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## Victorian Campaign Snapshot

1. Awareness of the Constitutional Recognition campaign is 49%

2. Support for Constitutional Recognition is 58%

3. Victoria makes up 25% of Recognise supporters in Australia (43,577/217,883)

4. RecVic has helped facilitate 109 events across Victoria since May 2013.

5. RecVic has had over 4,500 conversations with people about Constitutional Recognition through forums, stalls at festivals, school talks, and community/organisational briefing sessions across the state.

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## Constitutional reform & meaningful recognition:

### Where the campaign is at & what is RecVic's position?

#### Where is the campaign currently at?

There is growing community awareness about the campaign to recognise Aboriginal and Torres Strait Islander Peoples as the First Peoples of this country, as well as address racial discrimination within the Australian constitution. There is a commitment by all major parties to proceed to a referendum, whether it is within this term of government, or the next is yet to be clarified. The Aboriginal and Torres Strait Islander Peoples' Recognition Act 2013 was passed on 13th February 2013 with a two-year sunset clause, allowing time to build public awareness and support for constitutional reform prior to a referendum on the issue. This means that the government will have to revisit the proposal for constitutional reform next February.

The Expert Panel's recommendations which were presented the Prime Minister and Parliament in January 2012 in their report, '*Recognising Indigenous Australians in the Constitution*'<sup>1</sup> continue to lead the discussion about what should be amended.

The Expert Panel recommended:

- Deleting Section 25, permitting States to disqualify people from voting on the basis of race, and Section 51 (26), which allows the Commonwealth to make laws on the basis of race;
- Adding a new Section 51A Recognition of Aboriginal and Torres Strait Islander peoples, that recognises Aboriginal and Torres Strait Islander peoples as the first occupants of Australia; acknowledges the continuing relationship of Aboriginal and Torres Strait Islander peoples with their traditional lands and waters; respects the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples and acknowledges the need to secure the advancement of Aboriginal and Torres Strait Islander peoples;
- Adding a new Section 116A Prohibition of racial discrimination that says Governments shall not discriminate on the grounds of race, colour or ethnic or national origin; and
- Adding a new Section 127A Recognition of languages that recognises English as the national language of Australia and Aboriginal and Torres Strait Islander languages as the original Australian languages, a part of our national heritage.

A Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples<sup>2</sup> (JSC) was appointed during the previous government term to inquire into and report on steps that can be taken to progress towards a successful referendum on constitutional recognition of our First Peoples. This Committee has been working to secure strong, multi-partisan support around the timing, specific content and wording of referendum proposals. The reformed JSC under the Coalition government, with Mr Ken Wyatt AM MP as the Chair of the committee and Senator Nova Peris OAM as the Deputy Chair released an interim report in July with a final report due by June 30, 2015. They held [community consultations](#) in Shepparton and Melbourne on the 13<sup>th</sup> & 14<sup>th</sup> August respectively. RecVic, along with the Victorian Constitutional Recognition Coalition, Geelong One Fire Reconciliation Group and the Shepparton Region Reconciliation group presented to the JSC. The HANSARD transcripts of the public hearings can be read [here](#).

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<sup>1</sup> Please see our 1<sup>st</sup> [Information Brief from March 2014](#) for further discussion around the recommendations and the history of the constitutional reform agenda.

<sup>2</sup> Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Constitutional\\_Recognition\\_of\\_Aboriginal\\_and\\_Torres\\_Strait\\_Islander\\_Peoples](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples)

RecVic commends the JSC for putting forward options for constitutional reform that has unanimous support from the Committee members. [The Interim Report](#) details five alternative options for constitutional reform. The first three offer alternative wording for the recognition of the First Peoples status of Aboriginal and Torres Strait Islander peoples, and each, bar one, include a protection against adverse discrimination. Of primary interest is that the JSC have proposed to include a protection from adverse discrimination and recognition of Aboriginal and Torres Strait Islander languages within the proposed new section 51A, rather than having two separate sections (116A & 127A respectively) as was proposed by the Expert Panel. The JSC received legal advice that recommended that s116A would be “likely to have wide-reading application and be heavily litigated.”<sup>3</sup> So now rather than a general protection from racial discrimination, there is a specific protection against racial discrimination for Aboriginal and Torres Strait Islander Peoples.

RecVic welcomes the ongoing discussions around the development of a meaningful model of reform. It is paramount that along with the recognition of Aboriginal and Torres Strait Islander Peoples as the First Peoples in the constitution there is also a protection from racial discrimination. Of the five options put forward the first two are closer to the intent of the Expert Panel’s recommendations. RecVic has published a briefing paper on the JSC’s Interim Report; to read our full response, [follow this link](#)<sup>4</sup>.

Professor George Williams, a constitutional lawyer has said of the JSC’s interim report: “The committee has identified the right changes to the constitution. They would fix a major problem with the document.”<sup>5</sup> There still remains the technical drafting issues of the final wording for the proposed constitutional reform. The JSC understands that to be successful at a referendum the proposal must “...recognise Aboriginal and Torres Strait Islander peoples as the first peoples of Australia; preserve the Commonwealth’s power to make laws with respect to Aboriginal and Torres Strait Islander peoples; and in making laws under such a power, prevent the Commonwealth from discriminating against Aboriginal and Torres Strait Islander peoples.”<sup>6</sup> The National Congress of Australia’s First Peoples has given qualified support for the interim report. They do however emphasise “that reform of the Constitution must ultimately receive endorsement from Aboriginal and Torres Strait Islander Peoples before going to Referendum.”<sup>7</sup> RecVic also sees this as critical moving forward.

Advocacy is an important part of the work that RecVic does in this area. In February RecVic submitted a paper to the Joint Select Committee titled [“Considering the issue of ‘positive purpose’, ‘advancement’, beneficial policy”](#). We referred in particular to the intentions in the Progress Report 1 Clause 3.14 (b) for the Committee to review wording of the proposed section 51(A) to ‘ensure...positive purpose’ and appropriateness of the term ‘advancement’. It is important to note that this statement has been removed in all models put forward by the JSC, instead providing protection from adverse discrimination. We still consider the issue of ‘positive purpose’ critical within the context of constitutional reform.

[Recognise](#), the national campaign is continually conducting polling to gauge the level of community awareness of and support for the proposal. The most recent polling from Auspoll released in February this year indicated that 49 per cent of the public now know about the recognition goal and support levels have held, with 58 per cent in support and only 12 per cent of people opposed.<sup>8</sup> This is a strong critical mass of support but we need to continue to build public awareness on this issue, if we are to see a repeat of the overwhelming success of the ‘67 referendum.

The [Journey to Recognition](#) was launched on Sorry Day, 26<sup>th</sup> May last year in Melbourne. The Journey has since walked, cycled, paddled, driven and surfed through South Australia and the Northern Territory where it concluded its first leg in early August at the Garma Festival. The second leg headed west and finished in Perth at the beginning of December, where the young people’s campaign ‘Recognise This’ was also launched. It then headed south around the Western Australian Coast. The Journey launched

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<sup>3</sup> Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples Interim Report, July 2014.

[http://www.reconciliationvic.org.au/user-data/Constitutional Recognition/JSC Interim Report July 2014.pdf](http://www.reconciliationvic.org.au/user-data/Constitutional%20Recognition/JSC%20Interim%20Report%20July%202014.pdf) P18

<sup>4</sup> RecVic’s Briefing on the Joint Select Committee Interim Report, August 2014. [http://www.reconciliationvic.org.au/user-data/Constitutional Recognition/JSC IR Briefing Paper August.pdf](http://www.reconciliationvic.org.au/user-data/Constitutional%20Recognition/JSC%20IR%20Briefing%20Paper%20August.pdf)

<sup>5</sup> Professor George Williams, “Time to fix a silence at the heart of Australia’s constitution”, The Age, Editorial, July 18, 2014.

<http://www.theage.com.au/comment/time-to-fix-a-silence-at-the-heart-of-australias-constitution-20140717-ztwge.html>

<sup>6</sup> Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples Interim Report, July 2014.

[http://www.reconciliationvic.org.au/user-data/Constitutional Recognition/JSC Interim Report July 2014.pdf](http://www.reconciliationvic.org.au/user-data/Constitutional%20Recognition/JSC%20Interim%20Report%20July%202014.pdf) p29

<sup>7</sup> National Congress of Australia’s First Peoples, ‘First Peoples must have final say on constitutional recognition’, published on 17 July, 2014:

<http://nationalcongress.com.au/aboriginal-and-torres-strait-islander-people-must-have-the-final-say-on-constitutional-recognition/>

<sup>8</sup> Patricia Karvelas, “Peris to fight for referendum campaign funds” (The Australian, February 19, 2014) [http://www.reconciliationvic.org.au/user-data/Constitutional Recognition/Peris to fight for referendum campaign funds.pdf](http://www.reconciliationvic.org.au/user-data/Constitutional%20Recognition/Peris%20to%20fight%20for%20referendum%20campaign%20funds.pdf)

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**Our approach to the campaign in Victoria:**

- Promoting **local recognition** of Aboriginal people, history, culture & achievements

- Putting the proposal in the **big picture** – part of the reconciliation journey and about who we want to be as a nation

- Facilitating **inclusive and open discussion** with Aboriginal and non-Aboriginal people, giving space for different views

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its 4<sup>th</sup> leg on the 16<sup>th</sup> July, beginning in Cairns and heading north to return to the Garma Festival. The Journey is now traveling across much of the state of Queensland.

### **What is RecVic's position?**

RecVic supports the scope and intent of the recommendations made by the Expert Panel and is working towards community review, understanding and, if necessary, improvement to the recommendations.

We do so acknowledging that recognising Aboriginal and Torres Strait Islander peoples in the Constitution is part of the unfinished business of the recommendations made by the Council for Aboriginal Reconciliation in 2000. We see Constitutional Recognition as a positive step forward, but not an end to the reconciliation journey: **it alone is not sufficient to achieve outcomes required of a fully reconciled and fair Australia.**

RecVic is continuing to advocate for the following outstanding issues not explicitly addressed by the Panel's recommendations, which we discussed in our submissions to the Expert Panel and the JSC:

- A requirement for 'free, prior and informed consent' similar to the United Nation's Declaration on the Rights of Indigenous Peoples in relation to the proposal to enable laws to be made for the 'advancement' of Aboriginal and Torres Strait Islander peoples<sup>9</sup>;
- Agreements, treaties and the claims of Aboriginal and Torres Strait Islander people to sovereignty. RecVic sees the campaign for Constitutional Recognition as a vehicle to engage people in the reconciliation process; to revitalise and grow the grass-roots reconciliation movement in Victoria.

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We are encouraging and supporting conversations and activities that focus on recognition of Aboriginal people and shared history locally, within our communities.

We seek to contextualise this issue as part of the reconciliation journey; to connect conversations about Constitutional reform to the bigger picture of working towards just and respectful relationships between Aboriginal and non-Aboriginal people, and of the vision of Australia we want for the future. We recognise that Australia is yet to enter into agreement-making processes or treaty negotiations with the First Peoples of this country, and that constitutional recognition does not address these issues. We have reformed our Treaty and Agreement Making working group which began in 2009, the working group seeks to support an informed conversation about the concept of treaty and to extend the understanding of practical approaches through consideration of the possible model of a national treaty framework and local and regional agreements.

### **What are we doing?**

RecVic received partnership funding through Recognise in May last year to build awareness and understanding about what is proposed, through providing information and facilitating opportunities for discussion.

We have utilised our grassroots networks of local government, local reconciliation groups, Aboriginal organisations, schools and others to coordinate a Victorian campaign to raise awareness about the proposed Constitutional Reform agenda.

The perspectives put forward are from the ground; we share the stories and reflections from the people and communities we have worked with, and will continue to work with. We have found on the whole, people

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<sup>9</sup> See our submission to JSC:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Constitutional\\_Recognition\\_of\\_Aboriginal\\_and\\_Torres\\_Strait\\_Islander\\_Peoples/Constitutional\\_Recognition/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples/Constitutional_Recognition/Submissions)

open and responsive to discussion around what this proposal for Constitutional Reform is about. We are also aware of the diversity of opinions on this issue; there are people and community groups who are concerned about what the implications are for this reform agenda. We have undertaken a wide range of community engagement activities including public forums, community meetings, school and community group presentations, local reconciliation group forums and stalls at festivals. We have used our Constitutional Recognition [website pages](#) as a resource hub to keep people up-to-date on campaign developments, media coverage, resources, information about upcoming events and so on.

## What we have learned

We have learned from our involvement in raising awareness about this issue that there are three key elements that have been fundamental in our work: partnerships, respect and advocacy.

We have found that the conversation needs to be targeted differently depending on where the audience is at. We have had opportunities to discuss this issue with a wide range of people, across a spectrum of knowledge and engagement: from people who are new to this campaign and have not been engaged in the reconciliation movement, to those who are interested and supportive of the campaign through their involvement with the reconciliation movement. From people who are very aware and actively involved in the campaign, to those who are aware of the campaign and concerned and are concerned about its implications. There is also a significant section of both the Victorian and national population who are unaware, ambivalent and/or disengaged about this issue; so we are continuing to offer culturally safe opportunities to engage with people across this spectrum.

A snapshot of some of the diverse views we have heard expressed in the many forums and discussions we've been part of are:

- *This is our generation's time to make a stand about who we want this country to be.*
- *This is a distraction from the real issues of justice and land justice.*
- *It's long overdue, let's do it.*
- *It is not a priority like health, employment, justice and education.*
- *As a non-Indigenous person I want a constitution that recognises the unique position of Australia's First Peoples.*
- *The Constitution is an illegal document to begin with, why would we want to be included and recognised in it?*
- *Treaty and Sovereignty are what we want; it's what our peoples have been fighting for, and Constitutional Recognition is a compromise and a cop out.*
- *Scepticism as to why a conservative government is championing this cause. What do they get out of it, and what will we lose?*

We have found there are some misperceptions about the detail of the proposal, as it is quite complex. Some examples are: recognition will only be included as a preamble; recognition will take away native title rights; recognition will inhibit future calls for treaty and agreement making processes or compromise sovereignty. Providing clear and concise information about the proposal is critical. One local group received feedback from an Elder that his/her community feared being 'left behind' because they needed more time to learn about the issues. They asked the group to "walk with us". This highlights a clear need to work in partnership in ways that are respectful and that create culturally safe spaces for the conversations. In the east of the state, where some Aboriginal communities are burdened by the day-to-day challenges that many Aboriginal communities carry, Constitutional Recognition is not seen as a priority, and some see it as a distraction from the main goal of Treaty, so these conversations take time, and cannot be rushed.

We are concerned about the effects that the Federal budget cuts of more than \$500 million to Indigenous Programs will have for Aboriginal Controlled Community Service organisations providing service delivery. How can we expect Aboriginal community organisations to prioritise constitutional recognition when they are struggling to be able to provide critical services to community? We are also concerned about the message this send and the likelihood that it will make many people distrustful about the Federal Government's commitment to Australia's First Peoples and to all Australians.

We were relieved to hear the news that the proposed changes to Section 18 of the Racial Discrimination Act (RDA) have been dropped. We, along with many other organisations, community groups and faith based groups, advocated strongly against the proposed changes. RecVic is committed to disseminating information about the constitutional recognition proposal as well as other issues, such as the Federal Budget cuts and issues around racial discrimination that affect Victorian Aboriginal communities, and all Victorians, to our networks.

## Speakers Registry

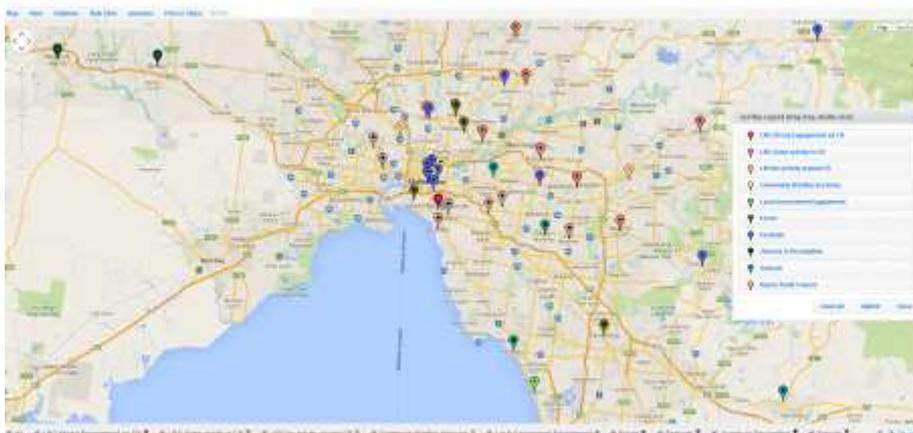
We know we need a strong community led network of people who feel confident in having conversations and raising awareness in their local region on this issue. We have developed a Victorian Registry of Speakers, which has so far seen 27 people register, undertake briefing sessions and lead discussions in their local area. They are able to support the demand from community groups for guest speakers on Constitutional Recognition. We also wish to build capacity of our local reconciliation groups and other organisations so that RecVic becomes a support and coordination centre for the grass roots movement disseminating information and resources.

## What we have achieved to date

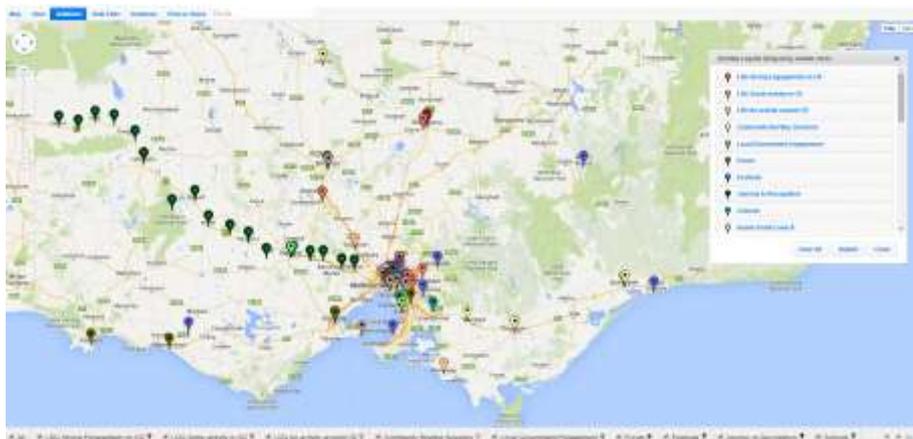
As shown on the [maps below](#), RecVic has been involved in 109 events since May 2013, which covers a significant area of Victoria.

The list of events below is broken up into general activity themes. Thousands of Victorians have participated in these events, and over 500 people attended our Public Forums in Melbourne in the last half of 2013. These forums were filmed and published on RecVic's [website](#), giving many more people the opportunity to hear the forums.

Below are two maps, one of Melbourne and the other of Victoria as a whole, which show activities we have been involved in including festivals, community briefings, school and university speaking engagements, forums and events along with the Journey to Recognition route. These maps highlight where we have been active and also show the gaps where we believe more work needs to be done in raising awareness on Constitutional Recognition.



Melbourne activity map



Victorian activity map

This map can be viewed online – with more details of the activities in each location. [Please follow this link.](#)

The coordination of the Victorian awareness raising campaign is critical to ensure consistent messaging, and to provide an information hub with the most up-to-date information about where the development of the model and the Victorian and National campaign is up to. We do not yet know what the final wording and model will be, but we do believe that this is an important issue that requires us all to be informed. As Patrick Dodson in this year's Lowitja O'Donoghue Oration contended, "We need to recognise the First Australians and continue down the pathway that will enable us to genuinely reset the relationship...We need to consider any unintended consequences that may arise in advance. We need to be responsible and cautious, but we also need to be brave."

We feel it is important to rectify the silences in the Constitution; the fact Australia has the oldest continuing cultures in the world should be a source of national pride and inform our sense of identity. Our Constitution should also protect all Australians from racial discrimination. These are two inextricably linked and integral steps in the journey towards reconciliation and justice for Aboriginal and Torres Strait Islander Peoples.

Please contact our Project Facilitator, Emily Chauvel if you require further information:

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#### Sources:

1. Expert Panel Report: <http://www.recognise.org.au/uploads/assets/html-report/1.html>
2. Final Report of the Council for Aboriginal Reconciliation: <http://www.austlii.edu.au/au/orgs/car/finalreport/index.htm>
3. Reconciliation Victoria website: <http://www.reconciliationvic.org.au/pages/constitutionalrecognition.php>
4. Recognise website: <http://www.recognise.org.au/about>
5. Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Constitutional\\_Recognition\\_of\\_Aboriginal\\_and\\_Torres\\_Strait\\_Islander\\_Peoples](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples)