



Australian Government

VOTING IS COMPULSORY

Your official

**YES|NO**

**referendum pamphlet**

# What may change in the Constitution

## Statement of the proposed changes to be made to the Constitution

The proposed law, being the Constitution Alteration (Aboriginal and Torres Strait Islander Voice) 2023, would change the Constitution by inserting the following text after Chapter VIII:

### Chapter IX – Recognition of Aboriginal and Torres Strait Islander Peoples

#### 129 Aboriginal and Torres Strait Islander Voice

In recognition of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia:

- (i) there shall be a body, to be called the Aboriginal and Torres Strait Islander Voice;
- (ii) the Aboriginal and Torres Strait Islander Voice may make representations to the Parliament and the Executive Government of the Commonwealth on matters relating to Aboriginal and Torres Strait Islander peoples;
- (iii) the Parliament shall, subject to this Constitution, have power to make laws with respect to matters relating to the Aboriginal and Torres Strait Islander Voice, including its composition, functions, powers and procedures.

The proposed law would also change the Constitution by inserting the following text into the Table of Contents in the Constitution, after the reference to 'Chapter VIII Alteration of the Constitution':

Chapter IX Recognition of Aboriginal and Torres Strait Islander Peoples

On the following pages you will find the **Yes** and **No** cases

The arguments for each case have been provided by the majority of federal Members of Parliament and Senators who voted for or against the proposed law to alter the Constitution, and who desired to forward such an argument.

Those who voted for the proposed law, and who desired to forward such an argument, have created the Yes case, while those who voted against the proposed law, and who desired to forward such an argument, have created the No case.

The word count is restricted to 2,000 words for each case by section 11(1) of the *Referendum (Machinery Provisions) Act 1984* (Cth).

# The case for voting **Yes**

**Yes**

The case for voting **Yes** starts on **page 6** and is then presented on alternate pages.

## **A proposed law:**

To alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.

**Who wrote this?**

The content of this argument (which can be viewed at [aec.gov.au/referendums/pamphlet.htm](http://aec.gov.au/referendums/pamphlet.htm)) was authorised by a majority of those members of Parliament who voted for the proposed law and desired to forward such a case. This text has been published without amendment by the Electoral Commissioner.

# The case for voting **No**

**No**

The case for voting **No** starts on **page 7** and is then presented on alternate pages.

## **A proposed law:**

To alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.

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## Vote Yes for a better future for Aboriginal and Torres Strait Islander people and all Australians.

### Vote Yes for unity, hope and to make a positive difference.

#### Voting YES is about:

##### Recognition

- **Recognising** Aboriginal and Torres Strait Islander people in our Constitution and paying respect to 65,000 years of culture and tradition.

##### Listening

- **Listening** to advice from Aboriginal and Torres Strait Islander people about matters that affect their lives, so governments make better decisions.

##### Better Results

- **Making practical progress** in Indigenous health, education, employment and housing, so people have a better life.

### It's a change only you can make happen.

Vote Yes to an idea that comes directly from Aboriginal and Torres Strait Islander people themselves:

#### Constitutional Recognition through a Voice.

##### What is the Voice:

The Voice will be a committee of Aboriginal and Torres Strait Islander people who will give advice to the Parliament and Government on issues that affect their community.

It will include Indigenous Australians from every state and territory, the Torres Strait Islands and representatives from the regions and remote communities.

Members of the Voice will be chosen by Aboriginal and Torres Strait Islander people in their local area and serve for a fixed period.

##### Why we need it:

There are big challenges facing Aboriginal and Torres Strait Islander people:

- A life expectancy 8 years shorter than non-Indigenous Australians.
- Worse rates of disease and infant mortality.
- A suicide rate twice as high.
- Fewer opportunities for education and training.

Clearly, the current approach isn't working.

To close these gaps, find solutions and plan for the future we need to listen to advice from Aboriginal and Torres Strait Islander people about issues affecting their lives and communities.

##### How the Voice will work:

##### The Voice is about advice.

When governments listen to people about issues that affect them, they:

- Make better decisions.
- Get better results.
- Deliver better value for money.

The Voice will give advice on key issues facing Aboriginal and Torres Strait Islander people, from better infant health to improving services in remote areas.

Yes case continues p.8

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Who wrote this?

## REASONS TO VOTE NO – A SUMMARY

This Referendum is not simply about "recognition". This Voice proposal goes much further. If passed, it would represent the biggest change to our Constitution in our history. It is legally risky, with unknown consequences. It would be divisive and permanent. **If you don't know, vote no.**

### RISKY

We all want to help Indigenous Australians in disadvantaged communities. However, this Voice is not the answer and presents a real risk to our system of government.

This Voice specifically covers all areas of "Executive Government". This means no issue is beyond its reach.

The High Court would ultimately determine its powers, not the Parliament.

It risks legal challenges, delays and dysfunctional government.

### UNKNOWN

No details have been provided on how members of the Voice would be chosen or how it would operate. Australians are being asked to vote first before these details are worked out.

**Australians should have details before the vote, not after.**

We don't know how it will work, we don't know who will be on it, but we do know it will permanently divide us as Australians.

Some Voice supporters say this would just be a first step to reparations and compensation and other radical changes. So, what would come next?

### DIVISIVE

Enshrining a Voice in the Constitution for only one group of Australians means permanently dividing our country. It creates different classes of citizenship through an unknown body that has the full force of the Constitution behind it. Many Indigenous Australians do not support this.

### PERMANENT

Putting a Voice in the Constitution means it's permanent. We will be stuck with negative consequences.

## TEN REASONS TO VOTE NO

### 1. THIS VOICE IS LEGALLY RISKY

Australia's Constitution is our most important legal document. Every word can be open to interpretation. Australia hasn't changed its Constitution since 1977. **This would be the biggest change to our democracy in Australia's history.**

It is a leap into the unknown. This Voice has not been road tested. There is no comparable constitutional body like this anywhere in the world.

Enshrining a Voice in the Constitution means it is open to legal challenge and interpretation by the High Court.

Legal experts don't agree, and can't know for sure, how the High Court will interpret such a constitutional change.

No case continues p.9

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Who wrote this?

Parliament and Government will still be responsible for all laws, programs and funding.

**Patrick Dodson, Senator for Western Australia, Yawuru Elder:**

*"When people on the ground are listened to and engaged, better laws and policies are made. Advice from the Voice will make our decisions and directions more informed and more successful. Recognition in the Constitution will help heal our nation."*

### THE VOICE: KEY FACTS

- Idea comes from Aboriginal and Torres Strait Islander people.
- Recognises First Peoples in our Constitution.
- A committee of Aboriginal and Torres Strait Islander people.
- Gives people a say on issues affecting them.
- Listening will mean better results – and better value for money.
- Representatives from all states and territories, the Torres Strait Islands and remote communities.
- Will include young people and a balance of men and women.
- Parliament and Government still responsible for laws, programs and funding.

### KEEP READING FOR 8 MORE REASONS TO VOTE YES.

## 1. This idea came directly from Aboriginal and Torres Strait Islander people.

Voting Yes means:

- Supporting an aspiration put forward by Aboriginal and Torres Strait Islander people over decades.
- Accepting a proposal backed by over 80% of Aboriginal and Torres Strait Islander people.

**The call for a Voice did not come from politicians.**

In 2017, after many years of work and countless conversations in every part of the country, nearly 250 Aboriginal and Torres Strait Islander leaders and elders endorsed the *Uluru Statement from the Heart*.

Calling for recognition in the Constitution through a Voice.

Asking us to help make practical change in their lives and create better opportunities for their children.

Australians from all walks of life, all faiths and cultures, and all sides of politics have given their support to this proposal.

Now we can make it a reality.

Voting Yes is an act of unity that will bring Australians together.

## 2. Constitutional recognition for concrete results.

Constitutional recognition is a powerful statement that will drive practical change.

**Voting Yes means:**

- Recognising Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia.
- Celebrating and sharing 65,000 years of history.
- Sending a powerful message to the world about Australia's unity.
- Making a practical difference for the future.

Generations of Aboriginal and Torres Strait Islander people have enriched our nation with their culture and creativity, their knowledge of the land and waters, and their contribution to Australian life.

Yes case continues p.10

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**"I would foresee a decade or more of constitutional and administrative law litigation arising out of a voice..."**

(Ian Callinan, AC KC, former High Court Judge)<sup>1</sup>

This opens a legal can of worms.

## 2. THERE ARE NO DETAILS

This is a big decision. However, the Government won't reveal key details before the vote.

We don't know how it will help disadvantaged communities and close the gap.

We don't know how many members this Voice would have.

We don't know if they would be elected or chosen, or how this would occur.

We don't know how it would make representations or be held accountable.

These details would only be worked through after Australians have voted.

According to the Yes campaign, it "doesn't make sense" to have details before the vote:

"It doesn't make any sense to do that detailed consultation until we have the support of the Australian people to change the constitution."  
(Yes23 Brochure)

This is the wrong way around.

You wouldn't buy a house without inspecting it or a car without test driving it.

Yet you are being asked to vote to change our Constitution without details.

Australians shouldn't be asked to sign a blank cheque.

"How can Australians possibly agree to something where we don't know the detail?"

(Senator Kerryanne Liddle, Shadow Minister for Child Protection and the Prevention of Family Violence and Arrernte woman)

## 3. IT DIVIDES US

Enshrining in our Constitution a body for only one group of Australians means permanently dividing Australians. Many Indigenous Australians do not agree with this.

**"This Voice will not unite us, it will divide us by race."**

(Senator Jacinta Nampijinpa Price, Shadow Minister for Indigenous Australians and Waripiiri woman)

This goes against a key principle of our democratic system, that all Australians are equal before the law.

"The inclusion of the proposed s 129 would mean that we become a nation where, whenever we or our ancestors first came to this country, we are not all equal."

(David Jackson AM KC, former Federal Court Judge)<sup>2</sup>

Our Constitution belongs to all Australians. Our Parliament is there to represent all Australians. It now includes a record 11 Indigenous Members and Senators.

Our national anthem was recently changed to reflect the fact we are "one and free".

**By contrast, this Voice would permanently divide Australians, in law and spirit.**

- 1 The Australian, 17/12/2022
- 2 Parliamentary Inquiry Submission, 11/04/2023

No case continues p.11

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Our ancient continent is home to the world's oldest living cultures. Recognising this in our Constitution is an inspiring way to celebrate our shared history. Voting Yes is an act of reconciliation that will deliver real results.

The form of recognition Indigenous Australians are asking us to support is a Voice. A vehicle for practical change.

### Johnathan Thurston, NRL champion and coach, Gungahlin man:

*"Our young people deserve the chance to be their best. I work closely with schoolkids in the Yarrabah community in Queensland. I've seen the obstacles they face. Nobody understands that better than their local community. Giving them a say will mean more of our kids reach their potential. That's what the Voice is about."*

### 3. Ensure people have a better life.

The Voice is a vehicle to deliver real improvements for Aboriginal and Torres Strait Islander people in:

- Life expectancy.
- Infant mortality and health.
- Education and employment.

For a long time, governments with good intentions have spent billions trying to deal with these issues.

But they haven't achieved lasting improvement because they haven't listened to people on the ground.

The current approach is broken and the Voice is our best chance to fix it.

No-one thinks the Voice will instantly solve everything - but we will finally have the right approach in place.

**Here are three examples where listening to Indigenous people has delivered better outcomes.**

**IMAGINE THE PROGRESS AUSTRALIA COULD MAKE WITH A VOICE.**

#### Listening Works: Better Health Services

Community-controlled Aboriginal Medical Services employ local Indigenous people.

They run clinics and visit remote areas, providing essential services like child immunisation.

In South East Queensland, the local Aboriginal Medical Service and the community worked together to hugely increase the number of annual health checks, from 550 to over 20,000 over 10 years.

#### Listening Works: Better Results in Education

Families and community leaders have been involved in every step of the new Dhupuma Barker school in Arnhem Land, from lesson-planning to uniforms and lunches.

Genuine partnership has driven **strong school attendance rates and better results**. The 'Dhupuma Firebirds' Robotics team recently competed in the VEX International Championships in Texas, the first team from the Northern Territory ever to qualify.

Principal Philip Heath says:

*"Listening to the community is a game-changer in regional and remote education."*

#### Listening Works: Indigenous Rangers

There are nearly 2,000 Indigenous Rangers working on country.

Rangers care for our environment by **working to prevent bushfires, controlling feral pests and improving the health of our rivers**.

Listening to Indigenous Rangers means sharing in 65,000 years of knowledge and connection to our land and waters.

Yes case continues p.12

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Who wrote this?

"We're all Australians. And that's the way it should end up. It shouldn't be divided by this so-called Voice which is going to split this country right down the centre." (Ian Conway, *Central Arrernte Senior Custodian*)

### 4. IT WON'T HELP INDIGENOUS AUSTRALIANS

We all want to help Indigenous Australians in disadvantaged communities, to close the gap and achieve reconciliation.

**However, more bureaucracy is not the answer.**

There are currently hundreds of Indigenous representative bodies at all levels of government, along with the National Indigenous Australians Agency, which has 1,400 staff.

A centralised Voice risks overlooking the needs of regional and remote communities.

"A national voice cannot speak for country."

(*Nyunggal Warren Munkine AO, Australians for Unity board member and Bundjalung man*)

Right now, many voices are crying out for help in tackling devastating social problems in some remote communities. What's needed is action.

**"What we need in Canberra is ears, not a Voice."**

(*Senator Jacinta Nampijinpa Price, Shadow Minister for Indigenous Australians and Warlpiri woman*)

### 5. NO ISSUE IS BEYOND ITS SCOPE

This Voice model isn't just to the Parliament, it goes much further – to all areas of "Executive Government". **That includes all government departments, agencies and other bodies (like the Reserve Bank).**

Decisions in relation to the economy, national security, infrastructure, health, education and more, would all be within its scope.

In the words of a member of the Government's Referendum Working Group:

"The voice will be able to speak to all parts of the government, including the cabinet, ministers, public servants, and independent statutory offices and agencies – such as the Reserve Bank...it can't shut the voice up." (Professors Megan Davis and Gabrielle Appleby)<sup>3</sup>

In the words of a constitutional law professor who supports the Voice:

"I think it's fatally flawed because what it does is retain the full range of review of executive action. This means the Voice can comment on everything from submarines to parking tickets...We will have regular judicial interventions."

(*Professor Greg Craven AO*)<sup>4</sup>

Many legal experts have expressed concern about its scope, however their concerns have simply been overlooked.

### 6. IT RISKS DELAYS AND DYSFUNCTION

The Australian Parliament deals with hundreds of pieces of legislation a year.

This Voice's scope goes beyond Parliament, covering departments, agencies and all areas of "Executive Government".

How would the Voice handle this?

**If the Voice is not satisfied with the way it has been consulted, or a decision that is made, it could appeal to the courts. How long would this take?**

<sup>3</sup> The Australian, 1/4/2023  
<sup>4</sup> Daily Mail, 24/03/2023

No case continues p.13

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Who wrote this?

**Vote Yes for better results around Australia.**  
**Vote Yes to help close the gap.**

## 4. Bring our country together.

Voting Yes means:

- Becoming reconciled with our past and moving to a better future.
- A change only you can make happen.

Australia has come a long way since our Constitution came into effect in 1901.

We now rightly celebrate Indigenous Australians and their contributions to our country.

At the 1967 referendum, 90% of Australians voted Yes to changing the Constitution, so Aboriginal and Torres Strait Islander people would be counted in the population in the same way as everyone else.

It was a unifying step forward.

Together we have a chance to take the next step - recognising Aboriginal and Torres Strait Islander people through a Voice.

Other nations with similar histories, like Canada and New Zealand, formally recognised their own First Peoples decades ago.

**Experience shows there is nothing to fear - and so much to gain.**

**Rachel Perkins, Filmmaker from Alice Springs, Arnernte/Kalkadon woman:**

*"Our people have spent decades campaigning for the opportunity of a better life. We've never been more determined or more united. The Voice is our best shot, let's take it."*

## 5. Save money.

When governments listen to people, they get better outcomes and use funding more effectively.

**Aunty Pat Anderson AO, Co-Chair Uluru Dialogues, Alyawarre woman:**

*"When you involve people, you make better decisions and the money you spend goes where it's needed most: to the people on the ground."*

Governments from both sides have invested billions in programs that haven't fixed problems or reached communities.

A Voice will help us listen to locals and save money.

We're all better off when governments don't waste taxpayer money on things that aren't working.

## 6. The time is now.

The idea of a Voice has been decades in the making. Many Aboriginal and Torres Strait Islander people have put in a great deal of hard work and goodwill.

Voting No means nothing will change. It means accepting we can't do better.

**Don't risk more of the same:**

- Worse life expectancy.
- Worse results in education and employment.
- Worse outcomes in health.

Vote Yes to break this cycle and unite our nation.

**Eddie Betts, Adelaide and Carlton AFL legend, Gubrun, Wirangu/Kokatha man:**

*"I know the Voice won't fix everything overnight but I feel like it's the opening of a pathway to make sure we are included and respected in decision-making on issues that impact us."*

Yes case continues p.14

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Many legal experts have warned this would cause considerable delays in decision making.

*"The Voice will almost certainly become a lightning rod for protracted debate about a vast array of current issues. Nearly every matter of current concern on the national agenda will be seen as having an Indigenous component of some kind."*

*(Nicholas Hasluck AM KC, former WA Supreme Court Judge)<sup>5</sup>*

The risk of legal appeals and delays means a risk of dysfunctional government.

That is not good for Australia.

## 7. IT OPENS THE DOOR FOR ACTIVISTS

The legal uncertainty and the absence of details raises the question: what comes next?

Some Voice supporters are upfront in saying this Voice will be a first step to reparations and compensation and other radical changes.

*"This is the first step, it's a vital step and it puts all the explanation behind it. 'Pay the Rent' for example, how do we do that in a way that is transparent and that actually sees reparations and compensation to Aboriginal and Torres Strait Islander people...?"*

*(Thomas Mayo, Referendum Working Group)<sup>6</sup>*

The Uluru Statement from the Heart says a Voice is a first step, before a treaty and truth telling.

By definition, a treaty is an agreement between governments, not between one group of citizens and its government.

A member of the Government's Referendum Working Group has described "truth" as "leverage" to lead to "the abolishment of the old colonial institutions".

*"It is a way to further what we need for our people in any negotiations for treaties and for other things like legislation, reform and abolishment of the institutions, the old colonial institutions that harm us."*

*(Thomas Mayo, Referendum Working Group)<sup>7</sup>*

Already, many activists are campaigning to **abolish Australia Day, change our flag and other institutions** and **symbols** important to Australians.

*"It's always been #abolishAustraliaDay, changing the date is a cop out."*

*(Teela Reid, Referendum Engagement Group)<sup>8</sup>*

If there is a constitutionally enshrined Voice, these calls would grow louder.

"Australians need to understand that the Voice will be used to support the demands for recognition of coexisting sovereignty, a Makarrata commission designed to produce a treaty and monetary compensation, and a rewriting of Australian history..."

The potential for great irremediable harm to Australian society means the voice should never be incorporated into the Australian constitution..."

*(Terence Cole AO RFD KC, former NSW Supreme Court Judge)<sup>9</sup>*

## 8. IT WILL BE COSTLY AND BUREAUCRATIC

We don't know how much additional funding would be allocated to this Voice.

That's another detail that would only be determined after the referendum.

5. Parliamentary Inquiry Submission, 16/4/2023  
 6. SEARCH Foundation speech, 12/2/2020  
 7. SEARCH Foundation speech, 12/2/2020  
 8. Twitter, 24/1/2023  
 9. Spectator Australia, 6/4/2023; Parliamentary Inquiry Submission, 19/4/2023

No case continues p.15

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## 7. Practical advice that works.

The Voice will advise on practical steps to improve Indigenous health, education, employment and housing. Putting the Voice in the Constitution gives it stability and independence, now and into the future. This means the Voice can give frank advice, without getting caught up in short-term politics.

**We can't solve all the challenges Indigenous Australians face overnight. We need action now, as well as planning for the long term.**

That's why we need a Voice that can't be abolished with the stroke of a pen. Legal experts have made it clear that the Voice will not have the power to prevent, delay or veto laws or decisions. **The Voice is about advice.**

## 8. Making government work better.

Voiting Yes means:

- Government getting better advice and delivering better outcomes.
  - An addition to the Constitution backed by the experts.
- Senior lawyers and former High Court Judges have been part of this process.

### What the Legal Experts Say:

- Constitutionally and legally sound.
- Will **enhance** our system of government.
- No veto power – Parliament and Government have final sign-off.

**Robert French AC, Chief Justice of the High Court of Australia 2008-2017 and Geoffrey Lindell, Emeritus Professor of Law, University of Adelaide:**

*"The Voice is a big idea but not a complicated one. It is low risk for a high return..."*

*The Voice will provide a practical opportunity for First Peoples to give informed and coherent and reliable advice to the Parliament and the Government."*

- Joint Opinion Piece, Australian Financial Review, 4/2/2023.

## Now it's up to us.

**Evonne Goolagong Cawley AC MBE, former tennis world number one, Wiradjuri woman:**

*"Voiting Yes is a chance for all Australians to celebrate the contribution Aboriginal and Torres Strait Islander peoples have made to our country and to help the next generation chase their dreams. Let's grab this moment with both hands."*

Aboriginal and Torres Strait Islander people have given us a once-in-a-generation chance.

**We can vote Yes to be part of a great unifying moment that will bring about a better future.**

We can vote Yes to:

- Do the right thing by Aboriginal and Torres Strait Islander people.
- Give people a say on issues that affect them.
- Make a practical difference that improves lives.

Let's vote Yes for **recognition, listening and better results.**

Let's vote Yes to ensure Aboriginal and Torres Strait Islander people live better lives with more opportunities for their children.

In a spirit of unity, let's vote Yes together.

END OF THE YES CASE.

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**There are currently hundreds of Aboriginal and Torres Strait Islander representative bodies** at all levels of government.

This year, the Government has allocated \$4.3 billion for the National Indigenous Australians Agency, which has 1,400 staff.

This Agency's website and corporate plan says: "We... ensure Aboriginal and Torres Strait Islander peoples have a say in the decisions that affect them."

There is no suggestion this Voice will replace any of these. It will operate as one bureaucracy among many.

## 9. THIS VOICE WILL BE PERMANENT

This Voice is not a trial or pilot program. It will not be in legislation that can be reversed.

Once it is in the Constitution it won't be undone.

Once the High Court makes an interpretation, Parliament can't overrule it. We will be stuck with the negative consequences forever.

## 10. THERE ARE BETTER WAYS FORWARD

This referendum is not about simply recognising Indigenous Australians in the Constitution.

**That can be achieved without tying it to a risky, unknown and permanent Voice.**

Recognition has the widespread support of Australians. However, this Voice proposal is the problem. There are many Australians who oppose a Voice on principle.

Others might be willing to consider a less risky Voice option, but the Government has not given you this choice. When previous changes to the Constitution have been proposed, there has been a Constitutional Convention to properly consider options and details.

No such process happened here. This process was rushed and heavy-handed. This approach isn't unifying, or effective. It's divisive.

## THIS DECISION IS YOURS

This is a very important decision. Unfortunately, the legitimate questions and concerns of many Australians have been dismissed.

Fortunately, this referendum won't be decided by politicians, corporations or celebrities. It will be decided by every Australian. It affects every Australian.

**If you don't know, vote no.**

## MORE INFORMATION

For information and updates go to:

- [www.riskyvoice.com](http://www.riskyvoice.com)
- [www.oneandfree.au](http://www.oneandfree.au)
- [www.australianforumity.com.au](http://www.australianforumity.com.au)

END OF THE NO CASE.

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