

Referendum boss Mark Leibler backing Pearson on Indigenous voice

EXCLUSIVE

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Mark Leibler, the co-chair of the Referendum Council that endorsed the Uluru Statement from the Heart. Picture: Aaron Francis

Mark Leibler, the co-chair of the Referendum Council that endorsed the Uluru Statement from the Heart, has backed Noel Pearson's call for constitutional recognition to be fast-tracked ahead of a legislated voice to government.

In a submission to the advisory panel that is co-designing a "voice to government", Mr Leibler, a partner at Arnold Bloch Leibler, said a legislated voice would not attract the support of Aboriginal Australians.

It is among the 85 per cent of submissions to government on the design of the voice that support the Indigenous advisory body being enshrined in the Constitution.

"As part of the final phase of the co-design process, an exposure draft bill for the voice should now be developed, as well as options for the wording of a possible constitutional amendment," Mr Leibler wrote. "As a purely legislated voice would be highly unlikely to attract support from Aboriginal and Torres Strait Islander peoples, and therefore unlikely to attract support from the wider community, enabling legislation should only be passed subsequent to a successful referendum."



He also wrote that, contrary to the recommendations in the interim report on the voice design, "policymakers should be obliged, rather than purely expected, to consult the advisory voice".

The submission shows the growing divide among supporters of the Uluru Statement from the Heart about how constitutional recognition should be progressed.

The proposal for a constitutionally enshrined voice was formed in the Uluru Statement from the Heart in 2017 but rejected by then prime minister Malcolm Turnbull as a “third chamber to parliament”.

The Morrison government is pursuing a compromise version of the Uluru statement’s proposal in the form of a “voice to government” that would be legislated but not protected in the Constitution.

Last week, the co-chairs of the group co-designing an Indigenous voice to government — Marcia Langton and Tom Calma — said taking the proposal to a referendum before it was legislated risked scuppering the entire reform.

Professor Calma and Professor Langton pushed back against Mr Pearson, who used a speech last Wednesday to call for the delay of the Indigenous advisory body until there could be a referendum to recognise Indigenous Australians in the Constitution.

Questions about enshrinement have dominated some of the public meetings meant to consider the voice’s design. When the public was invited to comment on the voice’s proposed design in writing, many instead urged the government to put the voice in the Constitution.

In all, 85 per cent of published submissions on the voice support this in principal, according to an analysis by the University of NSW Indigenous Law Centre.

By Wednesday, there had been 295 public written submissions uploaded onto the government’s voice website and 240 of those expressly supported constitutional enshrinement (81 per cent). An additional 12 submissions express in-principal support for constitutional enshrinement (for instance, by expressing support for the Uluru Statement from the Heart to be implemented).

The law centre identified that 58 per cent of the published comments about the voice were from non-Indigenous people.

By Tuesday, a total of 646 public submissions had reached the government department supporting the design of the voice, the National Indigenous Australians Agency, but not all had been posted online yet. Professors Calma and Langton said they welcomed all submissions. In their final report to government, they said they would note how many of the public submissions indicated support for an enshrined voice.

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Paige Taylor is from the West Australian goldmining town of Kalgoorlie and went to school all over the place including Arnhem Land in the Northern Territory and Sydney’s north shore. She has been a reporter since. [Read more](#)

