

# ULURU STATEMENT FROM THE HEART

## Introduction

1. The Law Society of NSW and NSW Young Lawyers acknowledge the Traditional Custodians of the lands on which we live, work and study. We pay our respects to Indigenous Elders past, present and emerging. We commonly meet on the lands of the Gadigal people of the Eora Nation.
2. We acknowledge that the paramount voices in respect of issues concerning First Nations People are the voices of First Nations People themselves. We urge readers to prioritise the voices of First Nations People in discussions of the Uluru Statement from the Heart (**Uluru Statement**).

## The Law Society of NSW and NSW Young Lawyers support the Uluru Statement from the Heart

3. We acknowledge that as a consequence of colonisation, dispossession and enduring government policies, First Nations People have been disempowered of control over their lives, and suffered, and continue to suffer, gross violations of their human rights. We support the proposition that, in order to heal, all Australians must acknowledge these violations in our shared history.
4. Implementation of the Uluru Statement is crucial for empowering First Nations People to exercise their inalienable right to self-determination. The right to self-determination requires that peoples “freely determine their political status and freely pursue their economic, social and cultural development”. This right is recognised in Article 1 of the *International Covenant on Civil and Political Rights*, Article 1 of the *International Covenant on Economic, Social and Cultural Rights* and Article 3 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP). Adequate realisation of the right to self-determination is a critical threshold step towards properly realising the other rights of First Nations People.
5. The endorsement of the Uluru Statement is a necessary further step towards returning power to First Nations People in respect of policy and programmatic decisions impacting upon their families and communities.
6. Implementation and endorsement of the Uluru Statement is consistent with enlivening the right of First Nations People to be primary decision-makers in respect of First Nations knowledge, culture and heritage, and to recognise First Nations heritage as living and connected to country – land and waters.



## **First Nations Voice to Parliament must be constitutionally protected**

7. We support the constitutional entrenchment of a First Nations Voice to the Commonwealth Parliament. A First Nations Voice to Parliament must be given time to develop and mature, and will be vulnerable to legislative change if it is not constitutionally entrenched, and the inalienable right to self-determination will remain unrecognised and suppressed. Accordingly, constitutional entrenchment is necessary to guarantee the recognition, independence and security of a First Nations Voice to Parliament. We call on the Commonwealth Parliament to set a timetable for a referendum on this issue as a matter of priority.
8. In keeping with the right to self-determination, comprehensive consultation and co-design with First Nations People must be central to the development and design of a First Nations Voice to Parliament. Enabling legislation relating to the operation, composition and funding of a First Nations Voice to Parliament should also be developed in partnership with First Nations People.
9. In order to promote transparency in the relationship between the Commonwealth Parliament and a First Nations Voice to Parliament, the Commonwealth Parliament should publicly report on why any recommendations of a First Nations Voice to Parliament have or have not been adopted.

## **A Makarrata Commission should be established to supervise agreement-making and truth-telling**

10. We support the establishment of a Makarrata Commission by way of legislation to “supervise a process of agreement-making between governments and First Nations and truth-telling about our history” as per the Uluru Statement. It is crucial that the legislation establishing the Makarrata Commission be designed by the Voice to Parliament.

11. The Australian Government has previously recognised the importance of engaging in good faith with First Nations People in relation to decisions that affect them. Building on this, the Commonwealth Parliament should establish, without undue delay and as soon as practicable, following a successful referendum to enshrine a Voice to Parliament, a Makarrata Commission to supervise the process of agreement-making and truth-telling. This right is recognised in Article 37 of the UNDRIP. The Commission should be designed by the First Nations led by the Voice to Parliament.
12. Gross violations of human rights should be redressed through “adequate, effective and prompt” reparations, as is recognised by Article 11(b) of the *United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.
13. We recognise that adequate, effective and prompt reparations for First Nations People have not been forthcoming. In addition to agreement-making with governments, truth-telling processes have significant potential as a reparative measure, allowing for public recognition and education of the historical and ongoing violations of the human rights of First Nations People. The Makarrata Commission should be given a broad mandate to supervise agreement-making processes and truth-telling about all human rights violations with respect to First Nations People.
14. In order to supervise the process of agreement-making and truth-telling between governments and First Nations People and acknowledging the legal and political implications of such a process, the Makarrata Commission should be well-resourced, jointly funded at a State and Commonwealth level, possess a broad mandate, be culturally safe, and have access to relevant expertise.