



Yamatji Marlpa
ABORIGINAL CORPORATION

Our Ref: GEN033
Your Ref:
Office: Perth

23 October 2014

Josie Farrer MLA
Member for Kimberley
PO Box 1807
BROOME WA 6725

By email: mala.croft@mp.wa.gov.au

Dear Ms Farrer

Your Private Member's Bill – the *Constitution Amendment (Recognition of Aboriginal People) Bill 2014*

Thank you for the opportunity to make a submission in response to the above Bill.

As you no doubt know, Yamatji Marlpa Aboriginal Corporation ("YMAC") is the Native Title Representative Body for the Murchison, Gascoyne, and Pilbara regions of Western Australia. YMAC is also the nominated heritage service provider for many of the native title claim groups in these regions, and provides cultural heritage protection advice and support to native title claimants as a significant aspect of native title.

Overall

Quite simply, YMAC very strongly supports your Bill. It is simple, impossible for a fair-minded person to argue against, and without any real legal controversy. It is important and long overdue.

We make one suggested addition to your Bill, although there may well be a legal or policy reason it was left out of the Bill as read into Parliament.

The power of even symbolic change

We absolutely agree that even symbolic constitutional changes like the ones in your Bill are important to have as one of the tools with which we can continue to fashion a strong and permanent reconciliation

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between Aboriginal and non-Aboriginal communities. As you put it in your Second Reading Speech (“your speech”):

“Recognition, acknowledgement and acceptance are necessary steps to true and lasting reconciliation, and this bill is just one of those steps.”

We note also that at a Federal level at least, the interest in symbolic changes of this nature spans most, if not all, key political parties. As an interesting example, Federal Indigenous Affairs Minister, Senator the Hon Nigel Scullion, said at a Nationals conference recently:

“...I didn’t really think that the Apology we made in 2008 would matter.

I couldn’t see the apology helping at all to close the vast gap on vital issues such as Indigenous life expectancy, remote children’s education, housing, decent work for adults and community safety.

All the symbolic trumpeting was wonderful, but I could not see what difference it could make.

How wrong I was.

The changes to the way Aboriginal people as individuals and as communities saw themselves after that apology were extraordinary. Clearly, those who would diminish the importance of symbolism as something that doesn’t have a role to play in practical outcomes are quite wrong.

Symbolic change must happen if practical changes are to succeed.”

We hope that your Bill will attract multiparty WA support in due course as well, if it does not enjoy that already.

Your legal advice confirming the Bill will not create substantive legal changes in WA

We accept, at face value, the references in your speech to Solicitor General’s advice that was received in 2004 when a similar Bill was proposed by then Legislative Council President Hon John Cowdell MLC. That advice simply confirms the obvious, in our view; that the addition of a simple statement of historical fact to the preamble of the *Constitution Act 1889 (WA)* (“the Act”) would have no impact on the powers of the WA Parliament.

The proposed deletion of section 42 of the Act

We of course strongly agree with the deletion of section 42 of the Act, with its extraordinarily archaic exclusion of Aboriginal people from what is effectively a census in this provision, albeit one that had only a transitional effect that expired over one hundred years ago.

We would also suggest deletion of a similarly anachronistic reference, being the definition of “Aborigines Protection Board” in section 75 of the Act. As we said above though, there may be a legal or policy reason such a deletion was left out of the Bill as read into Parliament.

Overdue

Clearly WA really needs to get moving on this; we note from your speech that every other mainland Australian state has changed its state constitution to recognise ATSI peoples. Please advise if there is any way we can assist with your campaign, and we will do all we can to help.

And... your speech

We would like to add, by the by, that your speech is wonderful to read, and inspiring to watch on YouTube as well!

Further questions?

If you have any questions about this letter, or want to advise us at to further developments with this campaign, please contact our policy officer Cameron Poustie on cpoustie@ymac.org.au or 0437 313 315.

Yours faithfully



Simon Hawkins
Chief Executive Officer