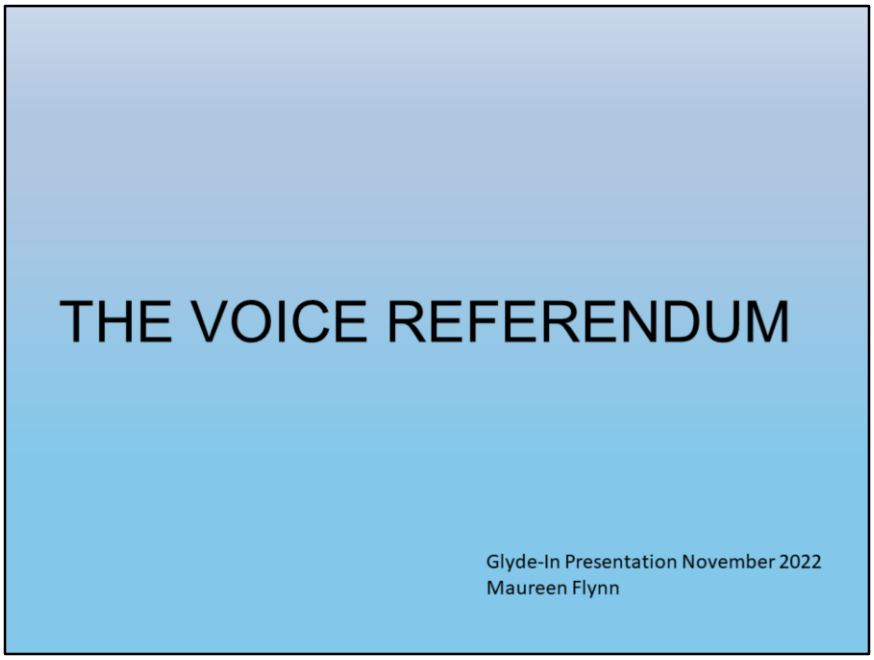


Before I begin, I acknowledge the Wadjuk Noongar Traditional Custodians of the land on which we meet and pay my respects to their Elders past and present.

And a note on terminology – throughout the presentation when referring to Aboriginal and Torres Straight Islander people I've used the terms Natives; Aboriginal and Torres Strait Islander, Indigenous, and First Nations peoples depending on the context, However, for brevity I have often just used Aboriginal

I'm starting with the very beginning of British settlement.

Captain James Cook's voyage on the Endeavour was originally commissioned as a scientific mission, to arrive in Tahiti in time for the transit of Venus in 1769.

When the British Admiralty found out where Cook was going, they took advantage of the opportunity to expand the British Empire's interests in the Pacific.

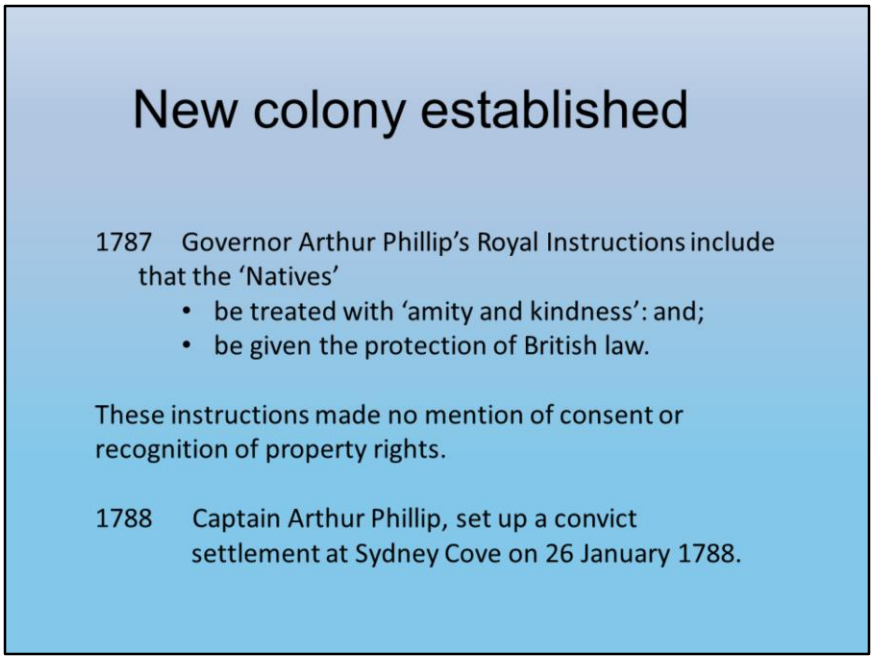
They issued Cook with sealed secret orders detailing his instructions.

Among others they were to "with Consent of the Natives take Possession of Convenient Situations in the Country" or "if you find the Country uninhabited take Possession for his Majesty as first discoverers and possessors"

In 1770, Cook charts Australia's eastern coastline and proclaims it Britain's possession.

However, he failed to follow his instructions to the letter. He did not gain the consent of the *'Natives'* when making his claim of possession.

Cook and Joseph Banks's opinions that the Aboriginal peoples were few in number and did not have property rights or cultivate the land served as the basis for declaring that Australia was, legally speaking, 'desert and uncultivated' and so open to settlement without recognition or compensation of the inhabitants, a doctrine later known as terra nullius.



17 years later the British Government selects Captain Arthur Phillip to establish a new British colony, to become known as New South Wales. His instructions from The British Government were:

- that the "natives were to be treated with amity and kindness" and
- that they were to be given the protection of British law.

However, the instructions do not recognise Aboriginal ownership of the land, nor are the Aboriginal inhabitants protected by law as they are not considered to be British subjects.

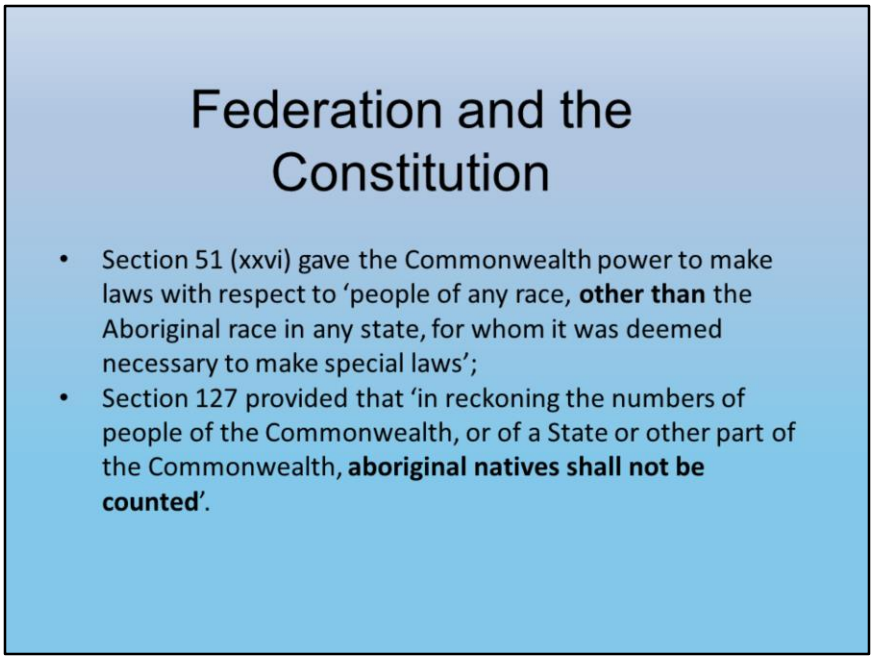
The arrival of the First Fleet in January 1788 signals the beginning of British colonisation in Australia.

Captain Phillip's instructions assumed that Australia was *terra nullius*, that is, land belonging to no one. This assumption shaped land law and occupation for more than 200 years.

Federation and the Constitution

So now, a quick look at the constitution.

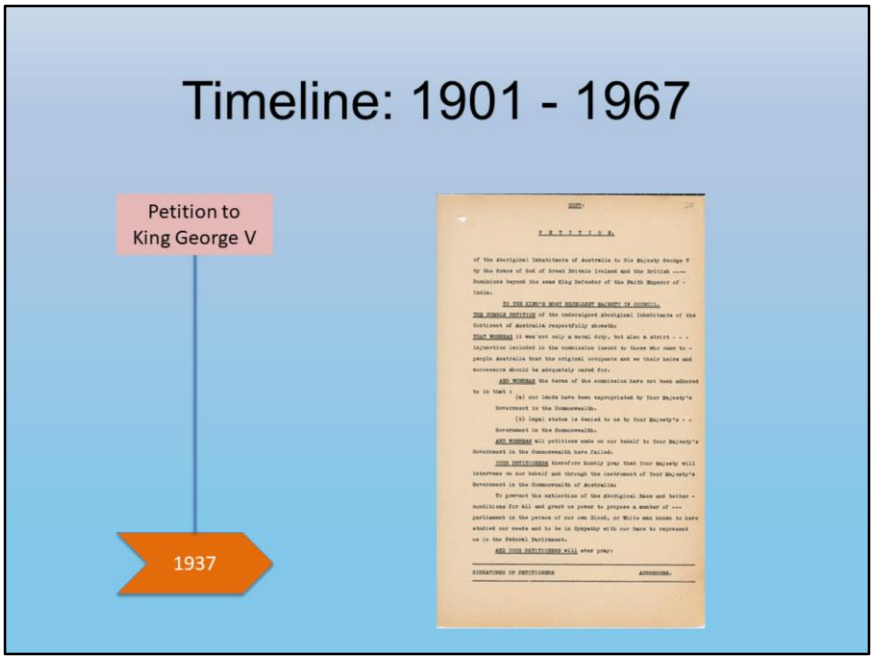
In 1901 the Federation of Australia is formed from the six separate British self-governing colonies of New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia. When the Constitution came into force on 1 January, the colonies collectively became states of the Commonwealth of Australia.



There were only two references to Aboriginal people in the Constitution and they were negative ones.

- Section 51 (xxvi) gave the Commonwealth power to make laws with respect to 'people of any race, other than the Aboriginal race in any state, for whom it was deemed necessary to make special laws';
- Section 127 provided that 'in reckoning the numbers of people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted'.

The states remained responsible for the welfare of Aboriginal people. However, the effect of this exclusion was the implementation by the states of policies that could broadly be termed 'assimilationist', and laws that resulted in Aboriginal peoples' dispossession, oppression and alienation.

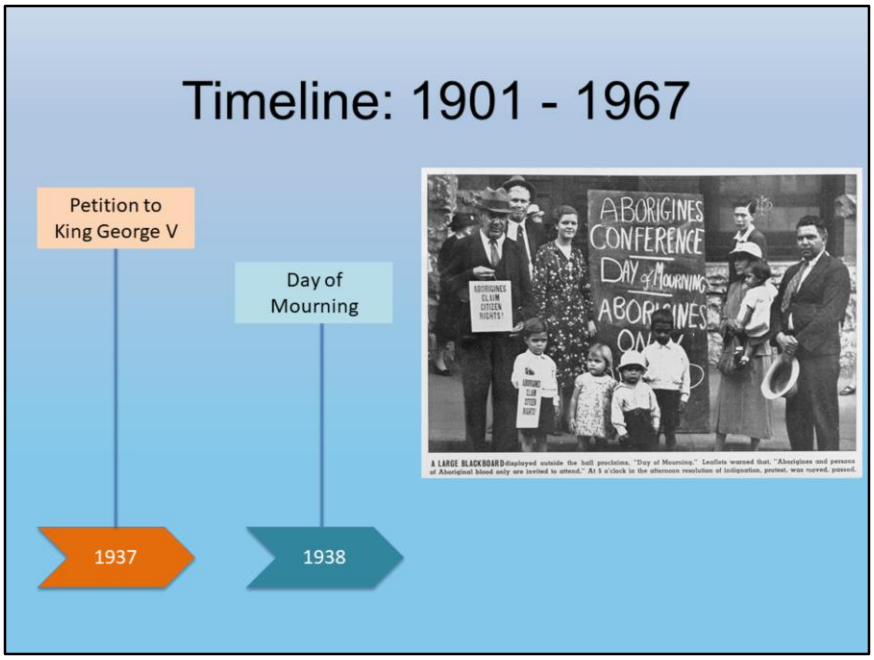


From Federation, there were many attempts by Aboriginal people to communicate to the Australian people the kind of recognition they were seeking. I'm going to run through a number of the key events, focusing predominantly on the Federal Parliament.

William Cooper was a Yorta Yorta elder who in 1932, established the Australian Aborigines League (AAL) and coordinated a petition across Australia calling upon the government to improve living conditions for Aborigines and to enact legislation that would guarantee Aboriginal representation in Parliament.

The petition to King George V was submitted to the Australian government in 1937.

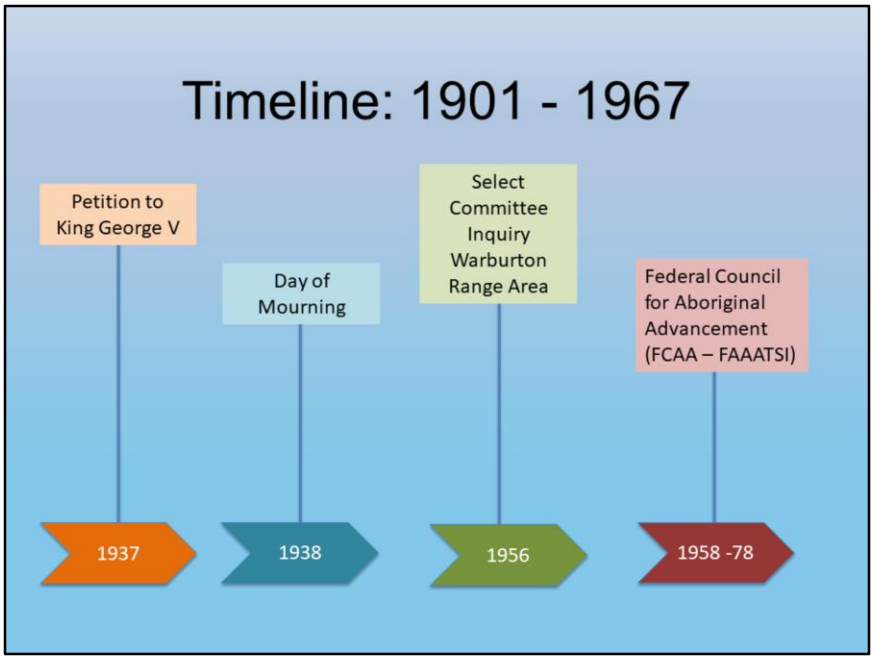
Despite some sympathy from senior members of the government, the Lyons Government refused to forward the petition and took no policy action on the grounds that the Constitution left Aboriginal policy as a state prerogative.



On January 26 1938, 150 years from the landing of the first fleet a ‘Day of Mourning’ was declared by Aboriginal activists who organised a conference for Aboriginal people in Sydney.

The speeches and resolutions from the Conference stressed the need for full citizenship rights for all Aboriginal people and that Aboriginal people should be involved in Aboriginal policy decisions and their implementation.

A Ten Point Plan based on resolutions from the conference was presented to Prime Minister Joseph Lyons. but nothing practical resulted.



In 1956, reports that Aboriginal people in the Warburton area of WA, were suffering from famine and disease, led to a WA Parliamentary Select Committee inquiry into the situation.

Much of the area under investigation was a part of the Central Aboriginal Reserve, but violations of this reserve, both to establish a meteorological station for the British-Australian joint atomic testing program and for mining, had nevertheless taken place.

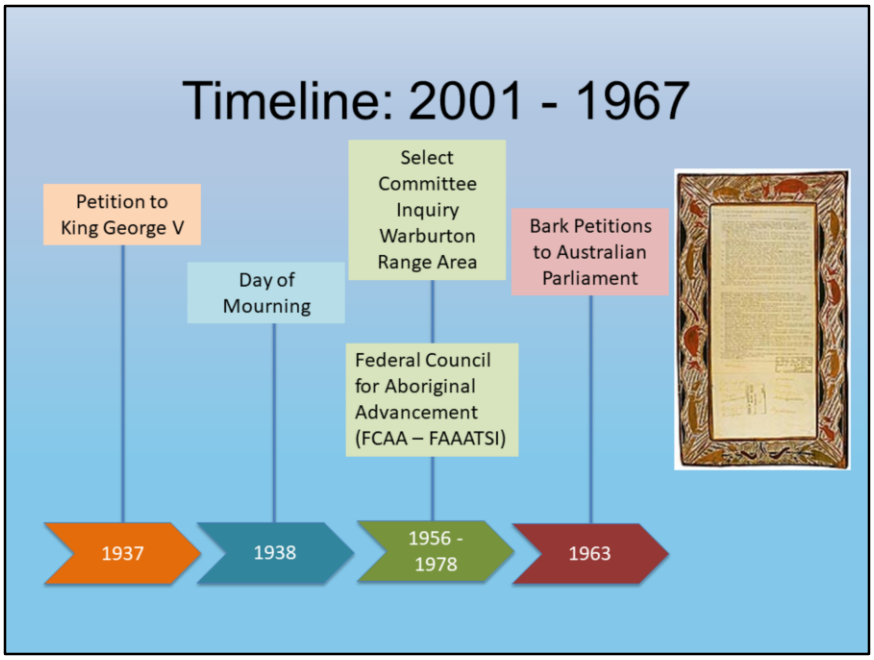
Roads, mining exploration and the fenced-off weather station at Giles, had upset the age-old movements of animals and the hunters who pursued them from one waterhole to the next.

The Inquiry was led by Independent Liberal MP William Grayden who described the plight of the Aboriginal people as “deplorable to the extreme”. The Report recommended the WA government take full responsibility for the welfare of the natives in the Warburton and Laverton Area. The WA Government accepted the recommendations of the report in full, but called on the Commonwealth to fund some of the recommendations.

Rupert Murdoch in his Adelaide newspaper disputed the findings and visited the area himself. He reported ‘I say that these fine native people have never enjoyed better conditions’.

In response, Grayden returned to Warburton with Aboriginal pastor Doug Nicholls and created a newsreel film of the situation. The film screened under the title of Manslaughter, shocked audiences. Calls for federal action were met with the response from the Prime Minister’s Department that section 51(xxvi) of the Constitution made Aboriginal welfare outside the Northern Territory purely a state responsibility.

The Warburton Ranges controversy led to the formation of the Federal Council for Aboriginal Advancement (FCAA) in 1958, a mix of non-Aboriginal and Aboriginal organisations, which advocated equal citizenship for Aboriginal people and called for constitutional change. The FACC went on to become the FCATSIA (to recognise Torres Strait Islanders), but was eventually abolished by the Fraser government in 1978.



The first of the Yirrkala bark petitions were presented by the Yolngu people of Arnhem Land to the Australian Parliament in 1963.

They were the first traditional documents prepared by Aboriginal Australians, that were recognised by the Australian Parliament, and the first documentary recognition of Aboriginal people in Australian law.

The petitions asserted that the Yolngu people owned land over which the federal government had granted mining rights to a private company, Nabalco.

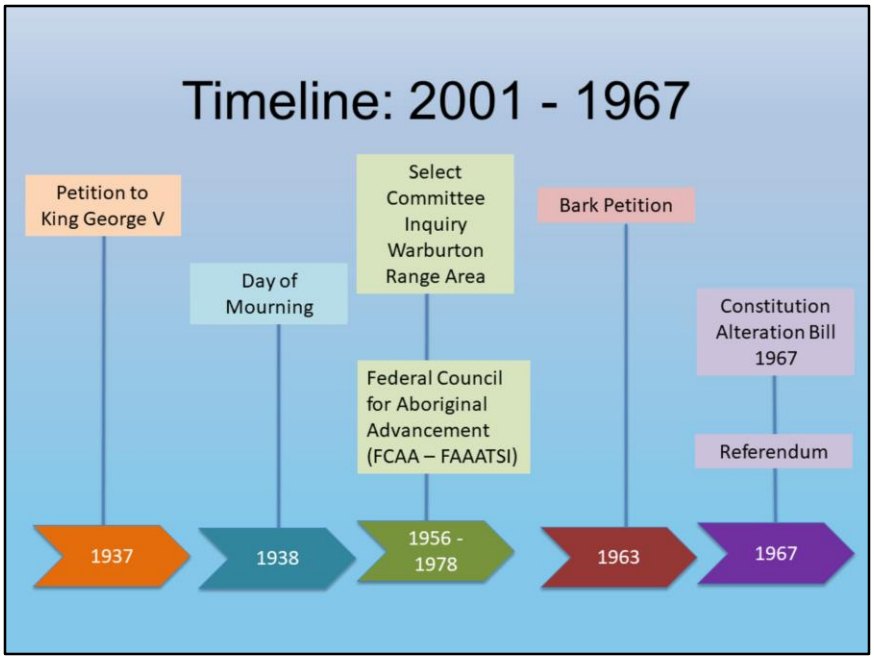
The petitioners unsuccessfully sought the Commonwealth Parliament's recognition of rights to their traditional lands on the Gove Peninsula through these petitions in traditional form.

The petitions stated that "the land in question has been hunting and food gathering land for the Yirrkala tribes from time immemorial" and "that places sacred to the Yirrkala people, as well as vital to their livelihood are in the excised land“

A subsequent court case In 1971 resulted in the court deciding that the ordinances

and mining leases were valid, and that the Yolgnu people were not able to establish their native title at common law.

Though these documents did not achieve the constitutional change sought, they were effective in making a way for the eventual recognition of Aboriginal rights in Commonwealth law.

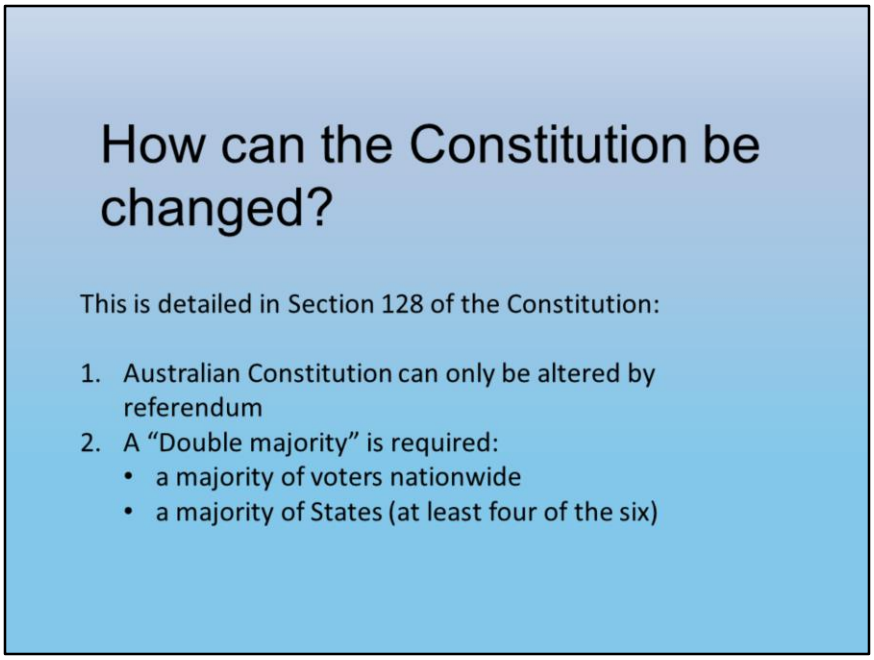


Following longstanding calls for greater Commonwealth involvement in Aboriginal affairs, in the 1960s the pressure for change built rapidly, including through an extensive campaign led by the Federal Council for Aboriginal and Torres Strait Islander Advancement.

The Holt Coalition Government introduced the Constitution Alteration Bill 1967 to the Parliament. The legislation was passed unanimously.

Because no parliamentarian had voted against the proposals relating to Aborigines, the Government only prepared a 'Yes' case for the referendum.

The referendum was held on 27 May

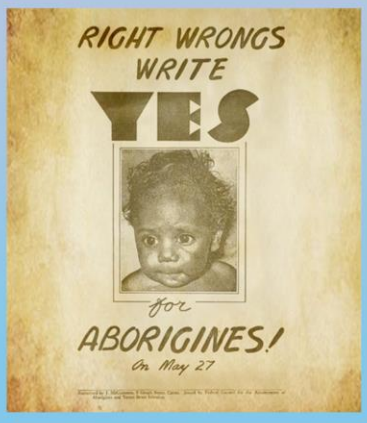


The rules for changing the Constitution are laid out in Section 128 of the Constitution.

Just as a refresher, the Australian Constitution can only be altered by referendum. In a referendum, all Australians of voting age vote yes or no for the proposed changes.

For an amendment to be ratified, the so-called 'double majority' is required. There must be a majority of voters saying YES in a majority of the States. By the way, Territory votes are included in the national total, but not in any State figure.

The Australian Constitution is notoriously difficult to change. Since 1901, 19 referendums have proposed 44 changes to the Constitution; only eight changes have been agreed to.



Over 90 per cent voted 'Yes' and every single state and territory had a majority result for the 'Yes' vote.

It was one of the most successful national campaigns in Australia's history.

On 27 May 1967, Australians voted to change the Constitution so that like all other Australians, Aboriginal and Torres Strait Islander peoples would be counted as part of the population and the Commonwealth would be able to make laws for them.

Over 90 per cent voted 'Yes' and every single state and territory had a majority result for the 'Yes' vote.

As an aside: Of all the states, Western Australia had the lowest percentage of Yes votes - 80.95%

It was one of the most successful national campaigns in Australia's history.

I discussed the two sections of the Constitutions that referred to Aboriginal people earlier in the presentation. These were:

Section 51 (xxvi) which gave the Commonwealth power to make laws with respect to 'people of any race, other than the Aboriginal race in any state,

As a result of the Referendum The words 'other than the aboriginal race in any State' were deleted.

Section 127 provided that 'in reckoning the numbers of people of the Commonwealth, or of a "aboriginal natives shall not be counted'.

This Section was repealed.

Whilst the 1967 referendum was a resounding success over the next fifty years a number of sections of the Constitution with relevance to Aboriginal people, have been proposed for reform, these are:

Preamble:
The Constitution does not currently have a preamble.

Several proposals have been made that a preamble should be added to the Constitution to acknowledge Aboriginal peoples in some way. There have however been significant concerns that this recognition would be symbolic only and not result in real change for the better in the lives of Aboriginal people.

Section 25: *Provisions as to races disqualified from voting*
This section relates to the previous Section 24, which outlines how seats in the House of Representatives are to be apportioned between the states

On the face of it, this section acts as a disincentive to states limiting voting rights on racial grounds, because any state imposing racial discrimination would potentially lose seats in Parliament in proportion to the degree of disenfranchisement. However,

this section has never been activated, and it is frequently argued that the fact that the Constitution contemplates (and, by implication, may permit) race-based limitations is unacceptable.

Section 51: Legislative powers of the Parliament
You will recall this section was amended as a result of the 1967 referendum removing specific reference to "the Aboriginal race". This section now applies to any racial group in Australia and has become known as "the race power". It has enabled Indigenous-specific legislation including the Native Title Act 1993 and Aboriginal and Torres Strait Islander heritage protection legislation.

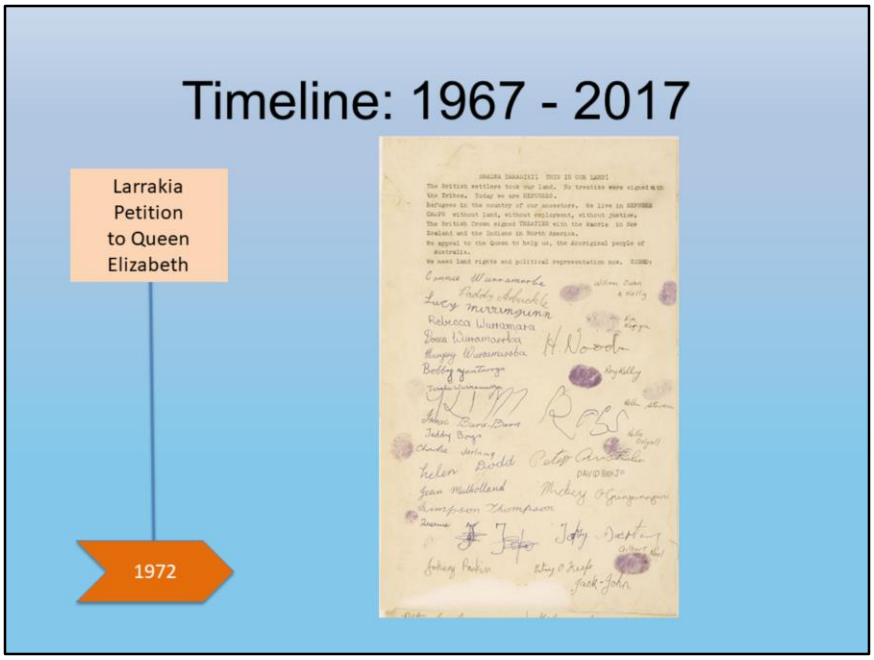
However, High Court cases (notably the case known as the Hindmarsh Island Bridge Case in 1998) and legislation for example, the various laws implementing the 2007 Northern Territory Emergency Response, (known as the Intervention) which were exempted by Parliament from the Racial Discrimination Act, have effectively established that there is currently no constitutional requirement that such special laws be for the benefit of the targeted race, and can actively be to their detriment.

Accordingly, many proposals have been made that this section should be replaced, supplemented by a constitutional prohibition on racial discrimination, or subject to additional oversight, for example by an Aboriginal Voice to Parliament.

Section 117 says that citizens should be treated equally across states and discrimination on the basis of what state you live in is prohibited. Given this could include racial discrimination, it has been proposed for reform.

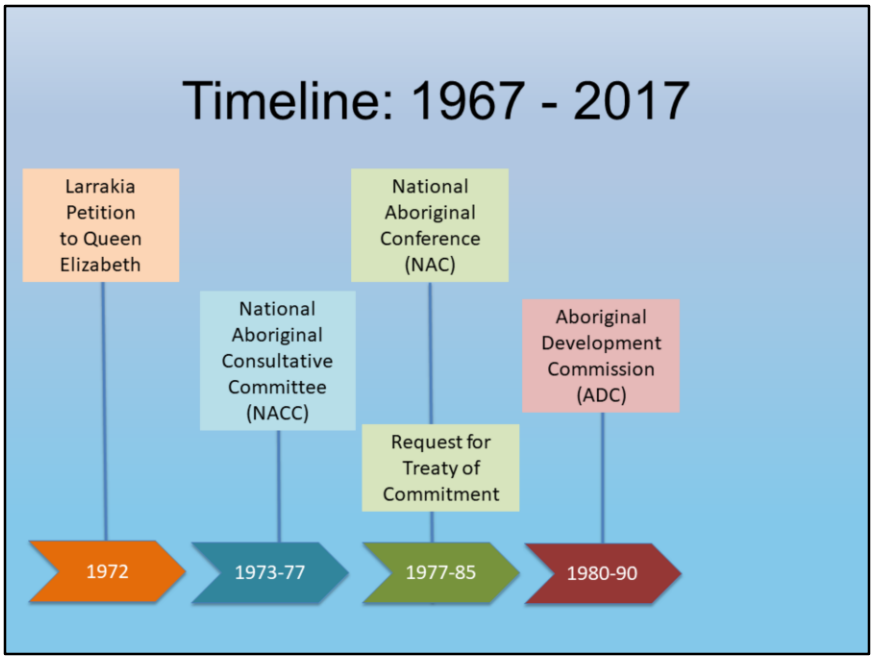
Section 122: Government of territories
This section enables the Commonwealth Government to govern territories directly. For example, the various measures carried out by in the 2007 Intervention were held to be authorised by this section. Because of these precedents and the relatively high Aboriginal population of the Northern Territory, this Section has been considered to require reform.

You'll hear a bit more about The Preamble, and Sections 51 and 122 latter in the presentation.



In 1972 the Larrakia people from the Northern Territory organised a petition which was signed by Aboriginal people all over the country. They attempted to give the 3 metre long Petition to Princess Margaret during her 1972 tour of Australia, but when they were prevented from doing so, they posted it to the Queen.

They did not believe that a petition would actually lead to royal intervention, but they were determined to use the petition as a strategy to publicise their struggle for land rights and to put pressure on the Australian Government.



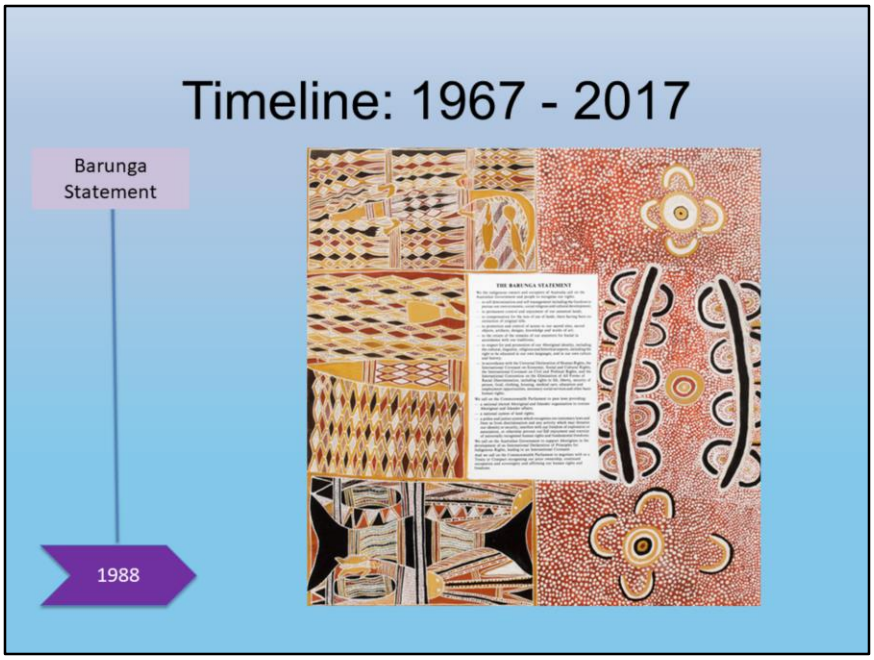
To support self-determination, in 1973 the Whitlam Government created Australia's first elected Aboriginal representative body, the elected National Aboriginal Consultative Committee (NACC), to provide advice on Aboriginal policy.

The NACC was abolished in May 1977 by the Fraser Government and replaced with the National Aboriginal Conference (NAC) an elected 35 member body to provide a forum for the expression of Aboriginal views.

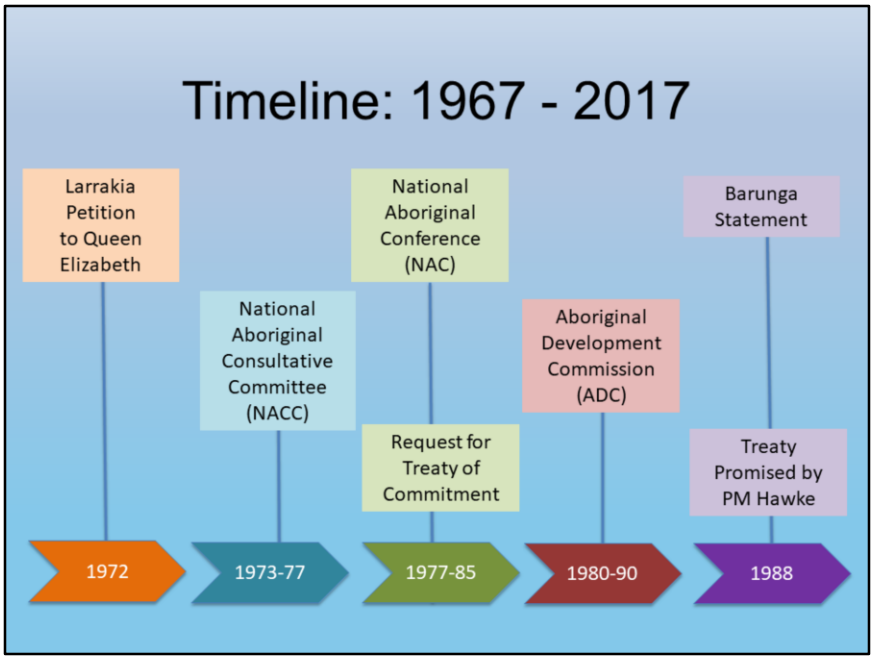
A resolution from the NAC's Second National Conference in 1979 requested that a Treaty of Commitment be executed between the Aboriginal Nation and the Australian Government.

The NAC decided the agreement should have an Aboriginal name – the Makarrata, a Yolngu word referring to a process of reconciliation after conflict – and set up a special committee to ask Aboriginal people what they would like to see in the Makarrata. WA's Senator Fred Chaney, the Minister for Aboriginal Affairs at the time, welcomed the NAC consulting with Aboriginal people around the country on the form a 'Makarrata' might take.

In 1980, the Aboriginal Development Commission (ADC) was established in the Aboriginal affairs portfolio. The ADC was a statutory authority, run by a board of ten part-time Aboriginal commissioners appointed by the government. The ADC managed a limited range of development-oriented Aboriginal affairs programs, including the administration of loans and grants for Aboriginal housing and business enterprises.

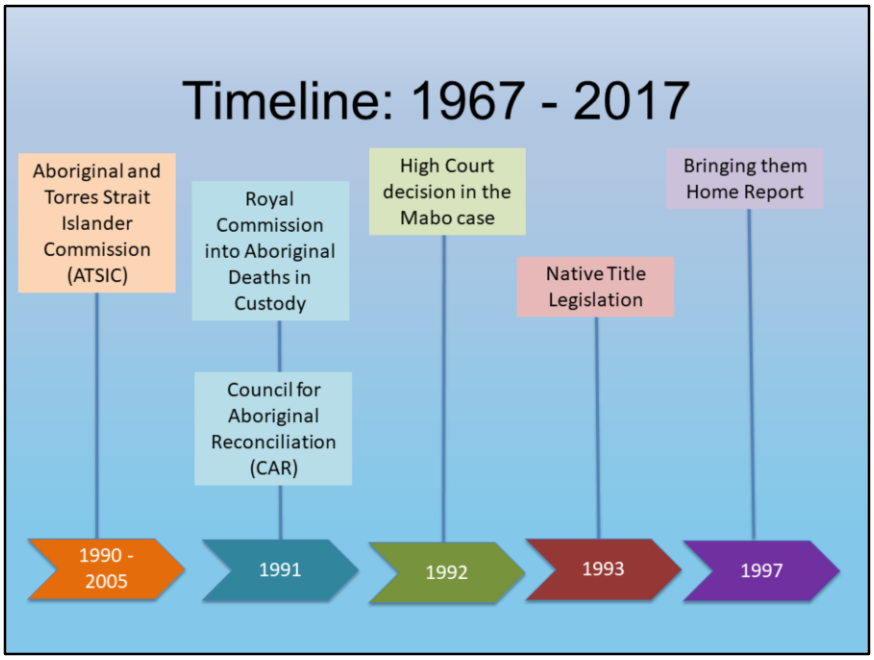


In the lead up to the Bicentennial celebrations in 1988 Aboriginal people from the northern territory presented the Barunga statement to the Prime Minister Bob Hawke, It called for an elected national Aboriginal representative body; national land rights legislation; and a treaty to be negotiated between the federal government an Aboriginal Australians.



In response the Prime Minister stated it was the Government's intention to negotiate a treaty during the life of the Parliament.

However, the Hawke Government later abandoned talk of a ‘treaty’ or other such agreement in the face of strident opposition from the Howard-led Coalition, internal opposition, and uncertainty as to what a treaty would cost or deliver.



In 1990, the Hawke Government created ATSIC, the Aboriginal and Torres Strait Islander Commission . Unlike the previous NACC and NAC ATSIC was intended to combine representative and executive roles by taking over the responsibilities of the former Department of Aboriginal Affairs and included delivering services to Aboriginal people

Having abandoned treaties or national land rights, the Hawke and Keating Governments shifted the focus of Aboriginal policy to 'reconciliation' in line with the recommendations of the Royal Commission into Aboriginal Deaths in Custody, and sought new ways to incorporate Aboriginal people into the political system.

Also in '91 bi-partisan support was achieved to set up the Council for Aboriginal Reconciliation (CAR) and a formal ten-year 'process of reconciliation'. The Council canvassed several options for achieving recognition or representation. In its 1995 report, it proposed a new preamble to the Constitution, the removal of section 25, a new constitutional clause prohibiting racial discrimination (save for beneficial measures), and a treaty or document of reconciliation, Since then, most proposals for constitutional recognition and representation have echoed this set of proposals with minor variations.

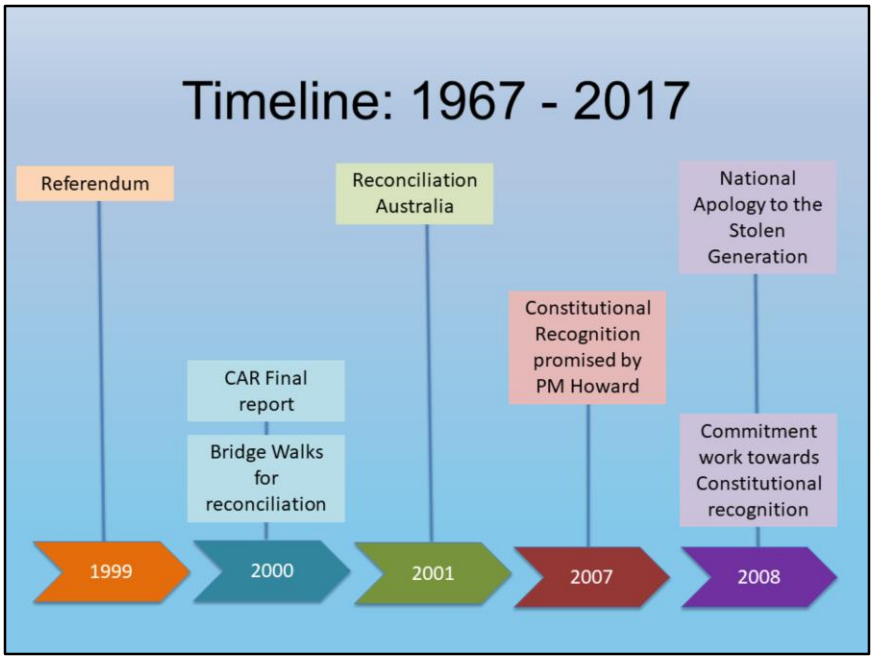
The 1992 High Court's decision in the Mabo Case overturned the doctrine of terra nullius and recognised the native title rights of Aboriginal and Torres Strait Islander peoples.

Recognition of native title was then codified into law in the Native Title Act.

One effect of this decision was to partly separate the previously interlinked issues of land rights and of political rights, sovereignty and treaties, as rights in land increasingly became a matter of court decisions rather than of political negotiation.

The *Bringing Them Home report* on the National Inquiry into Australia's Stolen Generations is released in 1997 and calls for the Australian community to commit itself to reconciliation. It also called for a National Apology to the Stolen generations.

In the meantime, calls for Australia to become a republic lead to the1999 referendum.



The 1999 Referendum was about two matters: whether or not Australia should become a republic; and whether a preamble should be added to the Constitution. The proposed Preamble included recognition that Aboriginal and Torres Straight Islanders were the nations first peoples. The referendum failed to get a double majority for either question. The Preamble question was considered to have been rushed and was not supported by many groups for a range of different reasons.

Almost 61% of voters voted against adding a preamble.

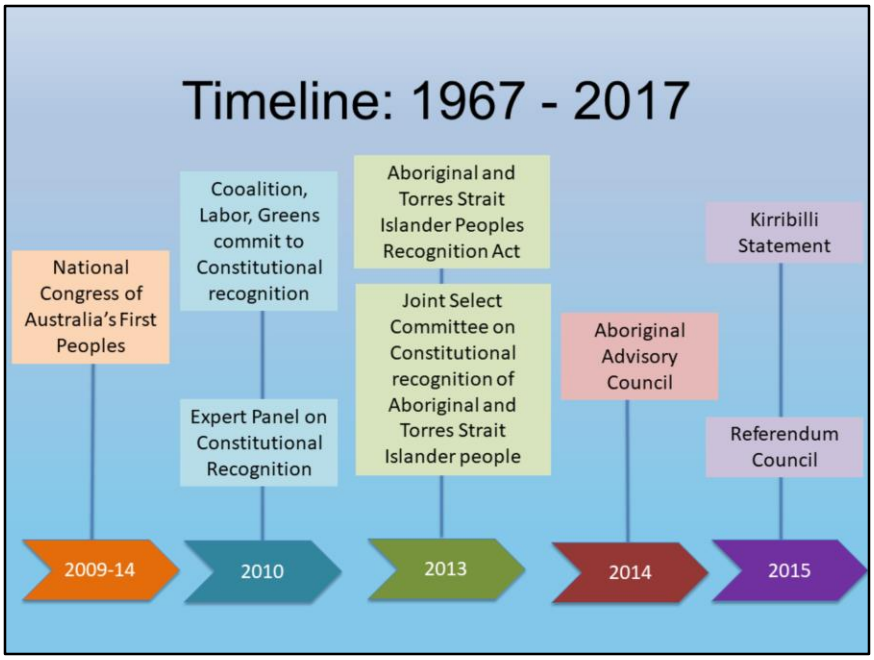
In May 2000, the Council for Aboriginal Reconciliation presented it's final Report. The report called for each government and parliament to recognise that Australia was settled as colonies without treaty or consent and that the Commonwealth Parliament should enact legislation to put in place a process which will unite all Australians by way of an agreement, or treaty, through which issues of reconciliation can be resolved. It also argued that a decade is not long enough to reconcile the nation.

Hundreds of thousands of Australians walk across Sydney Harbour Bridge, and other bridges around Australia, to show support for Aboriginal and Torres Strait Islander aspirations.

Reconciliation Australia was established in 2001 by the Howard Government in response to the recommendation of the Council on Aboriginal Reconciliation Final report in 2000.

In the lead up to the 2007 Federal Election John Howard committed, if elected. to a referendum to recognise Aboriginal and Torres Strait Islander peoples.

Following the 2007 election, early in 2008 Prime Minister Kevin Rudd delivered an official apology to the Stolen Generations and committed his Government to work towards constitutional recognition, but did not set a definite date.



The National Congress of Australia's First Peoples (NCAFP) was founded by Prime Minister Rudd in November 2009 as a stand-alone corporation to function as the representative body for Aboriginal people and organisations. It was originally funded on a year by year basis but was defunded in 2014.

During the 2010 election campaign both major parties and the Greens committed to constitutional recognition.

In 2010 new Prime Minister Julia Gillard established the Expert Panel on recognising Aboriginal and Torres Strait Islander Peoples in the Constitution, beginning a renewed national focus on finding a path towards a referendum. The Expert Panel reported in 2012 and recommended the recognition be put in the body of the Constitution.

The Aboriginal and Torres Strait Islander Peoples Recognition Act was passed in 2013 and at the time was considered was a significant step in the process towards achieving constitutional change.

Despite the political commitments and expert and parliamentary inquiries, the ALP's period in office did not produce a final proposal or referendum.

After originally being approved 2012 under Prime Minister Gillard, in 2013 under Prime Minister Tony Abbott a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples was established, co-chaired by Senator Ken Wyatt and Senator Nova Peris, The committee reported in June 2015

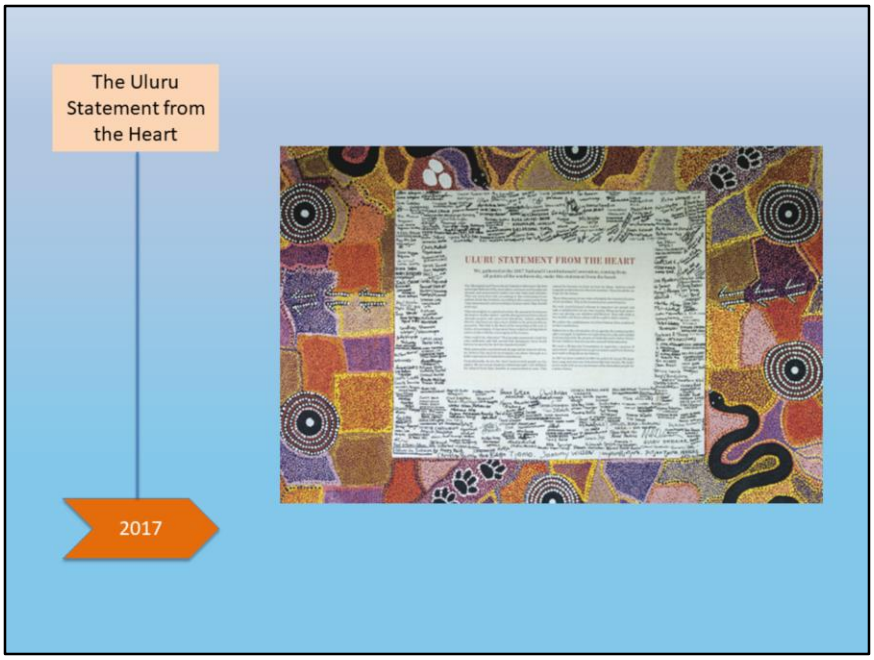
In 2014 Prime Minister Tony Abbott established the Prime Minsters Aboriginal Advisory Council and committed to a referendum on whether to include Aboriginal recognition in the constitution.

In July 15, the Kirribilli Statement was issued by forty senior Indigenous leaders after meeting with Prime Minister Tony Abbott and the Opposition Leader to ask for a new process of consultation with Indigenous communities. The leaders declared they wouldn't support a symbolic referendum

After the change in leadership of the Liberal Party in 2015, Prime Minister Malcolm Turnbull and Leader of the Opposition, Bill Shorten, jointly appointed a Referendum Council to conduct public consultations and conventions and decide on a referendum question

The Referendum Council built on previous work done by other committees and reports and was tasked with engaging Aboriginal and Torres Strait Islander peoples on their views on real and meaningful recognition in the Constitution.

The Council established 12 First Nations Regional Dialogues, which engaged over 1200 Aboriginal and Torres Strait Islander delegates on a number of existing proposals for constitutional change.



In 2017, Referendum Council's National Constitutional Convention was held at Uluru. It was the culmination of two years of consultation through the regional dialogues. The Uluru Statement was the outcome of this Convention

This is a recording of Professor Megan Davis, a Cobble Cobble woman, pro-vice chancellor at the University of NSW and member of the Referendum Council, reading the Uluru Statement at the Uluru Convention. The statement is an Invitation to the Australian People.

We, gathered at the 2017 National Constitutional Convention, coming from all points of the southern sky, make this statement from the heart:

Our Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent islands, and possessed it under our own laws and customs.

This our ancestors did, according to the reckoning of our culture, from the Creation, according to the common law from 'time immemorial', and according to science more than 60,000 years ago.

This sovereignty is a spiritual notion: the ancestral tie between the land, or 'mother nature', and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with our ancestors.

This link is the basis of the ownership of the soil, or better, of sovereignty. It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown.

How could it be otherwise? That peoples possessed a land for sixty millennia and this sacred link disappears from world history in merely the last two hundred years?

With substantive constitutional change and structural reform, we believe this ancient sovereignty can shine through as a fuller expression of Australia's nationhood.

Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are aliened from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.

These dimensions of our crisis tell plainly the structural nature of our problem. This is the torment of our powerlessness. We seek constitutional reforms to empower our people and take a rightful place in our own country. When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.

We call for the establishment of a First Nations Voice enshrined in the Constitution.

Makarrata is the culmination of our agenda: the coming together after a struggle. It captures our aspirations for a fair and truthful relationship with the people of Australia and a better future for our children based on justice and self-determination.

We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations and truth-telling about our history.

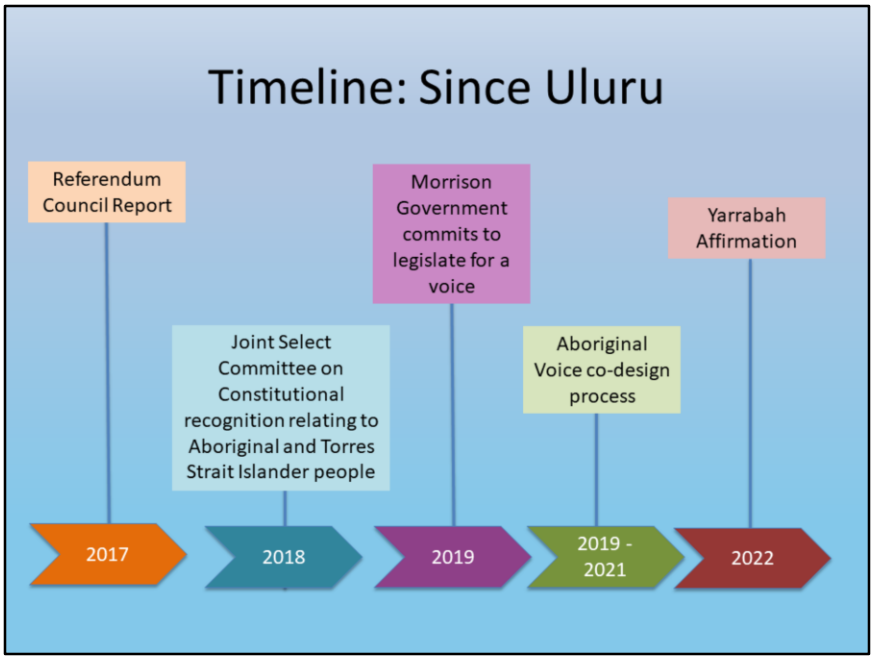
In 1967 we were counted, in 2017 we seek to be heard. We leave base camp and start our trek across this vast country. We invite you to walk with us in a movement of the Australian people for a better future.

So, just to reiterate

The Uluru Statement from the Heart calls for 2 substantive changes:

1. Voice to Parliament enshrined in the Constitution.

2. A Makarrata Commission to supervise:
   - Agreement making (treaty)
   - Truth telling



In 2017 the Referendum Council's final report endorsed the Uluru Statement from the Heart. It also recommended that a referendum be held to provide a body that gives Aboriginal and Torres Strait Islander people a Voice to the Parliament to include the function of monitoring the use of the Commonwealth power in section 51 (xxvi) and section 122.

Later that year, Prime Minister Turnbull's response to the Referendum Council report is that the 'Government does not believe that an addition to our national representative institutions is either desirable or capable of winning acceptance in a referendum'. And that it "would inevitably become seen as a third chamber of parliament"

In 2018, the Parliament agreed to the appointment of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander peoples (Co Chaired by Senator Pat Dodson and Julian Leeser (current Opposition Spokesman on Aboriginal Australians)) was asked to consider the work of the Expert Panel, the former Joint Select Committee, the Statement from the Heart and the Referendum Council. In its final report, the Committee acknowledged the broad stakeholder support for a First Nations Voice enshrined in the Constitution.

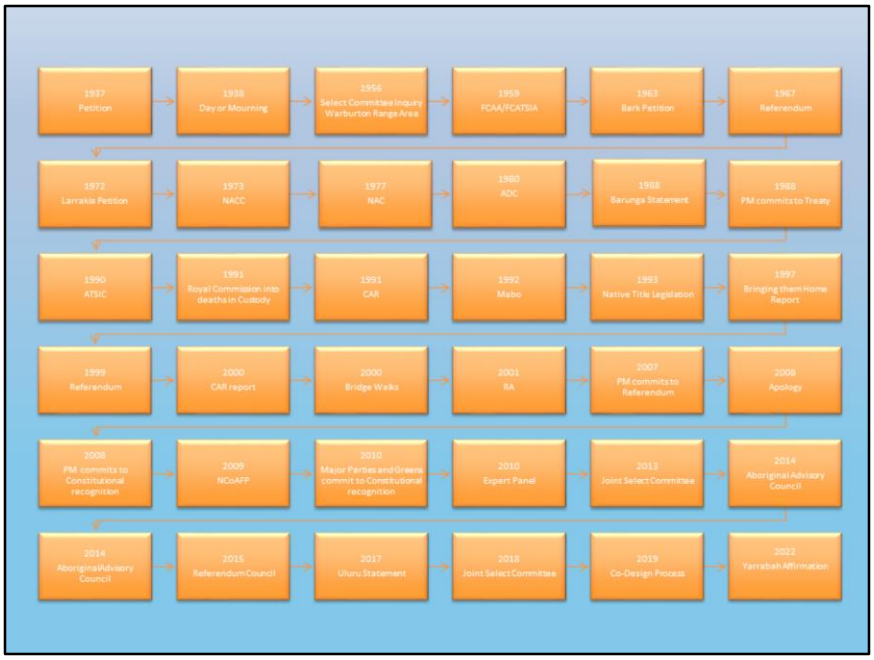
The Committee recommended a co-design process to achieve a design for the Voice that best suits the needs and aspirations of Aboriginal and Torres Strait Islander peoples, incorporating national, regional and local elements.

In 2019 Ken Wyatt, the first Aboriginal Minister for Aboriginal Australians, announced that the Morrison Government would legislate for a 'voice to government' (not parliament) and pursue constitutional recognition for Aboriginal and Torres Strait Islander people (in an unspecified form), but would not create a constitutionally entrenched representative body.

In November 2019, Minister Wyatt appointed a 'Senior Advisory Group', consisting largely of prominent Aboriginal and Torres Strait Islander people and co-chaired by Marcia Langton and Tom Calma, to assist with the process of co-designing a representative voice to parliament. There was an extensive consultation process over two years and resulted in a model for The Voice based on local and regional voices feeding into the National Voice. The Co-design final report was presented July 2021

Whilst making recommendations on the issue of constitutional recognition was **not** included in the co-design process scope, the final report **did note** the "strong support for the enshrinement of the Indigenous Voice in the Constitution as part of the consultation process".

In April 2022, in the lead up to the Federal election First Nations delegates, including Senior Leaders and Youth met at Yarrabah in Queensland with Alfred Neal, a leading Aboriginal campaigner of the 1967 referendum. This meeting reaffirmed that First Nations people want constitutional recognition through a Voice to Parliament.



So, here we have it – This is a snapshot of the timeline I've presented outlining key events in the struggle for Aboriginal recognition over the past 90 years including: petitions; calls for recognition; Advisory bodies set up by legislation (and subsequently abolished); Expert Panels; and Senate Select Committees. This is not a definitive list, I've left a lot out! I didn't want to keep you here all day!

Australia has seen almost a century of debate over how to best recognise prior occupation of Australia by Aboriginal and Torres Strait Islander people. The journey has been long and challenging.

However there has been a recurring and consistent call for a representative voice to parliament enshrined in the constitution.

During the Federal election campaign Labor made a commitment to implement the Uluru Statement from the Heart in full. It committed to hold a referendum on a Voice in the next parliamentary term, and progress a Makarrata Commission to oversee treaty-making and truth-telling.

In his Election Night speech, the new Prime Minister Anthony Albanese's first statement was "I commit to the Uluru Statement from the heart in full".

On 30 July 2022, at the Garma Festival in Arnhem Land the Prime Minister reaffirmed his commitment to implementing the Uluru Statement in full.

He also proposed a draft question to be put to the Australian people at a referendum and draft words to be added to the Constitution.

As part of his speech at Garma, the Prime Minister said: "Our starting point is a recommendation to add three sentences to the Constitution, in recognition of Aboriginal and Torres Strait Islanders 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 Parliament and the Executive Government 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 the composition, functions, powers and procedures of the Aboriginal and Torres Strait Islander Voice.

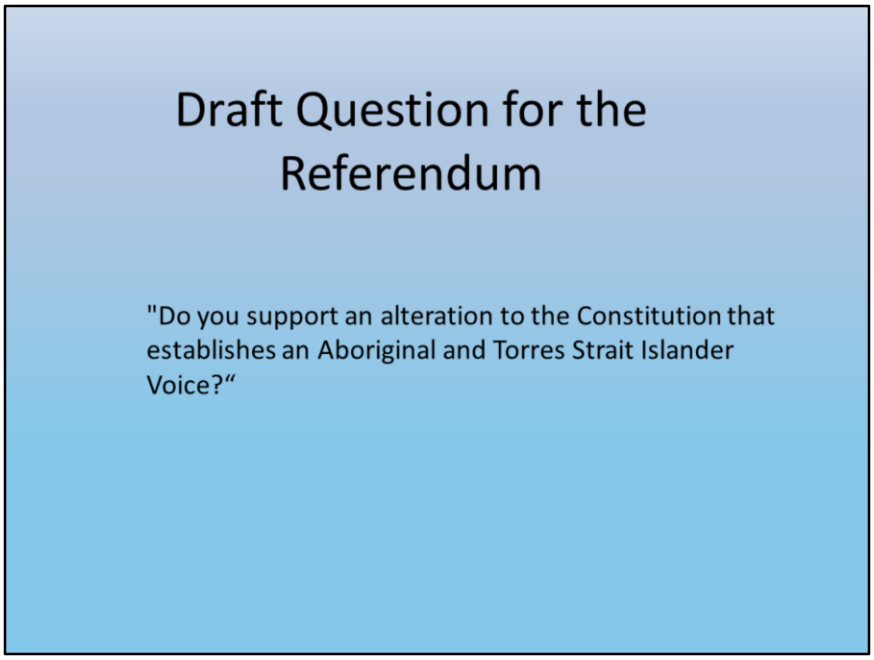
He went on to say: This may not be the final form of words – but I think it's how we can get to a final form of words.

The proposed draft wording is very similar to a form of words recommended by the 2018 Joint Select Committee.

Professor Anne Twomey, Professor of Constitutional Law, at University of Sydney

describes these draft words as “a simple and elegant proposal, which demands little but offers much”.

She goes on to say “The only requirement of this amendment is that such a body exist. It leaves to parliament all the decisions about how it is comprised and operates. This balances stability and flexibility. “



The Prime Minister also proposed a draft question to be put to the Australian people at a referendum.

Megan Davis said at the National Press Club last week, the draft question and draft words to be added to the Constitution were prepared over a 5 year period but that it was quite possible that one or both may change with further consultation.

Since the Garma announcement, the Government has established three key groups to guide the process through to the referendum. These are:

A working group of First Nations leaders, Chaired by Aboriginal Australians Minister Linda Burney and Senator Pat Dodson. It was established to advise on three matters:

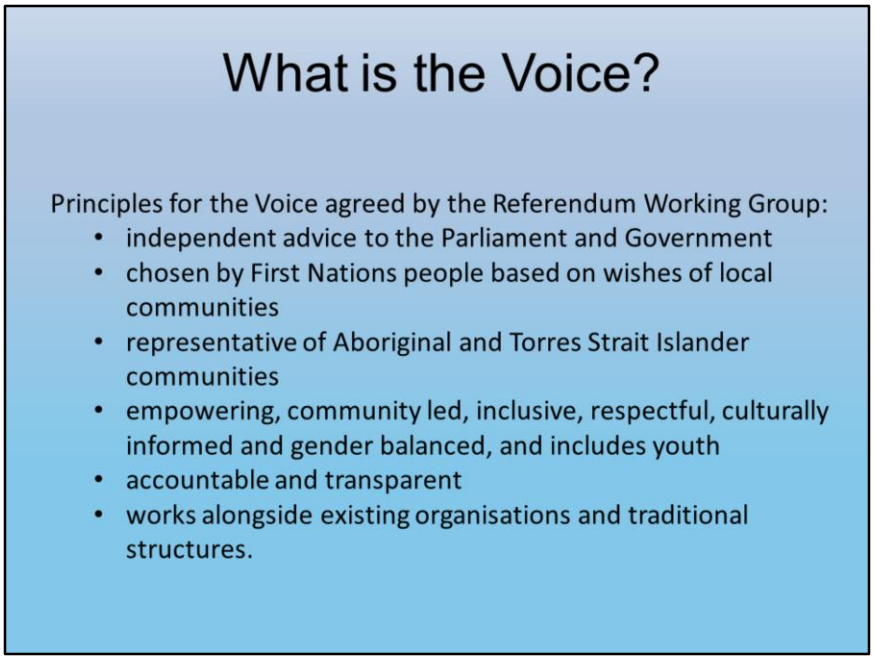
- the timing of a referendum,
- the words of the proposed referendum question; and
- the information about the Voice to be issued to the public before the vote

The "referendum engagement group" comprises representatives from land councils, local governments and community organisations, to advise on how best to build support for the Voice and engage with Aboriginal communities.

And a Constitutional Expert Group, to provide legal support to the Referendum Working Group on constitutional matters. They will also advise the working group on the referendum question and the wording of the additions to the Constitution.

In October the Federal budget allocated $75m to conducting the Referendum and $5.8 million to a Makarrata commission for a national truth telling process and

pathway to treaty between Indigenous people and the government

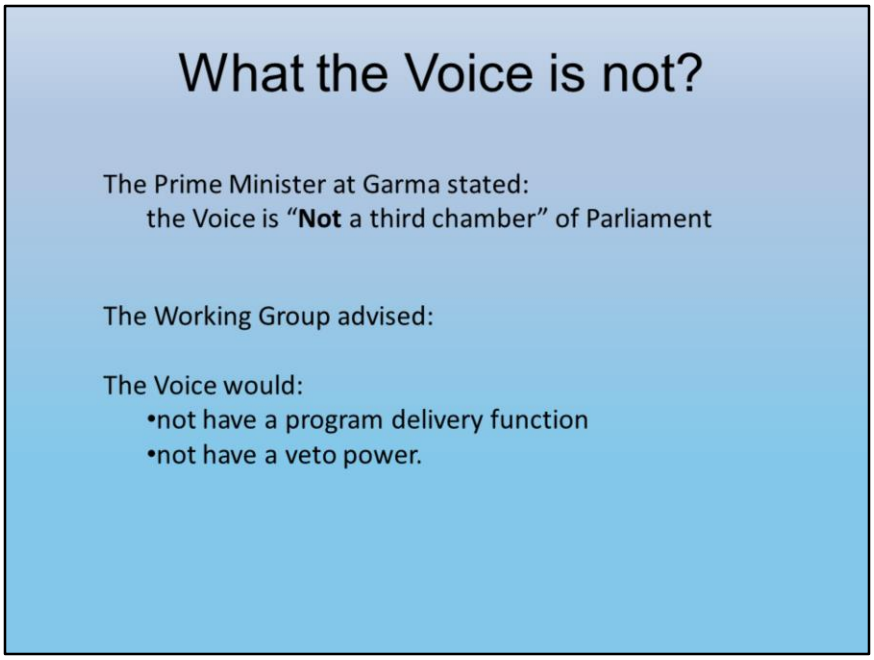


The 'From the Heart" group describe the Voice to Parliament as a body enshrined in the Constitution that would enable Aboriginal and Torres Strait Islander people to provide advice to the Parliament on policies and projects that impact their lives.

The Referendum Working Group has agreed on principles for the Voice. These draw on work that has previously been done including through Senate Committees and the Co-Design process.

These Principles are that the voice:

- provides independent advice to the Parliament and Government
- is chosen by First Nations people based on the wishes of local communities
- is representative of Aboriginal and Torres Strait Islander communities
- is empowering, community led, inclusive, respectful, culturally informed and gender balanced, and includes youth
- is accountable and transparent
- works alongside existing organisations and traditional structures.



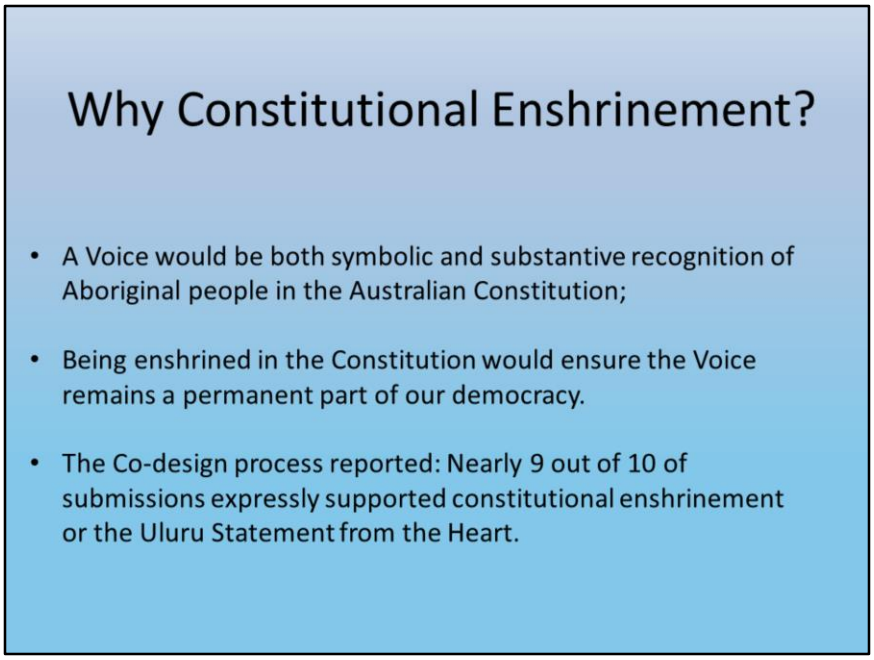
It has also been clearly articulated what the Voice is not.

The Prime Minister, at Garma, stated:
the Voice is "Not a third chamber" of Parliament

The Referendum Working Group at its meeting in late September advised:

The Voice would:

- not have a program delivery function
- not have a veto power.



It has been 15 years since Prime Minister John Howard committed his Coalition Government to putting constitutional recognition of Aboriginal and Torres Strait Islander people to a referendum of the Australian people.

Every prime minister since – Kevin Rudd, Julia Gillard, Tony Abbott, Malcolm Turnbull and Scott Morrison – maintained the commitment to constitutional recognition.

Supporters of the Voice believe:

- A Voice would be both symbolic and substantive recognition of Aboriginal people in the Australian Constitution;

- Being enshrined in the Constitution would ensure the Voice remains a permanent part of our democracy.

To say the Voice is "constitutionally enshrined" does not mean all of the detail of its design is put into the Constitution.

As former Chief Justice of Australia Murray Gleeson explained the Voice would be "constitutionally entrenched but legislatively controlled". He goes on to say " This

establishes a balance between a constitutional protection of the Voice while allowing it to be adapted to future circumstances."

Nearly 90 per cent of submissions to the Co-design process showed strong support for the enshrinement of an Indigenous Voice across all Australian jurisdictions

Aboriginal and Torres Strait Islander people know their communities best and can provide the best feedback on what would work specifically in those communities.

The Voice would inform policy and legal decisions that impact First nations people's lives

This would lead to programs that would be better targeted and avoid wasted spending.

Ultimately, more effective programs will result in improved outcomes for Aboriginal people across a range of areas.

There has been broad support for constitutional recognition of First Nations people through a Voice to Parliament

Former chief justice of the High Court of Australia, Murray Gleeson, delivered a powerful endorsement of the proposal. He said “Recognition in the Australian Constitution would reflect an existing national growth of respect for our First Peoples and thus for the whole of the full, rich and long history of the people of this continent.”

Former High Court Chief Justice Robert French, said the inclusion of the Voice in the Constitution would be “itself an act of recognition”. “It is a sensible and straightforward proposal,”

Constitutional Lawyers including George Williams, Anne Twomey and Greg Craven have also publically supported a Voice enshrined in the constitution.

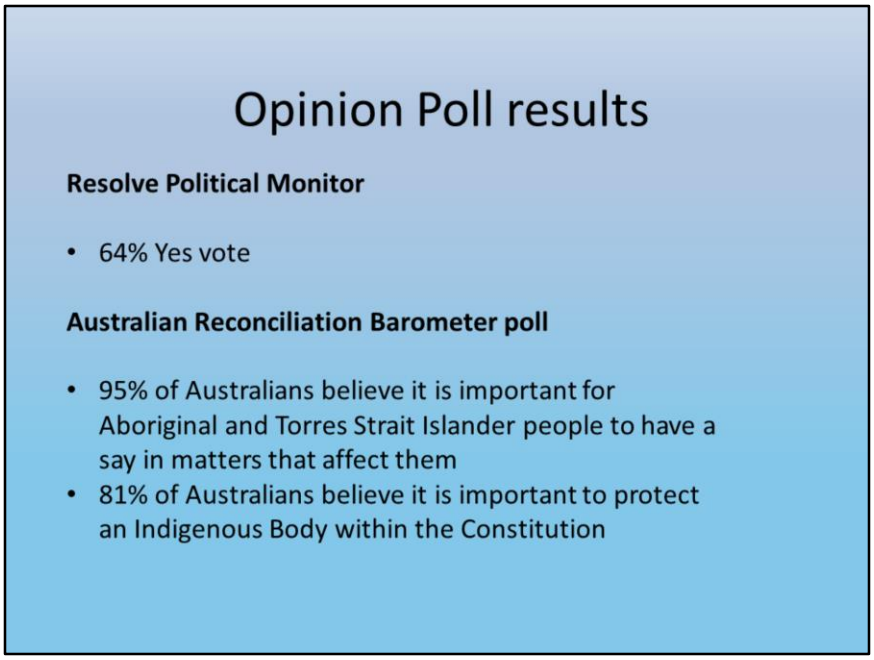
A number of Legal Associations and top Law firms have also pledged support.

The ALA plans to take an active role in campaigning towards a successful outcome for

the referendum through education and clear public messaging about the legal processes involved,

In 2019 eighteen of Australia's top law firms signed a joint statement outlining their firms' support for the Uluru Statement. Many of these have now committed to actively engage in education about and support for the Yes Vote for the Voice.

The Business Council of Australia and a number of Australian largest businesses have indicated support in submissions to the Co-Design process.



64% of the 3168 Australians surveyed in August and September this year said “yes” when asked, “Do you support an alteration to the Constitution that establishes an Aboriginal and Torres Strait Islander Voice?”

The 2020 Australian Reconciliation Barometre survey on attitudes to reconciliation showed 95% of Australians believe it is important for Aboriginal and Torres Strait Islander people to have a say in matters that affect them.

It showed 81% of Australians believe it is important to protect an Indigenous Body within the Constitution, so it can not be abolished due to a change of Government.

The National Press Club address given a week ago by Professor Megan Davis and Pat Anderson is a compelling presentation on the Voice. I thoroughly recommend the watching it on iview for an up to the minute and comprehensive description of the process so far.

The 2019 and 2022 Boyer Lectures by Rachel Perkins and Noel Pearson respectively are excellent background.

The Australian Wars is a three part Series made by filmmaker Rachel Perkins looking at the little known history of the battles fought in the first 100 years of British history.

I have also listed three key websites for information.

I'm happy to email this list and other information and resources if anyone would like it. Come and speak to me afterwards.

The Uluru Dialogue leads community education on the Uluru Statement's reforms of Voice, Treaty and Truth. The Uluru Dialogue is based at the Aboriginal Law Centre, UNSW Sydney

In September The Uluru Dialogue launched its first advertisement in Support of The Voice.