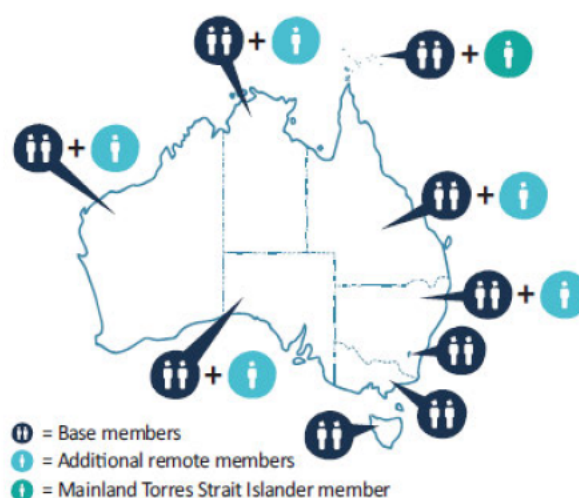
Regional voice arrangements would complement and strengthen collaboration under the National Agreement on Closing the Gap, by providing structured avenues for governments and Aboriginal and Torres Strait Islander communities to work together and deliver better targeted and informed policies, programs and services.

## Connections between national and regional voice

The Final Report recommended an integrated system comprised of two parts – regional voice arrangements to enable partnerships and shared decision-making with governments, and a national voice to provide advice to the Australian Parliament and Government.

Under the proposed model, regional voice arrangements would support effective operation of the national voice by enabling a clear link to communities to ensure advice (and possibly membership) is grounded in the knowledge and authority of First Nations people and is representative of their diverse needs, aspirations and circumstances.

**The Final Report recommended 24 members be drawn from regional voice structures across the country to make up the national voice.**



Referendum Working Group

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## Meeting 3, 16 November 2022

9.00am – 5:00pm

Sydney, Novotel Darling Harbour

### ANNOTATED AGENDA

#### 1 Acknowledgement of Country and welcome – 5 min

Minister for Indigenous Australians to lead

*[Slide 3: Acknowledgement & welcome]*

- Acknowledgement, welcome – thanks for travelling or for joining us online.
- Run through agenda – today:
  - Item 2: We will hear an update s 47C [REDACTED]
  - Item 3: s 47C [REDACTED]
  - Item 5: s 47C [REDACTED]
  - Item 7: s 47C [REDACTED]
  - Item 8: s 47C [REDACTED]
  - Item 9: We will consider a communique for today's meeting and discuss the proposed approach to the December meetings of the Working and Engagement Groups.

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- By way of housekeeping, myself, Megan and Pat Anderson are speaking at the Fred Hollows CEO panel across the harbour so we will excuse ourselves at lunchtime and return for the update on Constitutional work.

## 2 Update from Voice supporters – 30 min

Minister for Indigenous Australians

*[Slide 4: Update from Voice supporters]*

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### OPPORTUNITY FOR QUESTIONS/DISCUSSION

*Ask members including those participating virtually if they have any questions or comments.*

## 3 First Nations campaign organisation and strategy – 2 hours

*[Slide 5: First Nations campaign organisation and strategy]*

Update from Working Group members and discussion

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### DISCUSSION

*Ask members including those participating virtually if they have any questions or comments.*

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**DISCUSSION**

*Ask members including those participating virtually for their views.*

4 Morning tea – 15 min

5 *Referendum (Machinery Provisions) Act* – 40 min

**Attorney-General**

*[Slide 7: Referendum (Machinery Provisions) Act]*

**Objectives:**

- Explain the parliamentary process and expected timeframes of passage of the amendment bill.
- Briefly discuss/outline the amendments to the Act that have not been considered by the group – overseas donations, donation disclosures, modernisation etc.
- [Update on section 11(4)]

**Papers:**

- *Referendum (Machinery Provisions) Act paper*

*[Slide 8: Parliamentary Process]*

- This slide sets out the anticipated process for Parliament's consideration of the Bill to modernise the Referendum (Machinery Provisions) Act.
- The Government is aiming to introduce the Bill before the end of 2022.
- After introduction, Parliament may refer the Bill to a Parliamentary Committee for consideration and reporting. Whether this occurs, and how long the Committee takes to report, will depend on what changes are in the Bill.
  - Generally speaking, the more significant and controversial the changes, the more likely the Bill will be referred to a Committee.
  - If the Bill contains more mechanical amendments in line with previous Committee reports, Parliament may choose not to refer it to a Committee.
- The Committee will take submissions on the Bill and may hold public hearings before issuing a report.
- The Government may need to make amendments to the Bill to respond to the Committee's report and any concerns raised in the Committee process.
- Parliament will then debate the Bill and vote on its passage.

- The Government would be looking to pass the Bill by the end of the Autumn 2023 sittings – that is, by April 2023.
- It is important that we have amendments to the Referendum (Machinery Provisions) Act in place before the Constitution alteration bill is introduced. This is so the process for the referendum is clear and settled and the Australian Electoral Commission can be confident in its preparations, and so any restrictions on Government expenditure in relation to the referendum are clear once the alteration bill is introduced.
  - The timing of the introduction of the Constitution alteration bill depends on the anticipated referendum day.
  - This is because introduction, Parliamentary debate and passage of the bill will be a key part of the overall engagement strategy for the referendum.
  - There are also legislative and constitutional requirements that mean the gap between the passage of the bill and the referendum day can be a maximum of 6 months and a minimum of 2 months and 33 days.

*[Slide 9: Proposed amendments]*

- The Referendum Act has not been used since 1999 and has not kept pace with recent modernisations to the Electoral Act, which underpinned the successful delivery of the 2022 federal election.
- The Government is considering amendments to re-align the Referendum Act with the Electoral Act.
- These amendments could replicate current election machinery provisions from the Electoral Act into the Referendum Act, including:
  - streamlining postal voting applications, meaning voters can apply for a postal vote online;
  - enabling vote-savings measures, for example where a postal voter makes a spelling mistake and their intention remains clear;
  - ensuring consistency of authorisation statements and requirements across federal election and referendum events;
- A simplified financial disclosure framework for referendums could also be established. This will mean that people will be required to report to the AEC on their donations/expenditure over the disclosure threshold, which is currently \$15,200.
  - Requirements under this framework will not be onerous for individuals or small community organisations: there are no registration requirements and post-referendum reporting on expenditure and donations can be done through the AEC's website.
- Restricting foreign influence in referendums, consistent with provisions in the Electoral Act, by:
  - Limiting foreign donations of over \$100

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*Ask members including those participating virtually if they have any questions or comments.*

#### DISCUSSION

6 Lunch – 1 hour 15 min (12:30pm – 1:45pm)

Minister for Indigenous Australians, Megan Davis, Pat Anderson to leave for Fred Hollows CEO forum panel at Barangaroo from 1pm-1:40pm.

7 Constitutional work update – 35 min

Attorney-General and Senator Dodson

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## DISCUSSION

**Ask members including those participating virtually if they have any questions or comments.**

- 8 Voice detail needed for a successful referendum – 2 hour 10 min

**Minister for Indigenous Australians & Special Envoy to lead****[Slide 13: s 47C****s 47C**

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*[Slide 18: Questions for Working Group discussion]*

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Government	Percentage
Current government	85%
Previous government	15%

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- *[group discussion]*

## DISCUSSION

***Ask members including those participating virtually if they have any questions or comments.***

9 Consideration of communique – 30 min

**Minister for Indigenous Australians and the Special Envoy**

**[Slide 19: Consideration of Communique]**

**Discuss draft communique – distribute in the room and share on the screen.**

- Finally, I am interested in your views on the approach to the December Working Group and Engagement Group meeting scheduled for 12 December. [See also discussion above]
  - How long is needed for each meeting?
  - How we can maximise in-person attendance?
  - What are suggested agenda items?

***If asked: meeting agenda options***

- The focus of Working Group could be on the Voice, and the paper from the Constitutional Expert Group.
- The focus of Engagement Group could be on research, campaign and AEC work around Indigenous participation.

**Ask members including those participating virtually if they have any questions or comments.**







# Referendum Working Group Meeting

## Referendum on an Aboriginal and Torres Strait Islander Voice

16 November 2022

# Acknowledgement and welcome

## Referendum on an Aboriginal and Torres Strait Islander Voice

*Minister for Indigenous Australians the Hon Linda Burney MP*

# Update from Voice supporters

## Referendum on an Aboriginal and Torres Strait Islander Voice

*Minister for Indigenous Australians the Hon Linda Burney MP*

# First Nations campaign organisation and strategy

## Referendum on an Aboriginal and Torres Strait Islander Voice

*Update from Working Group members*

*Group discussion*



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# ***Referendum (Machinery Provisions) Act***

## **Referendum on an Aboriginal and Torres Strait Islander Voice**

*Attorney-General the Hon Mark Dreyfus KC MP*

# Parliamentary process

1. Introduction to Parliament by the end of 2022
2. Potential Committee consideration
3. Parliamentary debate
4. Aiming for passage by April 2023

# Proposed amendments

- Modernisation to bring the Act in line with the *Commonwealth Electoral Act 1918* around matters like:
  - postal voting requirements
  - scrutiny processes
  - authorisations of campaign material, and
  - disclosure of campaign expenditure and donations, and
  - limits on foreign campaign expenditure and donations.
- Other amendments previously discussed (eg. pamphlet, funding)



We, gathered at the 2017 National Constitutional Convention, coming from all points of the southern sky, make this statement from the heart:

cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.

These dimensions of our crisis tell plainly the structural nature of our problem. This is *the torment of our powerlessness*.

We seek constitutional reforms to empower our people and take a *rightful place* in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.

We call for the establishment of a First Nations Voice enshrined in the Constitution.

Makarrata is the culmination of our agenda: *the coming together after a struggle*. It captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination.

We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history.

In 1967 we were counted, in 2017 we seek to be heard. We leave base camp and start our trek across this vast country. We invite you to walk with us in a movement of the Australian people for a better future.

*This sovereignty is a spiritual notion: the ancestral tie between the land, or 'mother nature', and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with our ancestors. This link is the basis of the ownership of the soil, or better, of sovereignty. It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown.*

How could it be otherwise? That peoples possessed a land for sixty millennia and this sacred link disappears from world history in merely the last two hundred years?

With substantive constitutional change and structural reform, we believe this ancient sovereignty can shine through as a fuller expression of Australia's nationhood.

Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This

# ULURU STATEMENT FROM THE HEART

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Uluru-Ku Tjukurpa by Happy Reid  
Christine Beumby Rene Kuleja Tjama. Sammy Wilson Yangkungtjara Pitjan Tjara Marukulu Arts by Anne



# Constitutional work update

## Referendum on an Aboriginal and Torres Strait Islander Voice

*Attorney-General the Hon Mark Dreyfus KC MP*

*Special Envoy for Reconciliation and the Implementation of the Uluru Statement from the Heart, Senator Patrick Dodson*



# Voice detail needed for a successful referendum

## Referendum on an Aboriginal and Torres Strait Islander Voice

*Minister for Indigenous Australians the Hon Linda Burney MP*

*Special Envoy for Reconciliation and the Implementation of the Uluru  
Statement from the Heart, Senator Patrick Dodson*



### Independent bodies

e.g. Coalition of the Peaks, NACCHO, CAPO



### Local/Regional decision-making structures

e.g. NT LDM, NSW LDM, Murdi Paaki Regional Assembly, Dilak Council, Qld Local Thriving Communities, Empowered Communities



### Land Rights bodies

e.g. NSWALC & LCALCs, NT Land Councils, PBCs, NTRB/SPs, APY Executive Board, Noongar Settlement



### Statutory bodies

e.g. ACT ATSIEB, TRSA, First Peoples Assembly of Victoria



### Advisory bodies with a local/regional focus

e.g. NSW AECG, SA Aboriginal Advisory Council, AJA, Aboriginal Health Partnerships Forum



### Indigenous local government structures

e.g. Qld Aboriginal and Torres Strait Islander Shire Councils, NT Regional Councils (with 63 local authorities within)

# States and Territories – Voice, Treaty & Truth

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Document 10

*State and territory governments are working towards improving First Nations representation in various ways*

★ = Voice & advisory arrangements

★ = Treaty-making & Truth-telling arrangements

★ NT Treaty Commission

★ Aboriginal Advisory Council of WA

★ First Nations Voice design process (underway)  
★ Treaty and Truth-telling to follow Voice

★ Establishing an Aboriginal Advisory Body to co-design truth-telling and treaty-making processes

★ First Nations Consultative Committee (undertaking a co-design process on voice), Torres Strait Regional Authority  
★ Treaty Advancement Committee, First Nations Treaty Institute, Truth Telling and Healing Inquiry.

Consider treaty and truth-telling should be led by the Commonwealth

★ Aboriginal and Torres Strait Islander Elected Body (ATSEIB)  
★ Pathways to Treaty (under development)

★ First Peoples' Assembly of Victoria  
★ Yoorrook Justice Commission

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# Common principles for the Voice

*Those principles identify the Voice as a body that:*

- provides independent advice to the Parliament and Government
- is chosen by First Nations people based on the wishes of local communities
- is representative of Aboriginal and Torres Strait Islander communities
- is empowering, community led, inclusive, respectful, culturally informed and gender balanced, and includes youth
- is accountable and transparent
- works alongside existing organisations and traditional structures.

*The Voice would:*

- not have a program delivery function
- not have a veto power.





# Questions for Working Group discussion

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# Consideration of Communiqué

## Referendum on an Aboriginal and Torres Strait Islander Voice

*Minister for Indigenous Australians the Hon Linda Burney MP*

*Special Envoy for Reconciliation and the Implementation of the  
Uluru Statement from the Heart, Senator Patrick Dodson*



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**BEA KAMPUN - NIDDER**  
Elena Mangera  
Sean Gordon  
Joe Morrison  
Dagman  
Linda Fletcher  
Dagman - Kura  
NIGEL BOONIE  
LARRAKIA NUNU  
Roy Ah-Soo  
Wilyadju  
Jackie Huggie  
Beljara  
Jo Willnot  
HAKKA HAKKA  
SELINA SNAN  
NIGARU (KATJARA)  
(NUNGUHUN)  
JUNE OSCAR  
BUNUBA  
SUZANNE  
NADEN  
YOUN NATION  
David Anandun  
Yametti QUD  
Merv Riley  
Jesse  
Geoffrey Shannon  
Walpin / Wamungu  
Bully Nungu  
NANI ENTHIR  
WILKIN MURIEL  
Wilkamilla  
JANINE GERTZ  
Gina Boshum  
Nigadjen  
CEATE WOODS  
Camille Damaso  
Laralee, Yanguu,  
Malak Heute  
Tania McLeod  
Wardley  
Mickayla  
Nathan  
Leconce Thompson  
Mamu  
Rod Little  
Yamaji-Nungu  
Helen Lee  
Aurora  
Karl Williams - Paluma  
Uluw-kus Tjukupa  
VINCENT TORRESTER  
Mia Forrest  
Lynette JANE DAY  
PAINT DAVE WARRENER  
Paluma  
MALCOLM WILLIAMS  
NOONGAR  
OSIE CRAWSHAW  
Gurindj  
Ezra Jacobs-Smith  
NYONGAR, WIHADJUK  
BALLARDONG, YUEB  
Rebecca Burke  
Tsi-Mureka  
RUSSELL JONES  
CHUMBUK  
NYONGAR, WIHADJUK  
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Rebecca Burke  
Tsi-Mureka  
Maggie  
Walter  
Peta Braden  
Lutika  
Everett  
Yakob  
Theresa  
Richard Dizon  
Galewa  
Rustinson, Kive  
N.L.C.  
Abigail Hume  
Kalkul  
Nungu  
Trish Rigg  
Mark Kodie  
Dark Doons Donald  
Paluma Tas  
Jany Oshma  
Yalari  
Doni Chisposen  
Mia Chisposen  
Geoffrey K  
TJUPMARA  
MARA SAR  
Lisa Mumbin  
No Janyon  
Mangan Nungu  
Naniluk  
Mac Mac  
T31 - Althof  
Justin Makara  
Garry Garry  
Peter Wink  
THUDAKI  
Barbara R Shaw  
K OAL MARRIN  
A SALLABAN  
W RAYMOND  
M RAYMOND  
SAN KICKETT  
Sean Brown  
Patricia Laurie  
Yagil Bundjalung  
Christy Cain  
MATHEN BRAN  
GROFF SCOT  
EDICA SMITS  
LINETTE DE SMITS  
BILLY H. OOO  
GUUGU YIMIDHIRR  
SAMMY WILSON  
YANGKUNGTJARA  
PIJTAN TJARA  
MARUKU  
ARTS BY ANNE

**WELURU STATEMENT FROM THE HEART**

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Christine Brumby  
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Tjama  
Sammy Wilson  
Yangkungtjara  
Pijtjan Tjara  
Maruku  
Arts by Anne



# Indigenous Affairs Ministers Meeting

**AGENDA ITEM 3: Voice to Parliament – National, Regional and Local Meeting:** 6 December 2022

## Recommendations

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## Key issues

### *Details of model for Voice to Parliament*

1. The Commonwealth has committed to consult, including with First Nations people, on the detail of the Aboriginal and Torres Strait Islander Voice. The Government has established three groups who will advise on how to take forward the enshrinement of an Aboriginal and Torres Strait Islander Voice in the Constitution.
2. The First Nations Referendum Working Group (RWG) is providing advice to Government on how best to ensure a successful referendum. This group has representatives from all jurisdictions, including Local Government representatives. The RWG is looking at matters such as timing, refining the proposed constitutional amendment and question, and information on the Voice necessary for a successful referendum.
3. The work of this Group informs the deliberations of a separate First Nations Referendum Engagement Group. The Engagement Group is providing advice about building community understanding, awareness and support for the referendum.
4. The Government has also established the Constitutional Expert Group to provide the RWG with legal support on key issues relating to the content and drafting of the constitutional amendment proposed by the Prime Minister in his address to the Garma Festival and the referendum more generally.
5. In their first meeting, the RWG discussed common principles for the Voice drawn from the work already done. Those principles identify the Voice as a body that:
  - provides independent advice to the Parliament and Government
  - is chosen by First Nations people based on the wishes of local communities
  - is representative of Aboriginal and Torres Strait Islander communities
  - is empowering, community led, inclusive, respectful, culturally informed and gender balanced, and includes youth
  - is accountable and transparent

- works alongside existing organisations and traditional structures.

The Voice would not have a program delivery function or a veto power.

s 47C



### *Bilateral Discussions*

8. Following the 17 August 2022 Indigenous Affairs Ministers meeting, the NIAA has had discussions with all jurisdictions, and the Australian Local Government Association. The key purpose of the discussions has been to explore key issues for a collaborative approach to regional voice implementation specific to each jurisdiction, including in the broader voice, treaty, truth context.

s 47C



### *Status of regional voice arrangements*

11. The Commonwealth is committed to progressing an approach to voice arrangements that builds on and aligns with existing and emerging arrangements currently supported by states, territories and the Commonwealth.
12. The approach set out in the Indigenous Voice Co-design Final Report is being considered by the Referendum Working Group alongside other significant work done over the past decade to progress the Voice.
13. The Voice Co-design report recommended an integrated system comprising of two parts – regional voice arrangements to enable partnerships and shared decision-making with governments, and a national voice to provide advice to the Australian Parliament and Government.
14. Under this approach regional voice arrangements would be designed by communities in each region guided by principles, building on existing initiatives that work well and subject to joint buy-in from governments.

### **Next Steps**

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**Consultation**

16. The NIAA has consulted with officials from all states and territories and ALGA. State specific information detailed in the attached table has been reviewed and cleared by the relevant state officials.

**Background**

17. At the Indigenous Affairs Ministers meeting on 17 August 2022, Ministers confirmed their collective support for an Aboriginal and Torres Strait Islander Voice enshrined in the Constitution and discussed some of the steps for implementing voice arrangements, including at a regional level.
18. Implementation of regional voice arrangements to date has focused primarily on discussions between governments. This reflects the imperative for regional voice arrangements to include active participation of all levels of government to effectively achieve practical outcomes at the community level.

**Covering email:**

Hi s 22(1)(a)(ii)

Thanks for sending this through s 47C

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Thank you,

s 22(1)(a)(ii)  
 | Senior Adviser

Voice Policy and Legislation | Empowerment and Recognition Group

National Indigenous Australians Agency

p. s 22(1)(a)(ii) | m. s 22(1)(a)(ii)

e. s 22(1)(a)(ii) @niaa.gov.au | w. [www.niaa.gov.au](http://www.niaa.gov.au)

Charles Perkins House, Woden ACT 2606 | PO Box 6500, Canberra ACT 2600

s 22(1)(a)(ii)



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.





## Meeting 4, 12 December 2022

1.00pm – 5:00pm

Canberra, Australian Parliament House

### ANNOTATED AGENDA

Lunch served at 12:30pm for meeting start at 1:00pm

#### 1 Acknowledgement of Country and welcome – 5 min

Minister for Indigenous Australians/Assistant Minister for Indigenous Australians to lead

**[Slide 2: Acknowledgement & welcome]**

- Acknowledgement, welcome – thanks for travelling or for joining us online.
- Run through agenda – today:
  - Item 2: The Attorney-General will provide an update on the *Referendum (Machinery Provisions) Amendment Bill* that was introduced to the Parliament on 1 December.
  - Item 3 will be a discussion on the constitutional amendment, and we have Justice Kenneth Hayne and Professor Greg Craven from the Experts Group here.
  - Item 4 will provide an opportunity to continue our discussion on the pathway to the Voice.
  - Item 5: We will review the campaign work to date and coordination opportunities.
  - Item 6: Ahead of our meeting tomorrow, we will discuss how to bring the Engagement Group on board with campaign efforts.
  - Item 7: Finally we will consider the communique for this meeting.
- There may some photos taken today for social media and newsletters – please advise if you would prefer not to have your photo published

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## 2 Update on Referendum (Machinery Provisions) Amendment Bill 2022 – 15 min

Attorney-General

**[Slide 4: Referendum (Machinery Provisions) Amendment Bill 2022]**

### Objectives:

- Update group on progress on the Referendum Act amendments
- Clarify group will be able to make submissions to the parliamentary committee inquiry

### Paper

- Updating on the introduction of the RMPA Amendment Bill (paper also to be distributed to REG members)

**[Slide 4: Referendum (Machinery Provisions) Amendment Bill 2022]**

- On 1 December 2022, the Government introduced the *Referendum (Machinery Provisions) Amendment Bill 2022* into Parliament.
- The Bill makes amendments to bring the Referendum Act into line with electoral legislation to support a referendum that is consistent with the public's experience of recent federal elections.
- The Government has referred this Bill to the Joint Standing Committee on Electoral Matters (JSCEM) for report by 10 February 2023.
- The Government will consider any JSCEM recommendations prior to passage of a final bill.

### Reforms to referendum campaign financing (financial disclosure)

- The Bill will establish a simplified financial disclosure regime for referendums, aligned with existing disclosure thresholds in the Electoral Act.
- The Bill will require an individual or entity that spends over the disclosure threshold (currently \$15,200) to report to the AEC all expenditure and donations received in the six-month period prior to the issue of the writ for the referendum by the Governor-General, and continuing up until referendum voting day.
- These individuals and entities are referred to as 'referendum entities' in the Bill.
- Donors will also have to disclose details of donations above the disclosure threshold to referendum entities.
- Both referendum entity and donor returns must be provided to the Australian Electoral Commission 15 weeks after the referendum voting day, and will be published on the Commission's Transparency Register. This is consistent with timeframes for election returns under the Electoral Act.

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- Individuals and organisations meeting the new definition of ‘referendum entity’ will be prohibited from receiving donations from foreign sources – the same requirement as for federal elections.
- This will apply to all referendums going forward, not just the Voice referendum.
- The Australian Electoral Commission publishes guides to support people and organisations to complete their returns.

#### Enabling public education campaigns

- The Bill temporarily suspends section 11 of the Referendum Act.

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- The suspension will last until the end of the polling day at the next general election, which means that future Parliaments may consider this issue as appropriate for future referendums.

#### Suspension of the referendum pamphlet

- The Bill temporarily suspends the requirement for an ‘official pamphlet’, which in the past contained text authorised by Parliamentarians and was posted to all households in Australia.

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- Nothing in the Bill prevents Parliamentarians publishing their own referendum material in full and in the format of their individual choosing.
- Modern technology allows parliamentarians to express their views to voters directly and regularly through a wide variety of sources, such as television, email, and social media, that did not exist when the pamphlet was legislated in 1912.
- The suspension is temporary so that future Parliaments may consider this issue as appropriate for future referendums.

#### Further consultation on the Bill

- The Government has referred this Bill to JSCem for report by 10 February 2023.
- JSCem is accepting written submissions on the Bill until this Thursday, 15 December 2022. You are able to provide a submission if you wish.
- The Government will consider any JSCem recommendations prior to passage of a final bill.
- As is usual practice after an election, JSCem is also conducting an inquiry into the 2022 Federal Election. This is due to report in September 2023.

- That inquiry will consider and report on the potential for 'truth in political advertising' laws and reforms to political donation laws, because of the importance of multi-partisan cooperation in these matters.
- It is common practice for Governments to consider broader reforms to electoral and referendum laws in parallel. The Government will consider any JSCEM recommendations follow its inquiry into the 2022 election.

*Open the room for questions*

### 3 Report back from Constitutional Expert Group (1 hour and 15 minutes)

Kenneth Hayne, Greg Craven, Attorney-General

*[Slide 5: Update on work of the Constitutional Expert Group]*

#### Objectives:

- Provide update on the work of the Constitutional Expert Group (Expert Group)
- Seek agreement to include summary of advice in the communique
- Ask Working Group members if they have further questions for the Expert Group

#### Paper

- Advice of the Expert Group on the original 5 questions

#### HANDLING NOTE

The Constitutional Expert Group met on 6 December s 47C

- [REDACTED]
- [REDACTED]

*[Slide 6: Constitutional Expert Group – first tranche of questions]*

- Following its 6 December 2022 meeting, the Constitutional Expert Group agreed a summary of advice on the first five questions referred by the Working Group. We have provided this to you as part of your packs. There could be significant value in having this summary released as part of the communique from this meeting.
- In essence, the Constitutional Expert Group advised that the draft amendment is constitutionally sound in providing a strong basis on which to conduct further consultation.

- A majority of the Constitutional Expert Group supported the following positions in response to the first five questions:
  - The scope of the Voice's power to make representations to Parliament and the Executive Government about matters that have a connection to Aboriginal and Torres Strait Islander Peoples is appropriate. This was the only matter on which there was a significant divergence of views from some members.
  - The draft provision does not give the Voice a veto power, and the function of 'making representations' appropriately reflects its advisory role.
  - The draft provision should be a new chapter in the Constitution, which should not be between the first three chapters.
  - The Voice does not confer 'rights', much less 'special rights' on Aboriginal and Torres Strait Islander peoples.

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## DISCUSSION

[Slide 7: s47C]

- [Redacted]
- [Redacted]
- [Redacted]

■ s 42, 47C

[Redacted text block]

■ s 47C

[Redacted text block]

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**Afternoon tea – 15 minutes, 2.35 – 2.50pm**

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## 4 Voice – 1 hour and 10 minutes

Minister Burney/Senator Dodson

*[Slide 8: Voice]*

s 47C



*[Slide 8: Voice]*

- At our last meeting, s 47C   
  

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*[Slide 9: Process to determining a Voice model]*

- s 47C   

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National Indigenous Australians Agency (NIAA)

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Government	Yes (%)	No (%)
Current government	85	15
Previous governments	100	0

11/11/2014

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Response	Percentage
Yes	~65%
No	~25%
Don't know	~10%

11/11/2016

Government	Percentage
Current government	85%
Previous government	15%

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## 5 Engagement Group meeting planning (35 minutes)

*[Slide 12]*

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## 6 Other business – 15 minutes

*[Slide 13: Consideration of Communique]*

## 7 Consideration of communique – 10 min

**Minister for Indigenous Australians and the Special Envoy**

*[Slide 14: Consideration of Communique]*

**Discuss draft communique – distribute in the room and share on the screen.**

**A key element of the draft communique is the summary of advice on the first tranche of questions referred to the Constitutional Expert Group**

**Ask members including those participating virtually if they have any questions or comments.**