

# Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution

## Report of the Expert Panel

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### Recommendations for changes to the Constitution – Plain English

The Panel recommends that:

- section 25 is removed
- section 51(xxvi) is removed
- a new section 51A is adopted 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
- a new section 116A is adopted, prohibiting racial discrimination
- a new section 127A is adopted, recognising Aboriginal and Torres Strait Islander languages while confirming that English is Australia’s national language
- the Government considers carefully the Panel’s advice on how to achieve a successful referendum.

#### Section 51A—Recognition of Aboriginal and Torres Strait Islander peoples

The Panel suggests the following words for a new section 51A:

**Recognising** that the continent and its islands now known as Australia were first occupied by Aboriginal and Torres Strait Islander peoples,

**Acknowledging** the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters,

**Respecting** the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples, and

**Acknowledging** the need to secure the advancement of Aboriginal and Torres Strait Islander peoples,

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.

#### Section 116A Prohibition of racial discrimination

The Panel suggests the following words for a new section 116A:

(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.

### **Section 127A Recognition of languages**

The Panel suggests the following words for a new section 127A:

(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.

### **Recommendations on how to achieve a successful referendum**

- a. To keep it simple, the referendum should ask voters in a single yes/no question if they support the 6 changes to recognise Aboriginal and Torres Strait Islander peoples.
- b. Before going ahead with a referendum, the Government should consult with other political parties and state governments about the proposals and the timing—including with the Opposition, the Greens and the independent members of Parliament, and state and territory governments and oppositions.
- c. The referendum should only go ahead when all major political parties and a majority of state governments have agreed to support it.
- d. It should not be held at the same time as a referendum on constitutional recognition of local government.
- e. Before the referendum is held, the government should make sure the public is fully informed. This might need more government money to be spent on educating Australians about it.
- f. The Government should take action and spend more funds on maintaining the enthusiasm of Australians for constitutional recognition. This includes maintaining the *YouMeUnity* website, which has become very popular over the past year. The Government should also educate Australians about the Constitution and the importance of constitutional recognition of Aboriginal and Torres Strait Islander peoples. Reconciliation Australia could be involved in this process.
- g. If the Government decides to go to referendum with different proposals than the ones recommended by the Panel, it should consult with Aboriginal and Torres Strait Islander people first.
- h. As soon as the Panel's report is presented to the Prime Minister, the Government should give copies to the leader of the Opposition, the leader of the Greens, and the independent members of Parliament. The report should be released publicly as soon as possible.