

# Referendum Council's Final Report on constitutional recognition

We are pleased to release the Final Report of the Referendum Council, a body established in 2015 to provide guidance on constitutional change to recognise Aboriginal and Torres Strait Islander Australians.

This is an issue of importance to all Australians, and one that deserves careful and thorough consideration.

Today is another important step on the path to constitutional recognition of Aboriginal and Torres Strait Islander Australians.

The Council undertook a significant consultation process, seeking the views of all Australians through hosting a digital engagement platform and conducting regional dialogues with First Australians across the nation.

This historic Aboriginal and Torres Strait Islander consultation process culminated in the landmark First Nations National Constitutional Convention held in Uluru in May, and the adoption of the Uluru Statement from the Heart.

Today we met with the Referendum Council to discuss the recommendations presented in the final report in greater detail. We will now take the time to consider the recommendations and the best way forward.

We wish to thank the Referendum Council, led by Co-Chairs Ms Pat Anderson AO and Mr Mark Leibler AC, for their dedication and commitment.

The final report is available at [referendumcouncil.org.au](http://referendumcouncil.org.au)

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## Sir John Key AC GNZM

I warmly welcome the Governor-General's approval of my recommendation that John Key be appointed an Honorary Companion in the Order of Australia.

This is the highest Australian honour.

The Governor-General will invest John with the insignia of his appointment at a ceremony at Government House in Canberra tomorrow afternoon.

John was an outstanding leader of his country, and he is respected around the world for his influence in our region and beyond. As Prime Minister of New Zealand from November 2008 to December 2016, he was also deeply committed to advancing the Australia-New Zealand bilateral relationship and pursuing our common interests in the region and internationally.

Australia and New Zealand share a unique and close partnership, underpinned by shared history and values.

John helped drive economic growth in both Australia and New Zealand by reinvigorating the agenda of the Single Economic Market, which further liberalised the trans-Tasman economy and delivered benefits for Australian and New Zealand businesses and consumers. He was also committed to ensuring that New Zealand played its part in tackling the major security challenges the international community faces.

My instant, dismayed, reaction on his retirement last year was “Say it ain’t so Bro” – he has been a great friend of Australia and has represented his nation, and our shared values, magnificently.

Lucy and I look forward to seeing more of John and Bronagh this side of the ditch and perhaps John and I can venture out for another paddle before too long.

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## Remarks to the Indigenous Referendum Council

### **PRIME MINISTER:**

Thank you very much.

Can I just add to Linda’s remarks before we get on to the business of the meeting, that we are here on Gadigal country as Linda said – and we thank you for that beautiful Acknowledgement of Country.

And of course we have just a few kilometres from us what is now called La Perouse. Continuous Aboriginal settlement. Extraordinary. The Aboriginal community of La Perouse, resilient in the middle of the biggest city in Australia. Their ancestors saw the ships come, saw Captain Cook, Captain Phillip, and through all of those, the oppression and the injustice, have maintained that extraordinary spirit.

It is I think emblematic of the extraordinary resilience of the First Australians so that is I think a positive note of resilience and optimism that we should bear in mind here, as you acknowledged Linda, on Gadigal country.

Thank you Pat and Mark and all of the Council for the report. We are very pleased to receive it after 18 months of your work.

We’re not here of course to make a decision. The purpose of the meeting is to discuss with you the recommendation that you’ve made.

As you know, it follows a proposal, many proposals – but in particular the most recent lineage, it follows a proposal of Prime Minister Howard in 2007 that we should recognise our first Australians in the Constitution.

This report that you've presented us with is the fourth major report on the issue.

There was the 2012 expert panel report that was commissioned by Prime Minister Gillard, the 2014 Act of Recognition Review Panel and of course the 2015 Joint Select Committee Report provided to Prime Minister Abbott.

Of course many of you were on one or more of those panels.

The fact that Bill and I are here today demonstrates the bipartisan spirit with which the Parliament, each Parliament has approached this issue and which I hope will continue as we examine the recommendations.

It is wonderful that we are here together with First Australians who are Members of the Parliament, Malarndirri and Pat and Ken and Linda of course, who gave the acknowledgement right at the beginning.

You four are of course are indeed powerful voices in the Parliament of Australia and I thank you for the guidance you've offered us.

This also shows that the discussion about recognition has been going on for some time and that's not just because we like talking about these big issues, but because it's very complex.

We started the process with five options and we note that your advice has not provided a shortlist and it has, in fact, while it has considered the work of the Expert Panel and the Select Committee, very thorough work, it has essentially rejected the recommendations that those two groups and other groups has made.

It simply recommended one constitutional change which on any view is a relatively new concept in the Australian debate about recognition. It is a latecomer in that respect.

So what we're being presented with in your report, and indeed all Australians will be presented with, if this was to go to a referendum, would be one option which is a constitutionally entrenched advisory body – a Aboriginal and Torres Strait Islander voice to the Australian Parliament.

It is clearly, as we know, its Parliament's duty and Parliament's duty alone to propose changes to the Constitution but the Constitution cannot be changed by Parliament. Only the Australian people can do that.

There's no political deal, no cross-party compromise, no leader's handshake, even between leaders as amicable as Bill and myself, can deliver constitutional change. To do that a constitutionally conservative nation has to be persuaded that the amendments respect the fundamental values of the Constitution and will deliver precise changes clearly understood that would benefit all Australians.

And we do not want to embark – I'm sure none of us do – in some sort of exercise in heroic failure. I have some considerable experience in trying to change the Constitution and know better than most how hard it is.

We need to ensure that any changes that are proposed are ones that meet both the expectations of First Australians but also will bring together all Australians because this is a vote of all Australians.

We are looking forward to having a frank discussion about that now, and to understand how you've reached your conclusions. In particular, to understand why the recommendations of the previous panels and committees that you were asked to consider were set to one side in favour of the new proposal. And also I'll just add finally that we acknowledge the recommendation related to a Declaration of Recognition, which would be enacted by legislation as a symbolic statement bringing together historic recognition of our First Australians, our British institutions on which modern Australia was founded and of course our, today, 21st century multicultural nation.

We look forward to discussing all of that as well.

Thank you very much for your work.

It is very short on detail, couldn't be shorter on detail in fact, but it is a very big idea. It is a very big new idea, so it's worthy of considerable discussion here today.

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## **Press Conference with Chief of the Defence Force, Air Chief Marshal Mark Binskin AC**

### **PRIME MINISTER:**

I am very pleased to be here at Holsworthy to outline new measures to enhance Defence's support of the national counter terrorism arrangements.

As you've seen we've been joined by the Chief of the Defence Force, Air Chief Marshal Mark Binskin and the TAG Force East Command, and we're announcing the outcomes of the Government's review into how we can enhance our military support to first responders in our state and territory police.

The measures I am announcing today will ensure that the ADF is more readily available to respond to terrorism incidents, providing state and territory police with the extra support to call on when they need it.

We have to stay ahead of the threat of terrorism. We have to constantly review our law enforcement capabilities. We have to constantly act to improve our ability to keep Australians safe.

This is a key focus of my Government. There is no place for 'set and forget', or for complacency.

Our enemies are agile and innovative. We have to stay ahead of them. We have to ensure that every resource we have – legislative, military, police, intelligence, security – is always at the highest standard and able to be brought to bear to keep Australians safe.

Now, last week as you know I was in Hamburg meeting with the leaders of the G20, the 20 largest economies. We saw there, at what is normally predominantly an economic forum, a very heavy focus on terrorism. You saw a unanimous communique on enhancing our collective response to deal with counterterrorism, one in which Australia played a leading role in ensuring that we brought it up to the level of dealing with 21st century technologies and ensuring that the internet is not used as a place for terrorists and other criminals to hide from the law.

Following that, I visited Prime Minister May in London. As you know, I met with the first responders at the scene of the terrorist attack at London Bridge and Borough Market where so many innocent lives were lost, including those of two young Australians Kirsty Boden and Sara Zelenak.

I met with the two metropolitan police officers, two young men, unarmed police officers who had done their best with CPR to revive Sara Zelenak after she'd been attacked and murdered by those terrorists.

Now, we initiated the review into Defence's role in counterterrorism in May last year in response to the changing nature of the terrorist threat as seen in the terrorist attacks in Paris, Brussels, Ankara both in February and March and in so many other places. Recent attacks in Indonesia, London, Manchester and Melbourne as well as the continuing battle against ISIL in the Philippines, continue to underscore the pervasive and global nature of this terrorist threat.

Since the review commenced, we have worked closely with the states and territories to ensure our national counterterrorism arrangements can meet the challenges of the evolving tactics and methods of terrorists.

My highest priority and that of my Government is the safety and security of all Australians to maintain our way of life, our values and our freedom.

Now we can all be assured that our law enforcement and security agencies and our military, are the best in the world.

We have just seen firsthand some of the impressive capabilities that our Tactical Assault Group here can contribute in the event of a complex or protracted domestic terrorist attack.

We have a broad continuum of operational responses to terrorist attacks

spanning from the initial response by general duties police in the first instance, to the deployment of specialist members of the ADF such as those we've met today.

Now let me be very clear; state and territory police are and will remain, the primary responders to any terrorist attack.

The immediate actions of those first responders will have the greatest impact in terms of saving lives and neutralising any threat.

In the current threat environment, it is most likely that a terrorist attack will use simple methodologies – a knife, a gun, a vehicle– and the attack itself would be over in minutes.

Now, each state and territory police force also has specially trained police who have expert capability to respond to terrorist attacks.

Where necessary, the Commonwealth will assist states and territories to respond.

The Australian Federal Police has high-end tactical and technical capabilities that are able to operate with state and territory police operational response units. You've seen some of those demonstrated at the centre in Majura in Canberra. In worst-case scenarios, the ADF has a range of specialist capabilities to resolve complex terrorist incidents, especially protracted sieges and hostage situations.

It is the case that our existing arrangements are robust and Defence's primary role in counterterrorism is offshore; that is, through our operations abroad in the Middle East to disrupt and degrade terrorist networks and in supporting regional capacity building efforts.

Defence's largest counterterrorism commitment is in Iraq and Syria, where the liberation of Mosul is a milestone in the campaign to defeat Daesh. When Daesh first captured Mosul in June 2014, it signified its emergence as a major threat both to the region and to the world. Mosul's liberation signifies the beginning of the end for this criminal Islamist terror group. The defeat and collapse of its so-called caliphate, which it used to considerable effect as a recruiting tool across the world. But the fight to defeat its extremist ideology and terrorism is not over.

The security of Australians and our interests cannot involve a 'set and forget' attitude. We've demonstrated, as I said at the outset, that we continuously monitor changes in the security environment. We review legislative, policy and operational arrangements to ensure we remain ahead of the threats.

This is the first time these arrangements have been reviewed in over a decade and we are very clear-eyed about the evolving terrorist threat.

The Defence Minister Marise Payne and I know it is vitally important that Defence is able to respond and assist in domestic counterterrorism efforts.

So we need to ensure that nationally we have the best laws and abilities to respond to terrorist attacks, whether they are simple, complex, brief or protracted. We have to be flexible and agile in the way we support the states and territories before, during and after an attack.

That's why the outcome of the review is increased practical counterterrorism engagement between the Commonwealth, states and territories to build on the strong relationships we already have between the military and police.

Now given this is a national issue, consultation with the states is vital. We know there is not necessarily be a one-size fits all in every circumstance, but as much harmonisation as possible is the objective.

So this will initially occur through the Australia-New Zealand Counter-Terrorism Committee, which includes Commonwealth and all state and territory representatives.

It will involve working with states on specialised ADF training to select state and territory law enforcement elements. In other words, to ensure that the skills the men and women we've met this morning, the skills they have are able to be shared with the state and territory police tactical response groups. We want to make sure that they are as well-equipped as they possible can be to respond to the threats to which they will invariably be the first responders.

We will be placing Australian Defence Force liaison officers with the counterterrorism groups, both at state and territory level. Again that is to ensure that there is the closest possible collaboration between the specialists here in the ADF and the frontline police so that once again each of them knows the capabilities, both the strengths and the weaknesses on each side so that there is the ability for the ADF to be able to say to police in certain circumstances, we can do something that you can't, this is where we may be able to provide some assistance.

It is vitally important that we have that close liaison. There's no point operating in silos. Our enemies aren't. We have to be completely connected at all times.

And we're clarifying the ability of the ADF to pre-position, both personnel and materiel to fortify and enable the quickest possible response.

We're going to streamline the legislative process for the callout of the ADF under the Defence Act to provide more flexibility for the states and territories to request Defence assistance. Without going into the legalities of it, it is a very cumbersome process at the moment. It basically requires a state to demonstrate that they have exhausted their ability to defend themselves. What we want to be able to do, and this is consistent with the Constitution, is be in a position where a state government, a state police commissioner, for example, and premier can come to the conclusion that there is a special, it might be a niche assistance, it might be using the rig that we've got behind us here, or some other specialist assistance where that special assistance is required, it can be readily called upon and deployed.

Again, we want to make sure that every asset we have, that is designed to keep to Australians safe, is brought to bear to do so when it is needed.

We look forward to continuing our work with states and territories to ensure that they have the powers they need to prevent terrorist attacks and ensure we have the most robust national response. So we're going to continue discussions with the states, for example, to ensure that the penalties for those serious terrorist offences are adequate and terrorists aren't walking the streets on bail or parole. You saw the commitment I secured at the last COAG meeting in that regard. We want to aim to have nationally consistent, pre-charged detention of terror suspects, full legal protections to ensure that police are empowered to use lethal force where the public is at risk.

While it is a state issue, I'm of the view we should have as much uniformity as possible when it comes to protections for our first responders. We'll continue working with industry and other leaders to ensure security and law enforcement agencies can access relevant information when investigating terrorists, paedophiles and violent criminals' use of the internet. The laws that apply offline must apply online.

I have convened, as you know, a special COAG later this year to comprehensively review the nation's laws and practices directed at protecting Australians from violent extremism and terrorism.

This is all part of our commitment to keep Australians safe. We are constantly reviewing every aspect of our legislation, of our policy, of our resources. The way we deploy our forces. The way we work with States and Territories. The way we collaborate internationally. Everything is focused on securing the safety of all Australians. That is our commitment, that is our duty.

I will now ask the CDF to add to those remarks and we will take questions.

**AIR CHIEF MARSHAL MARK BINSKIN AC – CHIEF OF THE DEFENCE FORCE:**

Thank you Prime Minister. It's great that we are able to host you here at Holsworthy this morning. I'd like to take the chance to thank the team at TAG East for the demonstration and the discussions. This is an important moment for the Australian Defence Force. We fully support the outcomes of the review. Importantly, it acknowledges the primacy of the state and territories and the police in the domestic policing role, but it gives us the chance to better provide advice either before or during an event. It gives us the chance to provide specialist training to selected territorian and state police organisations and their people. Importantly, if we're ever required to be called out, it does streamline that process and allows us to support them more quickly and in a better way.

It is a good review. We will now be working with the state and territory police organisations to see how we can best work together to enhance the capability right across Australia.

**JOURNALIST:**



Can you point to any [inaudible] where it would have made a difference in the Lindt siege scenario?

**PRIME MINISTER:**

Referring to Lindt, as you know, the coroner's conclusion was that the New South Wales police were fully capable of dealing with that situation. So while there were recommendations made by the coroner after the Lindt Cafe siege which we have adopted, this is a consequence of a review I set in place last year after a number of terrorist incidents overseas. What we do is constantly review the pattern of terrorist activity, both internationally and of course at home and then adapt our practices and our policies to adjust to that. But in terms of Lindt, the coroner's conclusion was the New South Wales police had all of the capabilities to deal with the matter and I can't say anything contrary to that.

**JOURNALIST:**

In that case would there be any scenario where it would play out differently under these new laws?

**PRIME MINISTER:**

What this will do is it will give states and the Commonwealth greater flexibility to deploy specialist ADF personnel and assets. You can imagine circumstances, you've seen some of the equipment here today. Obviously most of the capabilities of TAG East are not on public display I am pleased to say, but we'll have a closer collaboration with the police. It is already close, but we want to make it closer. We want to see more tactical response groups from the police training here. We want to raise their capabilities to respond to terrorist incidents.

Remember, the circumstances in which the tactical assault group here can be deployed to an incident in Sydney itself, is hours. To other cities in Australia it's many hours. Now with these incidents, are resolved typically very quickly. If you go to the London Borough Market and London Bridge attack, the armed response group of the metropolitan police got there in eight minutes and they killed the three terrorists. I walked over the course of that crime scene with Prime Minister May and frankly, it wasn't much more of a walk than we have done this morning. It was in a very short compass. So in a few minutes, those three murderers were able to kill eight people and wound 50. So it was a shocking example of the speed with which these incidents progress.

It is vitally important that front-line police have their skills improved and the training to be able to deal with these incidents on the spot. But when you do get more complex or protracted situations, then Defence can be brought into bear.

I should also add that the ability to pre-position Defence personnel and Defence assets is also important because there will be circumstances where, through our intelligence, we get wind of an attack being likely or being

planned and so you can get people in position in advance.

What I am doing is taking a lot of the red tape and the gum out of the works to enable the cooperation between the police and the ADF and particularly, the specialists, the operators we have met this morning, so that they can work together more seamlessly. That's what this is all about. We've got to keep on improving the way we are able to respond to these threats.

As I said, we've got fantastic police, security intelligence and armed forces. They are the best in the world, but we must never be complacent. We can never set and forget.

**JOURNALIST:**

Prime Minister if there is an incident again, how will it work if the ADF are watching an incident and they go: "Well, we could go in there and we could help?" Who is going to actually call them in, because the Army offered their services in Lindt and that was knocked back. How would it work then under the new system?

**PRIME MINISTER:**

Yeah, under the constitution the State has to make the request. That's the constitutional situation. But clearly with both the State police and the ADF working more closely and with those liaison officers working with the counter-terrorism groups in each State, they will have a better understanding of what each can do and what each may not be able to do. You've got that ability to bring the collective talents together in a more effective way.

**JOURNALIST:**

So state police shouldn't feel a bit slighted by this?

**PRIME MINISTER:**

No, no absolutely not. It is absolutely quite the contrary I can assure you. You should never imagine that the first responders are anything other than the state police. I mean they are on the spot. Unlike the United Kingdom, our front line police are armed. That's a very important things to bear in mind about the London Bridge and London Borough Market incident; the first responders there, the first police were all unarmed. They were very brave doing their best to deal with these guys with nightsticks and throwing things at them and so forth. They were really courageous but unlike our police, they didn't have side arms. So the key thing here is to make sure we can work more closely and more effectively. What these changes we are making to the Defence Act and the changes we are making to operational practice, will ensure that where the ADF has specialist or niche capabilities that will be of value, they can be called into the situation much more quickly and much more flexibly.

**JOURNALIST:**

Prime Minister do you think we should have a Department of Homeland Security

set up to perhaps coordinate these responses?

**PRIME MINISTER:**

Thank you for that. That's a frequent question and as you know, I met in the UK with the Home Secretary Amber Rudd and her distinguished predecessor, now the Prime Minister Theresa May. The British have always had a Home Office and these administrative matters are often under discussion and considered but we have got outstanding arrangements in Australia. We are always open to improving them. Again, there is no place for set and forget. My focus as Prime Minister, I can assure you, is on keeping Australians safe. I never rest in my efforts to improve the way our outstanding men and women of the ADF, of the AFP, working with our intelligence and security agencies and their State and Territory counterparts, I never rest, as I focus on how I can ensure they have the maximum support in every respect, to do their job, which they do, bravely and professionally, in keeping us safe.

So thank you all for coming out to Holsworthy.

**[ENDS]**

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## **Defence support to domestic Counter-Terrorism arrangements**

The Australian Defence Force will expand its role in assisting the states to respond to terrorist incidents under new changes being made by the Turnbull Government.

The overhaul will make it easier for Defence to work together with Federal, State and Territory Police in the event of a terrorist incident.

To stay ahead of the evolving threat of terrorism, the Turnbull Government reviewed Defence's support to domestic counter-terrorism arrangements to ensure Australia has a co-ordinated and integrated response.

State and Territory Police Forces remain the best first response to terrorist incidents, immediately after an attack starts.

But Defence can offer more support to states and territories to enhance their capabilities and increase their understanding of Defence's unique capabilities to ensure a comprehensive response to potential terrorist attacks.

Under the changes:

- Defence will offer State and Territory Governments specialised training from Special Forces for select law enforcement teams.

- Defence will offer states and territories placement of officers within law enforcement agencies to assist with liaison and engagement.
- This strengthening of engagement will assist with pre-positioning of the ADF in response to a possible terrorist incident.
- The Government will strengthen Part IIIA of the Defence Act to remove some constraints in the provisions to “call out” the ADF to assist states and territories.
- This will include the removal of the provision that currently limits states and territories from asking for ADF support and specialist military skills until their capability or capacity has been exceeded.
- The Government will also make changes to the Act to make it easier for Defence to support the police response, such as the ability to prevent suspected terrorists from leaving the scene of an incident.

These measures are intended to provide increased Commonwealth support to states and territories in their role as first responders to a domestic terrorist incident. In particular these measures will:

- better support states and territories in preparing for terrorist incidents
- enable a more comprehensive ADF response to a terrorist incident if required
- improve information flows between the ADF and police during an incident.

Together, these measures will improve the nation’s ability to respond to terrorism as well as improve the effectiveness of Defence’s contribution to domestic counter-terrorism arrangements. The changes will be made in partnership with State and Territory Governments and we look forward to future engagement through the Council of Australian Governments and the Australia-New Zealand Counter Terrorism Committee.

The Government’s number one priority is keeping Australians safe.

We cannot afford to take a ‘set and forget’ mentality on national security. We must constantly review and update our responses to the threat of terrorism.

The Turnbull Government initiated the review of Defence’s support to national counter-terrorism arrangements in 2016 in response to the changing nature of the threat as demonstrated in recent terrorist attacks around the world.

It’s the first time Defence’s contribution to domestic counter-terrorism has been reviewed since 2005.

It is essential that Australia evolves its responses and counter-measures in response to the changing threat. Defence must be able to contribute effectively to domestic counter-terrorism efforts, in addition to its offshore counter-terrorism missions and regional capacity-building activities.