

Submission on the Indigenous Voice Co-Design Process Interim Report

Children and Young People with Disability Australia

30 April 2021

Authorised by:

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Acknowledgements:

Children and Young People with Disability Australia would like to acknowledge the Traditional Custodians of the lands on which this report has been written, reviewed and produced, whose cultures and customs have nurtured and continue to nurture this land since the Dreamtime. We pay our respects to their Elders past, present and future. This is, was and always will be Aboriginal land.

Children and Young People with Disability Australia (CYDA) is the national representative organisation for children and young people with disability aged 0 to 25 years. We have an extensive national membership of more than 5,000 young people with disability, families and caregivers of children with disability, and advocacy and community organisations.

CYDA gratefully welcomes the invitation of the Uluru Statement from the Heart to walk alongside First Nations communities in a movement for a better future, where all children and young people will flourish.

We are a rights-based organisation, and our purpose is to ensure governments, communities, and families are empowering children and young people with disability to exercise their rights and aspirations fully.

As part of this, and as outlined in our [Strategic Plan 2020-24](#), we are committed to highlighting systemic injustices and supporting First Nations children, young people and their communities.

We note at the outset that CYDA 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*, and we specifically call for:

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

CYDA resolutely supports a First Nations Voice that is enshrined in the Constitution as defined in the Uluru Statement from the Heart.

Constitutional enshrinement of the Voice to Parliament is required to ensure it remains independent of, and protected from, possible abolishment by successive governments. Constitutional enshrinement will help protect the Voice from partisan politics and ensure it can function as a distinct mechanism of First Nations recognition and representation that can engage in fearless and frank public dialogue with Parliament.

Importantly, as stated by Dr Dani Larkin, public lawyer and representative of the Senior Dialogue Leadership group for the Uluru Statement from the Heart, “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”¹.

A First Nations Voice to Parliament protected by the Constitution will establish the Voice as distinct from existing government processes, and previously developed and disbanded representative bodies.

Previous First Nations representative bodies, such as the Aboriginal and Torres Strait Islander Commission (ATSIC) (1989-2005), that were established administratively or by legislation have too easily been abolished by successive governments. Creating and subsequently abolishing

¹ Source: Mirage News (2021) [*It's time to walk together towards a referendum: Indigenous Law Centre*](#)

representative bodies for First Nations people “cuts across progress, damages working relationships and wastes talent that could be used to solve complex problems.”²

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.

In particular, CYDA supports 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.³

We note that public support for a constitutionally enshrined Voice to Parliament remains consistently high. Specifically:

- 94 per cent of the general community agree it is important that Aboriginal and Torres Strait Islander people have a say in matters that affect them
- 86 per cent of the general community believe it is important to establish a representative First Nations body
- 81 per cent of the general community believe it is important to protect a First Nations’ representative body within the Constitution.⁴

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

CYDA believes that the overwhelming community support provides a basis for the government to take affirmative action on the “constitutional, legislative and executive enactment of the Voice” (Stage 2 of the Voice establishment process). It is vital that enabling legislation for the Voice follows as quickly as possible from a successful referendum.

CYDA also believes it is essential that in addition to working towards a referendum and subsequent legislation, the government must move quickly to support key complementary elements that will enable and give strength to the Voice; structures and necessary mechanisms for capacity building to enable metropolitan, regional and remote voices to emerge and contribute.

² Source: The Uluru Statement (2021) *Frequently Asked Questions*

³ Note: in relation to the proposed wording of the National Voice Proposal we echo the suggestions of Western Australian Council of Social Service (WACOSS) and South Australian Council of Social Service (SACOSS) that more proactive and positive formulation in the proposed wording of the National Voice Proposal “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.”

⁴ Source: Reconciliation Australia (2020) *2020 Australian Reconciliation Barometer*

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.

CYDA supports From the Heart's position that a broad scope of professional and lived experience expertise must be appropriately represented in the National Voice, and that membership must be of a sufficient scale as is necessary to achieve this. 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.

Whatever the structure and model chosen for the National Voice (and Regional and Local Voices), we consider it 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 First Nations peoples.

We note that limiting membership of the National Voice to a 16- or 18-person State/Territory equalisation model may preference those with existing authority and profile being selected/elected, while other less prominent voices may remain marginalised.

An overly limited membership model based on State/Territory representation may fail to adequately account for the uneven distribution of Aboriginal and Torres Strait Islander populations across the country, and fail to effectively reflect cultural groupings, obligations and custodianship.

Effective representation needs to balance population, circumstances and diversity (including age and gender), to ensure 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 First Nations populations concentrated in urban areas. Alternative models to the State/Territory equalisation model should be considered to reflect the lived reality of First Nations families and communities in regional centres, metropolitan areas and remote communities where different language and cultural groups have been brought together principally as a result of colonisation and dispossession.

Ultimately, we believe that First Nations peoples are best placed to guide and finalise the legislative design.

In Conclusion

As a rights-based organisation committed to justice and equality, we believe the creation of the Voice is a rare and unique opportunity to forge a better future for our country, and therefore urge that the government pursue constitutional enshrinement as an essential part of the process. Such an important reform cannot be put at risk by being established only through legislation.

The National Voice must be taken seriously by governments as a representative voice and a legitimate source of policy, advice, and strategic direction. To that end, the way it gives advice to government and the manner the advice is received is crucial.

To safeguard the Voice and ensure its authority, effectiveness and longevity, the First Nations National Voice to Parliament must be enshrined in the Constitution.