

Submission to the Referendum Council

Sean Gordon

1. I make this submission as an Aboriginal delegate at the Dubbo dialogue, I am also the CEO of Darkinjung Local Aboriginal Land Corporation (Darkinjung), Chairperson of the Empowered Communities Leadership Group, Chairperson of NAISDA, Chairperson of Uphold and Recognise.
2. Constitutional recognition and reform is of crucial importance to the First Peoples of Australia, and for Australia as a nation. It is necessary not just for national healing and reconciliation. It is necessary because the current systems and structures are not working to produce good outcomes in Indigenous affairs. We need constitutional and structural reform to ensure that the system works more efficiently and effectively.
3. Constitutional recognition must make a real difference in achieving practical outcomes and securing economic development opportunities for Indigenous people. There is nothing I want more than economic development for our people. I want them to enjoy the same opportunities as everybody else. But there needs to be structures in place for this to happen. In many cases we as individuals and communities are doing everything we can to get ahead, but there are still many structural and social barriers to success.
4. That is why a symbolic or minimalist model of recognition will be unacceptable, and must be opposed. The opportunity for meaningful and practical constitutional reform cannot be wasted. Symbolic recognition of Indigenous people in the Constitution will not be enough to drive reform and deliver development. If all recognition is going to do is make Australians feel good or appease white guilt, then this debate is heading in the wrong direction.
5. On that basis, I am attracted to the proposal for an Indigenous representative body in the Constitution, because it could help enable Indigenous empowerment and economic development. Such a body could drive law reform at a national level, removing the burden on individual Indigenous organisations to battle alone. It could help facilitate unity amongst Indigenous peoples.
6. This kind of structure would enable Indigenous Australians to communicate and collaborate with government in order to find appropriate solutions – an alternative to constant litigation. Government would have an efficient way to hear Indigenous views about what needs to happen to encourage Indigenous success. Communities need to be able to tell government how to get rid of the barriers to their development and success. If there is no structural interface to allow our people to communicate efficiently with government, then there is no way they can succeed.
7. Designed properly, a representative body could vastly improve the way the Indigenous space operates. Our small and under-resourced communities would not be so alone and isolated. They could have a national body with local, grassroots connections, taking their concerns and aspirations to Canberra. It could be a structure to empower Indigenous people to work together and with government more effectively.

8. We all know that the nation faces the challenge of closing the gap between Indigenous Australians and non-Indigenous Australians. But the current debate goes on at such a high level. There is no structural connection between government and community. The question is: how do we empower communities to take ownership of solutions? An Indigenous body could connect the high level political debates to the local knowledge of our people on the ground.
9. Any such body must be underpinned by a constitutional guarantee, so that it cannot be abolished at government whim. It should be part of the permanent constitutional and institutional architecture of our nation. The constitutional amendment can be drafted in a way that upholds the Constitution and maintains parliamentary supremacy, which will help ensure it is politically acceptable. This is a pragmatic and modest proposal.
10. While underpinned by a constitutional guarantee, the body could operate alongside other legislative reforms. In New Zealand, there are structures for Maori representation in parliament and settlements under the Waitangi Tribunal, both of which increase potential for effective economic development. But they also have the Maori Language Commission to promote and revitalise Maori language and culture. We could have this type of institution in Australia too. An Indigenous body could also help facilitate agreement-making with local Indigenous groups, to create stronger partnerships with government.
11. I would want to see the representative body not only drive economic development in the regions, but to also help with language, culture and place name recognition and agreement-making. We need to start discussing the exciting possibilities.
12. Future law reform in Indigenous affairs should now be properly informed and led by Indigenous people – and this should be constitutionally guaranteed. Real, on the ground Indigenous involvement and communication with government will be crucial if we are going to close the gap and revitalise and maintain Indigenous heritage. On that basis, the Indigenous representative body offers the best way forward.
13. When we look at the big picture, it starts to feel exciting. This could be the paradigmatic shift our people have needed. We could have constitutional reform to enable Indigenous voices to be heard, as well as the appropriate legislative and institutional reforms to enable a more efficient, more effective working relationship between Indigenous peoples and the government.
14. Together it would mean a restructured national approach to Indigenous affairs, based on the working principles of Indigenous self-determination: the principle that Indigenous people should be making the decisions about the laws and policies and services designed to benefit them. Our people should be genuinely and specifically engaged in the solutions for our own development and prosperity, through structures that actively include and support our effective participation and leadership in the decisions that most affect our lives and communities.
15. This is of course a matter of justice for our people. But it is also a matter of practicality. If Australian governments are serious about the need to close the gap, the practical importance of

Indigenous involvement and empowerment in Indigenous policy-making, law-making and service-delivery cannot be denied.

16. The gap will not be closed, and Indigenous empowerment will not be achieved, through more of the same policies devised wholly by government and delivered to Indigenous people. A structural solution is required: one that gives Indigenous people a voice and increased authority and responsibility over the decisions which affect us.
17. Symbolism, of course, is important too – just not on its own. To effect the symbolic statements of recognition, I support the idea of an inspiring and unifying Declaration, outside the Constitution. This However would only be acceptable if it is accompanied by substantive constitutional reforms.
18. To summarise, I support substantive constitutional recognition through a package of reforms including:
 - a constitutionally mandated Indigenous representative body
 - a Declaration outside the Constitution
 - legislation setting up the representative body
 - legislation enabling ongoing agreement making
 - legislation for the recognition and revitalisation of First Peoples' languages and culture.
19. In terms of process, I urge that after the final convention at Uluru, there should be a formal negotiation process so that Indigenous delegates can negotiate with politicians to agree on a reform package that is acceptable to all parties.
20. I urge the Referendum Council, Australia's political leaders and the Australian people to give these modest reforms your fullest consideration, and to engage in this discussion with open hearts and minds.

Yours Sincerely



Sean Gordon
Delegate, Regional Dialogue