

April, 2021

Tenants' Union of NSW Submission regarding Indigenous Voice Codesign Process and the Interim Voice Report

Submitted via online lodgement at <https://haveyoursay.voice.niaa.gov.au/submissions>

Dear Indigenous Voice Co-Design Groups,

We would like to thank the Advisory Team for their work in creating the Interim Report to the Australian Government on the Indigenous Voice Co-Design Process. Tenants' Union of NSW welcomes the opportunity to provide comment on the Interim Voice Report.

About the Tenants Union of NSW

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales.

The TAAS network assists more than 25,000 tenants, land lease community residents, and other renters each year. We have long-standing expertise in renting law, policy and practice. The Tenants' Union of NSW is a member of the National Association of Tenant Organisations (NATO), an unfunded federation of State and Territory-based Tenants' Unions and Tenant Advice Services across Australia. We are also a member of the International Union of Tenants.

The Tenants' Union acknowledges that Aboriginal and Torres Straits Islanders were the first sovereign nations of the Australian continent and its adjacent islands, and that these lands were possessed under the laws and customs of those nations. The lands were never ceded and always remain Aboriginal and Torres Strait Islander lands. We acknowledge that the land, sea, sky and waterways are of spiritual, social, cultural and economic importance to

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Aboriginal and Torres Strait Islander peoples and support their right to culture, language, land and various notions of self-determination.

We recognise, respect and value Aboriginal and Torres Strait Islander peoples and their communities and recognise importance of working in partnership with them and their advocates to deliver appropriate advice and advocacy for all Aboriginal and Torres Strait Islander tenants.

Aboriginal and Torres Strait Islander peoples and housing

Aboriginal and Torres Strait Islander peoples are over-represented in NSW renter households; they are half as likely to own a home as others in the general population. Aboriginal and Torres Strait Islander peoples are more likely to experience crowded living conditions, to be forced to accept substandard housing, even derelict dwellings, and significantly more likely to experience homelessness than the general population.¹ Poor housing is inextricably linked to poor health outcomes; and the experience of poor housing is a key determinant of the health disparity experienced by Aboriginal and Torres Strait Islander peoples.

Past and ongoing lack of support for Aboriginal and Torres Strait Islander peoples on a broad range of non-tenancy issues such as intergenerational trauma, mental health issues, financial hardship, substance dependence, family violence, and disabilities has often led to an escalation of tenancy issues and resulted in tenants receiving termination notices and/or suffering other negative outcomes such as accruing large rent arrears.

We acknowledge the present and historical disadvantage experienced by Aboriginal and Torres Strait Islander peoples and the role of government policies, past and present and racism throughout Australia in creating this disadvantage, and the impact of this disadvantage on tenancy and more general housing issues.

The Interim Report proposes that that there will be an 'obligation' on the Parliament and Australian Government to consult and engage with the National Voice on 'a narrow range of proposed laws which are exclusive to Aboriginal and Torres Strait Islander people', and that there will be an 'expectation' on the Parliament and Australian Government to consult and engage with the National Voice on issues of broader application' for example "proposed laws

¹ Andersen, Williamson et al (2018) 'They took the land, now we're fighting for a house': Aboriginal perspectives about urban housing disadvantage, *Housing Studies*, 33:4; Australian Institute of Health and Welfare (2014) *Homelessness among Indigenous Australians*. Cat. No. IHW 133 (Canberra: AIHW); Australian Institute of Health and Welfare, (2014) *Housing circumstances of Indigenous Australians: Tenure and overcrowding*. Cat. No. IHW 132 (Canberra: AIHW).

and policies of general application which particularly affect, or which have a disproportionate or substantial impact on Aboriginal and Torres Strait Islander peoples".²

Government consultation with Aboriginal and Torres Strait Islander people on proposed laws and policies relating to housing issues is critical. We recognise that housing justice is closely interrelated with many other policies and legislative settings that impact on Aboriginal and Torres Strait Islander people such as education, employment and health, and adopting a broad scope for consultations will be valuable and essential to overcoming systemic disadvantage. It is critical to ensure that the scope of the obligation to consult the National Voice is not restrictive.

The importance of First Nations Voice

In relation to the Interim report we support the National Representative Voice to Parliament that amplifies and engages with Aboriginal and Torres Strait Islander voices across local, regional and national communities. We also support implementation of the National Voice and Local and Regional Voices and its advisory role as detailed in the Interim Report.

We strongly believe that practical measures designed to address disparities between Aboriginal and Torres Strait Island peoples and other Australians in relation to housing and other outcomes will only be successful when First Nations people have a greater voice in decisions affecting their lives and communities.

We also recognise the need for practical and meaningful commitment to true reconciliation and support for Aboriginal and Torres Strait Islander voices, treaty and truth. We support and join the call for the establishment of a First Nations Voice, in a form determined by Aboriginal and Torres Strait Islander peoples and enshrined in the Constitution.

First Nations Voice to Parliament protected by the Constitution

The First Nations Regional Dialogues, which culminated in the National Constitutional Convention at Uluru in May 2017, was a significant and successful process. This process led to the Uluru Statement.

The Uluru Statement represents a consensus of empowered First Nations Peoples from across the country, and includes constitutional entrenchment of the Voice. In recognition of this and of the history and place of First Nations people, it is our view that a First Nations Voice to Parliament should be protected and recognised by the Constitution.

We are guided by the Uluru Dialogue and wholeheartedly support their call for the Voice process to include the following:

² National Indigenous Australians Agency, Parliament of Australia, Indigenous Voice Co-Design Process: Interim Report to the Australian Government (Interim Report, October 2020) 51.

- The Government must honour its 2019 election commitment to a referendum once a model for a First Nations Voice has been settled to ensure that a First Nations Voice to Parliament is protected by the Constitution;
- Enabling legislation for the Voice must be passed after a referendum has been held in the next term of Parliament;
- The national First Nations Voice *must* be represented by Aboriginal and Torres Strait Islander Peoples to ensure self-determination. Following calls from the Uluru Statement from the Heart, we advocate for a Makaratta Commission to supervise the creation of the advisory First Nations Voice; and
- The membership model for the National Voice must ensure previously unheard Aboriginal and Torres Strait Islander people have the same chance of being selected as established leadership figures.

Yours Sincerely,

Leo Patterson Ross
Chief Executive Officer
Tenants' Union of NSW