PM Misleading And Evasive On Voice To Parliament

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“Prime Minister Anthony Albanese’s assertion in recent interviews that the Indigenous-only Voice to Parliament would not be ‘justiciable’ is either ill-informed or deliberately misleading,” said Daniel Wild, Deputy Executive Director of the Institute of Public Affairs.

As a democracy, the separation of powers guides the governance of Australia. This means an elected government cannot tell the High Court how to interpret our constitution, including determinations on the powers and decisions of the Voice to Parliament should it be inserted into it.

As eminent former High Court Justice Ian Callinan AC KC recently identified in *The Australian*;

> *“Who knows what a future High Court might do as it seeks to juggle the respective rights, obligations and “expectations” to which the voice would give rise?”*

Legal analysis by the IPA demonstrates that the Prime Minister is incorrect to assert that the Voice to Parliament would be non-justiciable. The High Court of Australia has long accepted the principle from the United States Supreme Court case of *Marbury v Madison* (1803) that *"it is, emphatically, the province and duty of the judicial department to say what the law is."*

"It is clear, should the Indigenous-only Voice to Parliament be inserted into our constitution, any disputes about its powers and actions will be determined by the High Court," Mr Wild said.

The Prime Minister's claim that the Voice would not have any effect on Australia's *"democratic and parliamentary system"* is directly contradicted by the precedent of New Zealand's Maori Voice to Parliament.

Recent IPA research revealed how New Zealand's 'advisory' Waitangi Tribunal has expanded into a binding, quasi-judicial body with significant influence over the elected parliament.

"The Prime Minister's continued claim that the proposed Indigenous-only Voice to Parliament will not be a 'rolling veto' is not defensible in light of the IPA's legal analysis of international and domestic precedent," said Mr Wild.

"It is not even defensible in the Prime Minister's own words when he said in July that it, *'would be a very brave government that said it shouldn't'* follow the edicts of the Voice to Parliament."

Over the past 24 hours alone, the Prime Minister has failed to answer basic questions about the powers and make-up of the proposed Voice to Parliament, including if the Federal Government will ignore the outcome of the referendum and legislate the Voice in the event of a successful 'no' vote.

"Mainstream Australians are deeply concerned about the legal and cultural consequences of the proposed Voice to Parliament. This is why it is critically important that Australians have a full understanding of how the Voice will change the fundamental governance of our nation," Mr Wild said.

To download the IPA's research *The Voice to Parliament – An analysis of the New Zealand experience and Australia's history of judicial activism* click here

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