



Summary of Submission

The submission was received from Dr Lucinda Aberdeen, Lecturer in Sociology, School of Social Sciences, Faculty of Arts and Business at the University of the Sunshine Coast.

The submission reports the findings of a 2013 study, *Advancing understanding on the Sunshine Coast of the proposed Constitutional reforms for Indigenous Recognition and Inclusion*.

It found three community forums sponsored by the national Recognise campaign and held on the Queensland Sunshine Coast region were effective

‘mechanisms to build further engagement and support for the constitutional recognition of Aboriginal and Torres Strait Islander peoples’ (Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait. 2014. *Interim Report*, Canberra, Commonwealth of Australia. p.5.)

The forum participants surveyed overwhelmingly supported the five proposals for constitutional amendment recommended by the Expert Panel as well as community forums to advance public understanding of these.

The emerging intercultural engagement facilitated by the forums formed the basis of a reconciliatory tipping point in favour of constitutional reform. It lost momentum, however, in the face of Federal government changes in engagement with Indigenous Australians and Indigenous affairs funding and the ongoing absence of a formal response to the Expert Panel’s report.

The study concludes that if constitutional Indigenous recognition is to be achieved in Australia, the critical importance of intercultural engagement needs itself to be recognised and systemically encouraged, rather than undermined, by policies and institutional practices of the state in Australia.



25 March 2015

Committee Secretary
Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait
Islander Peoples
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

Inquiry into the Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples

Thank you for the opportunity to make a submission to the Committee's inquiry into the constitutional recognition of Aboriginal and Torres Strait Islander peoples. I am making this submission in my capacity as a Lecturer in Sociology and as a member of the School of Social Sciences, Faculty of Arts and Business at the University of the Sunshine Coast. I am solely responsible for its contents.

In summary, this submission focuses on the findings of a study, *Advancing understanding on the Sunshine Coast of the proposed Constitutional reforms for Indigenous Recognition and Inclusion* conducted in 2013.¹ It found community forums sponsored by the national *Recognise* campaign were effective 'mechanisms to build further engagement and support for the constitutional recognition of Aboriginal and Torres Strait Islander peoples across all sectors of the community'² This was apparent in the readiness of the forum participants surveyed to overwhelmingly support both the five proposals for constitutional amendment recommended by the Expert Panel and community forums to advance public understanding of these.

¹ The data presented here is also included in a 7,000 word academic paper written by the author and submitted for peer review to a scholarly journal.

² Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait (2014) *Interim Report*, Canberra, Commonwealth of Australia. p.5.

Background to the study

In November 2012, a group of community organisations on the Queensland Sunshine Coast variously affiliated with the University of the Sunshine Coast (USC), successfully applied for a *You Me Unity* grant to assist organisations participate in its Public Awareness Activities Program. The group then partnered with the University of the Sunshine Coast and became known as ‘Recognise – Sunshine Coast Community for Change’ (RSCC4C). Its name followed the rebranding of the *You Me Unity* campaign as *Recognise* (Recognise 2014 *online*).³ It set about organising three community forums which were held six months later in late May and early June 2013 to coincide with National Reconciliation Week.

The publicity, planning, organising and running of these citizen-initiated forums were undertaken by Indigenous and non-Indigenous individuals connected with the Sunshine Coast region and committed to constitutional reform. Members of the RSCC4C Committee, popularly referred to as the Recognise Committee, met regularly over five months. The panels of speakers invited by the Recognise Committee to address the USC and Maleny forums comprised people associated with the Sunshine Coast region through their heritage, residence and employment and commitment to constitutional reform.^{4 5} This meant the forums were characterised by a high level of community ownership and regional participation.

The idea to survey the forums arose when it became apparent that this could speak directly to aspects of the ministerial review required by the *Aboriginal and Torres Strait Islander Peoples Recognition Act* passed unanimously by Federal Parliament on 13 February 2013.⁶ The Recognise Committee endorsed and supported the study and ethical approval was obtained

³ Recognise – Sunshine Coast Community for Change (RSCC4C). R- SCC4C. URL accessed October 15, 2014. <http://rsc4c.wordpress.com/>

⁴ The speakers included Ms. Beverly Hand (Director of Mimburri and a Kabi Kabi woman), Glen Ferguson, (a solicitor in private practice on the Sunshine Coast and Expert Panel member), Alex Mc Kean (barrister in private practice on the Sunshine Coast), Dr Sandra Phillips (a Wakka Wakka woman and then inaugural lecturer in Indigenous Studies at USC), Ms. Danika Sticklen (Sunshine Coast representative at the 2012 National Schools Constitutional Convention) and Mrs Judi Wickes (a community Aboriginal elder and then social work field education officer at USC) and the author.

⁵ Each panellist was asked by the forum organisers to address particular aspects of the current debate about Constitutional reform for Indigenous inclusion. The third forum had no formal panel as such. Instead members of the public and the panellists from the other two forums were invited to attend and participate in a lunch-time yarning circle conducted ‘on country’ at Mimburri.

⁶ These were ‘readiness of the Australian public to support a referendum to amend the Constitution’ (Section 4 2a), ‘those proposals ... most likely to obtain the support of the Australian people’ (Section 4 2c); and ‘the levels of support for amending the Constitution’ (Section 4 2d) of the *Aboriginal and Torres Strait Islander Peoples Recognition Act* (Cwth) 2013.

from the University for the research team⁷ to survey members of the public of voting age who attended the forums. At the conclusion of each forum, a questionnaire inquiring into the participants' views about the forum and constitutional reform was distributed. It specifically included questions about support for the five Constitutional changes proposed by the Expert Panel.⁸ Most respondents took approximately five minutes to complete the questionnaire.⁹

Findings

Around two thirds of the estimated 160 people who attended the three forums completed a questionnaire. This resulted in a sample size of 105 people of voting age. Most were females (62%) and most were aged over 45 years and over (62%) with the single largest age category being 55-64 years (25%). Twenty per cent were aged between 18-34 years. Post code information gathered indicates that 60 per cent of the sample resided in three population centres and their surrounding districts on the Sunshine Coast; namely Nambour (28%), Caloundra (12%) and Maleny (20%). Almost all other respondents resided in other suburbs and townships in the Sunshine Coast region. Three per cent of the sample resided elsewhere in Queensland or interstate. Almost half (49%) of the respondents wrote comments about the forums on their questionnaire forms.

The survey found that respondents were informed about proposed Constitutional reform for Indigenous recognition with 59 per cent indicating they 'strongly disagreed'; or 'disagreed' that they were 'unaware of proposed changes to the Constitution' before attending the forum. Nevertheless, most 'strongly agreed' (69%) or 'agreed' (26%) that the forums they attended were 'informative about the proposed Constitutional reforms'.

For example, one female respondent, aged between 55-64 years, who 'strongly disagreed' that she was unaware previously of proposed Constitutional changes commented, 'The Forum was very well conducted and very easy to understand'. Other written comments were that the forums provided 'excellent information'; needed to be developed for young people aged under 18 years to provide feedback too, even if they are too young to vote today'¹⁰ and that future

⁷ The research team comprised undergraduate student members of the Recognise Committee and the author.

⁸ P. Dodson and M. Leibler. (Co-Chairs) (2012) *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution: Report of the Expert Panel*, Canberra: Commonwealth of Australia, p. xviii.

⁹ Respondents were also invited to register their interest to take part in a focus group. This subsequently took place six weeks later at USC but is not the subject of discussion in this submission.

¹⁰ For a comprehensive discussion of this issue see, Kildea, P. (2012) Towards youth engagement in the referendum on indigenous recognition. *Alternative Law Journal*, No, 37: 161-165.

forums should be televised to reach a wider audience because they ‘are really necessary.’ One respondent expressed the view that effective education of the largely uniformed Australian voting public was an essential requirement for the success of the proposed referendum. She wrote,

It will need to be a strong and continuous @ [*Recognise*] program to educate the nation. There are many people who have much to learn if a referendum is to succeed.

Thirty eight per cent of respondents considered themselves unaware of the proposed Constitutional changes before attending the forum. Amongst them a male aged 55-64 years described its impacts on him,

Embarrassment defines my feelings regarding this new information which has so succinctly been provided this evening regarding our Constitution. I am amazed I have heard nothing to date regarding this proposed referendum.

Over half the sample (52%) ‘strongly agreed’ or ‘agreed’ that their ‘views about the proposed Constitutional reforms had changed because of attending the forums. One male respondent, aged between 25-34 years, wrote about the pressing concern he experienced from what he learnt at the forum at USC,

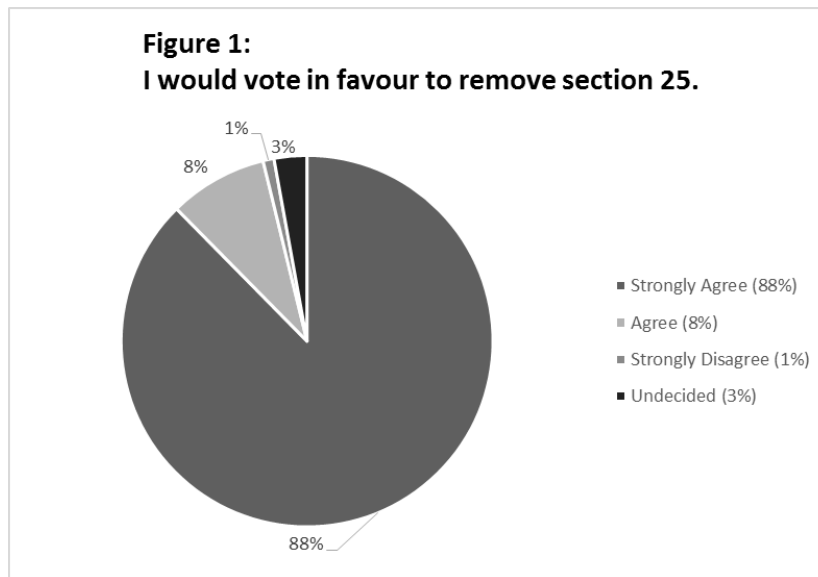
When I heard the Indignues [sic] people they are not exist in the constitution I got a big “SHOCK”. This is a big shame for the future of Australia. This constitution should be changed immediately!

A further 35 per cent of the sample, ‘strongly disagreed’ or ‘disagreed’ that their views about the proposed Constitutional reforms had changed because of the Recognise forums. This figure is not unexpected given that most respondents (59%) considered themselves to be aware of proposed changes to the Constitution prior to attending one of the forums and were most likely already acquainted with the arguments in favour of these presented by the various panelists. Thirteen respondents (13% of the sample) were ‘undecided’ whether their views had been changed from attending the forums.

Nevertheless, most respondents ‘strongly agreed’ (62%) or ‘agreed’ (25%) that they could vote in an informed way about the proposed Constitutional reforms at a national referendum. For example, one female respondent aged 35-44 years wrote,

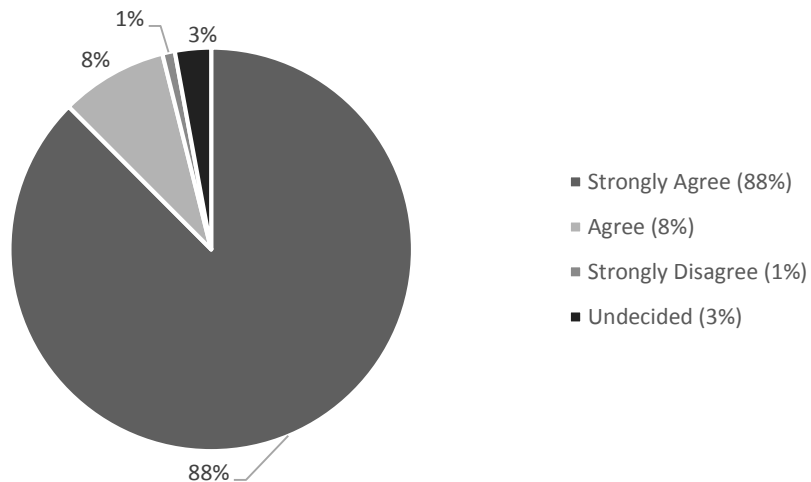
As a non-indigenous Australian, I am proud to and I fully support constitutional change for the recognition of Aboriginal peoples as the first peoples of this land we call Australia.

This apparent sense of confidence was reflected at large in the decisive support by the sample for the Expert Panel’s five proposals for Constitutional amendment. It was particularly marked in regard to four of the five proposals which a large majority of respondents indicated they would support overwhelmingly if put to a vote. The first of these was the proposal to remove of Section 25 which can be used by the States to ban people from voting on the basis of their race (88% strongly agreed and 9% agreed). (See Figure 1).



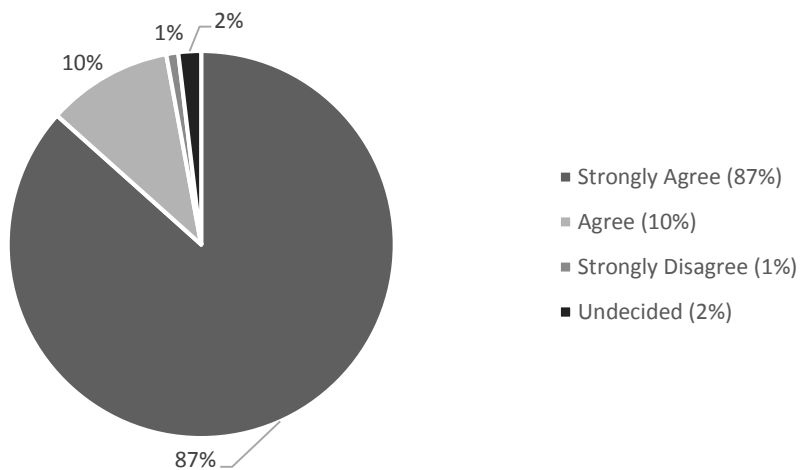
The second was the proposal to delete Section 51(xxvi) which can be used to discriminate on the basis of race received the same response as the first proposal (88% strongly agreed and 9% agreed). (See Figure 2).

Figure 2:
I would vote in favour to delete section 51(xxvi)

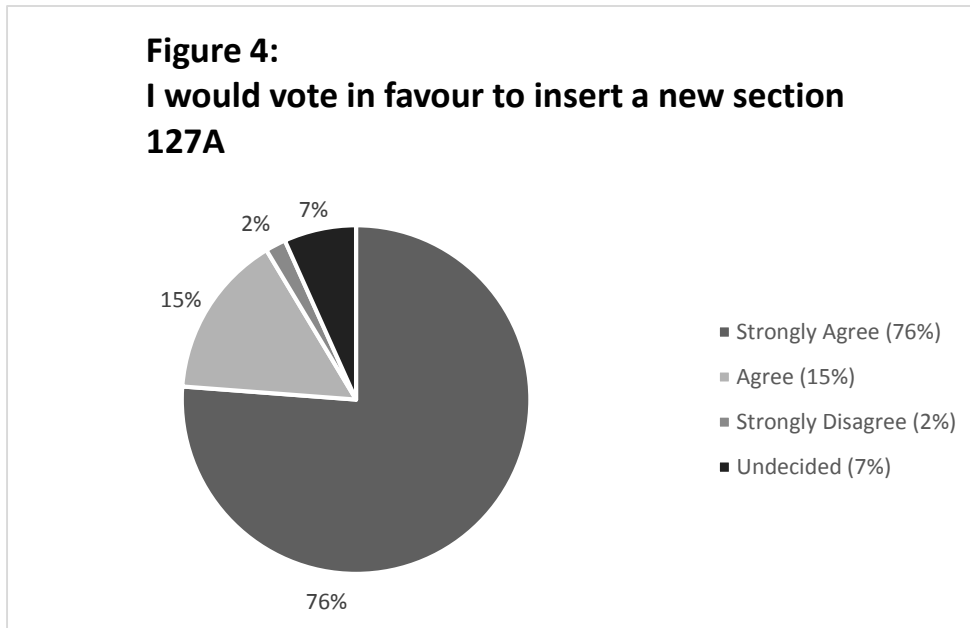


The third was the proposal to vote in favour to adopt a new Section 116A, banning racial discrimination by the Commonwealth (87% strongly agreed and 11% agreed). (See Figure 3).

Figure 3:
I would vote in favour to adopt a new section 116A



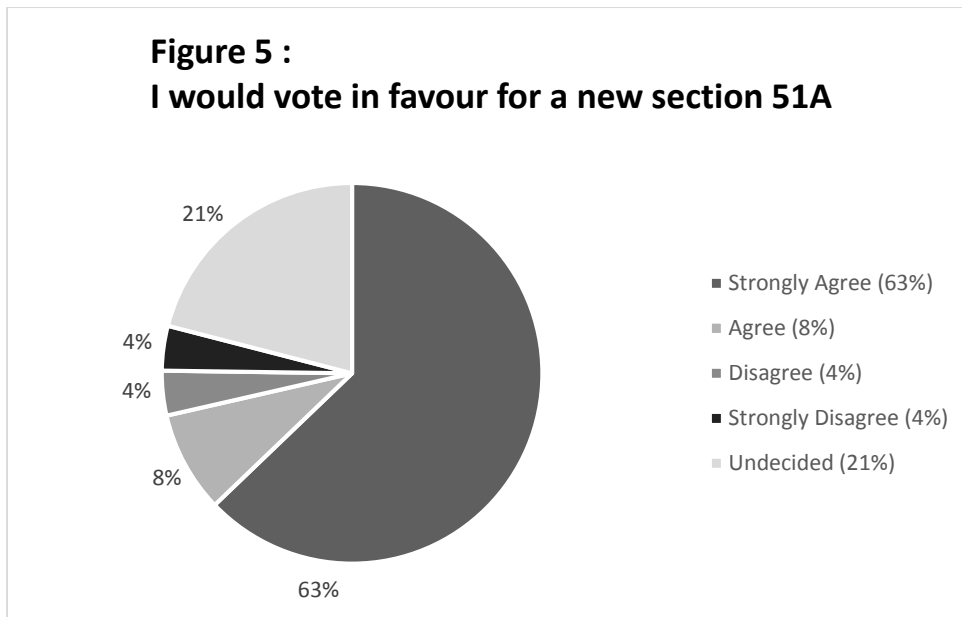
The proposal to insert a new Section 127A recognising Aboriginal and Torres Strait Islander languages were this country's first tongues, while confirming that English is Australia's national language, was supported by 91 per cent of the respondents overall. There was comparatively less certainty about this proposal with more respondents indicating that they were 'undecided' (7%) about it and fewer in strong agreement with it. (See Figure 4)



One male respondent, aged 25-34 years and in favour of all five proposals, commented,

I would like to see indigenous Languages or a new shared Indigenous language recognised as a national language. The same as Maori is in NZ. Other than that the constitution needs to be changed - it a disgrace.

The proposal to insert a new Section 51A to recognise Aboriginal and Torres Strait Islander peoples and to preserve the Australian Government's ability to pass laws for the benefit of Aboriginal and Torres Strait Islander peoples was supported by a comparatively smaller majority (72%) of respondents (63% strongly agreed, 9% agreed). (See Figure 5)



Further, this proposal attracted more critical written comments than the other four proposals and received the highest ‘undecided’ response (21%). These comments were characterised by concern for how such a proposal might impede Indigenous decision making and autonomy. For example, one female respondent aged 55-64 years in the ‘undecided’ category stated that she was ‘concerned about the patriarchal implications - who decides what the benefits are???’ Another respondent wrote, ‘I am concerned about sovereignty rights first.’ A third commented,

‘Laws to benefit ATSI should be decided by a [sic] Indigenous organisation rather than Government. This would help self-determination’.

A fourth ‘undecided’ respondent commented,

I'm scared about Q10; 'for the benefit of' gives the govt power to pass laws for things 'they' think are for the benefit of the Aboriginal people, but the Aboriginal people may not agree with.

Similarly amongst those who ‘disagreed’ (4%) or strongly disagreed (4%) with the proposal to insert a new Section 51A, one respondent wrote, ‘How does this change anything for the better??’ Another respondent, aged 25-34 years, who identified as an Aboriginal Queensland, commented, ‘I am a Murri and I do not provide my consent to the Government making laws for my people’s benefit.’

The survey found the respondents were predominately Sunshine Coast residents aware of the arguments in favour of Constitutional reform, highly supportive of it and ready to vote accordingly. This was evident in their strong endorsement of the five proposals for Constitutional amendment advanced by the Expert Panel. It can be argued that it is unlikely that the respondents uniformly shared the same level of understanding about the proposals. Nevertheless, the fact that they voted strongly in favour of them suggests they were confident in the credibility and expertise of the Expert Panel and in effect endorsed its four guiding principles. Moreover, those surveyed at the forums were positive about the forum's capacity to advance understanding of the issues and supported the idea for more such events to be held in the future. The survey provided a quasi-deliberative poll which indicates that locally organised community forums to enhance understanding of the need for constitutional reform for Indigenous recognition can galvanise support for it.

Discussion

Following Australian sociologist Maddison, the Indigenous and non-Indigenous people who served on the local *Recognise* committee and who attended the three community forums, like the members and support staff of the Expert Panel itself, can be characterised as Australian citizens of settler and Indigenous heritage working together in 'intercultural engagement and the ongoing struggle to recognise the wrongs of the past'¹¹ They were in effect engaging in a respectful dialogue aimed at 'working towards the creation of a more just and inclusive society'¹² Their convergence of interests and the fact that all Australian political parties supported constitutional recognition in some form¹³ could be seen as an incipient reconciliatory 'tipping point'.¹⁴

Interestingly this support emerged despite the fact that when the forums were conducted, there had been no formal government response specifically to the Expert Panel's recommendations and there was no official model in place regarding the timing and wording of the proposed

¹¹ S. Maddison (2011) *Beyond White Guilt: The real challenge for black-white relations in Australia*, Sydney: Allen & Unwin, p.139.

¹² *Ibid*, p.173.

¹³ Australian Human Rights Commission (2014) *Social Justice and Native Title Report 2014*.p.33. Accessed January 10, 2015.

<https://www.humanrights.gov.au/sites/default/files/document/publication/SJNTR%20FINAL.pdf>

¹⁴ I.S. McIntosh (2014) 'Reconciliation, You've Got to Be Dreaming: Exploring Methodologies for Monitoring and Achieving Aboriginal Reconciliation in Australia by 2030.' *Conflict Resolution Quarterly*, 32(1): 62.

referendum. The citizen-initiated forums held on the Sunshine Coast did not, however, become the basis for a broader regional movement for constitutional reform for Indigenous inclusion.

Four months after the forums were conducted, a federal election saw a change of federal government to a conservative Coalition Government. It saw the new Government foreshadow significant and controversial funding reduction in Indigenous affairs¹⁵ which stood to impact on the capacity and enthusiasm of the Aboriginal and Torres Strait Islander to participate in ‘the national conversation’ about constitutional reform. More generally it drew criticism about the Government’s commitment and capacity to engage respectfully with Indigenous people overall.¹⁶ The following year saw an emphasis on parliamentary deliberation with the production of public reports by the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (hereafter the Select Committee) and the Aboriginal and Torres Strait Islander Recognition Act Review Panel.¹⁷ In its final report, the Review Panel itself asserted that ‘political leadership is needed to break through to end the ongoing cycle of deliberations’¹⁸. Similar calls have been made by the Aboriginal and Torres Strait Islander Social Justice Commissioner.¹⁹

Conclusion

Seen in the broader national political context, the outcome of the community forums held on the Sunshine Coast might be viewed as ineffective. This recalls Maddison’s observation in regard to intercultural engagements between Indigenous and non-Indigenous Australians that

Whenever it seemed that progress was to be made, political will seemed to fail and the opportunity to make profound change slipped away. Goodwill and optimism generated in the community are eroded by cynicism and confusion.²⁰

Nevertheless, this study’s investigation of the advancement of understanding on the Sunshine Coast of the proposed Constitutional reforms for Indigenous recognition and inclusion speaks to the role of the Select Committee to ‘inquire into and report on steps that can be taken to

¹⁵ AHRC, *Social Justice and Native Title Report 2014*, pp.20-28.

¹⁶ *Ibid*, p.160.

¹⁷ The Review Panel was established in March 2014 under the *Recognition Act*.

¹⁸ J. Anderson, T. Hosch and R. Eccles (2014) *Final Report of the Aboriginal and Torres Strait Islander Act of Recognition Review Panel*. Canberra: Commonwealth of Australia, p.6.

¹⁹ AHRC, *Social Justice and Native Title Report 2014*.

²⁰ Maddison, *Beyond White Guilt*, p.157.

progress towards a successful referendum on Indigenous constitutional recognition.’²¹ In particular the citizen-initiated community forums assisted by the *Recognise* campaign were demonstrably effective ‘mechanisms to build further engagement and support for the constitutional recognition of Aboriginal and Torres Strait Islander peoples’.²² As has been argued, they constituted a form of emerging intercultural engagement which formed the basis of a reconciliatory tipping point in favour of constitutional reform. This rapidly lost momentum, however, in the face of Federal government changes in engagement with Indigenous Australians and Indigenous affairs funding and the ongoing absence of a formal response to the Expert Panel’s report. It can be concluded that if constitutional Indigenous recognition is to be achieved in Australia, the critical importance of intercultural engagement needs itself to be recognised and systemically encouraged, rather than undermined, by policies and institutional practices of the state in Australia.

If you should need any further information, please do not hesitate to contact me.

Yours sincerely,

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Acknowledgements

The study was approved by the Human Research Ethics Committee of the University of the Sunshine Coast (Ethics Approval no. A/13/467). The author wishes to acknowledge the initiative and support of the members of the RSCC4C Committee without which the study would not have been possible. Thanks are also extended to the members of the public who participated in the research and to the Indigenous Studies Research Group at the University of the Sunshine Coast for encouragement and funding support.

²¹ Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples, Parliament of Australia, Interim Report (2014).p.1. Accessed December 12, 2014
http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_of_Aboriginal_and_Torres_Strait_Islander_Peoples/Interim_Report/~/_media/Committees/Senate/committee/jscatsi_ctte/interim_report/report.pdf

²² *Ibid*, p.1.