Proposed Wording of the Constitutional Change

Anne Twomey, First Proposal, 20 May 2015

Chapter 1A
60A(1) There shall be an Aboriginal and Torres Strait Islander body, to be called the [insert appropriate name, perhaps drawn from an Aboriginal or Torres Strait Islander language], which shall have the function of **providing advice** to the Parliament and the Executive Government on matters relating to Aboriginal and Torres Strait Islander peoples.

(2) The Parliament shall, subject to this Constitution, have power to make laws with respect to the composition, roles, powers and procedures of the [body].

(3) The Prime Minister [or the Speaker/President of the Senate] shall cause **a copy of the [body's] advice to be tabled in each House o**f Parliament as soon as practicable after receiving it.

(4) The House of Representatives and the Senate shall **give consideration to the tabled advice of the [body] in debating proposed laws** with respect to Aboriginal and Torres Strait Islander peoples.

Anthony Albanese, Garma Festival, 30 July 2022

There shall be a body, to be called the Aboriginal and Torres Strait Islander Voice.

The Aboriginal and Torres Strait Islander Voice may make **representations** to Parliament and the Executive Government on **matters relating to Aboriginal and Torres Strait Islander Peoples.**

The Parliament shall, subject to this Constitution, have power to make laws with respect to the composition, functions, powers and procedures of the Aboriginal and Torres Strait Islander Voice.

Frank Brennan, 22 February 2023

Section 127
There shall be an Aboriginal and Torres Strait Islander Voice with such structure and functions as the Parliament deems necessary to facilitate consultation prior to the making of special laws with respect to Aboriginal and Torres Strait Islander peoples, and **with such other functions as the Parliament determines.**

Julian Leeser, 31 May 2023

Chapter IX - Recognition of Aboriginal and Torres Strait Islander Peoples

129 Aboriginal and Torres Strait Islander Voice
(1) There shall be a body, to be called the Aboriginal and Torres Strait Islander Voice;
(2) The Parliament shall, subject to this Constitution, have power to make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, including its composition, functions, powers and procedures.

Provision put to the vote, 14 October 2023

Chapter IX - Recognition of Aboriginal and Torres Strait Islander Peoples

129 Aboriginal and Torres Strait Islander Voice

In recognition of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia:

(1) there shall be a body, to be called the Aboriginal and Torres Strait Islander Voice;

(2) the Aboriginal and Torres Strait Islander Voice may make **representations** to the **Parliament and the Executive Government** of the Commonwealth on **matters relating to Aboriginal and Torres Strait Islander peoples;**

(3) the Parliament shall, **subject to this Constitution**, have power to make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, including its composition, functions, powers and procedures.

Opinion of David Jackson AM KC

Jackson was used by Noel Pearson as a 'mediator' after the release of the Expert Panel Report in January 2012. He gave opinions to Galarrwuy Yunupingu on the way forward on 21 July 2017 and 15 August 2017. He gave evidence to the Joint Select Committee on 4 July 2018. He provided this opinion to the parliamentary committee assessing the proposed wording on 11 April 2023:

'Greater potential difficulty is provided by the phrase "subject to this Constitution" in proposed s 129(3). That usage would ordinarily cause no difficulty, but one provision which would be likely to fall within it would be the proposed s 129(2). If a law made pursuant to s 129(3) had the effect that the Voice (however constituted under s 129(3)) was not empowered to make a representation of the nature referred to in s 129(2), the relevant provisions enacted pursuant to s 129(3) would be invalid.'

'The inclusion of the proposed s 129 would mean that we become a nation where, whenever we or our ancestors first came to this country, we are not all equal.'