

Submission to Expert Panel on Constitutional Recognition of Indigenous Australians



Peninsula Community
Legal Centre Inc

Peninsula Community Legal Centre (PCLC) believes constitutional recognition for Indigenous Australians is imperative and long overdue. Since the Constitution was drafted in 1901 there have been many changes and advances in Australian society, however, the Constitution still includes the possibility for discrimination based on race, and ignores Australia's first peoples and their role as custodians of the world's oldest continuing culture. In PCLC's opinion it is necessary to seek constitutional reform to enable a Constitution that fully reflects 21st Century Australia.

PCLC is a not-for-profit organisation that has been providing free legal services to its community for over 30 years, with a mission "To empower and support disadvantaged community members of the South East and Westernport Region to use the law and legal system to protect and advance their rights and broaden their awareness of their rights and responsibilities". PCLC has advocated strongly over the years for Indigenous Australians within its community and continues to support the ongoing process of reconciliation.

PCLC acknowledges that there are a number of constitutional reforms that could be undertaken, however given the difficulty of achieving success at a referendum, PCLC believes that the reform should be simple and targeted. For example, while PCLC acknowledges that it may be desirable for seats to be set aside to enable Indigenous people to have a voice in Parliament, it is more likely that a proposal such as this will enliven and polarise debate making it more difficult to achieve broad support for recognition in general.

In particular PCLC believes that the following reforms to the Constitution are required and achievable:

- A new preamble which recognises Aboriginal and Torres Strait Islander peoples as Australia's first peoples, together with their distinct cultural identities and custodianship of the land, and additional elements of Australian history, values and society.
- Deletion of section 25 of the Constitution which provides that the States may disqualify people from voting due to their race. PCLC considers that any contemplation of blatantly racist laws has no place in a modern Constitution.
- Deletion of section 51(26) of the Constitution (the 'races power'). This power enables the Commonwealth parliament to make laws with respect to people of a particular race. It is not clear whether this power is to be used for the benefit of a particular race, or to discriminate against people of a particular race. PCLC does not believe that such powers are appropriate in contemporary Australia.

PCLC commends constitutional reform to finally and formally recognise Aboriginal and Torres Strait Islander people, through their status, their history and their contribution to Australian society, history and values.

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