

The case for voting ‘YES’

A PROPOSED LAW: To alter the Constitution to insert a preamble.

At the referendum on 6 November 1999, you will be asked to vote on whether to approve “a proposed law to alter the Constitution to insert a preamble”. Our Constitution, which provides the framework for our system of law and government, does not currently have a preamble. As we approach our centenary of nationhood and stand at the beginning of a new millennium, it is timely and appropriate to add a preamble that celebrates the values and aspirations which unite us as Australians and which will continue to inspire us into the future.

This statement explains the new preamble and why Australians should vote for it.

In summary, a ‘YES’ vote on the preamble for our Constitution would:

- enable the Australian people to highlight the values and aspirations which unite us in support of our Constitution;
- contribute importantly to the process of national reconciliation between indigenous and non-indigenous Australians; and
- recognise at the end of our first century of federation the enduring priorities and influences that uniquely shape Australia’s sense of nationhood.

What is a preamble?

The Constitutions of many other countries commence with an introductory statement or preamble. A preamble to our Constitution would aim to reflect the unique spirit, traditions and sentiments which underpin our commitment to our Constitution. A preamble to our Constitution would seek to highlight in a broad and descriptive way the values and hopes that unite us as a people in support of our Constitution.

Would the preamble have any legal force?

No.

The preamble would not state legal rules such as those found in the body of our Constitution. Its purpose and effect would be quite different. If the preamble to our Constitution is supported at the referendum, a new provision will be included in the Constitution to ensure that the preamble has no legal effect. The new provision, section 125A, would state that the preamble “has no legal force and shall not be considered in interpreting this Constitution or the law in force in the Commonwealth or any part of the Commonwealth”.

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Is the preamble linked to the question on whether Australia becomes a republic?

No.

Australians will be asked to consider two separate and independent questions at the referendum. One is whether Australia should become a republic with the Queen and the Governor-General being replaced by a President appointed by a two-thirds majority of the members of the Commonwealth Parliament. The other question is whether to insert a new preamble into the Constitution.

The two questions are not linked.

The preamble can be inserted into the Constitution regardless of the outcome of the separate referendum question on whether Australia should become a republic. The proposed preamble does not refer to Australia’s constitutional status in terms of whether Australia is a republic or constitutional monarchy.

Change to a republic does not require or necessarily involve the inclusion of a preamble in the Constitution. The strong arguments in favour of a preamble apply irrespective of one’s views on a change to a republic or a continuation of our current constitutional arrangements.

A new preamble is not part of any broader constitutional change. It is a stand-alone issue. It needs to be considered in its own right.

What have been the processes of consultation and public debate on the preamble?

There has been extensive public debate and many avenues for community input on the issue of a preamble to our Constitution.

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- The issue of a preamble came to prominence in the debates of the February 1998 Constitutional Convention. The Convention resolved that the Constitution should include a preamble and suggested a range of issues which any such preamble should cover.
- In late 1998, the Constitutional Centenary Foundation organised a Preamble Quest which invited the public to put their views on the Convention’s preamble resolution. The Foundation received hundreds of responses on what should be included in any preamble. On 24 February 1999, the Right Honourable Ian Sinclair and other Foundation representatives presented their Report on the Preamble Quest to the Prime Minister.
- On 23 March 1999, the Prime Minister released an Exposure Draft of the preamble for public consultation. Around 700 submissions were received from a diverse range of groups and individuals. The Exposure Draft prompted a significant Parliamentary and community debate on the preamble and what it should contain.
- On 11 August 1999, the Prime Minister released a proposed preamble which was passed by both Houses of the Federal Parliament and which forms the basis of the referendum question.

Why is a new preamble being proposed now?

There is currently no preamble in our Constitution itself. There is a short preamble to the Constitution Act passed by the Parliament of the United Kingdom in 1900 to establish our Constitution, but it is no more than a formal legal introduction to that legislation. It is not a statement by the Australian people about the values that unite us in our commitment to our Constitution. The time is now right for such a statement.

In 1901, the people of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania agreed to come together as a federation and form a new nation - Australia. In 2001, we will celebrate the centenary of the Australian Federation.

This milestone is a timely opportunity to insert our own preamble into our own Constitution. Our own preamble would highlight the distinctive characteristics which have shaped the Australian experience and underpin our commitment to our Constitution.

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If Australians agree, the following words would be inserted into the Constitution as our own preamble:

“With hope in God, the Commonwealth of Australia is constituted as a democracy with a federal system of government to serve the common good.

We the Australian people commit ourselves to this Constitution:

proud that our national unity has been forged by Australians from many ancestries;
never forgetting the sacrifices of all who defended our country and our liberty in time of war;

upholding freedom, tolerance, individual dignity and the rule of law;

honouring Aborigines and Torres Strait Islanders, the nation’s first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country;

recognising the nation-building contribution of generations of immigrants;

mindful of our responsibility to protect our unique natural environment;

supportive of achievement as well as equality of opportunity for all;

and valuing independence as dearly as the national spirit which binds us together in both adversity and success.”

Our new preamble would not replace the existing preamble to the Constitution Act, which would be retained as a statement of historical fact. The new preamble would be inserted into our Constitution.

Why this preamble?

The insertion of our own preamble into our own Constitution would give Australians the opportunity to highlight the unifying values, achievements and aspirations we share as we enter the second century of our nationhood.

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Our system of government

The preamble would speak appropriately of hope in God. It would refer to the fact that we are constituted as a democracy with a federal system of government to serve the common good. Although celebrating only our first century of nationhood, Australia is one of the world’s oldest democracies. We have led the world in establishing many democratic institutions and rights.

The reference in the proposed preamble to our federal system of government highlights the important role of the States and Territories in Australia’s system of government. It is also very appropriate that the preamble acknowledge those great principles of liberal democracy - freedom, tolerance, individual dignity and the rule of law - which have made Australia one of the fairest, most harmonious and most open societies in the world.

Gratitude to those who have defended our liberty

The preamble would recognise the sacrifices of all who defended our country and our liberty in time of war.

Over 100 000 Australians have given their lives in the service of their country - across the continents and oceans of the world. Many thousands more have been wounded. Countless others have been deeply scarred in different ways.

The proposed preamble honours all those Australians who contributed in so many different ways - on the home front or on active service - to the defence of our country and our liberty. In doing so, we express the deep respect and appreciation of a grateful nation.

Honouring indigenous Australians

The preamble would give us an historic opportunity to acknowledge in an appropriately positive and uniting way the important place of indigenous Australians in our national life and community. The proposed preamble honours “Aborigines and Torres Strait Islanders, the nation’s first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country”.

The process of national reconciliation between indigenous and non-indigenous Australians is one of the most important issues we face as a nation as we enter the new century.

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The recognition in the proposed preamble of the special place of the nation’s first people in our national life and community would be a small but significant contribution to national reconciliation.

Recognising the contribution of immigrants

The preamble would express pride that our national unity has been forged by Australians of many ancestries and would recognise the nation-building contribution of generations of immigrants.

Throughout our history, immigrants have played a critical defining role in the development of Australia as a modern, tolerant and harmonious country. We are one of the most diverse societies on earth. That is one of our great national strengths. It underpins the dynamism, enterprise and optimism of our society.

Australia has been a source of new hope and opportunity for generations of migrants. Australian society has been enriched by that process in the past and will continue to be in the future.

It is right, therefore, that a preamble to our own Constitution recognises this great formative influence of our past and our future.

Protecting our unique natural environment

The preamble would refer to our responsibility to protect our unique natural environment. Whether it be the cities and towns, our farmlands or our wilderness areas, our rivers or our coastline, our diverse landscape is part of our identity as a nation. It contributes to the unique Australian sense of place. Australia is one of the world’s most biologically diverse countries with over one million species, many of them unique.

The preamble would highlight Australians’ responsibility to protect their environment, not only for the short term but for the generations to come.

The national spirit that binds us together

The preamble would recognise the special value which Australians place on both achievement and equality of opportunity for all, and the special defining national spirit which binds us together as Australians in both adversity and success.

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Australians have always stood for ‘a fair go’ - not only in terms of creating opportunities for advancement but also for ensuring appropriate support of those in need.

Australians have also embodied a special spirit of resilience and shared commitment - whether it be in the face of national disaster, or war, or community need, or in sharing our successes.

It is very appropriate for a preamble to our Constitution to recognise these uniquely Australian values and their continuing influence.

Why a ‘YES’ vote for the preamble is important

A vote in favour of a preamble to our Constitution would enable the Australian people to make a significant statement on the values, beliefs and aspirations which unite us in our commitment to our Constitution. Now is a very appropriate time for such a statement and the opportunity which is presented should not be missed.

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