

**Government Response to the
Law, Justice and Safety Committee
Report No. 70 – A preamble for the *Constitution of Queensland 2001***

The Committee's Recommendations:

Recommendation 1 – The Committee's Proposed Preamble

The Committee recommends the following preamble be inserted into the *Constitution of Queensland 2001*:

The people of Queensland, free and equal citizens of Australia, subject to no law or authority but that sanctioned by this Constitution and the Constitution of Australia;

- *intend through this Constitution, to foster the peace, welfare and good government of Queensland;*
- *adopt the principle of the sovereignty of the people, under the rule of law, and the system of representative and responsible government, prescribed by this Constitution;*
- *honour the Aboriginal peoples and Torres Strait Islander peoples, the first Australians, whose lands, winds and waters we all now share; and pay tribute to their unique values, and their ancient and enduring cultures, which deepen and enrich the life of our community;*
- *determine to protect our unique environment;*
- *acknowledge the achievements of our forebears, coming from many backgrounds, who together faced and overcame adversity and injustice, and whose efforts bequeathed to us, and future generations, a realistic opportunity to strive for social harmony; and*
- *resolve on this the 150th anniversary of the establishment of Queensland, to nurture our inheritance, and build a society based on democracy, freedom and peace.*


The Government supports the Committee's recommendation with minor amendments to the preamble text as detailed below.

The Law, Justice and Safety Committee and its predecessor, the Legal, Constitutional and Administrative Review Committee, consulted widely in the process of developing a draft text for a preamble to the *Constitution of Queensland 2001*.

The Committees released two issues papers on a proposed preamble; wrote to a wide range of stakeholders; met with members of the former Queensland Constitutional Review Commission and members of the Queensland Aboriginal and Torres Strait Advisory Council; and held public sessions in Townsville and Brisbane.

At the invitation of the Committee, the Aboriginal and Torres Strait Advisory Council submitted a proposed wording for a statement of recognition for Aboriginal and Torres Strait Islander peoples. The Committee adopted this wording in full and without amendment.

Given the wide consultation conducted in the development of a draft text, the Government supports the insertion of the preamble with only minor amendments.



The Government considers that the statement “*subject to no law or authority but that sanctioned by this Constitution and the Commonwealth Constitution*” in the draft preamble text is an inaccurate statement of the law, and fails to acknowledge other sources of law within Queensland; for example, the common law. It is therefore considered appropriate to omit this selection of wording from the introduction.

Additionally, the Committee’s recommended text contained a reference to “*resolve on this the 150th anniversary of the establishment of Queensland*”. It is considered that this should be amended to reflect the preamble being inserted in the year of the anniversary, as opposed to the anniversary day which passed on 6 June 2009.

The Government considers that the preamble is a fitting aspirational statement to commemorate the 150th anniversary of the establishment of Queensland and also to give due recognition to Queensland’s Aboriginal and Torres Strait Islander peoples as the First Australians.

The Government is therefore introducing into the Legislative Assembly the *Constitution (Preamble) Amendment Bill 2009* to insert the preamble into the *Constitution of Queensland 2001*.

Recommendation 2 – Statutory Interpretation Implications

That prior to the final decision on whether to insert a preamble into the *Constitution of Queensland 2001*, the Government obtain expert legal advice on any statutory interpretation implications which may arise.

The Government supports the Committee’s recommendation.

A provision has been included in the *Constitution (Preamble) Amendment Bill 2009* clarifying that the preamble is not to:

- (a) create in any person any legal right or give rise to any civil cause of action; or
- (b) affect in any way the interpretation of this Act or of any other law in force in Queensland.

The Government has sought the advice of the Solicitor-General in the drafting of this provision and any statutory interpretation implications which may arise from the insertion of a preamble to the *Constitution of Queensland 2001*.

The Government is satisfied that the effect of the above provision will ensure that the preamble cannot be used as an aid for statutory interpretation of the *Constitution of Queensland 2001* or any other Act.