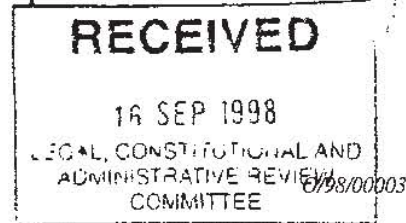




Minister for Mines and Energy and Minister Assisting
the Deputy Premier on Regional Development *Submission No 5*
The Hon. Tony McGrady MP
Member for Mount Isa



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14 SEP 1998

Mr Gary Fenlon MLA
Chair
Legal, Constitutional and Administrative Review Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Fenlon *Gary*

I refer to your letter of 13 August 1998 seeking comments on the report prepared by Professor Wiltshire entitled "*Report of the Strategic Review of the Queensland Ombudsman*" which was tabled in Parliament on 6 May 1998.

I am enclosing some comments on the report which were prepared by my department and which may prove useful to your committee. The comments incorporate issues relevant to the department's conceptual planning towards the possible establishment of an Electricity Industry Ombudsman in Queensland.

Thank you for affording my department an opportunity to comment on the report.

Yours sincerely

TONY McGRADY
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and Minister Assisting the Deputy Premier
on Regional Development

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Comments by the Department of Mines and Energy on the “Report of the Strategic Review of the Queensland Ombudsman”

GENERAL COMMENTS:

Professor Wiltshire recognises the need for the role of the Queensland Ombudsman to continue. It would seem that in more recent times the Office has been beset by a variety of problems:

- A severe backlog of cases necessitating short term contingency measures to overcome the problem
- A perceived lack of ‘closer’ involvement with the Parliament particularly the Parliamentary Public Accounts Committee whose potential to influence resourcing of the Office is recognised.
- The need to move from the present reactive approach towards a more proactive role which seeks to eliminate the basic causes of public maladministration at their source.
- A lack of public awareness of the Office and its role.
- A climate of increasing public disquiet at administrative decisions arrived at by State and local governments and recourse to administrative appeal mechanisms which are presently unwieldy and appear confusing to the general public.

Professor Wiltshire then goes on to identify a series of recommendations to redress these problems.

The general thrust of the recommendations of the Committee are supported. In particular, there are benefits to the discharge of the Ombudsman’s responsibilities and to other stakeholders from the recommendations for a more consultative relationship with State departments, steps to lift awareness, the establishment of an internal reviewing mechanism for agencies and generally to adopt a more proactive, systemic and preventative approach.

R7 - The Office of the Ombudsman should work more closely with State departments and agencies, and local governments, more in the nature of consultant and adviser.

There are significant benefits to the agencies and the Ombudsman from closer working relationship more in the nature of consultant and adviser. This approach is supported by DME provided there is no cost involved for provision of advisory or consultancy services by the Queensland Ombudsman.

SPECIFIC COMMENTS RELATIVE TO THE POSSIBLE ESTABLISHMENT OF AN ELECTRICITY INDUSTRY OMBUDSMAN IN QUEENSLAND:

R28 – The government should cease using the word “Ombudsman” in the title of other appeal bodies and mechanisms and should also discourage the private sector from so doing.

It should be noted that s64 of the *Electricity Act 1994* provides for the establishment of the statutory office of Electricity Industry Ombudsman with specific expertise and application to the electricity industry. The Minister for Mines and Energy will give

consideration to the establishment of the office after reforms of the industry are finalised.

Amendment (or revocation) of the term "Ombudsman" as used in the *Electricity Act 1994* could diminish or mitigate against possible confusion. However, the term exists in other jurisdictions throughout Australia, for example, in Victoria, New South Wales and more recently Tasmania. These States have each established an Electricity Industry Ombudsman over the past several years. The process was driven largely by market reform within the electricity sector as well as an increasing focus on consumers' rights within the industry. It is understood that Victoria in particular intends to extend the scope of its Electricity Industry Ombudsman to include responsibility for dealing with customer complaints regarding both gas and electricity service providers ie energy providers. Any move to amend the title could put Queensland at odds with the national trend.

R29 – Parliament and the government should conduct an overall review of all of the administrative appeal mechanisms in Queensland with a view to streamlining, diminishing the complexity and cost of the administrative appeals machinery, and reducing the burden on the administration, whilst at the same time ensuring there is no net diminution of the rights of citizens to complain about administrative discretion. When new public sector developments occur which require an avenue of appeal from administrative discretion, the presumption should be in favour of incorporating the avenue into the functions of the Ombudsman's Office rather than creating a single purpose channel and new body to oversee it.

Although it is recognised that the Government owned corporations in the electricity industry remain responsible to government under the provisions of the *Government Owned Corporations Act 1993*, the 'company corporatised' nature of the State's electricity entities together with an expanding private sector presence in the industry is seen not to be suited to public sector administrative appeals mechanisms. Therefore, the development of separate industry self-regulating controls and appeal mechanisms against decisions reached by the major electricity entities suggests the establishment of a separate appeals body with specialist industry knowledge as being necessary.

R6 – There should be a concerted drive to make the community and government agencies more aware of the role, including powers, and limitation of powers, of the Queensland Ombudsman etc.

It is agreed that public dissemination of information regarding the role of the Queensland Ombudsman should be enhanced and dependent on the outcome of R28 above, at very least, address the division of responsibilities between the Queensland Ombudsman and other organisations with similar functions. An Internet home page is strongly supported as an adjunct to hard copy (eg. brochures) in this regard because of its propensity to be readily updated with new or emerging issues.

R30 – Potential synergies should be explored between the numerous appeal bodies in relation to commonality of training, research, library resources, and joint seminars to keep abreast of developments in the public sector in Queensland and elsewhere.

Opportunities may exist for cooperative arrangements with potential cost savings should the Office of the Electricity Industry Ombudsman be decided to be established.

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