

THE VOICE REFERENDUM

Report Author: Manager Community Wellbeing
Responsible Officer: Director Communities
Ward(s) affected: (All Wards);

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

This report discusses Council's historical support and commitment to reconciliation, current policy position and the alignment with the principles of the Uluru Statement from the Heart and a Voice to Parliament.

In the context of Council's Reconciliation Policy and in consideration of the advice from Council's Indigenous Advisory Committee, it is recommended Council make a public statement with regard to the referendum.

This report also highlights the impact the ongoing debate is having on the Yarra Ranges Indigenous community, Indigenous staff, and the broader community.

RECOMMENDATION

That Council

- 1. Supports the notion behind the Uluru Statement from the Heart and a Voice to Parliament.***
- 2. Acknowledges that it is not Council's role to tell people how to vote in the upcoming referendum. Council encourages the community to be informed and seek information from reputable channels.***

RELATED COUNCIL DECISIONS

There are no previous Council decisions relating to the Uluru Statement from the Heart or the Voice to Parliament.

DISCUSSION

Purpose and Background

The Uluru Statement from the Heart seeks to address the over representation of disadvantage across the determinants of health and wellbeing experienced by indigenous peoples of Australia, calling for the establishment of a constitutionally enshrined 'Voice to Parliament' that would give Indigenous Australians a say in the laws and policies that affect them.

The upcoming Voice Referendum has the potential to have both a positive and negative impact on Indigenous and non-Indigenous communities across the Yarra Ranges.

It is therefore critical to understand Council's longstanding commitment to reconciliation and how it aligns with The Uluru Statement from the Heart (Attachment 1), a Voice to Parliament and the question the referendum asks of the Australian people.

The Voice Referendum question reads:

A Proposed Law: to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice. Do you approve this proposed alteration?

The proposed law Australians are being asked to approve at the referendum would insert a new section into the Constitution, that reads:

"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, and*
- 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."*

The Uluru Statement from the Heart calls for Government to listen to the voices of Indigenous peoples to help close the gap on Indigenous disadvantage. Evidence demonstrates both State and Federal Governments have, to date, failed in their attempts to bridge the gap. The Voice to Parliament is aimed at achieving effective policies and laws that will make a real difference on the ground.

In essence, the Voice to Parliament is people from grassroots Indigenous communities coming together to have a say on matters and decisions that affect them. [The Indigenous Voice Co-design Process Final Report](#) by Calma and Langton outlines how a codesign process to establish a Voice to Parliament would be achieved.

Professor Megan Davis, Cobble Cobble woman of the Barunggam Nation, a constitutional lawyer and public law expert states that Australia is the only first world nation that does not have formal recognition of First Nations peoples in its constitution. Professor Davis says that formally recognising Indigenous Australians is a first step in healing for First Nations people, progressing reconciliation and would ensure consistency of consultation on matters that affect Indigenous people regardless of the government of the day.

Yarra Ranges Reconciliation History

Yarra Ranges Council has a long history and commitment to reconciliation, with the Yarra Ranges predominantly located on the ancestral lands of the Wurundjeri people, with small areas of Bunnerong and Taungurung Country.

Today the Yarra Ranges is home to the largest concentration of Aboriginal and Torres Strait Islander peoples in the Eastern Metropolitan Region of Melbourne, accounting for approximately 35% of the Region's total Aboriginal and Torres Strait Islander population.

Council has a long history of recognising Aboriginal culture, history and heritage. Council's Reconciliation Policy includes a clear vision for reconciliation:

"A pathway to healing the past and moving forward toward a future of respect, caring and sharing with all cultures living in harmony for a united community that recognises the special place and culture of Indigenous peoples as first Australians, values their participation and provides equal life chances for all".

Council's leadership and commitment to reconciliation has been demonstrated consistently for over two decades, however none more significant than Council's 1997 Apology to the Stolen Generations, becoming the first tier of government in Australia to offer a formal Apology to the Stolen Generations.

The Statement of Apology reads:

Yarra Ranges Shire Council recognises the past injustices and treatment of Aboriginal Peoples. If we are to proceed in an openhearted and responsible way to address the issues which will come before us in the future, we first need to acknowledge the past. Council recognises the need to confront the policies and practices which caused the forced removal and separation of Aboriginal children from their parents and families, the effects of which continue today. Accordingly, we wish to express our deep sorrow and sincerely apologise for the pain, the grief and the suffering experienced by Aboriginal peoples as a result of past laws, government policy and actions.

The *Statement of Commitment to Indigenous Australians by the Shire of Yarra Ranges*, endorsed in 1997 alongside the *Apology to Stolen Generations*, was another significant step for Council. The Statement of Commitment has been one of the guiding policies in progressing reconciliation and remains one of the guiding frameworks for the 2023 Draft Yarra Ranges Reconciliation Action Plan (RAP), that will be open for community consultation later in the year.

The Commitment Statement reads:

The Yarra Ranges Shire Council recognise:

- *the habitation of this land by local Indigenous people,*
- *the customs and traditions of Indigenous Australians and their spiritual relationship with the land,*
- *the valuable contribution made by Aboriginal people and their culture to the history of the region,*
- *the value of the diversity and strength of indigenous cultures to the heritage of all Australians, and*
- *the principles of equity and access for all members of the indigenous community to culturally appropriate services and programs.*

The Council supports:

- *the rights of all indigenous people as outlined in the United Nations Declaration On The Rights Of Indigenous People, and*
- *the vision as expressed by Council for Aboriginal Reconciliation of a "united Australia which respects this land of ours, values the Aboriginal and Torres Strait Islander heritage and provides justice and equality for us all."*

The Council is committed to:

- promoting and facilitating the presentation of Aboriginal cultural heritage in a way that is sensitive to, and respects the dignity and protocols of the local indigenous community,
- participating in education processes which enhance the understanding and awareness of Indigenous heritage and the needs of our Indigenous communities,
- undertaking and participating in programs and activities which display our ongoing commitment to Indigenous issues, and
- advocacy on behalf of the Indigenous members of our community to ensure the principles and commitments of this statement are upheld.

Advice to Council

In line with Council's Reconciliation Policy, Council will:

- Invite the advice of the Indigenous Advisory Committee (IAC) on Council decisions which affect local Indigenous people, and
- Take a leadership role in education processes which enhance the organisational and community understanding and awareness of indigenous heritage, as well as the needs of our Indigenous communities.

In turn, the IAC is enabled through the objectives of the IAC Terms of Reference to provide advice to Council on a range of issues, including:

- Improving social justice opportunities for the Indigenous community within the municipality, and
- Making recommendations to Council on a range of community issues that may affect the Indigenous community in Yarra Ranges.

Officers have sought the advice of the IAC to understand the social and political aspects of the referendum and the effect on the Indigenous community of Yarra Ranges.

The IAC's advice to Council is clear and the key points include:

- Council has a long-standing history with progressing reconciliation and there is a social and emotional responsibility to make a public statement,
- Council should support the notion behind the Uluru Statement from the Heart and a Voice to Parliament, supporting the Yarra Ranges Indigenous community and Indigenous staff,
- While Council should not and cannot tell people how to vote, Council should encourage people to seek factual information that informs their decision,
- A communication plan be developed, and consideration given to a public education program to ensure the broader community is fully informed, can access reputable and accurate information and are encouraged to vote,
- Council should focus locally. The local context and the reconciliation progress Council has made with the local Indigenous community is a demonstration of Council's ongoing commitment to reconciliation, and
- The IAC also noted that unfortunately the referendum has become a political issue instead of a social issue.

The Uluru Statement from the Heart, the foundational framework for the Voice to Parliament and the referendum question, aligns with Council's current policy position on reconciliation. The IAC supports Council on this position and encourages Council to make a public statement of this nature.

Current Environment

Unfortunately, discussion and debate regarding the referendum (social media as a key driver) is generating misinformation, disrespectful, hurtful and inappropriate commentary and has become a key political issue. This commentary is negatively impacting the Indigenous community, Indigenous staff and the broader community as a whole.

It has been reported that Council remaining silent on such a significant matter is, unfortunately, seen by many as an endorsement of the negative rhetoric. The political landscape including information about the Yes and No Campaigns is mixed with misinformation and unhelpful commentary that does not support informed conversation within the community.

This report provides consideration of the issue from a policy alignment position.

Options considered

Given what is detailed above, there are several options for Council to consider:

- Council provides no public statement with regard to the Uluru Statement from the Heart and a Voice to Parliament;
- Council provides no public statement with regard to Uluru Statement from the Heart and a Voice to Parliament.. However, Council supports sharing information about where community can find factual information; and
- Council provide a public statement supporting the notion of the Uluru Statement from the Heart and a Voice to Parliament.

Recommended option and justification

Given Council's history, current policy position and in alignment with the advice from the IAC, it is recommended Council makes a public statement that supports the notion behind the Uluru Statement from the Heart and a Voice to Parliament.

While it is acknowledged that it is not Council's role to tell people how they should vote in the upcoming referendum, Council has a long-standing history of walking with the Indigenous community and has demonstrated a long-standing social commitment to reconciliation. Part of that commitment is supporting factual information and discouraging misinformation and hurtful commentary.

A public statement that aligns with Councils current policy position and commitment to reconciliation is appropriate in these circumstances.

FINANCIAL ANALYSIS

There are no financial considerations with regard to the recommendations in this report.

APPLICABLE PLANS AND POLICIES

This report contributes to the following strategic objective(s) in the Council Plan: Healthy and Connected Communities.

- The Health and Wellbeing Plan,
- The Reconciliation Framework for Action, and
- Reconciliation Policy.

The report also contributes to the intent of the 1997 Yarra Ranges Council Apology to the Stolen Generations and Commitment to Indigenous Australians

RELEVANT LAW

Charter of Human Rights and Responsibilities Act 2006

Equal Opportunity Act 2010

SUSTAINABILITY IMPLICATIONS

Economic Implications

Not Applicable.

Social Implications

At present, there is misinformation and misleading claims about what an Indigenous Voice to Parliament is and what it means. Much of this information and commentary, particularly on social media is harmful and hurtful to the Indigenous community, Council's Indigenous staff and the broader community as a whole.

Consideration must be given to minimise harm to Indigenous and non-Indigenous communities during the referendum process. Council making the statement outlined in the recommendation, reinforces Council's existing policy position on reconciliation, human rights and equal opportunity.

The recommendation is also aligned with the advice from the Yarra Ranges IAC, supporting Council to fulfil its social responsibility, by cooperatively working together on this issue, reducing the negative social impacts for the benefit of the community for generations to come.

Environmental Implications

Not Applicable

COMMUNITY ENGAGEMENT

There has been significant community consultation undertaken with regard to the Uluru Statement from the Heart that has led to the establishment of the referendum question.

The Uluru Dialogue commissioned a survey that indicates over 80% of Aboriginal people support the Voice, 10% against and 10% are undecided.

A national survey undertaken by The Australian newspaper on 5 April 2023 also found that if the referendum was called today, the referendum would pass with 65% of Australians voting Yes. While more recent polls that have shown a slight decline in support across the country, it is important to note that these polls will likely continue to fluctuate until the referendum is held.

In regard to local consultation, Officers have sought the advice from Council's Indigenous Advisory Committee as tabled within this report.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Not Applicable

RISK ASSESSMENT

Any public statement on this matter must align with Council's policy position on reconciliation, to fail to do so will impact the progress Council has made toward reconciliation for the past two decades.

While the referendum will create conversation and debate, Council may be at risk of being seen to be complicit in enabling misinformation and negative hurtful rhetoric that does not align with human rights and equal opportunity as outlined within the relevant laws. Directing community to reputable sources of information about the referendum mitigates this risk.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Uluru Statement from the Heart