

Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islanders

PUBLIC HEARING

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- South Australian Native Title Services is the Native Title Service Provider for South Australia and performs functions under the *Native Title Act 1993*. We are an Aboriginal, not-for-profit company and work with Aboriginal Nations and associated entities throughout South Australia. Our work, while focussed on the recognition and protection of native title, is necessarily broad in response to the diverse needs, assets, opportunities and aspirations of Aboriginal Nations.
- We support the Uluru Statement from the Heart. It was the culmination of a lengthy, broad and considered engagement process led by, with and for Aboriginal and Torres Strait Islander people. It reflects on the history of this country and provides a basis for recognition, healing, and empowerment of Aboriginal and Torres Strait Islanders. It is a powerful statement that must be supported and implemented.
- We also support the related Referendum Council's recommendations to establish a First Nations Voice through both constitutional and legislative reform. This is again a necessary step toward empowering and enabling the self-determining rights of Australia's First Nations, while at the same time not diminishing from current Parliamentary powers.
- The enshrinement of a First Nations Voice would acknowledge the unique place and circumstances of First Nations in Australian history, present and future. It would provide recognition, representation, participation and a voice for First Nations without radical change to the Australian Constitution.
- As such, we support a referendum to be held and a body formed to give First Nations a voice in the Australian Parliament. Greater engagement and representation in the Australian democracy by First Nations can only led to a stronger, fairer, inclusive country. As an advocacy body 'to' the Parliament rather than 'within' the Parliament, it would not disrupt Australia's democratic balance or provide unequal rights amongst citizens. To the contrary, it would only strengthen Australian citizenship and democratic processes.
- The First Nations Voice needs to be established in the Constitution first and foremost. As the Referendum Council contemplates, supporting legislation may be required to spell out the details of such a body including membership, structure, role, functions and powers. Increasing the accountability of government and Parliament around legislation, public policy and government programs which concern First Nations must be a necessary focus. However, such legislation must be a secondary consideration, with the priority being to pursue constitutional change to establish, through a constitutional requirement, the First Nations Voice in this founding document.

- Future legislative requirements should be addressed post-referendum. These will need to be subject to further consultation and participatory processes which are led and supported by First Nations and upholds the Guiding Principles from the Uluru Convention.
- SANTS also support an agreement-making process as proposed in the Uluru Statement and the Referendum Council's report. There remain many matters unresolved at regional, state and national levels which Constitutional recognition and a First Nations Voice to Parliament will not address. These matters may involve truth telling, local or regional recognition, examination of government programs, compensation and treaty making. *Makarrata* is required to address these matters to identify and enable better futures.
- Our work in native title has relevance to both a First Nations Voice and an agreement-making process. Native Title has established a framework to recognise the laws and customs and rights and interests of First Nations. In South Australia, native title has been determined across some 60% of the state, 17 Prescribed Body Corporates or PBCs have been established to represent native title holders, and over 100 Indigenous Land Use Agreements have been negotiated.
- PBCs in consultation with their communities administer and manage matters such as future acts and ILUA negotiations, cultural heritage, corporation governance, financial management, and economic and community development. These PBCs are well governed and effectively administered organisations which engage with both the public and private sector to bring about economic, social and political change. PBCs are or are emerging as strong regional entities.
- On a collective front, the PBCs may also provide a basis for broader statewide or national representation – including playing a role in supporting a First Nations Voice to Parliament. We are currently assisting native title groups across South Australia to consider establishing a statewide representative body. This would provide for the participation of South Australian native title holder groups in statewide matters, including legislative and policy developments. This may provide a model for First Nation representation at regional, state and national levels.
- In terms of *Makarrata*, our experiences in native title negotiations and that across the country should be instructive in any consideration of agreement making processes. There are positive and negative aspects of native title negotiations. It is important that lessons are learnt and mistakes are not repeated to ensure that such further agreement-making processes build on existing recognition and outcomes and heal and empower First Nations.
- Perhaps finally, we also support the proposed Declaration of Recognition. We believe this resonates with the oral traditions of First Nations to tell the true story of these lands and waters and also unify First Nations, colonisers and migrants to jointly build better futures.