

THE LAW SOCIETY
OF NEW SOUTH WALES

Our Ref: JD:HumanRights:VK:588974

22 March 2012

The Hon. Julia Gillard MP
Prime Minister
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Dear Prime Minister,

**Recommendations of the Expert Panel on Constitutional Recognition of
Aboriginal and Torres Strait Islander Peoples**

I write to you on behalf of the Law Society of NSW at the request of the Human Rights Committee ("Committee") which has the responsibility to consider and monitor Australia's obligations under international law in respect of human rights; to consider reform proposals and draft legislation with respect to issues of human rights; and to advise the Law Society on any proposed changes.

The Law Society commends your decision to appoint an Expert Panel to advise the Government concerning the proposed Constitutional recognition of Aboriginal and Torres Strait Islander peoples and notes the recently released recommendations of that Panel.

The Law Society made a submission to the Panel (copy enclosed dated 15 September 2011) and further notes that the recommendations of the Panel are broadly in line with that submission.

Having now considered the Panel's recommendations, the Law Society strongly supports those recommendations; urges you to adopt their general thrust; and, to prepare an appropriate referendum accordingly.

The Law Society understands that to be successful, a referendum would need broad Parliamentary support which may mean some compromise may need to occur. However, the Committee respectfully urges you to properly consult with Indigenous communities in formulating the referendum.

The Law Society's view is that this is an historic opportunity for you as Prime Minister to take a strong public lead in promoting the thrust of the Expert Panel's recommendations, which aim to rectify the unsatisfactory state of the Australian Constitution. As you are aware, the Constitution currently includes two provisions that allow the passage (and continued existence) of legislation that adversely discriminates on the basis of race.

This state of affairs is fundamentally contrary to Australia's international human rights obligations including in particular the Convention on the Elimination of All Forms of

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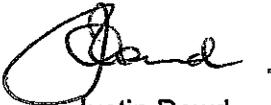


Racial Discrimination, which Australia ratified in 1975. It is also inconsistent with the letter and spirit of the *Racial Discrimination Act 1975* which was based closely on that Convention's provisions.

It is time, in the Law Society's view that the Constitution is brought into line with the generally accepted principles, both domestic and international.

If there is any assistance that I or the Committee can offer in relation to the task of achieving indigenous constitutional recognition, we would be delighted to join in that task.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Justin Dowd', with a large, stylized initial 'J'.

Justin Dowd
President