

Geelong Constitutional Recognition Project

Information Sheet: Update – April 2013

The Australian Constitution is currently silent on the existence of Aboriginal and Torres Strait Islander peoples. Our Constitution even permits laws that prevent people from voting, owning property or working in certain professions on the basis of race.

In January 2012, an Expert Panel handed their Report to the Prime Minister recommending that Aboriginal and Torres Strait Islander people be recognised in the Australian Constitution. The Panel said that as well as adding a section to the Constitution to recognise the special place of Australia's first peoples, sections of the Constitution that allow discrimination against people on the basis of race should be removed.

The Expert Panel recommended the following changes to the Australian Constitution –

(This is the Panel 'short version' – please see page 2 for the full version)

- **Remove Section 25** - which recognises that the States can ban people from voting on the basis of their race;
- **Delete section 51(xxvi)** - which can be used to discriminate on the basis of race;
- **Insert a new section 51A** - to recognise Aboriginal and Torres Strait Islander peoples and to preserve the Australian Government's ability to pass laws for the benefit of Aboriginal and Torres Strait Islander peoples;
- **Adopt a new section 116A**, banning racial discrimination by the commonwealth; and
- **Insert a new section 127A**, recognising Aboriginal and Torres Strait Islander languages were this country's first tongues, while confirming that English is Australia's national language.

These changes continue the reconciliation journey started with the 1967 referendum and continued with Kevin Rudd's 2008 *Apology to the Stolen Generations*.

A Referendum -

For a referendum to succeed to make these changes to the Australian Constitution, it would require:-

- Bi-partisan support (Labor & the Coalition)
- Majority of Australians, and in a majority of States, supporting amending the Constitution

Aboriginal & Torres Strait Islander Peoples Recognition Act (passed House of Rep. 13 Feb 2013) -

The Australian Government introduced this Bill into Parliament on 28th November 2012.

- It shows support and commitment to constitutional recognition of Australia's First Peoples.
- It will help raise awareness of the importance of constitutional change in the community.
- It includes a statement of recognition of the unique and special place of Aboriginal and Torres Strait Islander peoples that largely reflects the wording suggested by the Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples.
- It proposes a 2-year period for a review of the approach to a referendum

www.recognise.org.au

www.antar.org.au/constitutional_recognition

<http://www.indigenous.gov.au/act-of-recognition-passes>

The Expert Panel recommended changes to the Australian Constitution (FULL VERSION) –

DELETE	ADD
<p>Section 25:</p> <p>Provision as to races disqualified from voting.</p> <p>25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.</p>	<p>new Section 51A – Recognition of Aboriginal and Torres Strait Islander peoples</p> <p>Recognising that the continent and its islands now known as Australia were first occupied by Aboriginal and Torres Strait Islander peoples;</p> <p>Acknowledging the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters;</p> <p>Respecting the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples;</p> <p>Acknowledging the need to secure the advancement of Aboriginal and Torres Strait Islander peoples;</p> <p>the Parliament shall, subject to this Constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to Aboriginal and Torres Strait Islander peoples.</p>
<p>Section 51 (xxvi):</p> <p>Legislative powers of the Parliament.</p> <p>51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:-</p> <p>(xxvi) The people of any race for whom it is deemed necessary to make special laws</p>	<p>new Section 116A – Prohibition of racial discrimination</p> <ol style="list-style-type: none"> 1) The Commonwealth, a State or a Territory shall not discriminate on the grounds of race, colour or ethnic or national origin. 2) Subsection (1) does not preclude the making of laws or measures for the purpose of overcoming disadvantage, ameliorating the effects of past discrimination, or protecting the cultures, languages or heritage of any group. <p>new Section 127A – Recognition of languages</p> <ol style="list-style-type: none"> 1) The national language of the Commonwealth of Australia is English. 2) The Aboriginal and Torres Strait Islander languages are the original Australian languages, a part of our national heritage.