

29 January 2015

The Hon Michael Mischin MLC
Committee Chair
Joint Select Committee on Aboriginal Constitutional Recognition
Parliament House
PERTH WA 6000

Dear Committee Chair

INQUIRY INTO THE APPROPRIATE WORDING TO RECOGNISE ABORIGINAL PEOPLE IN THE CONSTITUTION OF WESTERN AUSTRALIA

Thank you for your letter dated 12 December 2014 in relation to the establishment of a Joint Select Committee of the Legislative Assembly and Legislative Council to inquire into and report on the recognition of Aboriginal people in the Constitution of Western Australia.

The Law Society of Western Australia (Society) is most grateful for the opportunity to comment on:

1. The most appropriate form of wording to recognise Aboriginal people in the Constitution of Western Australia;
2. The most appropriate manner in which recognition is to be incorporated into the Constitution of Western Australia; and
3. Any legal matters that need to be considered when incorporating such words.

The Society agrees with the approach that recognition should be by way of preambular words rather than amendment to the operative text of the *Constitution Act 1889* itself.

The Society also notes that the reference in the Explanatory Memorandum to the *Constitution Amendment (Recognition of Aboriginal People) Bill 2014* (the Bill) to advice previously given by the Solicitor-General in relation to such an insertion of words into the preamble of the *Constitution Act 1889*¹ and believes that this sufficiently outlines any potential legal consequences, being that:

1. such amendment would not have significant legal consequences;
2. the proposed text to be inserted is principally a statement of historical fact; and
3. is unlikely to result in any constitutional or legal limitation on the power of the State.

¹ Explanatory Memorandum, Constitution Amendment (Recognition of Aboriginal People) Bill 2014 (WA), available at [http://www.parliament.wa.gov.au/Parliament/Bills.nsf/D6DCCA39D2D52CA048257CF4000A5407/\\$File/EM%2B77-1.pdf](http://www.parliament.wa.gov.au/Parliament/Bills.nsf/D6DCCA39D2D52CA048257CF4000A5407/$File/EM%2B77-1.pdf)

As such, the Society recommends the amendments for the insertion of text into the preamble of the *Constitution Act 1889* posited by the Bill to officially recognise Western Australia's Aboriginal people as the first people of Western Australia.

The Society wishes to commend the State Parliament on progressing this important act of recognition and looks forward to receiving a copy of the Joint Select Committee's report and the eventual passage of such recognition statement.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M Keogh', with a stylized flourish at the end.

Matthew Keogh
President