

MARCIA LANGTON

# Voice our chance to lift Indigenous lives above lies and insults

When Anthony Albanese announced his commitment to the Uluru Statement from the Heart and outlined a draft question at the Garma Festival in July last year, we could not have predicted the viciousness of the opposition to what had been refined into a just, practical and constitutionally sound proposition. In November the Nationals announced their opposition to the question, followed in April by Liberal leader Peter Dutton, who announced his parliamentary party's hard No position, disallowing a conscience vote.

This alienated not only Julian Leaser, who resigned as opposition Indigenous Australians and legal affairs spokesman, but also other Liberals including premiers who followed him out the door. Former Indigenous Australians minister Ken Wyatt resigned from the party in protest.

The question to be put to the voters is a simple one – it seeks the recognition of Indigenous Australians in the Constitution through a voice that may make representations to the parliament and to the executive government on matters relating to Indigenous people. The “composition, functions, powers and procedures” of this advisory body will be legislated by the parliament and the details determined by the elected parliament – as is the case with much of the Constitution.

The proposition is the barest measure imaginable that would give Indigenous Australians a formal say in policies and legislation that affect them. The idea was developed by Noel Pearson following the rejection of the expert panel report on constitutional recognition in 2013.

Albanese's government moved late last year to set up a process to ensure constitutional rigour in the final question. The Referendum Working Group, chaired by Indigenous Australians Minister Linda Burney, was advised by the Constitutional Working Group and worked with the Referendum Engagement Group. Along with Attorney-General Mark Dreyfus and other parliamentary members and senators, Indigenous leaders from around the country have advised the Albanese government on every step of the legal process required to alter the Constitution.

There were several technical, legal and constitutional matters to consider. We met officials from the Australian Electoral Commission who briefed us on their efforts to enrol Indigenous voters and several technical matters. The group was briefed on and agreed to amendments to the Referendum (Machinery Provisions) Act 1984 to overcome its inadequacies in 21st-century Australia.

Among other things, it aligns postal voting procedures in referendums with equivalent procedures in federal elections and aligns authorisation requirements with the Commonwealth Electoral Act 1918. This passed the Senate on March 22 this year.

On March 23, the Referendum Working Group released its advice to the government on the constitutional amendment and referendum question. I attended most of the Referendum Working Group meetings as a member and, not being a lawyer, was fascinated by the ensuing debates when we received the Solicitor-General's advice. So much can turn on a word – each carries a conceptual history, and tentacles reach into other areas of law. Every risk was carefully and judicially assessed. The resulting final question has the public support of seven retired senior judges, at least two retired High Court judges, and most constitutional experts. The question to be asked of voters is clear and simple: “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?” After much debate, this question was unanimously supported by the Referendum Working Group. The Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023 passed the Senate on June 19.

Soon, every enrolled voter will receive in the mail a pamphlet as required by law, resulting from the amendments to the Referendum (Machinery Provisions) Act. The Yes case text in the pamphlet is entirely correct while the No case text is largely false.

With the lies from the No case landing in Australian mailboxes stamp-marked from the AEC, many Australians may believe the No pamphlet is accurate. It is most unfortunate there is no legal requirement for factual content. It is a legal loophole that the No case has exploited to hoodwink Australians into voting No with their slogan, “If you don't know, vote No”.

What a backhander for Australians, who want to be informed and inform themselves. Supporters of the Yes case feel gaslighted and have returned fire with the slogan, “If you don't know, find out”. Yes advocates who have campaigned for years for this referendum are asking for a simple resolution from the Australian people: that is, recognising the first peoples in the Constitution will be a meaningful and practical way to celebrate and share in 65,000 years of history, unify Australians and send a powerful message to the world about the kind of nation we have created. The voice will

make a practical difference in our shared future.

The Opposition Leader met twice with the Referendum Working Group. During the first extraordinary encounter, he told a pointed story about domestic violence in communities from his long-ago time as a police officer. Outside after the second, he referred to the members as the “Canberra elite”.

One of our members was the great Dr Yunupingu, from north-east Arnhem Land, who died just days before Dutton uttered the insult. The overwhelming majority of our members live outside Canberra in their own communities. Dutton's clichéd dismissal of our lives and contributions and the parliamentary process signalled he was only ever going to play politics with a sensible reform that should be discussed with open minds and hearts. It is worth noting that members of the group included people such as Professor Tom Calma, who was the main protagonist who convinced Australian governments to formalise the Close the Gap strategy. Pat Turner convinced Australian governments to sign the national partnership to Close the Gap and collaborate to achieve the new targets.

The public square has been flooded with egregious lies about the referendum proposal. The result has been an upsurge in anti-Aboriginal sentiment and hateful trolling on social media of most Indigenous leaders. The No campaign groups have spent millions of dollars flooding the electorate with disinformation via social media and phone calls. A racist No campaign advertisement published in *The Australian Financial Review* was withdrawn with an apology after complaints.

Yes advocates have worked respectfully for years to put this simple proposition to our fellow citizens. We conducted Australia's biggest grassroots engagement involving thousands of Indigenous people across the country. The result was a thorough and thoughtful reflection of their aspirations about recognition in the Constitution, which we are asking Australians to endorse. Thousands were consulted about the design of the voice reported in the Calma-Langton report, approved by Scott Morrison's cabinet when Dutton was a member. Meanwhile, governments have not listened, and Closing the Gap metrics show the deteriorating life chances for most Indigenous Australians.

It is alarming yet unsurprising that politicians and some aspirants have been prepared to set up Indigenous people and their advocates for abuse and vilification for nothing more than transactional electoral motivations. Millions of Indigenous and non-Indigenous people are hoping we are all better than that; so many lives and our future rely on it. If the Opposition Leader were at the Garma Festival this weekend, listening, he would grasp why First Peoples respectfully ask him and all Australians to recognise us in the Constitution through a practical advisory body.

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