

**Response to Karen Middleton in The Saturday Paper
'The Making of the Uluru Statement', 3 June 2017**

Karen Middleton's article in The Saturday Paper on 3 June 2017 is full of errors. The online version has been amended, confirming these errors. Other errors still remain.

1. Firstly, Middleton stated that Julian Leeser MP does not support the proposal for an Indigenous body in the Constitution. Julian advises he did in fact tell Middleton he supports the body. He also expressed his support publicly this week (see The Australian <http://www.theaustralian.com.au/national-affairs/indigenous/coalition-split-on-ururu-statement-and-indigenous-advisory-body/news-story/6f089cad9d8f232ef793b47c4f465488> and Sky News <http://www.skynews.com.au/news/politics/federal/2017/05/30/ministers-sceptical-over-ururu-statement.html>). Julian also publicly advocated for an Indigenous body in the Constitution in his maiden speech to Parliament this year (<http://www.skynews.com.au/news/politics/federal/2017/05/30/ministers-sceptical-over-ururu-statement.html>) and in his chapter 'Uphold and Recognise' in *The Forgotten People: liberal and conservative approaches to recognising indigenous peoples* (Melbourne University Press, 2016)).
2. Secondly, Middleton wrote that the Referendum Council engaged Professor Anne Twomey to draft the body design report. This is totally incorrect. Twomey drafted her version of a constitutional amendment giving effect to an Indigenous voice in the Constitution back in 2015, before the Referendum Council existed, and she did so on a voluntary basis. (Her drafting was published in The Conversation in May 2015: <http://theconversation.com/putting-words-to-the-tune-of-indigenous-constitutional-recognition-42038>).
3. Thirdly, Middleton wrote that Megan Davis is a Sydney University law professor. She is actually a professor and now Pro-Vice Chancellor at the University of New South Wales.

The Middleton article also contains a number of biased and unjustified insinuations:

4. The article states the proposal for an Indigenous body is "completely Noel Pearson's idea". While Pearson has led the engagement with conservatives on this model in the last few years, this is not "completely Noel Pearson's idea". The proposal for First Nations representation, authority and a voice in their affairs has been argued for decades by Indigenous leaders. These themes were advocated by Fred Maynard, William Cooper, Doug Nicholls, the Bark Petitions, the Barunga Statement, the Larrakia Petition and many more, long before Noel Pearson came to prominence. Further, the current proposal is a result of extensive collaboration – it is not just Noel Pearson's work.

5. Middleton also incorrectly insinuates that Cape York Institute and Noel Pearson's engagement with constitutional conservatives was somehow secretive or underhanded until this week. Middleton describes the consultations with conservatives as "behind-the-scenes negotiations" and "quiet consultations" which, she later writes, some people could view as "sinister". She quotes no one alleging the sinister view.
6. The discussions with conservatives held from 2014 were not "behind the scenes" or secretive. To the contrary, Noel Pearson and CYI's discussions with constitutional conservatives have been public knowledge since 2014.
7. Noel Pearson published a Quarterly Essay detailing these discussions in 2014 (<https://www.quarterlyessay.com.au/essay/2014/09/a-rightful-place>) and spoke openly about this engagement with conservatives at the Uphold & Recognise public launch in 2015 (<http://capeyorkpartnership.org.au/wp-content/uploads/2015/04/Noel-Pearson-Declaration-Launch-Speech-13-April-2015.pdf>). Noel's work with conservatives on this model was reported extensively from 2014-2015. This included articles and comments published by constitutional conservatives Greg Craven, Damien Freeman and Anne Twomey in The Australian and other papers. (E.g. Greg Craven: <http://www.theaustralian.com.au/opinion/columnists/greg-craven/we-need-to-work-out-how-indigenous-voices-can-be-heard/news-story/a1999e244fe74a28f9eda7bab814afe3> Damien Freeman <http://damienfreeman.com/indigenous-recognition/> Anne Twomey https://sydney.edu.au/law/cru/documents/2015/CRU_Conf_Indigenous_Recognition_Twomey.pdf and here <https://www.theguardian.com/australia-news/2015/apr/16/indigenous-advisory-body-would-have-most-impact-constitutional-expert> Fergal Davis <https://www.theguardian.com/commentisfree/2015/apr/14/noel-pearsons-proposal-could-deliver-real-authority-for-indigenous-australia> plus commentary from many other parties).
8. CYI made three public submissions to the Joint Select Committee explaining their work with constitutional conservatives in 2014 and 2015 (See submissions here: <http://capeyorkpartnership.org.au/cogs-of-change/recognition-and-reconciliation/recognition-and-reconciliation-resources-submissions-articles-speeches-and-more/>).
9. A public seminar was held at Sydney University in 2015, at which several prominent legal academics discussed the proposal. Their papers were published in the Indigenous Law Bulletin. (Special edition ILB: <http://capeyorkpartnership.org.au/news/indigenous-law-bulletin-experts-on-indigenous-body/>).
10. In 2016, Noel Pearson again reminded people that the body proposal was devised as a 'radical centre' compromise with conservatives (<http://capeyorkpartnership.org.au/news/conservative-role-essential-in-indigenous->

[recognition/](http://www.theaustralian.com.au/opinion/columnists/chris-kenny/constitutional-recognition-carries-seeds-of-reconciliation/news-story/dacfa5c2a2cb2e0856bfd2f23450de8c)). Other commentators also explained the proposal (Chris Kenny: <http://www.theaustralian.com.au/opinion/columnists/chris-kenny/constitutional-recognition-carries-seeds-of-reconciliation/news-story/dacfa5c2a2cb2e0856bfd2f23450de8c>).

11. This history was not kept secret at the dialogues. During the regional dialogues, Noel Pearson also informed participants of how the proposal was developed, including the reasons constitutional conservatives were more open to the idea of an Indigenous body in the Constitution than a racial non-discrimination clause. Noel Pearson attended 7 of the 12 Regional Dialogues. All Regional Dialogues preferred the Voice.
12. Middleton also insinuated that Shireen Morris “revealed” after Uluru that the body proposal was “actually” a proposal developed by constitutional conservatives, incorrectly insinuating that this was new information. Middleton writes: “Noel Pearson’s constitutional adviser, Shireen Morris, revealed this week that the basis for what Indigenous people agreed on at Uluru was actually drafted in consultation with the non-Indigenous “constitutional conservatives”.” (The words “revealed” and “actually” have now been deleted from the online article).
13. Shireen in fact revealed nothing she had not already explained several times previously to the public and to numerous Indigenous and Non-Indigenous seminars, through countless speeches and public addresses, well before Uluru. Shireen has publically explained the development of this proposal as taking on board conservative concerns numerous times in the last few years. (In response to Keith Windschuttle: <http://capeyorkpartnership.org.au/news/separatism-through-indigenous-recognition-an-irrational-fear/> in response to Amos Aikman: <http://capeyorkpartnership.org.au/news/9686/> after an address with Julian Leaser The Sydney Institute: <http://capeyorkpartnership.org.au/news/a-practical-constitutional-promise-to-do-things-with-aborigines-not-to-them/> Australian Christian Lobby speech: <https://www.youtube.com/watch?v=7qFmks6pOek> Public Law Review article: <http://capeyorkpartnership.org.au/wp-content/uploads/2015/02/A-constitutional-duty-to-consult-PLR-2015.pdf>).
14. Shireen Morris and Damien Freeman even co-edited a book, “The Forgotten People” explaining this proposal as a ‘radical centre’ compromise with conservatives, which was published in 2016 and contains many essays by prominent conservatives supporting the proposal (<https://www.mup.com.au/items/164020>).
15. A tweet sent out by The Saturday Paper with a link to Middleton’s article this morning suggested that the “Uluru Statement was written by Non-Indigenous constitutional conservatives”. This is completely incorrect. The tweet has now been deleted after complaints were received.
16. It is also interesting that Middleton frames Pearson’s engagement with “the Non-Indigenous” constitutionally conservative lawyers in the drafting of the body amendment as potentially “sinister”, whereas previous engagement with Non-

Indigenous leftist / human rights constitutional lawyers in relation to a racial non-discrimination clause or variations of (lawyers like George Williams) is viewed as benign and not even mentioned.

17. This is a very poor piece of journalism, infused with Middleton's own ideological bias. It undermines the value of the Uluru Statement from the Heart and shows a journalist who hasn't paid any attention to this debate over the past three years. The inaccuracies and skewed insinuations do no justice to the hard work of First Nations leaders from around the country and decades of Indigenous advocacy calling for a First Nations voice and empowerment in their affairs. This issue deserves fair and unbiased reporting.