

Public Affairs Commission of  
Anglican Church of Australia

c/o

The Rev'd Dr Lynn Arnold at [larnold@stpeters-cathedral.org.au](mailto:larnold@stpeters-cathedral.org.au)

and

Dr Carolyn Tan at [ctan@westnet.com.au](mailto:ctan@westnet.com.au) and

To the Co-Chairs of the Referendum Council,  
[ConstitutionalRecognition@pmc.gov.au](mailto:ConstitutionalRecognition@pmc.gov.au)

Dear Co-Chairs,

Thank you for your letter to the General Secretary of the Anglican Church of Australia (ACA) with an update on the constitutional recognition process and a request to provide a submission to the Council. Your letter has been passed on to the ACA's Public Affairs Commission (PAC) to respond. The PAC is a commission set up by the Standing Committee of the ACA's General Synod. This submission is made by the PAC and not the ACA as a whole, but it contains references to resolutions of the ACA's General Synod which meets every three or four years and also to those of the Standing Committee of General Synod which is the governing body of the ACA in between sessions of the General Synod.

I attach copies of a submission made to the Joint Select Committee on Constitutional Recognition in March 2015 which contained the text of the resolution passed by the 2014 General Synod and a submission made to the Expert Panel before that. I also advise that in November 2016, the Standing Committee also passed the following resolution:

*“Standing Committee resolved to continue to support constitutional recognition for Aboriginal and Torres Strait Islander Peoples but in a manner that at least:*

*a. Removes discriminatory provisions like s25 and the power to make laws on the basis of “race”,*

*b. Includes recognition of Aboriginal and Torres Strait Islander Peoples;*

*c. Includes a power for the Commonwealth to make laws with respect to Aboriginal and Torres Strait Islander Peoples for overcoming disadvantage, ameliorating past discrimination and protecting culture, language and heritage, or beneficial provisions to this effect; and*

*d. Prohibits adverse discrimination against Aboriginal and Torres Strait Islander peoples. “*

The details are set out in the attached submissions. In summary and in response to some of the specific questions by the Referendum Council in its online survey, I advise as follows:

Responses to specific questions:

-Do you support recognising Aboriginal and Torres Strait Islander peoples by changing the Constitution or making some other kind of legal change?

**Answer** – Yes.

-Should we have a statement that acknowledges the First Peoples of Australia?

**Answer** – Yes. This should be in the body of the Constitution itself. Paragraph 15 of our submission to the Expert Panel indicates the sorts of matters that need to be mentioned in any such acknowledgment. We had also indicated support for the type of acknowledgements in the Joint Select Committee’s draft s51A.

- Should the word ‘race’ be taken out of the Constitution?

**Answer** – Yes, subject to our comments below about a prohibition against racial discrimination.

-Should the Australian Parliament keep the power to make special laws for Aboriginal and Torres Strait Islander peoples?

**Answer** – Yes.

-Do you have any other comments on powers to make laws for Aboriginal and Torres Strait Islander peoples?

**Answer** – See point c. of the Standing Committee resolution above and the submissions to the Expert Panel (especially paragraphs 21 to 23) and to the Joint Select Committee (especially pages 3 and 4 in relation to the options).

- Do you think that a guarantee against racial discrimination should go into the Constitution? If there is not enough support for a guarantee in the Constitution, what other things can we do to stop racial discrimination in national laws?

**Answer** – Yes, or at very least there should be a constitutional provision preventing adverse discrimination against Aboriginal and Torres Strait Islander Peoples. See point c. of the Standing Committee resolution above and the submissions to the Expert Panel (especially paragraphs 21 to 23, 26 to 27) and to the Joint Select Committee (especially pages 3 and 4 in relation to the options).

- Do you think Indigenous people should have a say when Parliament and government make laws and policies about Indigenous affairs?

**Answer** – Yes. See comments in paragraph 23 of the submission to the Expert Panel regarding the principle of free, prior and informed consent. The notion of self-determination is also an accepted right in the UN Charter, ICCPR and the Declaration on the Rights of Indigenous Peoples.

-Should a new Indigenous group be set up under the Constitution to give advice and make sure Indigenous people have a voice in political decisions that affect them?

**Answer** – Yes. See above.

-Should we delete section 25?

**Answer** – Yes. See the Standing Committee resolution sub-paragraph a. above and paragraphs 17 and 18 of the submission to the Expert Panel.

Please feel free to contact us for any further questions.

Yours faithfully,

Carolyn Tan on behalf of the Public Affairs Commission