

I acknowledge Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia and as the traditional owners of this land for over 60,000 years.

I also acknowledge and pay my respects to the Ngunnawal and Ngambri peoples, on whose ancestral lands we meet. I would like to extend that respect to the First Nations people in the Chamber, in the galleries and watching and listening today. I also acknowledge the traditional owners in my electorate of Isaacs, the Bunurong people.

On 21 May 2022, the Australian people elected the Albanese Government – a Government committed to holding a referendum to enshrine an Aboriginal and Torres Strait Islander Voice in the Constitution. With the introduction of this Bill, the Government is taking the first formal step to honour this commitment – a commitment we made not just to Aboriginal and Torres Strait Islander peoples, but to all Australians.

The Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023 is a powerful marker of our respect for the First Nations peoples of Australia, their cultures and their elders past and present.

Aboriginal and Torres Strait Islander peoples have occupied the Australian continent for over 60,000 years and represent the oldest continuous living cultures in human history. They have maintained a relationship with Australia's land, waters and sky since time immemorial.

Yet Aboriginal and Torres Strait Islander peoples are not recognised in our Constitution.

This Bill is to amend the Australian Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.

It is the first formal step towards holding a referendum by the end of this year.

It is a form of constitutional recognition that is practical and substantive – and it is the form of constitutional recognition supported by the overwhelming majority of the Aboriginal and Torres Strait Islander delegates who gathered from all points under the southern sky in May 2017, on the 50th anniversary of the 1967 referendum, to endorse the Uluru Statement from the Heart.

The constitutional amendment in this Bill will rectify over 120 years of explicit exclusion in provisions of Australia's founding legal document. The Constitution never recognised Aboriginal and Torres Strait Islander peoples as the First Peoples of this country. They were not represented in the constitutional conventions leading to federation.

Constitutional recognition is an opportunity to acknowledge our history and come together for a more reconciled future.

As Noel Pearson said in his Boyer lecture last year, 'Australia doesn't make sense without recognition'. He went on to say that, until the First Peoples are recognised in the Constitution, 'we are a nation missing its most vital heart'.

My colleague Senator Patrick Dodson, the father of reconciliation, said recently that a referendum on the constitutional amendment in this Bill 'will be a moment of liberation for all of us'. He said:

'The moment the referendum is declared we will feel the shackles of the past fall from us.

We will all stand with a clean heart and a clean conscience and we will know our country is on the path to a better direction.

We the Australian people will make that decision on that day when we cast our vote.

Together we can make this happen.'

The cultures of Aboriginal and Torres Strait Islander peoples, and their relationships with lands, waters and sky have endured. The dispossession of their lands, languages and cultures, and top-down government policies have inflicted deep and continuing wounds on generations of Aboriginal and Torres Strait Islander peoples and their cultures. Many suffer intergenerational trauma as a result of this history.

Our nation as a whole has been diminished.

In 1967 more than 90 per cent of Australians voted to count Aboriginal and Torres Strait Islander peoples in certain population counts, and allow the Commonwealth to make special laws about them. That overwhelming result would not have been achieved without the concerted efforts of Aboriginal and Torres Strait Islander leaders, activists and communities across the country.

In 1992 the Mabo decision overturned the legal fiction that Australia was terra nullius, territory belonging to no-one. It recognised, in law, Aboriginal and Torres Strait Islander peoples' relationship to Country.

In 2008 Prime Minister Kevin Rudd apologised to the Stolen Generations, their descendants and their families for the profound grief, suffering and loss caused by their mistreatment.

This was followed by successive National Agreements on Closing the Gap.

However, despite the best intentions of successive governments, efforts to date have been insufficient. New Closing the Gap data highlights that significant work needs to be done. Eleven of the 15 Closing the Gap targets are not on track. We are failing.

Aboriginal and Torres Strait Islander peoples still face significant gaps in life expectancy and educational attainment. Despite commitments to reduce the representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system, they are still proportionally the most incarcerated peoples on the planet. On our current trajectory, the gap will not be closed by 2030. On our current trajectory, it will not close in our lifetimes.

Mr Speaker, it is time for a different approach.

It is time to open a new chapter.

It is time to listen.

Aboriginal and Torres Strait Islander peoples have a long history of advocating for parliamentary representation, land rights, civic freedoms, constitutional recognition, and to have a say on the laws and policies that will work best for their communities. Too many times those calls have not been heard – or they have been ignored.

For decades there have been calls for an enduring representative body. A long line of reports stress the importance of such a body for improving the development and implementation of laws, policies and programs that impact on Aboriginal and Torres Strait Islander peoples.

However, votes in this Parliament or the stroke of a Minister's pen have seen previous bodies abolished or defunded, and there is currently no independent, nationally representative body with the purpose of providing informed advice to the Parliament and the Executive Government of the Commonwealth.

Years of hard work and calls for a better solution led to the Uluru Statement from the Heart, issued in 2017 to the Australian people. Aboriginal and Torres Strait Islander leaders, activists and communities have led the way in getting us to this point, supported by constitutional experts, parliamentary committees and innumerable others.

The Uluru Statement from the Heart was supported by over 250 delegates, following consultation with 1,200 Aboriginal and Torres Strait Islander people who were involved in the Referendum Council-led Uluru Dialogues.

The resounding message from the Dialogues is reflected in the call from the Uluru Statement from the Heart: Voice, Treaty and Truth.

This Bill responds to the call for a Voice for First Nations peoples enshrined in the Constitution. The Government is also working towards a Makarrata Commission, to respond to the calls for agreement-making and truth-telling. This work will continue beyond the referendum.

This Bill is about recognising and listening.

It recognises Aboriginal and Torres Strait Islander peoples as the First Peoples of this land.

It is about creating a Voice, and it is up to the Parliament and the Executive to listen.

This is an important reform. But it is modest. It complements the existing structures of Australia's democratic system and enhances the normal functioning of government and the law. It creates an independent institution that speaks to the Parliament and the Executive Government, but does not replace, direct or impede the actions of either.

Recognising Aboriginal and Torres Strait Islander peoples in our founding legal document and listening to their views on laws and policies that matter to them will make a difference.

When past solutions have been top-down and disempowering, and have not taken into account the experiences of Aboriginal and Torres Strait Islander communities, they have failed.

We know outcomes are better when we partner with Aboriginal and Torres Strait Islander communities. The evidence is there:

- the Indigenous Ranger programs;
- the many Aboriginal Community Controlled Health Organisations; and
- justice reinvestment.

These all demonstrate strong and improved outcomes when communities are involved in decision-making. Those examples, spanning many aspects of Aboriginal and Torres Strait Islander peoples' lives, are proof that genuine partnership and community ownership of policy is the way towards a better future.

Our system of government has served most Australians well since 1901. It is time to ensure the system works for First Peoples of Australia too.

The Constitution sets out the principles that define the way our democracy operates and provides the framework for our federation. Consistently with the rest of the Constitution, the proposed new provisions will provide the broad outline of the Voice and allow the Parliament to legislate for its day-to-day operation.

Reflecting the intention to begin a new chapter in Australia's relationship with Aboriginal and Torres Strait Islander peoples, the Bill proposes to insert a new Chapter 9 [IX], entitled 'Recognition of Aboriginal and Torres Strait Islander Peoples'.

If approved at the referendum, the new Chapter 9 [IX] will contain a new section 129.

The introductory words recognise Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia. They reflect the fact that establishing the Voice is an act of recognition, in the manner the delegates at Uluru sought in 2017.

Subsection (i) provides for the establishment of the Voice. This provision will ensure the Voice is an enduring institution allowing it to be independent from government and effectively represent views of Aboriginal and Torres Strait Islander peoples at the national level.

The Voice will be an independent representative body. The intention is that its members will be selected by Aboriginal and Torres Strait Islander peoples based on the wishes of local communities.

Subsection (ii) sets out the primary function of the Voice: making representations to the Parliament and the Executive Government about matters relating to Aboriginal and Torres Strait Islander peoples.

Matters relating to Aboriginal and Torres Strait Islander peoples would include:

- matters specific to Aboriginal and Torres Strait Islander peoples; and
- matters relevant to the Australian community, including general laws or measures, but which affect Aboriginal and Torres Strait Islander peoples differently to other members of the Australian community.

The Voice will not be required to make a representation on every law, policy or program. The Voice will determine when to make representations by managing its own priorities and allocating its resources in accordance with the priorities of First Nations peoples. Critically, the Voice will be proactive. It will not have to wait for the Parliament or the Executive to seek its views before it can provide them. But nor will the constitutional amendment oblige the Parliament or the Executive Government to consult the Voice before taking action.

The Voice will provide a path for the Executive Government and the Parliament to consult with Aboriginal and Torres Strait Islander peoples.

The Voice will create a critical link between Aboriginal and Torres Strait Islander communities, the Parliament and the Executive Government.

Nothing in the provision will hinder the ordinary functioning of our democratic system.

While the constitutional nature of the body and its expertise in matters relating to Aboriginal and Torres Strait Islander peoples would give weight to the representations of the Voice, those representations would be advisory in nature.

It will be a matter for the Parliament to determine whether the Executive Government is under any obligation in relation to representations made by the Voice. There will be no requirement for the Parliament or the Executive Government to follow the Voice's representations. The constitutional amendment confers no power on the Voice to prevent, delay or veto decisions of the Parliament or the Executive Government. The Parliament and the Executive Government will retain final decision-making power over all laws and policies.

Mr Speaker, the Voice will enhance our democracy and our democratic institutions. Its representations will ensure the laws, policies and programs from the Parliament and the Executive are better targeted and more successful.

Subsection (iii) provides the Parliament with a broad power to make laws about matters relating to the Voice.

This provision will ensure the Voice can evolve to meet the future needs of Aboriginal and Torres Strait Islander peoples and Australia as a whole. The matters on which the Parliament will have power to make laws include:

- processes to select Voice members;
- the way the Voice performs its representation-making functions and its potential future functions;
- the powers it needs to carry out those functions; and
- its procedures, including the mechanics of its relationships with the Parliament and the Executive Government such as how the Parliament and the Executive Government would receive representations from the Voice.

After the referendum, the final details of how the Voice will operate will be settled, and legislation will be debated in this Parliament.

To develop this legislation, the Government will seek views on the Voice model from the Australian community. Consistent with the concept of a Voice, this consultation will include a strong focus on engagement with Aboriginal and Torres Strait Islander peoples as well as the broader community.

This Bill embodies the hard work by Aboriginal and Torres Strait Islander peoples to achieve constitutional recognition and an effective representative body. Recognition through a Voice is neither the beginning nor the end of this story, but it is an important new chapter.

In addition to acknowledging the efforts of countless First Nations leaders, activists and communities that led to the Uluru Statement from the Heart, the Government sincerely thanks members of the Referendum Working Group, the Referendum Engagement Group and the Constitutional Expert Group. Their counsel in developing this Bill and guiding the conduct of the referendum has been both wise and invaluable and provides a solid foundation on which to continue on the path towards recognition.

The Government, the Parliament and the nation are indebted to the Minister for Indigenous Australians for her commitment, her strength and her leadership.

The Government also thanks members of the broader Australian community for their engagement throughout this process.

The Uluru Statement from the Heart was issued to the people of Australia, not to the Government. It is now time for the Australian people to decide whether to accept that offer when they vote in this referendum. I trust the Australian people to understand this is an opportunity for a better future, not just for the First Peoples of Australia, but for all Australians.

The Uluru Statement from the Heart is set out in full in the Explanatory Memorandum for this Bill.

In the words of that historic statement: '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'.

It is now 2023.

It is time to accept the generous invitation in the Uluru Statement from the Heart.

It is time to