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**A PREAMBLE FOR THE QUEENSLAND  
CONSTITUTION?**

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**Feedback form**

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Hon. Alan Demack AO  
**Queensland Integrity Commissioner**  
30 June 2004

ISSUE 1 (refer page 6)

Should the Queensland Constitution contain a preamble?

*No. There is no point in having a symbolic inspirational or aspirational preamble to an Act of the Queensland Parliament which is a patchwork of legislation passed by Parliament over a period of about 150 years. Few people know that there is a Constitution of Queensland 2001 and even fewer have any familiarity with it.*

ISSUE 2 (refer page 7)

Should the Queensland Constitutional Review Commission draft preamble be adopted in Queensland?

*No. It is debatable if it states the law correctly in respect of the Constitution of the State of Queensland. The fourth paragraph about the Commonwealth is awkwardly expressed. The words are unlikely to raise goosebumps.*

ISSUE 3 (refer page 9)

What purpose should a preamble to the Queensland Constitution serve?

*That our rather haphazard method of allowing our constitutional framework to change with the times has served us well.*

ISSUE 4 (refer page 9)

What type of language should the preamble use?

*English. Beyond that, no definition will serve a useful purpose.*

ISSUE 5 (refer page 9)

How extensive should the preamble be?

*It depends how well it is written and what its purpose is.*

ISSUE 6 (refer page 9)

Should the Queensland Constitution specifically state that the preamble cannot be used to interpret other provisions of the Constitution?

*If the preamble is of no use in understanding the Constitution, there would seem to be no point in having it. It would be like playing the overture to "HMS Pinafore" before a performance of "Carmen".*

ISSUE 7 (refer page 10)

Should there be a reference to the origins or history of the Constitution in the preamble?

*The Constitution of Queensland 2001 is full of references to earlier legislation and it indicates the pattern of the Constitutional growth.*

ISSUE 8 (refer page 10)

Should the preamble refer to the sovereignty of the people and, if so, how?

*Only if there is some agreement on what the words "sovereignty of the people" mean.*

ISSUE 9 (refer page 11)

Should the preamble refer to God and, if so, how?

*Yes. It is unlikely that a preamble which makes no reference to God will be carried at a referendum.*

ISSUE 10 (refer page 12)

Should the preamble recognise Aboriginal and Torres Strait Islander people and, if so, how?

*Yes. As descendants of the people living in Queensland and its adjacent islands when the British Crown claimed sovereignty over the land and islands. Anything more than this raises highly debatable issues.*

ISSUE 11 (refer page 12)

Should the preamble recognise cultural diversity and, if so, how?

*Only if we know what is included within the words "cultural diversity".*

ISSUE 12 (refer page 13)

Should the preamble recognise the rule of law and, if so, how?

*Only if the court system in the Constitution of Queensland 2001 is entrenched the way the Governor and the system of local government is. If the government can push legislation through Parliament to introduce fundamental change to the court system, the rule of law is under threat.*

ISSUE 13 (refer page 14)

Should the preamble refer to 'equality' and, if so, how?

*Only if we know what is included in the word equality.*

**ISSUE 14** (refer page 14)

Should the preamble refer to gender equality and, if so, how?

*Only if we know what is included in the concept of gender equality.*

**ISSUE 15** (refer page 14)

Should the preamble recognise the status of the Constitution and, if so, how?

*The Constitution of Queensland 2001 has some provisions that cannot be altered unless a successful referendum is held. If the Act is to be treated as paramount law does this mean some parts are more paramount than others?*

**ISSUE 16** (refer page 15)

Should the preamble recognise the system of government the Constitution establishes and, if so, how and to what extent?

*McKenna is right.*

**ISSUE 17** (refer page 15)

Should the preamble refer to the environment and, if so, how?

*Once the preamble moves into specific areas of legislative and administrative responsibility, it creates problems because Australia has a federal system of government. "The environment" ranges across Federal, State and local government responsibilities.*

**ISSUE 18** (refer page 15)

Should the preamble contain other elements and, if so, what should they be?

*The same problems arise as with the environment.*

**ISSUE 19** (refer page 17)

How might text be developed around the identified elements of a preamble?

*The most enduring Constitutional documents such as the American Declaration of Independence, were drafted by a few people. Find someone like Sir Samuel Griffith who has a broad and sound knowledge of the law, more than 20 years experience as a politician and more than 20 years experience in drafting legislation and let him/her prepare the draft, if one is needed.*

**ISSUE 20** (refer page 17)

How should the community be consulted in this process?

*No. Conventions and the like have not assisted when constitutional issues have been presented for a popular vote at referenda.*

**ISSUE 21** (refer page 17)

Who should be consulted?

*No one.*

**ISSUE 22** (refer page 18)

Should a referendum be held to insert a preamble into the Queensland Constitution?

*Why have a referendum to insert a preamble to an Act the contents of which were not submitted for a popular vote at referendum.*

**ISSUE 23** (refer page 18)

Should an 'interim' preamble to the Queensland Constitution be inserted by way of an Act of Parliament prior to a final version being confirmed by way of a referendum?

*No.*

**ISSUE 24** (refer page 18)

When is an appropriate time to consider a referendum on the issue of a preamble for the Queensland Constitution?

*1999. A preamble should not only be at the beginning of the text of a Constitution, but should be put to a popular vote before the contents of the Constitution are adopted.*



Hon. Alan Demack AO  
Queensland Integrity Commissioner