



COMMUNITY SUPPORT AND SERVICES COMMITTEE

Members present:

Ms CP McMillan MP—Chair

Mr SA Bennett MP

Mr MC Berkman MP

Ms CL Lui MP

Mr RCJ Skelton MP

Staff present:

Ms L Pretty—Committee Secretary

Ms S Pruim—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE PATH TO TREATY BILL 2023

TRANSCRIPT OF PROCEEDINGS

Monday, 13 March 2023

Brisbane

MONDAY, 13 MARCH 2023

The committee met at 9.30 am.

CHAIR: Good morning, everybody. Thank you so much for being here this morning. I declare open this public briefing for the committee's consideration of the Path to Treaty Bill 2023, an historic moment in Queensland. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past, present and emerging. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. I also wish to acknowledge our colleague, Ms Cynthia Lui, member for Cook, as the first Torres Strait Islander woman to be elected to any Australian parliament.

On 22 February 2023, the Hon. Anastacia Palaszczuk, Premier and Minister for the Olympic and Paralympic Games, introduced the bill into the Queensland parliament. On the same day the bill was referred to this committee, the Community Support and Services Committee, for detailed consideration. The purpose of today is to assist the committee with its examination of the bill. My name is Corrine McMillan. I am the member for Mansfield and chair of the committee. With me here today is the deputy chair, Stephen Bennett MP, member for Burnett; Michael Berkman MP, member for Maiwar; Cynthia Lui, member for Cook; and Mr Rob Skelton MP, member for Nicklin. Dr Mark Robinson MP, member for Oodgeroo, is unavailable today.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. Proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. Media rules endorsed by the committee are available from the committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media, and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobile phones off or to silent mode. Only the committee and invited officers may participate in the proceedings. As parliamentary proceedings, under the standing orders any person may be excluded from the briefing at the discretion of the chair or by order of the committee. I also ask that any responses to questions taken on notice today are provided to the committee by 5pm, Monday, 20 March 2023. The program for today has been published on the committee's webpage and there are hard copies available from committee staff.

ANDREWS, Ms Denise, Acting Executive Director, Strategic Policy and Legislation, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships

CHENG, Mr Tony, Director, Strategic Policy and Legislation, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships

KIDD, Mr Jason, Acting Deputy Director-General, Strategic Policy, Legislation and Program Reform, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships

WILKINSON, Mr Matthew, Director, Strategic Policy and Legislation, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships

CHAIR: I now welcome representatives from the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships who have been invited to brief the committee today. Good morning to you all and thank you for appearing before the committee today. I invite you to make a brief opening statement after which committee members will have some questions for you. I will now hand over to Mr Kidd.

Mr Kidd: Thank you, Chair, for the opportunity to speak today. We welcome the opportunity to support this bill. I would like to start by acknowledging the traditional owners of the land that we meet on and pay my respects to elders past, present and emerging. The department has put in a written submission for the committee's consideration, so you should have that or will be receiving that in the near future. We will give you a briefing this morning on the key elements of the bill and then we are happy to take any questions that the committee may have.

We note that the submission that we made notes that the Path to Treaty is a shared journey with the ultimate goal of negotiating treaty or treaties that will reframe and strengthen the relationship between First Nations Queenslanders and the wider community. In support of that objective, as the chair mentioned, this is a landmark bill for our state and, if passed, then the next steps of that Path to Treaty will be set into law. It will redefine the future between Aboriginal and Torres Strait Islander peoples and the Queensland government and broader community.

I would like to acknowledge initially the Interim Truth and Treaty Body, members of which we have here today in the room. The interim body, which is made up of Aboriginal and Torres Strait Islander leaders and non-Indigenous representatives and leaders, work very closely with the department in a proper co-design process for this bill. I acknowledge my colleague Tony Cheng and his legal policy team and the drafters who worked very closely on that piece of work. We would particularly like to thank the interim body's legal subcommittee. Again, I note that we have members of that subcommittee here today with us, so I acknowledge the Hon. Michael Lavarch AO, former Commonwealth Attorney-General; Mr Mick Gooda, Ghungalu man and former co-chair of the Treaty Advancement Committee, and former Aboriginal and Torres Strait Islander Social Justice Commissioner; and not with us today, but members of that committee which included Natalie Siegel-Brown from the Australian Productivity Commission and Mr Aaron Fa'aoso, Torres Strait Islander, actor, film and television writer, director and producer.

I would also like to acknowledge that this has been a long journey since late 2019, so it is incumbent on me to thank the Treaty Working Group and the Eminent Panel that led the first round of consultations across the state that really started this journey, and their role was to do that first initial conversation with the Queensland community about what is Path to Treaty, why it is important and whether we had support for it to continue which fortunately we did receive. The Treaty Working Group, with the Eminent Panel, provided advice to government in early 2020 which essentially put proposals forward for the key structures that are outlined in the bill today. More recently, the Treaty Advancement Committee was formed in February 2021. Their role was to re-engage with the Queensland community and put the detailed recommendations around how those key structures should look. Again, that has now been reflected in the bill. That committee formally handed over its report to the Queensland government in October 2021 and that and the government's response was released in August 2022 at a fantastic event here at Parliament House, that many of you would have been involved in. Since that point, as I mentioned, we have worked closely in a co-design process with the subcommittee of the interim body around the drafting of the bill that is with us today. As you can see, there are two main features of the bill. With the committee's endorsement, I will run briefly through those two key features.

Division 1 deals with the First Nations Treaty Institute which will be a statutory body once established under the bill, therefore subject to the same rights and obligations as other statutory entities in this state. That was a conscious decision in terms of responding to the Treaty Advancement Committee's report to ensure there was a higher standard of oversight, transparency and accountability, as well as a level of independence needed for a body like this.

Clause 13 of the bill sets out the key functions of the institute. In summary, they include initially developing the treaty-making framework, building the capacity of Aboriginal and Torres Strait Islander peoples to engage in the treaty-making processes, undertaking and promoting research, encouraging the general support for treaty negotiations with the Queensland community, consulting with First Nations people about the impact of colonisation, and then providing advice to the minister, including recommendations.

Clause 11 of the bill makes it clear that the institute does not represent the state, which ensures that level of independence for its role. Clause 13 makes it clear that the institute will not, at later phases, be a party to treaty negotiations; their role is really to get the process in place and get people ready for treaty negotiations and then later there would be subsequent legislation around what the key structures would be to negotiate treaty once we are at that stage.

Division 3 sets up the institute council which is the governing body for the institute and that will be in place initially for the first two years. That will be by appointment initially and then within that period and six months before the end of that two-year period, the council will give advice to the minister around the ongoing representative structures needed for that council. They will have some time to develop what that should look like. There will be 10 members of that council, all of whom will be appropriately qualified Aboriginal and Torres Strait Islander peoples who will reflect the cultural and gender diversity of the state and will be Governor in Council appointments. There will be two members appointed as co-chairpersons, and there is an arrangement in the bill for an administrative

chairperson to act as the chair of key meetings, and that will rotate after the first year. We are currently doing further co-design work with the independent body and with partners across the government around the detailed structures for the institute and the inquiry.

Division 4 sets up two permanent advisory committees as part of the institute. Again, that was a clear recommendation from the work of the Treaty Advancement Committee. One of those subcommittees will focus on financial auditing and financial risk management, and the second on human rights and ethically and culturally appropriate research functions.

Division 5 provides for the appointment of a chief executive officer who must be an appropriately qualified Aboriginal or Torres Strait Islander person, responsible for the day-to-day administration of the institute.

Division 7 deals with the appointment of staff which will occur under the bill, not under the public sector legislation more broadly, again to maintain the independence of the institute.

Division 8, as I mentioned earlier, requires that the council provides a report to the minister six months before the end of their term, dealing with the next phases, including the representatives' proposals for the council going forward. The minister must table that report in the Legislative Assembly within 14 days of receipt.

The second main part of the bill is the truth-telling inquiry. That will be a three-year term, as established in the bill, and its purpose is to inquire into and then report on the effects of colonisation of Aboriginal and Torres Strait Islander people. The inquiry will comprise five members, again Governor in Council appointments, with the majority being Aboriginal and Torres Strait Islander persons and at least one member a lawyer of five years standing, again reflective of the gender diversity of the state. The inquiry has elements of a commission of inquiry approach, but it has been purposefully designed as a more bespoke model in line with Aboriginal and Torres Strait Islander peoples' advice through the process and adopting a non-adversarial and non-legalistic approach wherever possible, and that is encouraging voluntary participation by the broader Queensland community in that Truth-telling and Healing Inquiry. There are some elements that have a more formal mandated process that they relate specifically to the CEOs of the government departments and I will go through that in brief for the committee as well.

Clause 66 details the functions of the inquiry. Essentially they will conduct inquiries and then document the impacts of colonisation on Aboriginal and Torres Strait Islander peoples by holding truth-telling sessions which are the voluntary sessions and will make up the bulk of the inquiry's work, truth-telling hearings which are the more mandated process that apply to the CEOs, and they can also invite persons to give documentations to the inquiry. Their second key function is around a research function to again promote awareness and understanding of the history of the state and the impacts of colonisation, and build the general public's understanding of those matters. The final function is to provide advice and recommendations to the minister in terms of the outcomes. There is the capacity in the bill to request an extension of that inquiry if required because our work with the Treaty Advancement Committee made it clear that it was not the sort of thing that it was possible to put a definitive end point on without allowing for the possibility of extension.

As I mentioned, there are two types of proceedings. Under paragraph 3 of the bill, the truth-telling sessions are voluntary processes, so oral submissions but also requesting documentation, and that applies to all Queenslanders. Any private individuals or groups, government agencies, non-government organisations, churches et cetera could be invited to participate in those sessions. Then there are the truth-telling hearings and that is where the CEOs of government departments can be required to comply for a hearing process. That only applies in certain situations. The two situations where that can occur are, one, where the CEO has already been invited to attend a truth-telling session and either did not attend or they need further information or, two, where the CEO has not complied with a production notice for documentation.

You can see we have tried to design that inquiry process to be a voluntary, engaging process, but there was an element of ensuring that if government was not participating sufficiently, there were teeth in the bill to allow that to occur.

Essentially, the hearings and sessions will be held in public as a general course although, given the nature of the inquiry, there is certainly the capacity for individuals to request matters to be heard in private or for the inquiry members to put those arrangements in place. Similarly, a key part of the process is keeping the documentation of what is said to the inquiry, but again there is the capacity to not release certain information where it is private and confidential and that has been requested. That does not apply to the government contributions though.

Some key parts in terms of conducting the inquiry processes are that obviously it needs to observe the principles of natural justice and also, importantly, that it will be conducted in a culturally appropriate manner given the nature of the hearings. There is also specific provision for recognising that this is going to be in many ways sensitive and potentially upsetting information for many Queenslanders that is being provided to the inquiry. The inquiry needs to take into account the potential impacts around stress and psychological trauma. It needs to develop guidelines, materials and a range of other supports that we are currently working on putting in place. We have learnt a fair bit from the Victorian process about the sorts of support processes that need to be in place to make sure this process does no harm in effect.

Just briefly, the other matters that the bill deals with are some amendments to the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act, or the JLOM Act. Those changes are essentially some legislative amendments to remove outdated terminology and also to remove outdated provisions that related to the policy environment where government controlled Aboriginal and Torres Strait Islander peoples' savings, businesses and wages. Those provisions are no longer used, but it is important they are removed from the statute book to support this agenda and also to support the new Human Rights Act provisions.

In terms of the next steps, we have a Path to Treaty office in my area. Matthew Wilkinson heads that area up. We are working across government to get government ready for this Path to Treaty process with a priority first on the truth-telling inquiry and putting the detailed arrangements in place. We are working in close co-design with the interim body around the treaty institute and inquiry structures so that is ready to be operationalised subject to the bill being passed. To support that we have a government treaty readiness committee with executive director membership from all government departments that has been meeting monthly for the past 12 months to get government ready. We have a ministerial committee overseeing that process as well.

Finally, I note that this reform is occurring also in the context, as the committee would be well aware, of broader First Nations policy reforms at the national and state levels. I acknowledge my colleague Denise Andrews, who is leading the voice reform here in Queensland. We are looking closely at how that links with the national conversations that are occurring around referendum and other matters. We have a First Nations consultative committee in place co-chaired by Mr Terry O'Shane and Ms Talei Elu, who are giving the government advice around what the state-based voice model should look like. I note that work is occurring concurrently with the Path to Treaty work and we feel it is important that these things move forward together as a holistic response.

I thank the committee for the opportunity to provide a brief presentation on the bill. We are happy to take any questions you may have.

CHAIR: Before we begin with questions I acknowledge the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships—your whole department but certainly all of those who were involved in this process. Congratulations to our Path to Treaty committee. Many esteemed colleagues sit on that committee. They have done some great work. I thank those who did the initial research some years ago and I commend the government and all involved in this path. Australia, including Queensland, has a shameful past and a past that has to be told. We must rectify the stories that are told around the colonisation of First Nations peoples. For 200 years our children and our communities have been told a story that is incorrect. We thank you for your work. I will now pass to the deputy chair for his first question.

Mr BENNETT: In your submission you talked about the oversight of the proposed treaty institute. Is there a proposal that a parliamentary committee would have oversight similar to the parliamentary oversight of the Family Responsibilities Commission because it is a statutory institution as I understand it? Are you proposing an oversight provision?

Mr Kidd: There is not specifically in the bill but it is subject to the same sorts of arrangements as other statutory bodies. We would be happy to take advice from the committee on what sort of arrangements should be in place that fit in with the standard protocols for parliamentary committees. That might be an area we would look for advice on from the committee. Obviously the balancing act here is that the institute is an independent statutory body and the independence of this work is particularly critical, hence the council being in place to provide that sort of oversight of the institute's function. At this stage, no, we have not specifically put that in place.

Ms LUI: Clause 64 proposes that the term of the Truth-Telling and Healing Inquiry be not more than three years after its establishment and clause 88 of the bill proposes that the inquiry is to report to the minister before the inquiry ends. Do you consider this a realistic time frame for an inquiry of such importance and inherent complexity?

Mr Kidd: I thank the member for the question. It is a good question. The three years was seen to be, again in that close co-design process, a reasonable time frame for the inquiry to do its work but with the provision for the possibility of an extension. That advice that comes to the minister can request an extension. The minister can then consider that. It is very hard to put a definitive end point on a process like that, as we have seen in other jurisdictions. We have tried to give our best guide as to what we think would be a reasonable time frame in the bill, allowing for that process of extension.

Mr BERKMAN: I am interested in the provisions around establishment of terms of reference, particularly for the truth-telling inquiry. I note that neither of the two bodies has their terms of reference set out in the bill. The council will establish those for the institute, but the minister is responsible for the truth-telling inquiry's terms of reference.

Mr Kidd: Yes.

Mr BERKMAN: What will the process for developing those terms of reference look like and is there a reason they are not included in the bill so there can be consideration by the community in this consultation process?

Mr Kidd: There was a fairly conscious decision to not include the detail of the terms of reference in the bill. The legislation needed to set out the core components and functions and then there needed to be a continued co-design process around the details of the terms of reference. That document was a better place to document those, allowing for that co-design process and the flexibility for adjustment as required as the process continues rather than embedding that in the bill itself. You are right; that work is a priority and works are underway currently, again in a co-design process with the interim body and the secretariat team that supports the interim body, which is also present here today. We are doing work on what those terms of reference should look like. We are working on the assumption that if the bill were to be passed, we would be ready to provide that advice through the minister quite quickly.

Mr SKELTON: You may have already answered this question, but I ask this for clarity. The bill proposes amendments to the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984 on the basis that the provisions were outdated, redundant and no longer supported by government policy. We know clause 105 proposes to omit sections 57 to 59 of the act, which deal with the management of savings of Aboriginal and Torres Strait Islander persons. Are these provisions still being used at all? Are there any alternatives in place?

Mr Kidd: No, the provisions that are being repealed are largely redundant, but by their nature being on the statute book is not appropriate anymore. There is no need for alternatives to be put in place. They are from a very dated policy period.

Mr SKELTON: A bygone era.

Mr Kidd: We have moved well beyond the control of savings and wages, so they are now not needed and they need to go from the bill book.

Mr BENNETT: You mentioned the selection of representatives going forward on particularly the institute and other councils. The conversation was had about how we get that to be reflective of the great state we live in—the diversity you mentioned but also the geographical challenges. This might be a better question for the next session. You talked about a lot of stakeholder engagement to date. I am interested in how you see that membership forming?

Mr Kidd: You are quite right; we are working closely with the interim body and the secretariat team around what the processes might be. We have had some active discussions already around the descriptions of those roles and the process for selection, ensuring there is good representation from across the state, cultural diversity and gender diversity. They are certainly priorities. We have not got the finer detail about what that would look like yet. We are in those discussions now. I think that is subject to the next phase of co-design and advice to the minister from that. Certainly, the undertaking and the bill reflect that there will be that representative nature of those key groups in terms of Queensland.

Mr BENNETT: I think you mentioned in your briefing that the minister will take an active role in the initial appointments. Is that a correct understanding from your opening statement?

Mr Kidd: Yes, the initial council appointments will be Governor in Council appointments on the minister's advice. That is to allow the council to be in place for that two-year period. About 18 months post their appointment they will be giving advice to the minister around the longer term arrangements for the council. The intention there is quite likely to build in a more representative sort of appointment process to that council, taking into account some of the other reforms that are happening concurrently at the moment around voice to government, the Closing the Gap agenda, Local Thriving Communities and other significant reforms. That will allow for that process to occur.

CHAIR: I have two questions. I will ask one question and then when we come around again I will ask another pertinent question. Firstly, we have a federal agenda, the Uluru Statement from the Heart as well as the Voice to Parliament. We will work hard as a committee to define the process that we are engaging in here in Queensland, Path to Treaty. We understand that the two are quite different. What are your thoughts and advice around how we collectively—the committee, the Path to Treaty committee, the government as in your department—what process we will use to educate our Queensland community around the path that we are on and how that is different to the federal path? There is a little bit of confusion. What are your thoughts around how collectively we might manage that?

Mr Kidd: I might throw to my colleague Denise Andrews to answer that.

Ms Andrews: Thank you for your question. The national Voice referendum seeks constitutional recognition. In terms of Queensland's voice, the government is in its design phase. As Mr Kidd has indicated to the committee, there is a First Nations Consultative Committee that is advising government on those processes and in response to the model that will be taken forward for government consideration.

Voice is one of the components of Uluru Statement from the Heart and its commitment to taking forward that agenda. The Path to Treaty is, as we have highlighted, a simultaneous approach and Queensland is taking both approaches forward. As we have heard, the national referendum on the Voice is likely to be taken forward later this year. Whilst the Voice will need to be considered by the First Nations Consultative Committee and how those processes all come together. At this point we are at the early design phase and seeing how they come about in the foreseeable future. We are very much in the design phase and very much looking at each of those elements and how they relate.

Mr Kidd: We feel it is important for all these elements to proceed. They happen to be occurring fairly concurrently at the moment. We recognise that that can lead to the potential for some confusion in the community. The key messaging is around being clear that they are parallel processes, if you like, and treaty is really about hearing the truth-telling journey of this state and then how we form agreements about working together going forward for a fairer society. Part of that fairer society is that the voice of First Nations people is prominent in the key decision-making impacting their lives, and the structures that go with that will be developed through the voice process. Denise mentioned that we are in the co-design process and one process is aware of the other. Voice is more dependent on what is happening at the national level than, say, our journey on treaty in Queensland.

CHAIR: Does the department have a communication strategy that it has prepared to address the issue?

Mr Kidd: We have a range of communication materials available and we are happy to share those with the committee post the hearing. One of the roles of our Path to Treaty office that Matthew leads is generating more of a public communication campaign around truth-telling and treaty. That preparatory work is underway at the moment. In the interim, we certainly have a range of materials that help to explain what is truth-telling, what is treaty and also in part to help distinguish between some of the other reform agendas. We are happy to share that material with the committee to aid in your conversations as you go around the state.

CHAIR: That would be great. It is something that all bodies—the board, the department as well as this committee—need to be aware of.

Mr BERKMAN: I am interested in funding. The explanatory notes are very clear that the \$10 million of minimum funding from the Path to Treaty fund is specifically for the institute and treaty-making processes. On my reading, it is less clear what the level of funding will be for the inquiry. I am interested to know, first of all, what the funding looks like for the Truth-telling and Healing Inquiry. Beyond that, it does feel to me like we are dealing with the length of a piece of string in terms of the work of these bodies—both the inquiry and the institute. It is very difficult to gauge what level of funding might be required to overcome the sorts of economic and social disadvantage that First Nations communities might face in fully participating in those two parallel processes. Are you able to speak to that?

Mr Kidd: Yes; you are right. The announcements around the treaty fund, which is obviously very welcome in terms of supporting this journey, are focused on the institute's functions but also on the interim work through the interim body in the lead-up to the institute's establishment. The specific funding around the inquiry is being worked up now as part of the state budget so I cannot speak to that. There will be announcements later in the year around that. As you quite rightly point out, that is separate funding. That is not to be drawn from the treaty funding—that was quite clear in the Treaty Advancement Committee's report.

In terms of the broader question around the resources needed ongoing, certainly the returns from the fund are a welcome foundation for that work. One of the important things to note there is that the work and priorities around empowering and enhancing outcomes for First Nations Queenslanders continues across government in a range of different ways. Not everything comes back to the sort of treaty budget line item, if you like. We are doing whole-of-government work with all of our government partners such as looking at what Queensland Health are doing, what Education can and should do going forward and the investment that those departments need to put in place to support those processes. That will all be part of a whole-of-government effort to invest in this space beyond the treaty funding. It is certainly not the only pot of money we are looking at.

Mr BERKMAN: The explanatory notes are very clear that the \$10 million annual allocation is a minimum. Is there any kind of framework or process around how the institute might return to the department to seek additional funding, if that is necessary, at any point down the path?

Mr Kidd: The way it has been arranged is, as you rightly point out, that there is a minimum investment from the fund of \$10 million for the work of the institute. That will likely be allocated and then there is a period of review around the four-year mark, I think. I can confirm that for the committee, but there is a review process that allows for adjustments to that once the institute is up and running and they know what the costs and expenditures will be on a per year basis.

Ms LUI: The committee notes that the Treaty Advancement Committee in its report recommended that the First Nations Treaty Institute would provide advice to government on the creation of a treaty tribunal to arbitrate and educate on disputes occurring between the Queensland government and First Nations peoples during treaty negotiations or following the signing of a treaty. The recommendation was accepted by the government. Has this been incorporated into the bill?

Mr Kidd: The government certainly acknowledges the need for a body like that and certainly looking at experience interstate—for example Victoria. There will need to be a function of that nature. The bill focuses on the initial structures being the truth-telling inquiry and the institute, but we certainly acknowledge that there will be later amendments needed to this bill or new legislation depending on how that goes through to put in place a body that can (a) help be the facilitation for treaty negotiations between First Nations proponents and the government and (b) settle any disputes or issues that might arise. Whilst not in this bill, we acknowledge that that will be a subsequent piece of work. The work of the inquiry and its recommendations and the institute once it is up and running and their report to government will inform what that should look like. Then we will work on the legislation to support that.

Ms LUI: Given that Queensland is a vast state, can you speak to some of the groundwork that is going to happen—or I anticipate will happen—to get communities prepared for the truth-telling inquiry?

Mr Kidd: That is a key consideration as we have been developing the arrangements for the inquiry and, as I mentioned, feeding into the state budget process and looking closely at the Victorian experience. We have certainly lent on their experience a lot in that regard. What we found is that it is very important that there are resources—that is, people on the ground—that can go in pre, during and post the truth-telling processes to support people to get ready for that, to voluntarily participate in that, if they wish, support through the process and then post support in terms of any needs and issues that arise afterwards. It is a key part of our planning around operationalising the bill to make sure that is in place. Certainly, a guiding principle is that we will be approaching this work from a healing and trauma informed approach.

Mr BENNETT: You might have just touched on it, but why is there a three-year possible extension for the truth-telling inquiry? Considering that there will be a lot of issues that will come out of this, can you explain why that timeline was established?

Mr Kidd: To be honest, it was difficult to put a precise period of time on something like truth-telling. We certainly looked at different jurisdictions across the globe that have gone through truth-telling processes and the sorts of time periods that were in place. That helped to inform settling on a three-year period. It became clear fairly immediately in those conversations as well that you certainly could not put a firm end point on that three-year mark. Once the inquiry members are in place and starting to have those conversations with the community—conversations that have not occurred in this state for hundreds of years that should have—it is difficult to put an end point on that. Based on other experiences, we think three years is a reasonable time frame as a starting point. It might be sufficient and it may need a further extension.

Part of that time frame also takes account of other concurrent work happening around the Voice to Parliament reforms. We have our Local Thriving Communities reforms in this space and Closing the Gap reforms. A number of those measures will have worked their way to a certain point by that

stage as well so they will be able to be taken into account. It is also about what the institute is telling us in terms of whether or not the community and First Nations stakeholders are in a position to be able to move forward at that point with treaty negotiations.

Mr BENNETT: It is completely different to, say, royal commissions that can run for only two years. It is a different inquiry, I guess.

Mr Kidd: Yes. That is one of the reasons we stayed away from a royal commission because they have quite definitive rules around that.

Mr BENNETT: In the end will the inquiry hearings produce a document to government or to the chief executive officer?

Mr Kidd: Yes, there is certainly a report to the government with recommendations as well. The format that will take is yet to be established. Certainly once the inquiry members are in place, we will be having those conversations. Obviously, I would not be surprised to see that it is not just one report. There are likely to be interim reports and recommendations and then a final report around that three-year mark that will guide the next phase. That report would be the one that would request an extension if needed.

Mr SKELTON: The committee notes that the Treaty Advancement Committee recommended members of the First Nations Treaty Institute Council should be directly appointed by First Nations representative mechanisms and structures. Is this enshrined in the bill and if it is not, why not?

Mr Kidd: That goes to the question of the practical discussions we have been having with the interim body in terms of how you operationalise a bill like this. It is important in some cases to get a group in place that can take the work forward. You need that initial group to be able to have the co-design discussions with government about what that might look like in terms of representative structures going forward. That is why the proposal in the bill is for a two-year appointment period with advice to government after 18 months around what that might look like in terms of representative structures going forward. Again, that time frame allows for the sort of Voice to government work to have sort of worked its way to a certain point—the referendum to be held et cetera. We will have a bit more sense of where the Voice to government work is going nationally and in the state. It is important when we talk about representative structures for us to look at the links between this and that process.

Mr BERKMAN: One of the fairly unusual features of this bill is the preamble which is a good, substantial bunch of principles and positions as a starting point. What is the rationale behind including a preamble in the bill and how will that affect both the operation of the bill and the work of each of the two principal bodies that it would establish?

Mr Kidd: I am happy to kick off and then I might throw to my colleague, Tony Cheng, who led the co-design work with the drafters and the committee on this because he was involved in the discussions. I suppose, as a starting point, the Treaty Advancement Committee, the Treaty Working Group, the independent working group and all those key groups have made it very clear that the framework that the legislation operates under—that is, as set out in the preamble—is equally critical, if you like, to the substance of the bill. This would be the first opportunity for there to be the relevant acknowledgements of the true experiences of First Nations people of this state so it was critical that a foundation bill, a historic bill like this, sets that in place. Hence it is a fairly lengthy preamble, as you point out, but it supports the overall truth-telling journey. It starts to tell the true history of this state by the acknowledgements that are within it. I think in many respects it is starting that truth-telling process that the inquiry will be taking forward.

I should have mentioned also, as I talk about truth-telling, I have not noted that the local level truth-telling journey has already kicked off in this state as one of the key functions of the interim body as well. Those conversations with local communities and working through the cultural institutions of this state are already occurring and that is another prelude into the more formal truth-telling inquiry. I think the preamble serves a similar purpose. Tony, is there anything in terms of process that you want to talk about?

Mr Cheng: The preamble was based on the work done by the Treaty Advancement Committee through their consultation two years prior. It actually came from recommendation 2 of the TAC report, which was really strong in terms of what they wanted to see reflected in the preamble. What we are seeing now in the bill, in the preamble, is actually the collective stories, sentiments and feelings from those two years of consultation that Aboriginal and Torres Strait Islander people provided in feedback in the earlier rounds of consultation in the lead-up to the bill. We felt it was really important to enshrine those sentiments, feelings and spirits in the legislation. We worked on the preamble very closely with

the interim truth-telling body to make sure that each clause really articulated those sentiments and feelings. That is why what you have there is a combination of the two years of work in the lead-up to the bill. We all know that a preamble does not really have a particular legal effect, but it does give that sense and feeling of what the bill is about and where it is potentially going to go as we advance the Path to Treaty.

CHAIR: Difference is good and we congratulate you for that. As with many things that happen in New Zealand, Australia can learn from our brothers and sisters. The New Zealand community has been on a path to treaty in the past. Many would suggest that they managed it well. What has the department and members of the committees involved in the preparation for this bill learnt from the New Zealand experience?

Mr Kidd: That is a great question. On this point I would like to acknowledge Lil Anderson who had a key role in terms of running the treaty process in New Zealand, particularly around the forming of more current treaties with First Nations groups in New Zealand and the accountability for implementation of what is in those agreements, which has been a key feature. ANZSOG supported Lil to be in Queensland for the past nine months, I think, so we have had a number of opportunities to lean on Lil Anderson's experience.

I think some of the key learnings are that a treaty, even though obviously they are more advanced than us in this regard, is not the end point. The signing of a treaty is not the end of a process and Lil will explain it is the start of a process. Once treaties are negotiated, the real job begins around how the terms of that agreement are complied with. She reflects back on the original Treaty of Waitangi and that, whilst it was good that it was in place, it was really around its accountability for the enforcement of the terms of that treaty which, while simple, were not complied with. That has really left the country in the position where it is now. They have now taken incredibly active steps to legislate for each individual treaty as its own bill, which is an interesting model. We are certainly very aware of how they have done that there.

I think a key part of their journey that we have learnt from as well, which is now reflected in our public sector legislation, is the requirement for all government departments to have a reframed relationship plan. Again I acknowledge the work of my colleague Denise Andrews on that work with the Public Service Commission. That was very much based on the New Zealand experience about saying that it is all well and good to have a treaty but what does the public service do to actually make sure that it is put into place on the ground. The principles that are set out in our Public Sector Act now are reflective of that New Zealand experience. Denise, did you want to add anything to that?

Ms Andrews: I think the key component and learning from the New Zealand model and bringing that into the public sector legislation is that we have taken those principles under the Statement of Commitment and made them responsibilities within the public sector for CEOs to take that work forward so that we hopefully learn from those components to really take forward the treaty discussions and those agreements in an accountable way.

Mr Kidd: I think they are probably the key learnings. It has been really insightful for us.

Mr BENNETT: Mr Wilkinson, for the committee's benefit, can you give an overview of what the office of the treaty has been working on and outline the highlights that may be of benefit to our learnings through this process?

Mr Wilkinson: Our office has been very concentrated on government treaty readiness. We supported the Treaty Advancement Committee and that was a key recommendation. We have been working with our whole-of-government committee over the last year and taking learnings from New Zealand where they have had quite a holistic approach to government treaty readiness, thinking about it not just in terms of agreement making but looking at preparing agencies to work towards agreement. It is things like cultural capability, considering cultural safety, really having our chief executives lead that work through the reframing relationship plans as well. That has been a real highlight for us. That is going to be continuing work for the next number of years. We are working closely with the Interim Truth and Treaty Body at the moment in terms of looking at the terms of reference for the inquiry and other key matters such as that.

Mr BENNETT: Has the number of traditional owner groups or First Nations groups in Queensland been identified? Is there a number of established groups of traditional owners?

Mr Wilkinson: I think that is probably a question for traditional owners themselves, from our point of view. Obviously the native title process has been going for many years in Queensland. That process has identified quite a number of traditional owner groups and we have seen a number of determinations in Queensland now. I think through the treaty process that will provide an opportunity

for people to come forward. It probably was talked about by the Treaty Advancement Committee as an opportunity for a real inclusive process for considering the location of the discussions and the history that has happened in the area with the different groups and people involved. I think there are going to be great opportunities to have those discussions.

Mr Kidd: To add one thing, the treaty negotiating framework is one of the first jobs of the institute to develop. I think that is a process that will help tease out how some of those mechanisms work and how parties group themselves or choose to group themselves together in terms of coming to the treaty table. That is probably another key function that we should mention, for the institute.

Mr BENNETT: I am just about inclusion. We want to make sure that all First Nations are included in the process. I guess we will develop that as time goes on.

Mr Kidd: Yes, that framework will be key. Certainly, again, that is one of the lessons from watching what is happening in Victoria about how that comes together, but there are much more complex arrangements here in Queensland, obviously.

CHAIR: Member for Cook, do you have a question?

Ms LUI: There are no further questions from me, Chair.

Mr SKELTON: I want to follow on from what the chair was talking about in relation to the Treaty of Waitangi. Referring to one of the submissions on the initial treaty and the translations between different languages and, I would also say, an intersection between our Commonwealth law and traditional law. Are we very cognisant of that so that we do not fall into the same pitfall?

Mr Kidd: It is a good point around languages. Languages are obviously a key part of the truth-telling journey of the state as well. It is one of the ways that people learn the true Aboriginal and Torres Strait Islander history of this state. Again, Denise is leading some work at the moment. We have a languages policy for the state but we are doing some work with the languages policy partnership under the Closing the Gap framework. We have some resources to do that. That sort of work definitely takes account of what is happening in the treaty and voice space.

Unlike New Zealand, as you can imagine, we have a more complex situation in terms of the number of languages in this state so that does add a level of complexity. It is critical for us to be cognisant of that and, wherever possible, try to work with language and take advice from the local groups as to how. We are looking a long way down the path here but, as treaties start to be negotiated, that local traditional owner group would like to give the guidance on how it should be respected in terms of the language. Denise, do you want to add anything to that?

Ms Andrews: As highlighted, we are part of the national language policy partnership arrangements. Also, in Queensland we have a unique scenario in that languages are a part of our Human Rights Act, which gives us a very strong foundation in taking that work forward.

Mr Kidd: Chair, if there is time at the end I do have a follow-up response to the question around the institute's budget.

CHAIR: Mr Kidd, would you like to address that now?

Mr Kidd: Just to clarify my earlier advice, there will be a review of the act in five years, but six months after the first two-year inaugural period ends the institute has to give an inaugural report. After that we will be reporting annually. Those reports will provide the opportunity for the institute to raise any funding issues and discussions with government around how the funding should flow and work.

CHAIR: Member for Maiwar, we have time for a quick question.

Mr BERKMAN: My question is around the advisory committees, noting that two will be established under the bill and there is scope for further committees as the institute sees fit. Do you have in mind any additional committees and is there any forethought around what those additional committees might do? Do the advisory committees overlap at all in terms of providing support or assistance to the inquiry as distinct from the institute?

Mr Kidd: As a general principle, they are focused on the institute, but as a broader point it is not a very firm line between the overall work in this space. Truth-telling is a key component of the Path to Treaty journey so it is hard to draw arbitrary distinctions there. I think in some respects there is relevance of that work to the truth-telling conversation, but those two subcommittees are very much designed to support the work of the institute. Our colleagues from the interim body will probably talk more to this. I know Mick Gooda, for example, has a lot of input in terms of those committees. I might check with Tony on the other sorts of committees that were canvassed in the conversations.

Mr Cheng: Not so far. There are only those two as in the bill, which came again from the TAC report as recommendations. We did make provision so that if another advisory committee is required in the future then the institute is well able to set them up.

CHAIR: That concludes our time together this morning. Mr Kidd, there was just one question for follow-up around the communication strategy. Could you provide that answer by 20 March, if possible?

Mr Kidd: Sure, so any communication materials we can provide to support.

CHAIR: That would be good. That concludes our briefing. As I mentioned earlier, on behalf of the committee I thank the department for your great leadership. It is absolutely essential that we have strong leadership at the Public Service level. Mr Kidd, thank you for all that you do in that area. Thank you to our Hansard reporters, as always. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I now declare the meeting closed.

The committee adjourned at 10.29 am.