

**Genevieve Molineux**

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**From:** George Williams  
**Sent:** Monday, 18 May 2009 10:56 AM  
**To:** LCARC  
**Subject:** A Preamble for the Queensland Constitution?

**Attachments:** 2009 Qld Preamble.doc



2009 Qld  
Preamble.doc (81 KB)

Submission attached.

Regards

George

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18 May 2009

Ms Barbara Stone  
Chair  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By email: [lcarc@parliament.qld.gov.au](mailto:lcarc@parliament.qld.gov.au)

Dear Ms Stone

### **A Preamble for the Queensland Constitution?**

Thank you for the opportunity to make a submission on this question.

The purpose of a preamble to a constitution was set out in my following co-authored article ('First Words: The Preamble to the *Australian Constitution*' (2001) 24 *University of New South Wales Law Journal* 382 at 382-383; see also 'With Hope in God, the Prime Minister and the Poet: Lessons from the 1999 Referendum on the Preamble' (2001) 24 *University of New South Wales Law Journal* 401):

A preamble to a legal instrument, such as a statute or constitution, is an introductory passage or statement that precedes the operative or enforceable parts of the document. Constitutional preambles may articulate and give legitimacy to profound political change. They can provide purpose and rationale, elucidate intention, and potentially serve as the declaration of belief for a political community. They are often the first words of 'the people', their *raison d'être* and their *cri de coeur*. For this reason, unlike many other sections of a constitution, the importance of constitutional preambles is not confined to the legal and political arena. Culturally specific, their simple but direct language may permeate the social and cultural fabric, acting as a potential totem for state, community and individual.

In the constitutional setting, a preamble can fulfil two important functions. First, in its symbolic aspect, a preamble can capture and chart, in a pithy and quotable form, the history and aspirations of a nation. Although a preamble does not create substantive


rights or obligations, its symbolic aspect may assist in the interpretation of the constitution itself by providing normative guidance. Thus, in its second, justiciable aspect, a preamble can be used in constitutional interpretation and in the construction of statutes and the development of the common law as a legally useful statement of fundamental values.

A preamble to the Queensland Constitution should not only introduce the Queensland system of government. It should also serve an educative purpose and inspire people to be involved in their democracy.

The process by which the preamble is drafted should reflect this. Rather than being written at a distance from the people, they should be involved in its drafting. I believe that the best way of achieving this would be to hold an open competition to draft the new preamble. The competition should set out the criteria for the new preamble and indications as to its content (for example, that it should give due recognition of the State's Aboriginal and Torres Strait Islander peoples).

Similar contests have been run in the past, such as the national competition held many years ago to design the Australian flag. The Constitutional Centenary Foundation (*'We the people of Australia...'* *Ideas for a new Preamble to the Australian Constitution* (1999)) held a competition to draft a new national preamble and received more than 400 public submissions, including draft preambles from schoolchildren, professionals, tradespeople and academics. Public interest in a national preamble was also stimulated by newspaper competitions encouraging readers to submit drafts in the lead up to the 1999 referendum.

Yours sincerely

A handwritten signature in black ink that reads "George Williams". The signature is written in a cursive, slightly slanted style.

George Williams