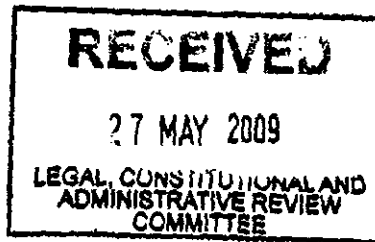


27 MAY 2009



Hon Desley Boyle MP  
Member for Cairns



197  
Queensland  
Government

Ms Barbara Stone MP  
Chair  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Minister for Local Government  
and Aboriginal and Torres Strait  
Islander Partnerships

Dear Ms Stone 

**Submission on a Preamble for the Constitution of Queensland 2001**

I am writing to present to you the Queensland Aboriginal and Torres Strait Islander Advisory Council's formal submission on a draft preamble to the *Constitution of Queensland 2001* recognising Queensland's Aboriginal and Torres Strait Islander people. As you are aware, I chair the Queensland Aboriginal and Torres Strait Islander Advisory Council.

Council members first considered this matter in February this year when the previous Committee met with the Advisory Council at their first formal meeting and subsequently at a meeting with the Legal, Constitutional and Administrative Review Committee on 14 May. I would like to thank you for the time that your Committee has taken in consulting with the Council. Given the recent General Election however some Council members consider that it may have been beneficial for some additional time to be provided for Aboriginal and Torres Strait Islander Queenslanders to consider this significant issue.

The Advisory Council is supportive of the inclusion of a preamble to the Constitution of Queensland recognising Aboriginal and Torres Strait Islander Queenslanders. However, this support is accompanied by a recommendation that in the future the Queensland Government give consideration to formal legislative recognition of Aboriginal and Torres Strait Islander peoples in the body of the Constitution. The Council notes that the Parliament of Victoria has already taken this course in specifically recognising Aboriginal people in a separate section of the Constitution of Victoria. A copy of this section is enclosed for your reference.

With regard to specific draft wording for insertion into a preamble for the Queensland Constitution, the Advisory Council recommends the following:

*"This State pays tribute to the unique values of the Aboriginal peoples and Torres Strait Islander peoples as the First People of this land, waters and air for their ancient and enduring cultures which deepen and enrich the lives of our State and Nation."*

Members of the Advisory Council advise that the following phrases and wording are preferred over other variations due to their cultural significance:

- unique values
- land, waters *and* air
- traditional owner *not* custodian; and
- ancient and enduring cultures.

Please note that the Advisory Council has no suggestions or recommendations in relation to developing options to modernise the oaths and affirmation of allegiance in the Constitution however it is grateful to the Committee for providing the opportunity to do so.

The Advisory Council would like to thank the Committee for the opportunity to provide this submission and would be most pleased to answer any queries which the Committee may have.

If you require any further information or assistance in relation to this matter, please contact Ms Meg Frisby, Principal Advisor within my office on: 322 78820 or Ms Pauline Peel, Deputy Director-General, Aboriginal and Torres Strait Islander Partnerships on 323 59495.

Yours sincerely



**Desley Boyle MP**  
Minister for Local Government and  
Aboriginal and Torres Strait Islander Partnerships  
Member for Cairns

Enc.

**ATTACHMENT - Section of the Victorian Constitution 1975 recognising  
Aboriginal and Torres Strait Islander peoples.**

s. 1

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**The Parliament of Victoria enacts as follows:**

**Preamble**

WHEREAS the Legislative Council of the Colony of Victoria did in the year 1854 pass a Bill intituled "An Act to establish a Constitution in and for the colony for Victoria":

And whereas the said Bill was presented to the then Lieutenant-Governor of Victoria for Her Majesty's assent and the said Lieutenant-Governor did thereupon declare that he reserved the said Bill for the signification of Her Majesty's pleasure thereon:

And whereas the Imperial Parliament deemed it expedient to authorize Her Majesty to assent to the said reserved Bill amended by the omission of certain provisions thereof:

And whereas the said Bill as amended was set forth in a Schedule to an Act of the Imperial Parliament passed in the 18th and 19th years of the reign of Her Majesty Queen Victoria intituled "An Act to enable Her Majesty to Assent to a Bill, as amended, of the Legislature of Victoria to establish a Constitution in and for the Colony of Victoria" by which Act Her Majesty in Council was authorized to assent to the said reserved Bill amended by the omission of certain provisions thereof, and the Bill was assented to accordingly:

And whereas by the said Bill as so amended the Colony of Victoria was established as a self-governing colony with responsible government:

And whereas the said Bill as so amended is the Constitution of Victoria and is known as The Constitution Act:

And whereas it is provided by section LX of the said The Constitution Act that the Legislature of Victoria has full power and authority from time to time by any Act or Acts to repeal alter or vary all or any of the provisions of The Constitution Act and to substitute others in lieu thereof:

**Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):**

**1 Short title and commencement<sup>i</sup>**

(1) This Act may be cited as the **Constitution Act 1975**.

- (2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.
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### **1A Recognition of Aboriginal people**

- (1) The Parliament acknowledges that the events described in the preamble to this Act occurred without proper consultation, recognition or involvement of the Aboriginal people of Victoria.
- (2) The Parliament recognises that Victoria's Aboriginal people, as the original custodians of the land on which the Colony of Victoria was established—
- (a) have a unique status as the descendants of Australia's first people; and
  - (b) have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria; and
  - (c) have made a unique and irreplaceable contribution to the identity and well-being of Victoria.
- (3) The Parliament does not intend by this section—
- (a) to create in any person any legal right or give rise to any civil cause of action; or
  - (b) to affect in any way the interpretation of this Act or of any other law in force in Victoria

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<sup>1</sup> S. 1: Section 9 of the **Constitution (Amendment) Act 1994**, No. 108/1994 reads as follows:

### **9 Transitional**

Anything done or purporting to have been done after the Australia Act 1986 of the Commonwealth came into operation and before the commencement of Part 2 of this Act is valid to the extent that—

- (a) it was valid when done or purported to be done; or
- (b) it would have been valid if, when done or purported to be done, the Principal Act had been in operation as amended by Part 2 of this Act.