



No 8

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FAX TRANSMISSION

To:	LCARC PARLIAMENT HOUSE	From:	PETER GUNAGRA CHAIRMAN
		Date:	13/07/04
Fax:	(07) 314067070	No. of Pages (incl. this one)	7

SUBJECT: Re: A Preamble for the Old Constitution?

SUBMISSION ATTACHED

REZARDOS



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12 July 2004

Chairman
Queensland Constitutional Review Commission
PO Box 185
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RE: A PREAMBLE FOR THE QUEENSLAN CONSTITUTION?

In response to the feedback by the Queensland Constitutional Review Commission (QCRC) for a written public submission on the issue of a Preamble For the Queensland Constitution to the QCRC, the Aboriginal Co-ordinating Council (ACC) would like to make the following submission.

ISSUE 1 – Should the Queensland Constitution contain a preamble?

Yes, the Queensland Constitution should contain a preamble. This is a standard feature of most progressive countries viz United States of America.

ISSUE 2 – Should the Queensland Constitutional Review Commission draft preamble be adopted in Queensland?

The Queensland Constitution's Review Commission should after extensive consultation with Queenslanders, draft a preamble then sell it back to the Community for final ratification.

ISSUE 3 – What purpose should a preamble to the Queensland Constitution serve?

The preamble should serve to articulate, reinforce the values and importance of human dignity and democracy, unity and diversity and shared visions of Queenslanders.

ISSUE 4 – What type of language should the preamble use?

The preamble should use words like – ‘*We, the people of Queensland...*’, and make reference to the indigenous people as the first owners of the land.

ISSUE 5 – How extensive should the preamble be?

The preamble should at least cover the following areas:

- equal treatment of all peoples regardless of race, sex, creed or religion
- acknowledge the indigenous people as the first owners of the land
- assert the role of law and justice for all
- truth as the foundation of human dignity

ISSUE 6 – Should the Queensland Constitution specifically state that the preamble cannot be used to interpret other provisions of the Constitution?

This is a tricky question, but on balance the Queensland Constitution should be well aligned to the preamble so that the nexus between the Constitution and the preamble is very clear hence allow for a synergy as well as a wider interpretation of the word.

ISSUE 7 – Should there be a reference to the origins or history of the Constitution in the preamble?

There is no need to have a reference to the origins or history of the Constitution in the preamble; given the fact that Australia and subsequently Queensland have the Queen as their head of Head and further that United Kingdom has got no written constitution.

ISSUE 8 – Should the preamble refer to the sovereignty of the people and, if so, how?

Yes, the preamble should refer to the sovereignty of the people – the people are the source of authority and that power resides with the people.

ISSUE 9 – Should the preamble refer to God and, if so, how?

Yes, the preamble should refer to God – by using a broader reference to God – of all religions. Like the United States: *'In God we trust...'*. Other countries: *'For God and my country...'*. This enables us to appeal to a higher order for guidance and leadership.

ISSUE 10 – Should the preamble recognise Aboriginal and Torres Strait Islander people and, if so, how?

Yes, the preamble should recognise Aboriginal and Torres Strait Islander people because of their unique contribution to the development of Queensland. ATSI people should be recognised as the first owners of the land.

ISSUE 11 – Should the preamble recognise cultural diversity and, if so, how?

Yes, the preamble should recognise cultural diversity, by emphasising the contribution that each group can make to the development of Queensland.

ISSUE 12 – Should the preamble recognise the rule of the law and, if so, how?

The preamble must recognise the rule of law as this is the foundation for order, justice, peace and well-being. It must assert the relevance and importance of law.

ISSUE 13 – Should the preamble refer to 'equality' and, if so, how?

The preamble must refer to equality by emphasising that all persons are born free and equal before courts and tribunals and given a fair hearing and say on all issues.

ISSUE 14 – Should the preamble refer to gender equality and, if so, how?

Yes, the preamble should refer to the gender, equality by emphasising that Queenslanders believes and treats both men and women equally.

ISSUE 15 – Should the preamble recognise the status of the Constitution and, if so, how?

A preamble should make some basic reference to the system of government, for example, Queenslanders believe in a transparent, representative, living and responsible democracy.

ISSUE 16 – Should the preamble recognise the system of government the Constitution establishes and, if so, how and to what extent?

Yes, the preamble should recognise the system of government the constitution establishes and emphasise the need to protect the country and its democratic ideals for the benefit of our future generation.

ISSUE 17 – Should the preamble refer to the environment and, if so, how?

Yes, the preamble should refer to the environment and assert the importance of protecting the environment for the benefit of our future generation. It should emphasise sustainable development.

ISSUE 18 – Should the preamble contain other elements and, if so, what should they be?

The preamble should confirm any other elements that are consistent with the values of the people of Queensland for example, tolerance, freedom, liberty and working towards the advancement of human values, and living in harmony with the rest of Australia and the world in general.

ISSUE 19 – How might text be developed around the identified elements of a preamble?

The text to be developed around the identified elements of a preamble could be done via a consultation process or better still via a referendum.

ISSUE 20 – How should the community be consulted in this process?

Yes, the community must be thoroughly consulted in the process of framing the preamble. The best way would be via a referendum, others could be via the Local Government Councils or regional consultative forums.

ISSUE 21 – Who should be consulted?

Everybody should be consulted. That is why we emphasis the referendum approach.

ISSUE 22 – Should a referendum be held to insert a preamble into the Queensland Constitution?

Yes, a referendum should be held to insert a preamble into the Queensland Constitution. This will give it the required legal status.

ISSUE 23 – 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?

An “interim” preamble should NOT be inserted into the Queensland Constitution by way of an Act of Parliament. This would make a mockery of the notion that power belongs to the people. There are certain decisions that must be made by the people NOT their elected representatives, and one such area is the decision on the preamble.

ISSUE 24 – When an appropriate time to consider a referendum on the issue of a preamble for the Queensland Constitution?

At least 18 months.

Sincerely



to

Peter Guivarra
Chairman

ABORIGINAL CO-ORDINATING COUNCIL