


s 22(1)(a)(ii)



-----Original Message-----

From: Noel Pearson [[mailto:s 47F](#)]

Sent: Wednesday, 11 June 2014 4:51 PM

To: s 47F

Subject: Personal Advice re Constitutional Recognition

Prime Minister

Please find attached a note setting out some advice in relation to Constitutional Recognition of Indigenous Australians.

Yours sincerely

Noel Pearson

The Hon Tony Abbott MP Prime Minister
Parliament House
Canberra ACT 2600

11th June 2014

Dear Prime Minister,

I write in response to your question to me on the proposition that Indigenous recognition might be achieved in a non-legal Declaration voted for by the Australian people, rather than in the Constitution. My colleague, § 47F, and I have engaged with § 47F, § 47F, § 47F and § 47F in relation to these matters.

There is merit in § 47F and § 47F proposal, but only as part of a broader package of reforms. On its own, a Declaration would be rich in symbolism but light on substantive reform. Symbolism is important, but we also need to make a *practical difference to the problems we face in Indigenous affairs*.

Conservatives like § 47F and § 47F in their concern to get judges out of the equation, tend to overlook the Indigenous views and history that have driven this conversation about constitutional recognition.

Conservatives are concerned about judicial activism and do not want 'rights' clauses added to the Constitution. As a result, they oppose a racial non-discrimination clause. While I do not accept that these anxieties about judicial activism are justified, in the spirit of mutual understanding, I understand conservatives are concerned about giving judges too much power.

However, conservatives reciprocally need to understand that Indigenous people see constitutional recognition as being fundamentally about achieving *constitutional protection and recognition of Indigenous rights and interests within Australia*. Symbolism is only part of it. *Substantive change in the national approach to Indigenous affairs* is the other part.

Conservatives, too, need to understand our position. Our people have lived through the discrimination of the past. We therefore have a legitimate anxiety that the past not be repeated, and that measures be put in place to ensure that *things are done in a better way*. If conservatives assert that a racial non-discrimination clause is not the answer – then what is a better solution?

§ 47F and § 47F argue that the Constitution is a rule book, a practical charter of government that sets out power relationships, like that between the Commonwealth and the states. It is not a vehicle for aspirations and symbolism: these can be articulated in a Declaration, not in the Constitution. But if the Constitution is a practical rule book governing national power relationships, as conservatives assert, then it should also be acknowledged that there is one very important, national power relationship clearly not addressed in the Constitution.

Arguably, the rule book should be amended to make provision for Indigenous people to be heard in Indigenous affairs.

After all, if unelected judges should not decide what is in the interests of Indigenous people, then who should decide? Indigenous people are only 2.5% of the population, and hardly get a fair say in Parliament, even on matters directly concerning them. Parliaments have never been good at listening to Indigenous people. This is the elephant and the mouse problem that has characterized Indigenous affairs.

We need to find a way of ensuring that Indigenous people get a fair say in laws and policies made *about us*, without compromising the supremacy of Parliament. We could consider creating a mechanism to ensure that Indigenous people can take more responsibility for our own lives, *within the democratic institutions already established*, and without handing power to judges.

We don't want separatism: we want inclusion. We want to be inside the decision-making tent. We want our voices to be heard in political decisions made about us. A mechanism like this – guaranteeing the Indigenous voice in Indigenous affairs – could be a more democratic solution to the racial discrimination problem.

Empowered Communities is heading in this direction. I am interested in how we can come up with a package of measures that will excite Indigenous people and all Australians who desire a better future for Indigenous people.

I ask that you keep an open mind. We are in the process of trying to reach some consensus on these ideas with s 47F s 47F s 47F and s 47F A Declaration and removal of the 'race' clauses alone will not be acceptable to Indigenous people. We need to all work toward a package of reforms that have the potential to excite Indigenous people and con cons alike.

Yours sincerely,

Noel Pearson

11 September 2014

The Hon Tony Abbott MP
Prime Minister
Parliament House
Canberra ACT 2600

Dear Prime Minister

As you know our group has been exploring potential common ground between Indigenous people and constitutional conservatives on Constitutional Recognition of Indigenous Australians. s 47F s 47F has been involved and we have also consulted Professors Langton and s 47F as part of this process.

The outcome of our dialogue is agreement upon a package of constitutional and other reforms that we believe has the best chance of gaining the support of constitutional conservatives and Indigenous people alike. We have settled on wording for the proposed amendments, which we would like to share with you.

Our challenge was find a way to marry the two competing narratives that have arisen in this debate, and to find the correct synthesis between two concerns:

- 1) The concern of conservatives to maintain the integrity of the Constitution as a practical and pragmatic charter of government; and the concern that amendments do not undermine parliamentary sovereignty by giving more power to judges through 'rights' clauses or abstract phrases.
- 2) The concern of Indigenous people seeking a secure and stable protection of their rights and interests that is shielded from short term political fluctuations.

We therefore sought to answer:

- How do we respond to conservative objections to the Expert Panel's proposals, while ensuring we can, in good faith, tell Indigenous people that "these reforms will improve the Indigenous situation in Australia"?
- How do we provide a sensible solution to the racial discrimination problem, while maintaining parliamentary sovereignty and without handing power to judges? If a racial non-discrimination clause in the Constitution is not the answer – what is a better solution?

We agreed the solutions to these challenges need not all be addressed in the Constitution. Rather, the constitutional amendments would be part of a package including legislative and other reforms.

New Chapter in the Constitution

We agreed that instead of inserting a racial non-discrimination clause into the Constitution to prevent discrimination against Indigenous people, we should amend the Constitution to ensure that Indigenous people are given a say in their own affairs.

A new Chapter should be inserted, establishing an Indigenous body to advise Parliament on matters relating to Indigenous peoples. This procedural amendment would be in keeping with the nature of the Constitution as a practical and pragmatic charter of government; a rule book which manages important national power relationships.

We have carefully drafted this Chapter so that it would be non-justiciable. It is procedural in nature and would not transfer any power to judges. The proposed clause is also drafted such that the advice of the Indigenous body is not binding on Parliament.

However, this would be a significant reform that would provide Indigenous people an important and guaranteed platform to be heard. It would create the machinery for a constructive partnership and set the basis for a fairer relationship into the future.

The solution is a package

The group agreed that the constitutional recognition package should include the following elements:

Constitutional reforms:

- Remove s 25 of the Constitution (provision for disqualification of races from voting)
- Amend s 51 (xxvi) of the Constitution (the Race Power) to become a power to make laws with respect to “Aboriginal and Torres Strait Islander peoples”
- Add a new Chapter, probably Chapter 1A, to the Constitution establishing an Indigenous body to advise Parliament on laws with respect to Indigenous people.

Legislative / other reforms:

- Enact a *Statute of Reconciliation* to set in place some high level principles or ethics that should govern Indigenous affairs, the relationship between Indigenous people and the government, and reconciliation into the future
- Enact a *Declaration of Recognition* containing the symbolic recognition and poetry: recognition of history, culture, languages and heritage (as proposed by Julian Leeser and s 47F)
- Legislation to set up the mechanisms of the Indigenous body under the new constitutional Chapter 1A
- Empowered Communities legislation and related institutional arrangements.

We believe these reforms have a good chance of winning broad political consensus and Indigenous support. It is a package that has both symbolic and practical elements. Over time, we hope these reforms will make a real difference to Indigenous people’s lives. It is also a package, with the *Statute/Declaration*, that is rich in symbolism and will have cultural, political and moral force – it will help change minds and hearts. This is a package that has the potential to bring about real reconciliation. We therefore endorse the proposed package as a whole. We would not

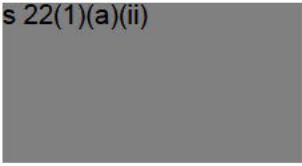
have group consensus for the symbolic elements of the package alone, nor for just the practical elements.

Our group would appreciate the opportunity to meet with you personally to discuss these ideas, and to show you our agreed drafting of the proposed constitutional amendments.

We look forward to it.

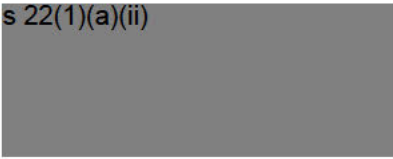
Yours sincerely,

s 22(1)(a)(ii)



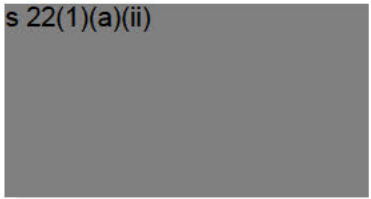
Noel Pearson

s 22(1)(a)(ii)



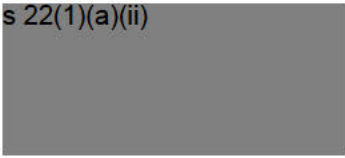
Professor Greg Craven

s 22(1)(a)(ii)



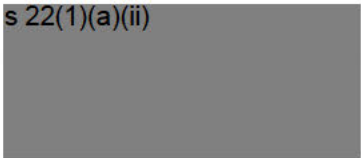
Julian Leeser

s 22(1)(a)(ii)



Professor Anne Twomey

s 22(1)(a)(ii)



Professor Marcia Langton

15 July 2015

The Hon Tony Abbott MP
Prime Minister
Parliament House
Canberra ACT 2600

Dear Prime Minister,

We are writing to outline a process that would enable Aboriginal and Torres Strait Islander people to consider the options for constitutional recognition and reach consensus on a model to submit to the Australian people at a referendum. Any model for our recognition should be developed with our genuine input and taken to a referendum with our agreement.

In the formal statement presented to you and the Opposition Leader by Indigenous representatives on Monday 6 July, we asked for Indigenous conferences around Australia.

While we acknowledge your plan for a Referendum Council and community conferences, an independent process for Indigenous people to reach a position is crucial if we are to ensure Indigenous support for a model. Without a proper Indigenous process, a Referendum Council and community conferences will be unlikely to produce the necessary engagement and understanding amongst Indigenous Australians to arrive at the reasonable consensus.

We cannot proceed to a referendum without knowing where Indigenous people stand.

Our people need an opportunity to discuss options for constitutional recognition amongst ourselves, before engaging with the general community. Whilst this could occur in parallel with mainstream conferences, it would be wiser to prioritise clarity and consensus within Indigenous Australia before going to mainstream conferences.

Indigenous people need forums to consider proposed models. They need to understand the political constraints, legal complexities and likely practical operation of each model. With this process, we believe Indigenous people have the best chance to come to a consensus position.

The process for Indigenous Australia to consider its position should be Indigenous led and run. We ask for government investment and support for this process.

In order to proceed to a referendum and for it to have the best chance of success, we believe that three steps are needed to enable the Parliament to reach a final position on a referendum question:

1. Indigenous conferences and a national Indigenous Convention;
2. General community consultations and;
3. A diplomatic process between Indigenous representatives and yourself and the Opposition Leader so all parties can reach agreement.

Indigenous conferences and convention

Starting as soon as possible, there should be a process of Indigenous conferences around the country, with the specific purpose of allowing Indigenous people to understand and express their views on models for constitutional recognition. This approach has been discussed with key Indigenous leadership organisations, including the National Congress of Australia's First Peoples, which will continue to engage with its membership throughout the process.

Run by key Indigenous organisations

A partnership of Indigenous organisations should run and oversee the comprehensive process with Indigenous Australia. This partnership would consist of the four undersigned organisations. Recognise's function is to build public understanding and support for constitutional recognition. Recognise is not an appropriate organisation to facilitate an Indigenous position about the preferred model.

There should be a series of Indigenous constitutional conferences held around Australia

Each conference would discuss the legal soundness, political viability and practical outcomes for Indigenous people with respect to each model.

Each of these models should be explained and discussed at each Indigenous conference. The outcomes of each conference should be recorded.

The participants at each conference should then nominate delegates to represent the options coming from their conferences and participate in the National Indigenous convention.

National Indigenous Convention

The nominated Indigenous delegates can then participate in an Indigenous national convention.

The relevant models should be presented and discussed at the convention, and delegates should share their views on preferred models. Legal soundness, political viability and practical outcomes for Indigenous people should be discussed with respect to each model. The conference delegates should then vote on or otherwise choose their preferred model, taking into account all relevant considerations. This will ensure there is a majority consensus amongst Indigenous Australians on a preferred model for constitutional change to discuss with the general Australian population.

The delegates at this conference should then nominate a small group of Indigenous leaders to engage on their behalf with government and Parliament.

Funding

We will require funding to run the Indigenous conferences and convention with the support of an Indigenous secretariat. We seek funding only to run the Indigenous-specific process, not the process with the general community. Adequate funding for the Indigenous conferences will help make sure they are a success. We have started to prepare an

application for funding and seek your urgent agreement to commence discussions with your Department about it. We hope you will continue to progress constitutional recognition by supporting Indigenous Australians to strive to determine a consensus position on a model. We are prepared to meet with you at your convenience to discuss this most important of all issues affecting the future of Indigenous people.

Yours sincerely,

s 22(1)(a)(ii)

Patrick Dodson
Co-Chair of the Expert Panel
on Constitutional Recognition
of Aboriginal and Torres Strait
Islander peoples

s 22(1)(a)(ii)

Noel Pearson
Advisor
Cape York Partnership

s 22(1)(a)(ii)

Kirstie Parker
Co-Chair
National Congress of Australia's
First Peoples

s 22(1)(a)(ii)

Megan Davis
Professor of Law
University of NSW

CC.

The Hon Bill Shorten MP
Leader of the Opposition



PRIME MINISTER

28 JUL 2015

Mr Noel Pearson
 Advisor Cape York Institute
 s 47F
 CAIRNS QLD 4870

Dear Mr Pearson *Noel*

Thank you for your letter dated 15 July 2015 regarding establishing a unified Indigenous position prior to the community conferences that the Opposition Leader and I committed to at our recent meeting with indigenous leaders. As always, I appreciate the care and thought that you have given to your proposal.

My anxiety about a separate indigenous process is that it jars with the notion of finally substituting 'we' for 'them and us'. I am in favour of building a consensus, but strongly believe that this should be a national consensus in favour of a particular form of recognition rather than simply an indigenous one. The risk with an indigenous-only – or even an indigenous-first – process is that it might produce something akin to a log of claims that is unlikely to receive general support.

Right now, my office is working with the Leader of the Opposition's office on a proposal for community conferences. Both of us, I am sure, would be happy to discuss this with you and your co-signatories before it is finalised. I accept that these community conferences need to take place in ways that give indigenous people ample opportunity to have their say. Doubtless, some of them could take place in largely indigenous areas, with largely indigenous participation. I would be disappointed if they did not allow an indigenous position to form – but this should be at the same time that a general community position is also forming. Each should inform the other if a referendum is ultimately to succeed.

My expectation is that the proposed referendum council should oversee the community conferences, including those that might be seeking to gauge indigenous opinion.

Again, I hope to discuss this with you before anything is finalised.

I have written in similar terms to your co-signatories and copied this letter to Mr Shorten.

Yours sincerely
 s 22(1)(a)(ii)

s 22(1)(a)
 /iii

TONY ABBOTT

Parliament House CANBERRA ACT 2600
 Telephone (02) 6277 7700
 www.pm.gov.au

*I will try to arrange
 a discussion now.*

29 July 2015

The Hon Tony Abbott MP
Prime Minister
Parliament House
Canberra ACT 2600

Dear Prime Minister,

Further to our letter of 15 July seeking your support for a process to enable Aboriginal and Torres Strait Islander Australians to consider all options for constitutional recognition, and to reach a position about the best model to submit to the people in a referendum, we are now writing to you to apply for funding to support that process. We have not yet received a response to our initial letter, and we are anxious that this process should not be allowed to drift.

Attached is our funding application to support Aboriginal and Torres Strait Islander conferences around Australia, culminating in an Aboriginal and Torres Strait Islander constitutional convention. We also attach a budget, showing how the funds would be used. We reiterate that these funds should not be taken out of the Indigenous Advancement Strategy budget, as this money is needed for frontline services.

We urge you to support our proposal to run a national process so that Aboriginal and Torres Strait Islander Australians can form a position and take leadership in the movement for constitutional recognition.

Yours sincerely,

s 22(1)(a)(ii)

Patrick Dodson
Co-Chair of the Expert Panel
on Constitutional Recognition
of Aboriginal and Torres Strait
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Noel Pearson
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National Congress of Australia's
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s 22(1)(a)(ii)

Megan Davis
Professor of Law
Indigenous Law Centre, University of NSW

Constitutional Recognition: Constitutional Conferences and a National Convention for Aboriginal and Torres Strait Islander peoples

A proposal of National Congress of Australia's First Peoples, Kimberley Institute, Cape York Institute and the Indigenous Law Centre at University of New South Wales

Recommendation

That urgent support of \$4.874 million is provided for an inclusive and accessible process to build Aboriginal and Torres Strait Islander understanding, input and support for a model that can be successful taken forward at a referendum.

That a series of 14 Aboriginal and Torres Strait Islander Constitutional Conferences be undertaken over the next six months, leading into one Aboriginal and Torres Strait Islander National Convention.

Rationale

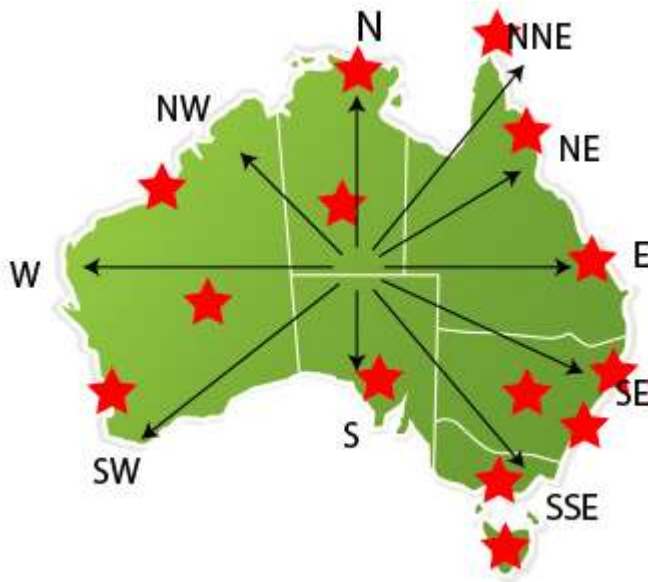
- Constitutional reform will not succeed unless the model is widely supported by Aboriginal and Torres Strait Islander peoples.
- Mainstream Australia will expect that the model put forward can demonstrate widespread Aboriginal and Torres Strait Islander support.
- There is currently a very high risk that *any* model for change put forward will not be widely supported by Aboriginal and Torres Strait Islander people.
- The Constitution and proposals for change are not well understood by Aboriginal and Torres Strait Islander people.
- There is no clear Aboriginal and Torres Strait Islander consensus as to which model is preferred. Aboriginal and Torres Strait Islander people around Australia need a process to identify which model for constitutional recognition they support.
- Recognise has built general understanding and support for constitutional change. It has not been its role to build the understanding required to allow an informed assessment of the various options for change, or to establish which model is widely supported by Aboriginal and Torres Strait Islander people.
- This proposal is consistent with the recommendations of the Joint Select Committee's final report (see Recommendations 8 and 9) and the Expert Panel.

Constitutional Conferences

Number and location

- A series of 14 Constitutional Conferences for Aboriginal and Torres Strait Islander people around the country are needed. Each conference should be run over three days.
- The following locations are proposed to allow good access at reasonable cost to all Aboriginal and Torres Strait Islander people. Aboriginal and Torres Strait Islander population distributions and geography have been considered.
 - New South Wales, including ACT– three conferences (Sydney, Central Coast, Central NSW).
 - Queensland – three conferences (Torres Strait, Cape and North Queensland, Central and South East).
 - Western Australia – three conferences (North West, West and South West).

- Northern Territory – two conferences (Northern and Central).
- Victoria – one conference.
- South Australia – one conference.
- Tasmania – one conference.



Attendance and support

- Any Aboriginal or Torres Strait Islander person will be able to register and attend the conferences.
- Financial support for travel, accommodation and meals will enable Aboriginal and Torres Strait Islander people in key leadership positions at the local and regional level to participate. Eligibility for such support will be determined on the basis of clear and consistently applied criteria to ensure fair and appropriate representation.

Content and facilitation

- Each conference would be highly structured to ensure consistent presentation of essential information across the country.
- The conferences will discuss the key elements that could form part of an appropriate package of reforms for constitutional recognition, drawing upon the recommendations of the Expert Panel, the Joint Select Committee, and other proposals for reform.
- Key elements of reform for discussion would include:
 - removal of s 25
 - removal or amendment of s 51(xxvi) while ensuring Parliament retains its power to legislate for Aboriginal and Torres Strait Islander peoples and their matters
 - a racial non-discrimination clause
 - a constitutionally-mandated Aboriginal and Torres Strait Islander body
 - symbolic statements in the Constitution
 - a Declaration outside the Constitution
 - other relevant proposals, such as discussion of treaties.
- The strengths and weaknesses of the different approaches to Constitutional recognition—including in terms of legal soundness, political viability and practical outcomes—would be presented and discussed.
- Each conference would also include discussion of Constitutional recognition in the particular local or regional context.

- Legal and policy support would be required at each conference and the convention to help explain the constitutional history, as well as the legal implications, political constraints and potential practical operation of each model, and to answer technical questions that may arise. These experts would also help with the drafting of the material for the conferences.
- Facilitators would be required for each conference and the convention.

Conference outcomes

- Each conference would elect 10 delegates to go to the National Convention.
- Each conference would produce a resolution or communiqué for presentation and consideration at the National Convention, setting out any outcomes of the conference discussions.
- A record of proceedings would be created for each conference.

Secretariat

- The four proponent organisations are prepared to take a leading role in hosting the conferences and convention including contributing to some of the costs.
- It is important, however, that the process is not managed and delivered by a small group of national leaders/organisations. It must be owned and led broadly by Aboriginal and Torres Strait Islander people and our organisations to the greatest extent possible.
- It is proposed that an Aboriginal and Torres Strait Islander Constitutional Recognition Steering Group be immediately established to work intensively over the next 6-8 weeks. The Steering Group will:
 - establish the Secretariat
 - further develop the framework and oversee the content of the conferences and convention
 - include Patrick Dodson, Kirstie Parker, Megan Davis, Noel Pearson and representatives from other States and Territories.
- The Secretariat, under the oversight of the Steering Group, would:
 - assist to administer the funds required to support the conferences
 - coordinate the preparation content and logistics, ensuring an appropriate level of consistency across all conferences
 - subcontract in each region to a regional-based Aboriginal and Torres Strait Islander organisation that has experience bringing together Aboriginal and Torres Strait Islander people from the area (likely to be NTRBs and Land Councils), to:
 - investigate and recommend options for the conference that provide value for money (camping options will be considered where this can assist to reduce costs and maximize attendance)
 - promote the conference within the region including by providing pre-conference information to participants as required to ensure that participants are well equipped to participate in the discussions, and reach an informed position on their preferred way forward by the conference's conclusion
 - nominate and facilitate those in key leadership positions to attend the conference with financial support
 - receive and process conference registrations, including for those who wish to attend under their own steam.
 - provide oversight to make sure the subcontracted organisations meet their obligations according to budget.

Budget and value

- Successive Australian Governments have made a substantial investment in the constitutional recognition process.
- It is a critical time to ensure that the benefits of this investment can be realised.
- Recognition and reconciliation have direct practical and psychological benefits on Aboriginal and Torres Strait Islander wellbeing—constitutional reform has the potential to deliver bankable savings for government and taxpayers in the long term through improved outcomes.
- The budget is provided at **Attachment A**.

National Convention

- 140 elected delegates would attend the all-in National Convention to be convened in the nation's centre at Uluru.
- This Convention would discuss and debate the outcomes of the conferences.
- Through a voting process the Convention would establish the preferred model for constitutional recognition that could then be considered to be broadly representative of an Aboriginal and Torres Strait Islander position.
- An independent public report will be commissioned and provided to the Parliament and to Aboriginal and Torres Strait Islander people—it will document the process, the proposed changes, discussions and outcomes.
- A record will be made of the proceedings of the Convention.
- The Convention would nominate a small group of Aboriginal and Torres Strait Islander leaders to provide close ongoing engagement with government and the Parliament as the model is to be finalised and taken forward.
- The Secretariat would subcontract to an Aboriginal and Torres Strait Islander organisation with experience in bringing together Aboriginal and Torres Strait Islander people to:
 - investigate and recommend options for the Convention that provide value for money
 - facilitate the attendance of the 10 nominated representatives of each of the conferences.

Budget for the Constitutional Conferences and Convention

Constitutional Recognition Activities - Co-Ordination Group Budget										
	Windup	2x Conf.	2x Conf.	3x Conf.	2x Conf.	3x Conf.	2x Conf.	Convention	Wind down	
	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	TOTAL
Grant Income										-
Grant Funding	541,644	541,644	541,644	541,644	541,644	541,644	541,644	541,644	541,644	4,874,794
Total Income	541,644	541,644	541,644	541,644	541,644	541,644	541,644	541,644	541,644	4,874,794
Wages and Salaries										
Wages & Salaries	38,333	38,333	38,333	38,333	38,333	38,333	38,333	38,333	38,333	345,000
Annual leave Loading	516	516	516	516	516	516	516	516	516	4,644
Workers' Compensation	383	383	383	383	383	383	383	383	383	3,450
SGC Superannuation	3,642	3,642	3,642	3,642	3,642	3,642	3,642	3,642	3,642	32,775
Total Salary and Wages	42,874	42,874	42,874	42,874	42,874	42,874	42,874	42,874	42,874	385,869
Operating Costs										
Report to Parliament	11,111	11,111	11,111	11,111	11,111	11,111	11,111	11,111	11,111	100,000
Advertising	2,778	2,778	2,778	2,778	2,778	2,778	2,778	2,778	2,778	25,000
Project - Conferences	-	585,000	585,000	585,000	585,000	585,000	585,000	-	-	3,510,000
Project - Conventions	-	-	-	-	-	-	-	434,225	-	434,225
Total Operating costs	13,889	598,889	598,889	598,889	598,889	598,889	598,889	448,114	13,889	4,069,225
Travel Overhead Costs										
Travel - Accommodation	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	9,000
Travel - Airfares	2,889	2,889	2,889	2,889	2,889	2,889	2,889	2,889	2,889	26,000
Travel - Taxi and other	333	333	333	333	333	333	333	333	333	3,000
Travel - Allowance	233	233	233	233	233	233	233	233	233	2,100
Total Overhead Travel costs	4,456	4,456	4,456	4,456	4,456	4,456	4,456	4,456	4,456	40,100
Other Operating Costs										-
Vehide - Fuel & Oil	300	300	300	300	300	300	300	300	300	2,700
Vehide - Rego,Leases,Maint	300	300	300	300	300	300	300	300	300	2,700
Telephone - Mobile	800	800	800	800	800	800	800	800	800	7,200
Insurance	556	556	556	556	556	556	556	556	556	5,000
Legal and Policy support	22,222	22,222	22,222	22,222	22,222	22,222	22,222	22,222	22,222	200,000
Postage	1,333	1,333	1,333	1,333	1,333	1,333	1,333	1,333	1,333	12,000
Central Services	16,667	16,667	16,667	16,667	16,667	16,667	16,667	16,667	16,667	150,000
Total Other Operating Costs	42,178	42,178	42,178	42,178	42,178	42,178	42,178	42,178	42,178	379,600
Program Surplus / Shortage	438,247	(146,753)	(146,753)	(146,753)	(146,753)	(146,753)	(146,753)	4,022	438,247	(0)

BUDGET DETAIL SUPPORT

Salary and Wages Detail - Secretariat		Duration		9
Positions needed	Yearly	Prorata	Monthly	
Senior Indigenous co-ordinator	200,000	150,000	16,667	
Project Officer	100,000	75,000	8,333	
Project Officer	100,000	75,000	8,333	
Administrative support	60,000	45,000	5,000	
Total Salary and Wages costs		345,000	38,333	
Annual Leave Loading	17.50%	4,644	516	
Workers Compensation	1%	3,450	383	
Superannuation	9.50%	32,775	3,642	

Project - Indigenous Conferences across Australia		Duration		3
Direct Project Costs	Costs	Qty	Events	Amount
Conference Room	\$ 6,000	1	14	\$ 252,000
Catering Costs	\$ 100	200	14	\$ 840,000
Speakers	\$ 2,500	0	14	\$ -
Conference / Community Informat	\$ 10,714		14	\$ 150,000
Media Tech	\$ 3,000	0	14	\$ -
Equipment Hire	\$ 3,000	0	14	\$ -
Vehicle / Bus Hire	\$ 2,000	2	14	\$ 168,000
Miscellaneous	\$ 1,000	1	14	\$ 42,000
Total Direct Project Costs - Conferences			14	\$ 1,452,000

Project - National Indigenous Convention		Duration		3
Direct Project Costs	Costs	Qty	Events	Amount
Conference Room	\$ 10,000	1	1	\$ 30,000
Catering Costs	\$ 100	100	1	\$ 30,000
Speakers	\$ 3,000	0	1	\$ -
Conference/Community Information	\$ -	0	1	\$ 50,000
Media Tech	\$ 4,000	0	1	\$ -
Equipment Hire	\$ 10,000	1	1	\$ 30,000
Vehicle / Bus Hire	\$ 2,000	2	1	\$ 12,000
Miscellaneous	\$ 2,000	1	1	\$ 6,000
Total Direct Project Costs - Convention			1	\$ 158,000

Project Travel - Conferences	# of Staff	Support Part.	# of Nights	Travel	Accom.	Allowances	Taxis/Other	Total
NSW - Sydney	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
NSW - Central Coast	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
NSW - Central NSW	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Qld - Torres Straite	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Qld. - Cape & N. Qld	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Qld. - Central / South East	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Western Aust. - North West	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Western Aust. - South West	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Western Aust. - Western	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Northern Terr. - Northern	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Northern Terr. - Central	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Victoria	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
South Australia	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Tasmania	5	100	3	\$ 800	\$ 150	\$ -	\$ 50	147,000
Total Project Travel - Conferences								\$ 2,058,000

Project Travel - Convention	# of Staff	Support Part.	# of Nights	Travel	Accom.	Allowances	Taxis/Other	Total
Uluru	5	140	3	\$ 1,200	\$ 150	\$ 35	\$ 50	276,225
Total Project Travel - Convention								\$ 276,225

Travel Budget- Sponsoring Organiz	How many trips	Number of Nights	Travel	Accommodation	Allowances	Taxis/Other	Total
Sydney	10	2	\$ 800	\$ 150	\$ 35	\$ 50	12,700
Canberra	10	2	\$ 1,000	\$ 150	\$ 35	\$ 50	14,700
Brisbane	10	2	\$ 800	\$ 150	\$ 35	\$ 50	12,700
Total Travel - Administration			\$ 26,000	\$ 9,000	\$ 2,100	\$ 3,000	\$ 40,100

Other Operating Costs		Duration		9
Description of costs		Yearly	Monthly	
Report to Parliament	Producing final Govnt and Parliament Report	\$ 100,000	\$ 11,111	
Advertising	Conference and Convention Advertising/ Communication	\$ 25,000	\$ 2,778	
Vehicle - Fuel & Oil	Vehicle for Secretariat	\$ 2,700	\$ 300	
Vehicle - Rego,Leases,Maint	Vehicle for Secretariat	\$ 2,700	\$ 300	
Telephone - Mobile	Secretariat needs	\$ 7,200	\$ 800	
Insurance	On site event coverage	\$ 5,000	\$ 556	
Legal and Policy Support	Attendance by experts at conferences and convention	\$ 200,000	\$ 22,222	
Postage	Mailout invitations/ operations of Secretariat	12,000	\$ 1,333	
Central Services	Overhead support for the Secretariat	\$ 150,000	\$ 16,667	

The Hon Tony Abbott MP Prime Minister
Parliament House
Canberra ACT 2600

11th June 2014

Dear Prime Minister,

I write in response to your question to me on the proposition that Indigenous recognition might be achieved in a non-legal Declaration voted for by the Australian people, rather than in the Constitution. My colleague, § 47F, and I have engaged with § 47F, § 47F, § 47F and § 47F in relation to these matters.

There is merit in § 47F and § 47F proposal, but only as part of a broader package of reforms. On its own, a Declaration would be rich in symbolism but light on substantive reform. Symbolism is important, but we also need to make a *practical difference to the problems we face in Indigenous affairs*.

Conservatives like § 47F and § 47F in their concern to get judges out of the equation, tend to overlook the Indigenous views and history that have driven this conversation about constitutional recognition.

Conservatives are concerned about judicial activism and do not want 'rights' clauses added to the Constitution. As a result, they oppose a racial non-discrimination clause. While I do not accept that these anxieties about judicial activism are justified, in the spirit of mutual understanding, I understand conservatives are concerned about giving judges too much power.

However, conservatives reciprocally need to understand that Indigenous people see constitutional recognition as being fundamentally about achieving *constitutional protection and recognition of Indigenous rights and interests within Australia*. Symbolism is only part of it. *Substantive change in the national approach to Indigenous affairs* is the other part.

Conservatives, too, need to understand our position. Our people have lived through the discrimination of the past. We therefore have a legitimate anxiety that the past not be repeated, and that measures be put in place to ensure that *things are done in a better way*. If conservatives assert that a racial non-discrimination clause is not the answer – then what is a better solution?

§ 47F and § 47F argue that the Constitution is a rule book, a practical charter of government that sets out power relationships, like that between the Commonwealth and the states. It is not a vehicle for aspirations and symbolism: these can be articulated in a Declaration, not in the Constitution. But if the Constitution is a practical rule book governing national power relationships, as conservatives assert, then it should also be acknowledged that there is one very important, national power relationship clearly not addressed in the Constitution.

Arguably, the rule book should be amended to make provision for Indigenous people to be heard in Indigenous affairs.

After all, if unelected judges should not decide what is in the interests of Indigenous people, then who should decide? Indigenous people are only 2.5% of the population, and hardly get a fair say in Parliament, even on matters directly concerning them. Parliaments have never been good at listening to Indigenous people. This is the elephant and the mouse problem that has characterized Indigenous affairs.

We need to find a way of ensuring that Indigenous people get a fair say in laws and policies made *about us*, without compromising the supremacy of Parliament. We could consider creating a mechanism to ensure that Indigenous people can take more responsibility for our own lives, *within the democratic institutions already established*, and without handing power to judges.

We don't want separatism: we want inclusion. We want to be inside the decision-making tent. We want our voices to be heard in political decisions made about us. A mechanism like this – guaranteeing the Indigenous voice in Indigenous affairs – could be a more democratic solution to the racial discrimination problem.

Empowered Communities is heading in this direction. I am interested in how we can come up with a package of measures that will excite Indigenous people and all Australians who desire a better future for Indigenous people.

I ask that you keep an open mind. We are in the process of trying to reach some consensus on these ideas with s 47F s 47F s 47F and s 47F. A Declaration and removal of the 'race' clauses alone will not be acceptable to Indigenous people. We need to all work toward a package of reforms that have the potential to excite Indigenous people and con cons alike.

Yours sincerely,

Noel Pearson