

# GETTING THE FACTS RIGHT

This document is recommended reading for anyone involved in news and current affairs, talkback and other engagement with the community on issues around the Voice Referendum.

It explains the background to the referendum, where to find authoritative information on the Yes and No cases, ways to deal with disinformation and how to access trusted sources.

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## Acknowledgment of Country

The CBAA acknowledges the Gadigal people of the Eora Nation, Traditional Owners of the land on which CBAA staff work. We pay our respect to Elders past and present.

We pay our respects to all Aboriginal and Torres Strait Islander cultures and recognise their continuing connection to lands, waters and communities. We recognise the vital role First Nations and community media play in truth-telling and reconciliation.



*'Will Tower', a painting by Koori artist and 2022 Archibald Winner Blak Douglas, was commissioned to accompany CBAA's acknowledgment of country.*

## 1. Finding the facts – what’s behind the Referendum

As a foundation of accurate reporting on the upcoming Referendum, it is essential to access trusted and authoritative sources on the Referendum process and what a “Yes” outcome may mean.

This section summarises the history and process behind the Referendum and includes links to detailed and authoritative primary sources of information around its conception and development.

### a. Quick links:

- General resources with simple explanation of the Voice process are on the [official government website](#)
- Voice resources in [First Nations](#) and [15 community languages](#)
- Australian Electoral Commission for [in-language, easy read and other resources](#) on the mechanics of the Referendum process

### b. What is a referendum?

A referendum is a national vote by registered voters on a question about a proposed change to the Constitution. It is the only way the Constitution can be changed. The Australian Electoral Commission will manage voting in the Referendum, as it does for elections. Australians will be asked to answer yes or no to a question. If the answer is yes, this [change to the Constitution](#) will be enacted. As with an election, it is compulsory for all Australian citizens over 18 to vote. See the Australian Electoral Commission’s [explainer](#) or the [Parliamentary Library](#) for more on the referendum process.

### c. What was the 1967 Referendum about?

First Nations people were not mentioned in the first Australian Constitution in 1901. In the 1967 Referendum, 90.77% of Australians [voted](#) for Aboriginal and Torres Strait Island peoples to be counted as part of the population and for the Commonwealth to be able to make laws for them. (As there was bipartisan support for that Referendum, there was no “No” case).

### d. What is the current Referendum all about?

On 14 October 2023 Australians will be asked to vote Yes or No to “a proposal to update the Constitution to recognise the first peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice to Parliament”.

If agreed by a majority of Australians nationally, plus a majority of voters in a majority of states, a body called the Aboriginal and Torres Strait Islander Voice will be established and it may make representations to the Australian Parliament on matters affecting First Nations people. See [referendum question and change to the Constitution](#).

### e. Where did the current Referendum proposal come from?

While many options for recognition of and reconciliation with First Nations people have been canvassed since 1967, the current Referendum proposal stems from work done in the last decade or so in across a range of parliamentary committees, public forums and consultations and through discussions among constitutional, legal and policy experts and including consultations involving and led by First Nations communities and leadership.

The following sections summarise and link to the major sources of the work done over the years to develop the proposal for the Voice Referendum and the design of the Voice to Parliament:

#### 1. Development of ideas for constitutional recognition

Since around 2012, both sides of Parliament have worked together to look at options for constitutional recognition including through:

- 2012: Expert Panel on Constitutional Recognition of Indigenous Australians
- 2013 and 2015: Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples; and
- 2014: Aboriginal and Torres Strait Islander Peoples Act of Recognition Review Panel.

In 2015, the then Prime Minister and Leader of the Opposition jointly appointed the [Referendum Council](#) to lead national consultations and community engagement about constitutional recognition, including Indigenous designed and led consultations, based on previous work and recommendations and asked the Referendum Council to give options on a possible referendum.

To achieve this, the Referendum Council's [consultation process](#) included dialogues around different constitutional change options involving 1200 representatives at locations across Australia and the convening of the 2017 First Nations Constitutional Convention at which 250 delegates presented the [Uluru Statement from the Heart](#) which calls for "the establishment of a First Nations Voice enshrined in the Constitution".

In its detailed 2017 [final report](#), the Referendum Council responded to the Uluru Statement from the Heart with the recommendation that "a referendum be held to provide in the Australian Constitution for a representative body to give Aboriginal and Torres Strait Islander Peoples a "Voice to the Commonwealth Parliament"

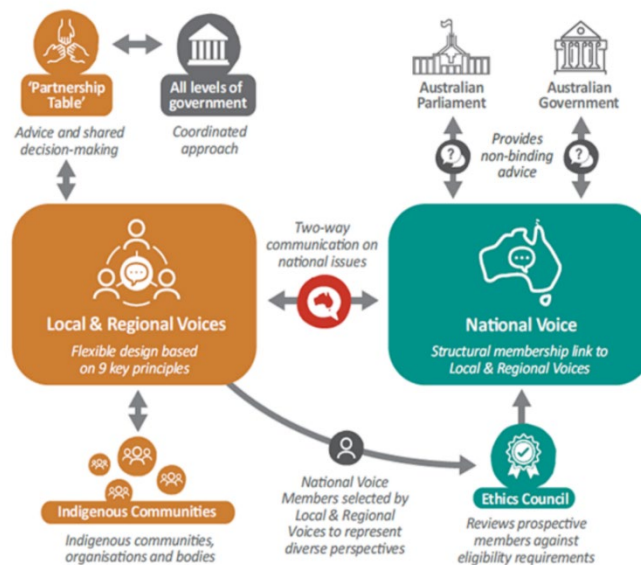
## 2. *The detailed Voice Co-design process*

Following the Uluru Statement from the Heart, the 2018 Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander peoples [recommended](#) that the details of a Voice "should be determined by Aboriginal and Torres Strait Islander people, the Australian Government and the Parliament in a 'co-design process' to achieve a model that best suits the needs and aspirations of Aboriginal and Torres Strait Islander peoples."

The Government instructed the National Indigenous Australians Agency (NIAA) to prepare an [Interim Report](#) on the Indigenous Voice Co-design process, which was delivered in October 2020.

Building on the proposals in the interim report, the co-design members led a detailed public consultation and engagement process involving over 9,400 Australians across urban, regional and remote Australia, including 115 community consultation sessions in 67 diverse communities and over 120 stakeholder [meetings](#), as well as considering 4000 submissions and survey responses.

This work is detailed in the 272 page [2021 Final Report](#), also authored by Professor Marcia Langton and Professor Tom Calma. The report outlines an Indigenous Voice made up of two parts that work together: Local & Regional Voices and a National Voice.



Source: <https://voice.gov.au/resources/indigenous-voice-co-design-process-final-report>

## 3. *Ongoing advice around the Referendum*

Since 2022, the Government has convened several advisory groups including a [First Nations Referendum Working Group](#), [First Nations Referendum Engagement Group](#) and [Constitutional Expert Group](#) to provide advice around aspects of the Referendum.

**f. What happens afterwards?**

If the Referendum delivers a “Yes” vote, there will be a public process to finalise the Voice design and legislation to establish the Voice will be put through the usual parliamentary processes, which includes scrutiny and debate by both houses of Parliament.

In April 2023, the Government released the [Voice Design Principles](#) to be used if the Referendum has a “Yes” outcome. These are based on the detailed work done in the [Co-Design](#) process and previous consultations.

**g. When will the Referendum happen?**

Legislation to set up the Referendum was passed in late June 2023. The [explanatory memorandum](#) summarises the details. The date is yet to be announced, but must be between September and December 2023.

**h. Constitutional advice on the impact of the Voice**

The Government has consulted constitutional experts at various stages of the constitutional reform process, including the current [Constitutional Expert Group](#), and has obtained advice from the [Commonwealth Solicitor General](#) Stephen Donaghue on what the proposed constitutional change might mean for Australian law. A simple summary of this advice by a legal expert can be found [here](#).

**i. Checking the accuracy of information about the process**

The resources in this section are authoritative about process.

The Australian Electoral Commission has a [Referendum Disinformation Register](#) addressing matters to do with process (but not the Yes or No debates themselves).

## 2. Covering the debate – Yes and No cases

The ***Finding the Facts*** section above deals with the process and facts behind the Referendum, which will be part of the discussion and are important to report accurately.

This section on ***Covering the debate*** focuses on finding resources about the Yes and No cases for and against the constitutional change.

The starting point for all coverage, whether news or discussion, is the Community Radio Broadcasting Codes of Practice, and specifically [Codes 3.3](#), [Code 3.6](#) and [Code 4](#).

While the Codes allow for stations to take a position on the Voice (see below) and don't require 50/50 coverage of opposing sides, they do require accuracy, correct representation of viewpoints, distinguishing facts from commentary and analysis, exercising appropriate sensitivity on Indigenous matters and refraining from discrimination or vilification. These factors need to be considered when reporting or engaging in discussions.

Disinformation is already proving to be a challenge, so a starting point is finding authoritative sources. When contacting spokespeople on any position, it is advisable to check their public statements to determine if there are any issues of concern and, if appropriate, report on any responses to their comments and views. Where a fact can be checked, it should be.

### a. Yes and No pamphlets from Parliament

Under the Referendum Machinery Provisions Act, the AEC is required to distribute a pamphlet with a written argument for and against the passage of the referendum. The arguments for Yes or No are prepared by a majority of the parliamentary members who voted for against the legislation to set up the referendum and are [published](#) by the AEC. The AEC has no say in the content and there is no requirement for the pamphlet to be truthful. Some media have run fact checks on the contents.

### b. Yes and No official campaigns

The arguments on both sides will come from a range of places, including politicians, campaigns, community groups and individuals. Positions have been taken by the Government, the Opposition and other political parties and independents and should be referenced from those sources. Some local members are organising local campaigns in their electorates.

[Yes23](#) is a campaign organised by Australians for Indigenous Constitutional Recognition and their website includes campaign resources and information including:

- [Key campaign points](#)
- Media release [sign up](#).
- Media enquiries and campaign spokespeople [media@yes23.com.au](mailto:media@yes23.com.au) or 0422558963

A range of other groups are supporting Yes campaigns including, for example [Together Yes](#) and [Uphold and Recognise](#). [Multicultural for Voice](#) includes a list of 110+ multicultural and faith-based community organisations and peak bodies supporting Yes.

The No campaign doesn't currently have a central official website and is supported by a range of sources including politicians from different sides of politics. An organisation called Advance is running a campaign called [Fair Australia](#). (See however [concerns](#) re some of their campaign materials). [Recognise A Better Way](#) is a No campaign that proposes alternative forms of recognition. The ABC [reported](#) in May that these two campaigns would join under a single campaign called Australians for Unity with Warren Mundine and shadow Indigenous Australians Minister Jacinta Nampijinpa Price as campaign spokespeople.

This section will be updated when authoritative campaign resources become available.

### c. Checking sources

When considering any information from any campaign, the AEC's [guidance on checking sources](#) is useful both for broadcasters and their audiences.

### 3. Dealing with disinformation

Community broadcasting will be an important source for accurate education and engagement with the issues in the Voice Referendum and a safe place for discussion.

The Community Radio Broadcasting Codes of Practice don't prevent broadcasters from taking a position on any side of debate, as long as the coverage otherwise complies with the usual obligations under the News and Current Affairs Codes ([Code 3.6](#)), anti-discrimination Codes ([Code 3.3](#)) and our Codes covering reporting on Indigenous peoples and issues ([Code 4](#)).

One of the significant challenges of political debates globally is the increasing use of disinformation which is used to distract debate from the real issues in contention. It can be challenging to tell the difference.

#### Disinformation registers

The following disinformation registers attempt to address this, though each is limited in what it has the power to cover:

- **Referendum process:** The Australian Electoral Commission has limited powers to prosecute for disinformation, where it relates to the information about the voting process itself (e.g., telling people they have to use certain numbers, when the process allows for a tick or cross). The AEC has a [Disinformation Register](#) which is limited to addressing facts around the referendum voting process.
- **University faculties:** Some law faculties offer expert analysis addressing disinformation about the current Referendum proposal. See for example the Castan Centre for Human Rights Law at [Monash University](#) or the [Australian National University](#).
- **Fact check sites** focus on identifying misinformation around facts, but not opinions:
  - RMIT [Fact Lab](#) and it's [Cross Check](#) initiative focused on the Referendum
  - ABC [Fact Check](#) (in partnership with RMIT)
  - AAP [Fact Check](#):

#### Media explainers

Some of the large media organisations have dedicated explainer sections for their Voice coverage: e.g. SBS and NITV's [Voice Referendum Portal](#). See also [The Wire](#) on addressing disinformation.

Community stations that research or reference stories from other media organisations for ideas are still required to do their own assessment of the accuracy of their own broadcasts under our [Code 3.6](#) of the Community Radio Broadcasting Codes of Practice.

#### Checking sources

The AEC's [guidance on checking sources](#) can also be a useful reference, both for broadcasters and their audiences.

#### Generally

While community radio is expected to provide a platform for diverse viewpoints, given the importance and sensitivity of the Voice issues, it is advisable not to publish demonstrably false statements without context, justification or response. Community broadcasters should exercise judgment when inviting viewpoints from anyone who has been found to spread misinformation or sought to be provocative without a reasoned basis for argument.

When airing a range of viewpoints, there is no requirement in the Codes to include or represent fringe or deliberately inflammatory views.

This approach is consistent with ACMA paper [Investigation concepts – Fairness, impartiality and viewpoints](#). (While some of that paper concerns concepts found in commercial but not community broadcasting Codes, it does contain useful guidance on how to assess the audience and approach the presentation of different viewpoints).

## 4. Accessing First Nations expertise

[Code 4](#) of the Community Radio Broadcasting Codes of Practice requires that stations look to advice from Indigenous Australians where they are covering Indigenous issues. Specifically:

[Code 4.1](#): We will seek to involve and take advice from Indigenous Australians in the production of programs focusing on Indigenous Australians and issues. Where possible, we will consult the appropriate Indigenous media organisation broadcaster on appropriate forms of communication.

[Code 4.2](#): When reporting on Indigenous peoples and issues, we will take care to verify and observe the best way to respect culture and customs by:

1. considering regional differences, that is, be mindful of differences between Indigenous local groups,
2. using appropriate words and phrases in referring to Indigenous peoples and their regional groups,
3. seeking proper advice on how to best respect Indigenous bereavement customs when reporting on people who are recently deceased, and
4. using suitable words and phrases when reporting on the social and emotional well-being of Indigenous people.

Community broadcasters are well positioned to reach out to First Nations spokespeople in your local community e.g. by contacting your [local Aboriginal Land Council](#), community organisations or First Nations media organisations. Beyond that, the Yes or No campaigns may be able to connect you to their spokespeople.

For more, see the Community Broadcasting Foundation's [First Nations Engagement Protocols](#) and First Nations Media Association's [First Nation's Media Directories](#)

## 5. Accessing other experts

The Referendum is all about a change to the Constitution, so when covering the legal aspects it is useful to include experts in the field of constitutional law.

A wide range of constitutional experts from a range of perspectives have been involved in the various bi-partisan committees which have focused on constitutional recognition and are currently advising on the constitutional aspects.

Experts may also be reached through local university law faculties, the [Law Council of Australia](#) or state-based law societies.

## 6. Community radio news and current affairs from Community Radio Network

Stations wanting to enhance their own news coverage generally can choose to subscribe to the [community radio network](#) which includes the National Radio News service.

Built on the community broadcasting sector's principles of democracy, independence and access, National Radio News has no commercial ties or political agenda, and often covers stories overlooked by commercial services. Bulletins are produced in Bathurst, NSW, by three professional journalists, supported by cadets from Charles Sturt University. Bulletins are four minutes long and mix national and international news, sport and finance. There is a particular focus on the information needs of people in regional areas.

The Community Radio Network also includes [The Wire](#), a daily current affairs program broadcast exclusively on Community and Indigenous radio stations around Australia. A consortium of progressive community broadcasters: Radio Adelaide, 2SER in Sydney and 4EB in Brisbane, work together to develop The Wire as a key alternative information source. The Wire team also includes three "contributor stations", CAAMA Alice Springs, RTR FM Perth and Joy 94.9 in Melbourne, who each produce a story per week.

For more information, contact the CBAA on 02 9310 2999, or at [crn@cbaa.org.au](mailto:crn@cbaa.org.au).