



Queensland  
Government

Department of  
Industrial Relations

Dr Lesley Clark MP  
Chair  
Legal, Constitutional and  
Administrative Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Dr Clark

Thank you for your letter of 17 June 2004 requesting submissions regarding a preamble for the Queensland Constitution.

Enclosed please find the department's submission for consideration.

Should you wish to discuss the submission, please do not hesitate to contact Ms Philippa Whitman, Lawyer, Administrative Law Unit, Executive and Strategic Services on 3225 2653, who will be pleased to assist you.

Yours sincerely

PETER HENNEKEN  
**Director-General**

13/07/04

Encl. (1)

## **ISSUE 1**

Should the Queensland Constitution contain a preamble?

The Department believes that it is appropriate to delay the question of a preamble until the issue of an Australian Republic has again been put to the people.

## **ISSUE 2**

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

If a preamble is to be included in the Queensland Constitution, then the QCRC's preamble might be considered suitable.

## **ISSUE 3**

What purpose should a preamble to the Queensland Constitution serve?

The Department recognises the notations of the Gladstone Constitutional Convention; in particular that a preamble should not be confined to the political arena and should address the social and cultural fabric of our society.

## **ISSUE 4**

What type of language should the preamble use?

The Department supports the proposal that a preamble should be written in a way which is clear, simple, inspirational and free from jargon and technical language.

## **ISSUE 5**

How extensive should the preamble be?

The Department accepts that the recommendation of the QCRC. It recognises that the preamble should be straightforward.

## **ISSUE 6**

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

The Department accepts the recommendation of the Commonwealth Constitutional Convention that the preamble should not be used to interpret the Constitution or any other law.

## **ISSUE 7**

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

The Department accepts the Commonwealth Constitutional Convention's recommendations with respect to this reference. Namely, references could include:-

- significant historical constitutional instruments and Acts;
- significant constitutional events (eg becoming a republic);
- the systems of government the Constitution establishes.

## **ISSUE 8**

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

The Department accepts the assertion of the Constitutional Centenary Foundation's Preamble Quest for an assertion in the preamble that authority is drawn from the people.

## **ISSUE 9**

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

The Department accepts the recommendation of the Commonwealth Constitutional Convention for retention of the words "*humbly relying on the blessing of Almighty God*".

## **ISSUE 10**

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

The Department accepts the recommendation proposed by the QCRC, namely:-

*"In a spirit of reconciliation, we recognise the contribution of both Aboriginal and Torres Strait Islander peoples as the original occupants and custodians of this land".*

## **ISSUE 11**

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

The Department supports the recognition of cultural diversity in the preamble and accepts the proposals of the Commonwealth Constitutional Convention on this issue.

## **ISSUE 12**

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

The Department accepts that the preamble should recognise the rule of law and accepts the comments of the Commonwealth Constitutional Convention.

## **ISSUE 13**

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

The Department supports the Commonwealth Constitutional Convention's conclusions that "*affirmation of the equality of all people before the law*" should be considered for inclusion in the preamble.

## **ISSUE 14**

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

The Department supports recognition of the equality of men and women as a principle for inclusion in the preamble.

## **ISSUE 15**

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

The Department acknowledges the QCRC's recommendation and supports the proposal that the preamble should contain a statement that the Constitution is the paramount law of Queensland.

## **ISSUE 16**

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

The Department rejects the explicit mention of the system of government. It recognises the argument that such matters should be dealt with in the Constitution proper.

## **ISSUE 17**

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

The Department supports reference to the environment and acknowledges the statement by the Preamble Quest that *"Almost all participants who supported this proposal emphasised the uniqueness of the land and the love of Australians for it"*.

## **ISSUE 18**

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

The Department supports reference to stewardship for future generations; tolerance; peace; freedom and liberty; references to the world community and citizenship.

## **ISSUE 19**

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

The Department supports the proposal that the Parliament should develop the form of any preamble. A parliamentary inquiry or committee process could examine a proposed preamble and receive public submissions.

## **ISSUE 20**

How should the community be consulted in this process?

The Department supports the proposal that consultation should be as wide as possible following public submissions to a parliamentary inquiry or committee.

## **ISSUE 21**

Who should be consulted?

The Department supports the proposal that public submissions be considered for a proposed preamble.

## **ISSUE 22**

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

The Department supports the view that the people of Queensland should have the opportunity to vote on the issue.

## **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?

The Department does not support the creation of an "interim" preamble. The insertion of any "interim" preamble should only be considered if clear community support so existed.

## **ISSUE 24**

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

The Department supports the QCRC's recommendation that a referendum should occur only when the people are asked to approve a change to a republican system of government.