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 (via teleconference)

Staff present:
Ms L Pretty—Committee Secretary
Dr S Pruim—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE PATH TO TREATY BILL 2023

TRANSCRIPT OF PROCEEDINGS

Monday, 27 March 2023

Brisbane

MONDAY, 27 MARCH 2023

The committee met at 9.05 am.

CHAIR: I declare open this public hearing for the committee's consideration of the Path to Treaty Bill 2023. I would like to respectfully acknowledge the traditional custodians of the land on which we meet this morning and pay my 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 now share. I acknowledge my colleague Cynthia Lui, the member for Cook, the first Torres Strait Islander to be elected to any Australian parliament. It is very good to have you here, Cynthia. I also acknowledge Aunty Geraldine Atkinson, co-chair of the First Peoples' Assembly of Victoria. I acknowledge your custodianship of our great land.

On 22 February 2023 the Hon. Annastacia 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 the Community Support and Services Committee for detailed consideration. The purpose of today is to assist the committee with its deliberation and examination of the bill. I am Corrine McMillan, the member for Mansfield and chair of the committee. I have here with me Mr Stephen Bennett MP, the member for Burnett and deputy chair; Mr Michael Berkman MP, the member for Maiwar; and Ms Cynthia Lui MP, the member for Cook. Dr Mark Robinson MP, the member for Oodgeroo, sends his apologies. Mr Rob Skelton MP, the member for Nicklin, is on the phone.

The committee's proceedings are proceedings of this parliament, and the standing rules and orders of the parliament will apply. The proceedings are being recorded by Hansard—thank you, Hansard—and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present should note that it is possible you might be filmed or photographed during the proceedings by media and that images may also appear on the parliament's website or on 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 member may be excluded from the hearing 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 5 pm on Monday, 3 April 2023. The program for today has been published on the committee's webpage and there are hard copies available from committee staff.

ATKINSON, Ms Geraldine, Co-Chair, First Peoples' Assembly of Victoria (via teleconference)

SCHOKMAN, Mr Ben, Head of Policy and Negotiations, First Peoples' Assembly of Victoria (via teleconference)

CHAIR: Thank you for appearing before the committee today. I ask that you make a brief opening statement, after which I am sure committee members will have great interest in asking some questions.

Ms Atkinson: Thank you very much. My name is Geraldine Atkinson. I am a proud Bangerang and Wiradjuri woman. I am from the north-east of what is now known as Victoria. It is beautiful country that flanks the Goulburn and Murray rivers. I too would like to acknowledge the traditional owners of the lands we all are meeting on today. I am currently on Bangerang country. I pay respects to traditional owners and their elders past and present. I would also like to acknowledge and pay my respects to the traditional owners of the various lands on which we all are meeting today.

I am co-chair of the First Peoples' Assembly of Victoria along with my fellow co-chair Marcus Stewart. The assembly is the independent and democratically elected voice of first peoples in the Victorian treaty process. Unfortunately, Marcus is not able to attend today but I am joined by Ben Schokman, who is head of policy and negotiations at the assembly.

I thank the Community Support and Services Committee for your invitation. It is an honour to speak with you today. Congratulations on taking these significant steps towards treaty in Queensland. I would like to acknowledge the Treaty Advancement Committee co-chairs, Dr Jackie Huggins and Mick Gooda, as well as the Minister for Aboriginal and Torres Strait Islander Partnerships, Craig Crawford.

I will begin by providing some introductory comments about establishing the role of the First Peoples' Assembly, how our members are elected and how we engage with community. At the outset I emphasise that our work in Victoria has been driven by genuine self-determination. Our communities have led this. They are the architects of the treaty process in Victoria and, as the elected representatives of the assembly, we have built the treaty elements to their design. Importantly, we are working to achieve structural change. We are the first people in Victoria making the decisions that affect our lives. After I have provided some introductory comments, Ben and I are happy to answer questions from the committee.

Today, I am obviously sharing our experience from Victoria. I acknowledge that Queensland will develop its own processes and that both processes will be self-determined by and led by the Queensland mob. Here in Victoria we have been taking a stepping stone approach to establishing treaty. Some steps have been gradual; others have felt like leaps. The community has been with us on the whole journey and has provided us with the strength to get things done.

The assembly has been independent and self-determining from day one. This has really empowered us to act boldly and take significant steps towards treaty making here in Victoria. The assembly's independence, our ability to self-determine our own structures and establish a new relationship with the Victorian government has led us to achieve some big things such as our own truth-telling process down here, which is the Yoorrook Justice Commission, and our work and advocacy on the stolen generations reparation package. These achievements are just the beginning and we have big things planned for our mob's future.

I would like to set the scene with a bit of context about our organisation, our elected First Peoples' Assembly. Our journey started with the establishment in January 2018 of the independent Victorian Treaty Advancement Commission led by Commissioner Jill Gallagher AO. The Victorian Treaty Advancement Commission was tasked with the important role of leading the engagement, design and establishment of the assembly as a statewide Aboriginal representative body. In June 2018, the Victorian parliament passed the Advancing the Treaty Process with Aboriginal Victorians Act, or the treaty act—Australia's first ever treaty legislation. The treaty act established the framework for negotiating the three key treaty elements: the treaty authority, the treaty negotiation framework and the self-determination fund.

Though we now have bipartisan support for treaty in Victoria, at the time of enactment it was a different story. While the legislation was supported by the Labor government and the Greens, the opposition parties—the Liberals and the Nationals—did not support it. I am proud to say that, through our focused engagement and track record of achieving results, we have many more supporters and allies at this point. We now have bipartisan support from the political parties. Bipartisanship has been an important aspect of the success of the Victorian journey towards treaty to date.

The foundation of the assembly's establishment, together with the pathway provided for in the treaty act, have enabled the assembly to be bold and brave. Informed by the voices and aspirations of our mobs, the assembly works with the Victorian government to establish the architecture for treaty negotiations. The first element, the treaty authority, will act as an independent umpire that will oversee treaty negotiations. The treaty authority that we agreed with the state is a novel legal entity that ensures the umpire will be independent of both the assembly and the government and will uphold Aboriginal lore and cultural authority during treaty negotiations.

The second element that I mentioned is the treaty negotiations framework. The framework sets out the ground rules for negotiating treaties, both a statewide treaty and individual owner treaties. The framework has been designed with self-determination at the core and establishes the basis for a new relationship with the Victorian government. The final treaty element is the self-determination fund, which will be First People owned and controlled. Initially the treaty fund will provide a more equal playing field to assist our traditional owner groups to be treaty ready. In the longer term the fund will be used to help our people to create economic independence and prosperity.

Throughout the treaty process to date we have been clear that treaty must be fundamentally different to other legislative processes such as native title processes and current ways of working between traditional owners and government. While there is still a long way to go in the treaty process, First Peoples in Victoria now have a voice and the means to communicate, negotiate and advise the Victorian government on matters affecting our people.

As I mentioned at the start, the assembly is the independent and democratically elected voice for First Peoples in the Victorian treaty process. It is mob, not government, who decide who represents community in the Victorian treaty process. We have 31 members on the assembly who are all traditional owners of country in Victoria and elected by our communities. We have a hybrid model of general seats and reserve seats on the assembly. All traditional owners of country in Victoria can nominate for election to our general seats, while the reserve seats are allocated for traditional owner groups with legal recognition under state or federal legislation.

The assembly has established our own electoral roll, which was designed after intensive consultation with communities about how our people would like to be represented. People must be First Peoples and living in Victoria to be eligible to enrol on the electoral roll, and those over the age of 16 can also vote in the election. Our next elections will be coming up in May and June of this year.

The assembly has also created a new pathway for traditional owners who do not have the formal state recognition to be able to apply for a reserve seat on our assembly. If a traditional owner group can meet certain criteria then they can apply directly for a seat without having to undergo the government's protracted and onerous legal process to gain formal recognition. The reason for creating this application process is that we do not want to be restricted by colonial ways of doing business. We do not rely on government recognising us as traditional owners; our mobs decide who mob are. As you can see, the assembly process has been designed by First Peoples. This is article 18 of the UN Declaration of the Rights of Indigenous People in action: First Peoples designing our own political representative structures and ensuring that the assembly is as inclusive as possible for all First Peoples in Victoria.

As a democratically elected representative body, all of our work is determined by our communities. As I have mentioned, assembly members are elected by their communities. This means that members have the responsibility to meaningfully engage with the communities they represent and as a result are always yarning with community to make sure they are representing communities' views on the decisions they make.

In addition to members' responsibilities, the assembly undertakes extensive community engagement such as yarning circles, online engagement and other events. We have also had a treaty survey as another way for mob to have a say on treaty. Since before the assembly was established, community members have been clear that the road to treaty must benefit from the cultural wisdom, authority, guidance and oversight of our elders. I am proud to say that the assembly has worked hard to incorporate and establish an elders voice and also, more recently, a youth voice because we know that assembly decisions and discussions must be informed by those important groups in our communities.

I also want to say that the assembly played an important role in engaging with the Victorian population more broadly. The assembly is a living example of the strength, leadership and wisdom of First Peoples and demonstrates the benefits that treaty making will provide for all Victorians, just not Aboriginal communities. Importantly, the Victorian government is also responsible for engagement and educating all Victorians about the treaty process.

I want to thank you for the opportunity to share with you some of the important work that we have been doing on the pathway to treaty here in Victoria. I really want to reiterate the importance of self-determination and ensuring that the treaty process and the representative structures of First Peoples are led by First Peoples. Even in the short time since we began this journey here in Victoria, we have seen the benefits of what this independence and self-determination has meant for our communities. We have been able to establish a strong, independent, self-determined representative body. We have been able to negotiate with government and agree on the landmark model and the basis for treaty negotiations to take place on a more level playing field—and guess what: the sky has not fallen in. It is quite the contrary. First Peoples in Victoria are taking steps towards empowerment and being able to self-determine our own futures and we are bringing all Victorians along on the journey with us. I want to thank you once again and I look forward to your questions.

CHAIR: Thank you, Aunty Geraldine, for your comprehensive opening statement. I know the committee has many questions so I will turn to the deputy chair of the committee, Mr Stephen Bennett.

Mr BENNETT: Morning, Aunty Geraldine, and thank you so much for your time. We are very young and green in our process, but one of my initial observations as we travelled around the state to start the process is the confusion around native title and what seems to be some divisive and complicated issues that confront a lot of our traditional owner groups. Has the native title issue been one of the hurdles you have encountered as part of your processes to date?

Ms Atkinson: It has not been. We have not really had huge success with native title here in Victoria. There have only been, I think, about two to three determinations so it has been a real difficult process. As I said earlier, we have taken into consideration those traditional owner groups who do have native title and they are represented on our First Peoples' Assembly.

Ms LUI: Thank you, Aunty Geraldine, for your time this morning. Last week we did community consultation across various communities in Queensland. In public forums and submissions to the public consultations we have heard concerns around engagement, and I was wondering how the First Peoples' Assembly of Victoria engages with First Nations people.

Ms Atkinson: When we were first established we had a difficult time because it was at the beginning of COVID, so it really made it difficult for us to get out and connect with community. What we were able to do was go online. We were doing forums. We had engagement project officers that would work in communities to ensure that what we were doing was making it possible to have that engagement occur. It was really one of the most important things that we first began with—making sure that what we did was community engagement and making sure that we consulted with community.

We have been able to do a lot of, as you said, going out throughout the state, having meetings and engaging—this is after COVID as well—making sure that we were getting out and being seen in community and making sure that every step of our journey has been a step that we have consulted community on, that we have not just sat as an assembly council and made those decisions. It was really important that our members talked to their communities about what community saw and was important within that treaty journey.

Mr BERKMAN: Thank you so much for your time this morning. I wanted to draw out one key difference in how we will have to manage the process here in Queensland compared with Victoria—that is, the sheer number of traditional owner groups and language groups in Queensland compared with the situation in Victoria. The way our treaty institute council will be established is by appointment of members on the recommendation of the minister. This contrasts pretty directly with the election of membership, those 21 general seats, to the assembly in Victoria.

Ms Atkinson: Yes.

Mr BERKMAN: I am interested in your view on what issues that might present for us in Queensland around genuine representation of the diversity of traditional owner groups and voices and how the institute might deal with that.

Ms Atkinson: It probably will be difficult, but I think it is really important—I think you said you have started those consultations with community—that you reach every corner of your state. That is what we were able to do. I have travelled so much throughout the state having yarns and talking with people about how they thought their representative body would talk on their behalf. I think those consultations and those meetings with traditional owners and those other language groups are a really important step, because that determines exactly what it is that community wants in your process there in Queensland.

CHAIR: As previous members have indicated, we have spent the last week travelling throughout Queensland and talking to communities, whether they be regional, remote or city based. One of the challenges is how we engage non-Indigenous Queenslanders. Can you offer any advice around the process that you used in Victoria? Obviously their support is really important. Can you comment around that?

Ms Atkinson: Yes, I will, and it really was an important part of our process. We also did not just talk to Aboriginal communities; we talked to the wider community, the Victorian population. I spoke to so many groups from the wider community and made sure that we were including them, that they were aware of the process we were establishing. It was multicultural groups we spoke to. We spoke to the Country Women's Association. We spoke at forums. There was a lot of talking—a lot of giving of information about what it was we were developing on the road to treaty. We were bringing them along with us.

I have met that many politicians. We have talked to so many politicians out in their electorates to ensure that what we were doing was informing them of just how being engaged in the treaty process will be of benefit to their constituents—not only their Aboriginal constituents but every constituent—and assuring them that, as I said before, the sky would not fall in. They knew what was occurring in Aboriginal communities in their electorates so it was really important to assure them that this step was about making sure that we were going to get the outcomes we wanted that would improve the lives of all Aboriginal and Torres Strait Islander peoples living here in Victoria.

CHAIR: That is good. It is just that a number of First Nations community members spoke of the risk of further racism by non-Indigenous Queensland if they were not educated and taken on the journey. The last thing we want here in Queensland is to reprosecute the hurt of our First Nations communities.

Ms Atkinson: I can understand that. As I said before, that was really important, and we have had that in Parliament House. Although we had bipartisan support, we listened to individual members who did give some racist comments. It is about talking to people and talking to the majority, and that is what we were able to do and that is what needs to happen. It needs to be ensuring that enough information is going out about how this is going to change Aboriginal and Torres Strait Islander lives. I think the people understand that, on the whole. We spoke to the Country Women's Association and we had opinions about them and thought they may have different views, but all they wanted to ask was, 'How can we help you?' It is really important that you talk to groups and ensure you get allies and champions on your side who will be able to ensure you have the support of the wider community.

Mr BENNETT: I am curious about the assembly's make-up; it is a numerical formula that you have. One of the observations from last week was the role of young Indigenous people in their community having a say. Has that been considered in negotiating or representation on the assembly?

Ms Atkinson: Yes. It is really important, and that is one of the things we have been doing. Our engagement project officers are having youth forums. We get out to First Nations youth and talk to them about what it is that they want. I can tell you that it has been so encouraging. The more information you give our youth, the more they will understand and the more they will come and follow you on the journey. I have been to those youth forums here in Victoria and they were fantastic about engaging with youth.

I talked earlier about having an elders voice to speak on behalf of the elders here in Victoria—that they would talk to us about goals and everything in relation to treaties. We have had elders voice forums out in community, and then we decided we needed to also include youth because they are the ones who are going to benefit. They are the ones who will be making those decisions. They are the ones who will be involved in that self-determination design that we think is so very important. It is really important that you bring your youth along on this journey.

CHAIR: They never disappoint, do they. Aunty Geraldine, thank you for your time this morning. We appreciate your insight. The committee may reach out to you in the coming weeks, and I would love that opportunity to chat again. We encourage you and support you on your future journey with a path to treaty. We appreciate your insight.

Ms Atkinson: Thank you for having me. I wish you well on your journey towards treaty in Queensland.

CORKHILL, Ms Heather, Senior Policy Officer, Queensland Human Rights Commission

McDOUGALL, Mr Scott, Commissioner, Queensland Human Rights Commission

CHAIR: I welcome representatives of the Human Rights Commission who have been invited to brief the committee. Thank you for appearing before the committee. I acknowledge your work in the Path to Treaty here in Queensland over many years and also the support that you afford around a whole range of social issues and issues that impact on the lives of Queenslanders every day. I invite you to make a brief opening statement, after which committee members will have many questions.

Mr McDougall: Thank you for the opportunity to provide evidence to the committee in response to this historic bill which offers all Queenslanders an opportunity to be part of a transitional justice process. Today I am joined by senior policy officer Heather Corkhill, and I wish to thank all of my First Nations staff at the commission for their considered input into our submission.

In making our comments today, we are mindful of the historic significance of this bill and also respectful of the work of the Treaty Working Group, the Eminent Panel on Queensland's Path to Treaty, the Treaty Advancement Committee and the Interim Truth and Treaty Body. I acknowledge the traditional owners of the country where parliament sits and pay my respects to their elders past, present and emerging. I would also like to acknowledge the member for Cook, Cynthia Lui, other First Nations members of parliament and all Aboriginal and Torres Strait Islander people who have asserted their right to self-determination.

I think it is important that we reflect on the fact that we are here today talking about this historic bill because, in the words of the bill's preamble, the colonisation of Queensland occurred without the consent of Aboriginal peoples and Torres Strait Islander peoples, who continue to assert their sovereignty. I do not propose to repeat in detail what we set out in our written submission but rather to set out some of the commission's key concerns, some of which I note have already been borne out in some of the submissions and evidence provided. I therefore urge the committee to carefully consider the submissions of First Nations representatives and be prepared to recommend amendments to the bill in making your report to parliament.

Our first concern is one of timing—both in the time allowed for the scrutiny of this bill and the three-year time limit proposed for the conduct of the inquiry. While I appreciate the important work that has led to the preparation of the bill, a piece of legislation of such significance to Aboriginal peoples and Torres Strait Islander peoples demands more careful scrutiny and analysis than can be undertaken in the few weeks that have been provided for the making of submissions and the conduct of the committee's hearings.

A genuine commitment to reframing the relationship between the government and First Nations communities should reflect the importance of allowing adequate time to consider the foundational terms governing these two distinct and important treaty and truth-telling processes. The time frame of three years to complete the inquiry is ambitious, if not unrealistic. Notably, the Yoorrook commission in Victoria has sought a two-year extension beyond its three-year time frame. Given the much greater size, cultural diversity and different historical and contemporary experiences of Queensland communities, it is apparent that a five-year period would be more appropriate and would reduce the risk of disengagement by communities that feel pressured into fitting within a time frame.

Our second concern is about the powers of the inquiry. I appreciate that the Eminent Panel were understandably keen to avoid a legalistic, royal commission type approach to the inquiry or a long inquiry that would lose its focus and momentum. It is, however, important that the inquiry hold the necessary powers to properly perform its functions. Unlike the Yoorrook commission, which holds the powers of a royal commission, the bill only provides Queensland's inquiry with the powers to compel a government entity to provide information. As pointed out in our submission, there may be other entities—such as religious bodies or individuals in possession of historic diaries, for example—that the inquiry may need to compel in order to do its job of truth-telling.

Another major problem with the proposed powers of the inquiry stems from the definition of 'government entity' in schedule 1 of the bill, which relies on the definition in section 276 of the Public Sector Act. Subsection (2) of that section specifically excludes a number of entities, including the Queensland Police Service, local governments and universities. Given the central role of the Queensland Police Service in the brutal colonisation of Queensland and, again, using the words of

the preamble, the devastating and ongoing impact of that colonisation on Aboriginal and Torres Strait Islander people, it is fundamentally important that the inquiry have the power to compel the Queensland Police Service to participate in the inquiry.

Finally, another technical issue that we identified after making our submission arises from clause 73(2), which requires the presence of all five members of the inquiry in order to conduct a truth-telling hearing. We respectfully suggest that such a rigid requirement is impractical and will unduly constrain the inquiry in performing its functions efficiently. I note in this respect my understanding that the Yoorrook commissioners have divided up many of their hearings between commissioners, operating with a quorum of two members.

To finish, we commend the Queensland government for taking the initiative to introduce this historic bill and we respectfully urge the committee to carefully listen to and act upon the submissions to ensure that Queensland's truth-telling and treaty processes are underpinned by laws that will deliver transitional justice for the Aboriginal peoples and Torres Strait Islander peoples of Queensland.

CHAIR: Thank you. You raised some very important issues throughout your submission and your statement this morning.

Mr BENNETT: Going on from your concerns about the truth-telling inquiry time frames, you also make a recommendation that there should be some sort of review after 12 months. What do you think that should look like and what are your thoughts behind that?

Mr McDougall: An independent review is a common feature in legislation. It is unusual to have it after 12 months, but I think that is reflective of the fact that, even though a lot of work has been done by respected people, as I mentioned, in the lead-up to the bill, the actual consultation on the terms of the bill has not been adequate, in my view. That was the driver behind that recommendation of 12 months. It would be just to make sure that the commission does in fact have the powers it needs to go about its business in performing its functions.

Mr BENNETT: With respect to the role about making sure the inquiry and the institute are completely separate of government, is there a risk that having a statutory review process would bring it back into the mix a bit? We want to make sure that First Nations people remain focused, as well as non-Indigenous people.

Mr McDougall: I agree with the sentiment that it would not be ideal to be disrupting a process after 12 months, but if the matters that we have raised were addressed and other matters that have been raised by other submitters were addressed then maybe there would not be a need for such an early review.

Mr BENNETT: I agree with your sentiments about how the function can operate. After travelling around the state last week, we believe it is going to be a mountain of work to engage, just geographically, if we do not get clever about how we engage with these 150 TOs and 500 language groups. Thanks for making those comments.

Ms LUI: Clause 6 of the Path to Treaty Bill refers to the importance of self-determination, and we heard the previous speaker talk about self-determination and how important it is. Could you speak to self-determination in the context of this bill?

Mr McDougall: I think there are other First Nations people you will hear from about the importance of self-determination. The important point I would make is about the human rights, and it is good that the Human Rights Act has been acknowledged in the bill. The Human Rights Act of course stands alone as a piece of legislation and binds the government and all public entities. It is important to recognise that the right to self-determination is not currently protected by the Human Rights Act. Whilst it is acknowledged in the preamble of the Human Rights Act, it is not actually a protected right, and this bill does not change that. I would like to think that at the end of this process—that is, the treaty process—there would be no question about the right to self-determination being protected in Queensland.

Mr BERKMAN: We really appreciate your time this morning. I am interested in the point you made about the powers of the inquiry, particularly to compel participation and the provision of materials by not only QPS but also a broader array of organisations. You might not have seen this because we only published it this morning, but the department's response in relation to QPS was that they will further consider this issue given that the intent was for those powers to apply. Can you make any comments for the committee on exactly how the bill could or should be amended to cover both QPS and whatever broader range of organisations—such as faith-based organisations—it should apply to?

Mr McDougall: I might let my colleague answer that one.

Ms Corkhill: When we arrived we received a copy of that response. The first thing in relation to the Queensland Police Service is: that is a fairly quick amendment. Under the Human Rights Act, for example, it lists what is a public entity and it simply has an extra line which is Queensland Police Service, so that is a very quick fix. The other concern I had in relation to the response is that there are other entities we mentioned, particularly churches, for example, that ran missions. There are many government service providers and NGOs that the inquiry may want to investigate in terms of some of their past actions and it may want to perhaps ask them to attend or produce information. That to me has not been satisfactorily responded to. It simply says that it was considered by the ITTB. I am not quite sure what the justification is for confining it to only government entities. That is still an issue for us.

Mr BERKMAN: Is there a simple example—maybe it is not that simple—of provisions that would provide that breadth of power to the inquiry, a power similar to a royal commission you mentioned in your opening statement with reference to the Yoorrook Justice Commission? Is there anywhere you could point the committee or the department to in reconsidering the breadth of that provision?

Ms Corkhill: Commissions of inquiry legislation would be the obvious first place to look, but we have not looked in great detail to indicate what exact powers you would want. We understand there is a balance here where there was an intention not to become an adversarial and legalistic process. Perhaps you would not want all of those powers that are set out in commissions of inquiry legislation. The point is to have that available if it is absolutely necessary and in the rarest of circumstances and with compulsion powers. It is not necessarily that you even need to use them; it is just the fact that they are there that would be of assistance to the inquiry.

CHAIR: Has the commission lent any consideration to the period of how often treaties with particular clans or traditional owners should be reviewed once established?

Mr McDougall: No is the short answer to that question. Obviously that would be a matter for the parties negotiating the treaty. There would definitely need to be a constant review mechanism because treaties do not end on their signing, of course.

CHAIR: Yes, absolutely.

Mr BENNETT: One of the things that has become really obvious to me is that we are going to have to deal with the high rate of incarceration at some point. Heaven forbid we get that right. The exclusion of participation under this bill as well as across traditional owner groups is just horrendous. Are you able to enlighten the committee about some of the concerns you raised in your submission about the exclusion of certain traditional owners or members of the institute in participating in the process? It is blue cards, it is employment, it is everything; it just goes on and on. I am interested in further comments on that.

Mr McDougall: In terms of qualifying for membership of the—

Mr BENNETT: Indictable offence.

Mr McDougall: I do think it is important that the basis for excluding anyone be very narrow, and our submission did make suggestions in relation to that. It is really important. We do see it. The blue card example is a very good one. The right to participate in government processes is a human right. We do hear far too often about Aboriginal and Torres Strait Islander people who have so much to offer, who hold a lot of cultural authority within their communities, but they are locked out of formal government processes. It is really important that this bill takes the time to get that right so that we have the people who do have that cultural authority participating in the process.

Mr BENNETT: Your submission did talk about public servants who can remain gainfully employed and providing services to Queenslanders with a similar offence background.

Ms Corkhill: I do not believe we said that in particular. We were saying there is a much less restrictive way to do this, which is not absolute disqualification just because someone has an indictable offence. It could have been 30 years ago and that person is now a respected community member. We are just saying that a less restrictive way to do it is simply make criminal history a consideration amongst others in appointment of members to the council.

Mr BENNETT: If I can put you on the spot, are public servants able to participate as public servants in Queensland with an indictable offence background? If you are not able to comment, please do not.

Mr McDougall: I would have to take that on notice, sorry.

Mr BENNETT: We might do our own work on that, but thank you. I was just curious about the analogy of separations.

Ms Corkhill: I might add on that point that I have just had a look at the response on this point as well. It says that the decision was basically in keeping with other Queensland legislation, so it is for consistency I suppose. We would make the point that this is unique legislation. It is a representative body entirely composed of Aboriginal and Torres Strait Islander members and it really needs a bespoke approach considering the historical and ongoing over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system.

Ms LUI: Last week we heard from different communities about several groups being displaced in communities or displaced from their traditional land over many generations. From a social justice perspective, I am hoping to get your views about how we better engage those people who are not connected to their traditional lands. How do we get them engaged in the consideration and in meeting their human rights demands?

Mr McDougall: In my experience working for various Indigenous organisations, particularly in the area of native title, a constant issue that has to be addressed is the rights of historically associated people who are often displaced and ensuring that, notwithstanding native title rights, the cultural rights that they possess are also properly recognised and protected. That will be something for the inquiry to contend with but it will also be for the treaty institute to contend with. I would imagine that both those bodies would be looking at their guidelines to ensure there are adequate processes and consultation mechanisms in place to ensure they do pick up all those people and have their voices heard as well.

Mr BERKMAN: At the risk of asking a painfully broad question, beyond those issues you have raised in your submission and this morning, are there other issues that you would like to see addressed by this bill or other elements of the process that you think could enhance the efficacy and success of the two bodies going forward?

Mr McDougall: I might start and let my colleague add to it. As I mentioned at the very beginning, this ought to be a transitional justice process. Our concern would be for the inquiry to be dominated by Indigenous witnesses, with an expectation that they have to carry the load of this transitional process. This is why I think it is vitally important that local governments not only be able to be compelled but also be appropriately resourced to participate fully in this process. Ideally, this inquiry process would engage local communities at the grassroots level—local historical associations getting really involved in discussions at a civic level and genuine appreciation of local history. I can tell you that the ignorance within the broader Queensland community about what actually occurred in Queensland in the 1800s lies at the root of so many problems that we see playing out day to day on the streets. This has to be a transitional justice process and it requires the involvement of the entire Queensland community at all levels.

Ms Corkhill: I would probably add—and this may be something more for the implementation stage—that we need to ensure there is proper resourcing as well as advocacy and legal services, mental health supports, cultural supports and access to interpreters. I also note that First Nations people are being constantly called on to share knowledge and expertise and often for no compensation. That includes many unpaid volunteers and NGOs. They really should be properly compensated for that work and for the wraparound support that will be needed for people to approach and be included in the inquiry processes. There need to be adequate remuneration and supports to ensure that participation can occur in a meaningful way. Part of that is going to be gradually building trust in people about the inquiry, that this is something worthwhile to be involved in and invested in. That goes again to why we feel the time frames might need to be extended for that to occur.

CHAIR: Commissioner, you made reference to the atrocities that happened to our First Nations Queenslanders during the 1800s. As we all know, the impact of colonisation has existed for 235 years and still exists today. In relation to the intent around the length of the inquiry period, my understanding is that, given there has been a delay or waiting period of 235 years, the intent is to not drag it on any longer than our First Nations Queenslanders have already waited for. Secondly, the impact of the Truth-telling and Healing Inquiry will be incredibly traumatic for First Nations Queenslanders especially but also for many non-Indigenous Queenslanders. If you are suggesting that that period of the inquiry be extended, how long would that be? Have you given any consideration to the ongoing impact of such a brutal and heart-wrenching experience for our First Nations Queenslanders?

Mr McDougall: As I mentioned before, we think a five-year time frame would be more realistic. No doubt you would have got a taste last week on your trip of not just the logistical challenges the inquiry will face but also the level of education and preparation work that will be required in

communities for the community to actually understand what the process is about and then be willing to participate in it. We do hold concerns that there is a risk that some communities—which will be waiting and watching to see whether or not it is a fair dinkum process—may not engage if they think this is not serious or their decision-making processes are not being treated with respect. I am just speculating, but I do think that is a real risk. In places like Mount Isa, for example, there are people for whom English is their second or third language. That is an issue in itself that I do not think has presented in Victoria. There are lots of reasons it would be more realistic to think that a five-year time frame is important.

The second part of your question was about the support available to participants. I did see the Queensland Mental Health Commission's submission and the recommendation that specialist units of Aboriginal and Torres Strait Islander professionals be on duty to support people throughout the process. I think that was a very good recommendation, and, again, I am sure that the treaty institute and interim body are well alert to that. There are references in the bill to those aspects, so I am confident that would happen. There are a lot of lessons that I think inquiries in Australia have learned in recent years. I am thinking of the establishment of the knowmore legal service, which played an important role during that royal commission. Yes, as I mentioned earlier, I well appreciate the concern about the risk of an overly legalistic process dragging on for years. No-one wants that, but we do have to recognise that this is a major transitional justice exercise and it deserves to be done properly.

Mr BENNETT: We spoke about the issue of the wider community, and I guess the role of the Human Rights Commission is to disseminate human rights issues across Queensland. What role do you believe you will play in making sure this process is the success that we all hope it can be?

Mr McDougall: That is a good question. The commission obviously supports and promotes the right to self-determination. This is obviously an exercise in that. As I mentioned earlier, hopefully at the end of the treaty process that right will be protected in Queensland law. We stand ready to assist in any way that we can. As it presently stands, our functions will remain as they are, which is promoting knowledge and awareness of human rights.

CHAIR: Thank you, Commissioner and Ms Corkhill, for your time this morning. The committee always values your contribution. We thank you for your work not only for our First Nations communities but also for other vulnerable members of other communities throughout Queensland and the work you do every day. We wish you a good day.

APANUI, Mr Joshua, Legal Policy Officer, Queensland Law Society

KOPILOVIC, Ms Chloe, President, Queensland Law Society

O'CONNOR, Ms Lyndell, Co-Chair, First Nations Legal Policy Committee, Queensland Law Society (via teleconference)

CHAIR: I now welcome representatives of the Queensland Law Society who have been invited to brief the committee.

Ms Kopilovic: Thank you for inviting the Queensland Law Society to appear at this hearing today on the Path to Treaty Bill 2023. Before we open I would like to respectfully acknowledge the traditional owners of the land on which this meeting is taking place, Meanjin land, and country north and south of the Brisbane River. We pay our respects to elders past, present and emerging.

The Queensland Law Society is a peak professional body for the state's practitioners. We represent over 14,000 solicitors. We offer representation, support and education. We are an independent, apolitical organisation upon which government and parliament can rely to provide advice which promotes good, evidence-based law and policy. QLS is committed to reconciliation and recognising the perspectives of both Aboriginal people and Torres Strait Islander people, including First Nations lawyers.

QLS today supports this bill in principle. We have had the opportunity to review the submission from the Queensland Human Rights Commission and we endorse their views. I am joined today by Lyndell O'Connor, who is the co-chair for the First Nations Legal Policy Committee. She will be joining us online. I am also joined by Joshua Apanui, who is our legal policy officer with the Queensland Law Society. We invite you to address any questions you may have of us.

CHAIR: Thank you very much. I will have over to our deputy chair for his first question.

Mr BENNETT: I am just curious if you can give us some examples. You raised it in 2019, as I understand it, when the initial concept was put forward, and you have raised it again in your submission about the cultural frameworks and how you want those seen as a utilising primary tool. Are you able to give us some context around what we as a committee could expect to see as a cultural tool?

Ms Kopilovic: I will let Lyndell address that question. She probably has more of an in-depth knowledge because she was involved in that submission in 2019.

Ms O'Connor: I might hand that one over to Josh, if that is okay.

Mr BENNETT: You talk about legal methods and standards that should be adopted, and I am just curious about some simple examples for the committee's benefit.

Mr Apanui: It is more along the lines of embedding cultural frameworks in the context of not necessarily like the bureaucracy kind of setup, so to speak.

Mr BENNETT: For example, I have spoken before about the disproportionately high number of Aboriginal and Torres Strait Islanders who are incarcerated. Would a cultural framework embedded in this process help with more local custom and dealing with issues on country or within the community? Instead of automatic incarceration, are we talking about the issue of cultural frameworks being that maybe there is a local solution when somebody may have committed an offence?

Mr Apanui: There is always that as such. With respect, it is more or less the government's top-down approach, so some of the frameworks they try and implement are not necessarily based on cultural frameworks. For instance, it could be that there are a lot of tiers, a lot of levels, in the bureaucracy as opposed to a yarning circle, where everyone is on the same level. Does that make sense?

Mr BENNETT: Yes.

Ms LUI: Does the Queensland Law Society have a view on how members should be selected to the Truth-telling and Healing Inquiry?

Ms O'Connor: The Law Society's view is that self-determination should be upheld in relation to selecting members for the council—essentially not being a process that is controlled by the government.

Mr Apanui: I think the New South Wales land council has a good, democratic process whereby regional areas vote their members in. It is similar to the democratic process of electing councillors every three or four years. You can approach it in a way that is similar to the New South Wales framework.

Ms LUI: Given that there will probably be only a certain number of people sitting in the institute or on the board, can you speak to the issue of representation? Given that Queensland is a large state that is very diverse, how do we engage all of our communities across the different traditional owner groups to have good representation when there is only a small number of people?

Mr Apanui: I envision that the government will set a basic framework for a treaty and then First Nations will have a treaty between each other and themselves in a broader context as opposed to what appears on the face of it to be oversight from the government and the minister, who appears to have a little bit of discretion.

CHAIR: I acknowledge the member for Oodgeroo, who has arrived.

Mr BERKMAN: I want to turn to the issues of resourcing that you have raised in the submission. You have touched not only on the overall funding provided for the institute under the Path to Treaty Fund but also on the question of resourcing for participants in the inquiry. Similar issues were raised by the Human Rights Commissioner. How do you see that those issues could be addressed, either through the bill or subsequently in the implementation phase? I am specifically interested in compensation or remuneration for participants in the truth-telling inquiry.

Mr Apanui: As I understand it, $300 million will be established through the fund. It was recommended in the Treaty Advancement Committee report that the annual allocation be $10 million, considering the need for specialists. The explanatory notes and a few reports have discussed psychological harm and the need for specialists. Will they be available throughout the process of the inquiry itself—not necessarily the treaty institute? It carries on through that aspect. Will they be remunerated from this fund? It is unclear. Will it be enough, on an annual basis?

Ms Kopilovic: I have only been briefed on this bill this morning. As I understand it, obviously First Nations communities are always called upon for their time and knowledge perspectives. It generally has a personal and financial implication for them. We really need clarification on whether the contributors to the treaty process fall within the meaning of 'key functions' of the Path to Treaty. In regard to the allocation of the funds, it is unclear whether it is just to establish the institute or it includes treaty related activities. Will there be sufficient funds to call on people to provide their time and expertise to the process?

Mr BERKMAN: It is a fair question. Thank you.

Ms LUI: Is there anything else you would like to see included in the bill?

Ms Kopilovic: One of the points we have made in our submission is that the bill proposes a statutory body. The Queensland Law Society has some questions and concerns in relation to whether this is the most appropriate structure to be adopted. The TAC report has put forward different structures. The concerns that we hold in relation to the institute, or statutory body, that has been proposed is that it may ameliorate the rights and voices of First Nations people in time to come with future legislation, different governments et cetera. Whilst we support the bill itself in principle and the concepts that it puts forward, we do have some questions about whether it is, in fact, the most appropriate structure to be adopted moving forward. Did you have anything you wanted to add, Josh?

Mr Apanui: Three options were provided and a statutory body was recommended. Will any safeguards or mechanisms be put in place so that successive governments—with respect—do not come in and start changing the functions and the objectives of what will be put forward? In addition, a three-year time frame was put forward. We support the suggestion from the Queensland Human Rights Commission. That may not be sufficient, considering the impact colonisation has had.

Ms Kopilovic: In relation to the three-year time frame, it is fair to say that we have some concerns in relation to this period being too long. Obviously, that will take place over an election cycle and it does not institute and complete this target or objective within potentially a term of government, which means that it is subject to the scrutiny of, say, another government and another perspective.

CHAIR: Thank you very much to you both. You certainly raised some valid points.

Mr BENNETT: I have asked this question previously. The clause talks about participation if you have an indictable offence. Is that different from what a public servant would expect? Are there public servants providing services in Queensland who have convictions?

Ms Kopilovic: I am not in a position to answer. Josh or Lyndell, do you have any insight?

Ms O'Connor: It was difficult to hear the last part of the question. Was it in relation to whether there are public servants—

Mr BENNETT: Public servants who are currently employed who may have committed indictable offences. They may be providing great services; I am not passing judgement. My question is: is it the same or is there a different criteria for membership of the institute as opposed to being a public servant in Queensland?

Ms O'Connor: I think the crux of the issue is that First Nations people are disproportionately represented in the criminal justice system and there may be people who had issues with the criminal justice system when they were younger but who have moved towards being a very prominent member of the Aboriginal and Torres Strait Islander community. Their input is going to be very important and we would be remiss if we were not considering the perspectives of people who may have a criminal conviction.

Mr BENNETT: I understand that. My question is: are there public servants who are currently employed who have committed an indictable offence but who are not excluded from the process? I am trying to paint a picture that this clause is not such a good thing.

Ms Kopilovic: I do not think I understand your question.

Mr BENNETT: Are there public servants who are currently employed who have a conviction for an indictable offence?

Ms Kopilovic: I do not know. In terms of a public servant with conviction for an indictable offence—

Mr Apanui: Are they employed in the Public Service generally?

Mr BENNETT: Or are they excluded?

Mr Apanui: All jurisdictions or just Queensland?

Mr BENNETT: Queensland. This is a Queensland bill. That is fine. We might have to do some digging to find the answer to that question.

Ms Kopilovic: I do not think we would have data on whether there are any public servants in a position who have indictable offences.

Mr BENNETT: If I wanted to apply for a job in the [Public Service, am I automatically excluded if I turn up with an indictable offence in my back pocket? That is what I am saying.

Ms Kopilovic: I guess that would depend on the office that is employing you.

Mr BENNETT: All right, thanks.

Mr Apanui: On the one hand, we know that First Nations people are disproportionately criminalised. On the other hand, if you are culturally knowledgeable then you will not get an opportunity to try to redeem yourself in this process.

Mr BENNETT: I agree, and that is why I am trying to understand the differences that apply.

CHAIR: Sadly, our time together has come to an end. We thank the Queensland Law Society for the work you do to support a whole range of committees here at the parliament and certainly the work of the government of the day. We appreciate your time. We wish you a god day and thank you sincerely.

HOFFMAN, Mr Shane, Committee Member, Foundation for Aboriginal and Islander Research Action

MALEZER, Mr Les, Chairperson, Foundation for Aboriginal and Islander Research Action

CHAIR: I now welcome representatives of the Foundation for Aboriginal and Torres Strait Islander Research Action who have been invited to brief the committee this morning. We thank you immensely for the time you have given up in your busy schedule to brief the committee this morning. I ask that you make a brief opening statement, after which committee members, I am sure, will have many important questions for you.

Mr Malezer: Thank you, Madam Chair, and thank you committee members. I would like to begin by acknowledging Aboriginal peoples—the traditional owners of the land on which we meet—and honouring and respecting those people and our ancestors. The Foundation for Aboriginal and Islander Research Action, FAIRA, is a human rights defender organisation established since 1974 and operates at local, national and international levels. We are an Aboriginal and Torres Strait Islander community controlled organisation, accredited to the United Nations Economic and Social Council with NGO consultative status, and since 1996 have actively participated in periodic reviews of Australia's obligations under international human rights laws. FAIRA's priorities are to see the UN Declaration on the Rights of Indigenous Peoples in Australian law and to see parliaments and racial discrimination laws in Australia conform with international human rights law regarding special measures—that is, measures to benefit disadvantaged groups.

On 30 March FAIRA wrote to the Premier to congratulate her government for proposing a treaty with the Aboriginal and Torres Strait Islander peoples; however, we felt that there were deficiencies in the Path to Treaty Bill. We pointed these out in our letter and have also included comments in our submission to this committee. The treaty council is not independent from government and our peoples are not sufficiently resourced to promote and protect their rights and interests in negotiations with government. We have asked to meet with the Premier to discuss these concerns. We note that this public hearing is part of communication and consultation with the peoples of Queensland, but we also seek more direct engagement with the government on the contents of the current bill.

We have listed seven points in the letter to the Premier, and I elaborated on these matters in our submission to this committee. We clearly state that there is not enough time and resources to examine the bill. It is incomplete, does not ensure the independence of the institute council and does not require openness and honesty. This is mentioned in paragraphs 8, 9 and 10 of our submission. FAIRA proposes that Aboriginal and Torres Strait Islander land councils must be established, in the spirit of land rights legislation promised but not delivered by government 30 years ago, to determine the membership of the institute council. We discuss this in paragraphs 20, 21, 22 and 23 of our submission.

The bill has a list of comprehensive procedures for accountability of the institute council, but all accountability is to government and not to the Aboriginal and Torres Strait Islander peoples. FAIRA proposes independent audit and evaluation procedures reporting directly to our peoples and our representatives. We mention that in paragraphs 24 and 25. We call for the treaty fund to be set out in the bill and also recommend an independent treaty tribunal to resolve disputes which may arise between our peoples and the government. This is an important structure which must be included in the Path to Treaty Bill 2023 as mentioned in paragraphs 26 and 27. Thank you, Madam Chair. We are open to questions from the committee.

CHAIR: Thank you, Mr Malezer.

Mr BENNETT: Good morning. In your submission you talk about the elected land councils being a part of the process. I assumed they would have been anyway, but my question is to your experience in native title determinations and how you see that being negotiated and proceeding as part of negotiations as they continue.

Mr Malezer: In our mind and experience in other parts of Australia, land councils are representative structures which typify the interests of Aboriginal and Torres Strait Islander peoples. That has been demonstrated. It should have happened in Queensland under land rights legislation which did not properly eventuate in 1991. These are structures where the people determine the make-up, composition and representation. They also have a political purpose. We have every right to have political objectives and political development. We see that as appropriate in the structure;

otherwise, there will have to be other manufactured bodies, such as prescribed bodies corporate under the native title legislation. They are not actually representing all the traditional owners; they only represent the legislation and the interest in any agreements but not the peoples themselves.

We think the government seriously needs to look at enabling legislation for land council structures to exist—we suggest in four or five different parts of Queensland. We acknowledge that the Torres Strait already is moving ahead with autonomous structures based upon the prescribed bodies corporate, which may or may not be a more preferred model, or the Torres Strait Regional Authority or the ICC itself—whatever they be. In the Torres Strait there is a different form of consultation and representation based upon the fact that Aboriginal peoples and Torres Strait Islander peoples are distinct peoples, not necessarily having the same culture and structures in society.

Ms LUI: Mr Malezer, your submission expressed concerns about the amount of time available for consultation on the Path to Treaty Bill. We have heard previous speakers talk on that today. Can you give your views on the time frame for the bill?

Mr Malezer: I will defer to Mr Hoffman to respond to that.

Mr Hoffman: Thank you for the question, Ms Lui. I also give my respects to traditional owners of the country we are meeting on today. FAIRA is an organisation run by volunteers. We have had to pull together the submission in a very short time. There was only just over three weeks between when the bill was tabled and when submissions closed. That really put pressure on us to get a submission completed in time. I do not think our submission is as complete as it could have been if we had had longer. For instance, it does not really touch on the provisions relating to the truth and healing commission. It is basically confined to the treaty institute part of the legislation.

Dr ROBINSON: In your submission, in terms of self-determination you make the comment that the bill, in your view, does not go far enough in terms of recognising the right to self-determination of First Nations peoples. You may have touched on that a little in your opening statement. Could you expand on that in terms of how the bill might better deal with issues around self-determination?

Mr Malezer: We do not believe that the bill reflects the right of self-determination, including on matters of the degree of involvement and independence of Aboriginal and Torres Strait Islander peoples in this process, particularly during this architecture framework process that we are looking at. We believe that the compliance with human rights report that was given did not give a true description of self-determination but rather borrowed upon other rights—cultural rights—to say that this is close to or reflecting self-determination.

Self-determination is the right to autonomy and decision-making. It is also the right to self-government, if people identify that desire. It also points out very early in the definition of self-determination 'to determine their political status'. As we have seen in contemporary times, Aboriginal people are talking about the sovereign identity, the sovereign existence and the ability to negotiate from some political autonomy from jurisdiction of governments of the states, of the federal and so on. I am not saying that that is an expression in any way of secession—it is not—but rather that the sovereign status of our people has to be reflected in this process, coming to the table to talk about treaty. This should happen from day one. We believe that the Path to Treaty Bill is in fact day one to set up the infrastructure. We know that there are things to be determined further on down, but self-determination has to be visible and has to be seen as such by our people from day one.

In terms of some of the other things that we emphasise, such as the ability to audit or evaluate the process that is going on during the term of the legislation and so on, it automatically says in the bill—as it would say—'accountability to government' in various forms including other things like the accountability of individual members in the council, their performance and so on. The process of self-determination says also that accountability must be back to the Aboriginal and Torres Strait Islander peoples. Are our representatives living up to our expectations, our requirements, our rights that we have under self-determination and the UN Declaration on the Rights of Indigenous Peoples?

Mr Hoffman: One of our concerns—and it is a major concern—is with the lack of independence of the treaty council. In its response to our submission the department said that the independence of the council is specified in a number of sections in the bill; however, when the council is appointed by the Governor in Council on the advice of the minister, it is really the minister and the government who choose the members of the council. That really does not indicate true independence, even though the law might say that they should act independently.

There is nothing in the bill about the appropriation for the treaty council. When the treaty working group provided recommendations in early 2020, one recommendation was that there be a treaty fund—and the government in fact established a fund—but there is nothing in the bill which talks

about the proceeds of that fund being available to the treaty institute. If each year the institute has to seek funding from the government or from the minister or approval of budgets, it is another indication that the council is not truly independent. In considering all of its decisions in relation to supporting treaty making, it must take into account how those decisions are seen by the government. In our opinion, that can impact their independence.

CHAIR: With regard to the future fund that you reference in your submission, can you provide a little bit more explanation around what that future fund might look like and where the funds might be derived from?

Mr Hoffman: The treaty working group in its recommendation in 2020 recommended that a treaty fund could be a proportion of state domestic product, a state land tax or something—a proportion equivalent to the proportion of the Aboriginal and Torres Strait Islander population of Queensland. There are a range of mechanisms for determining a fund, but the point we are making in our submission is that, if negotiations are to be entered into in good faith between the state and First Nations peoples, when First Nations peoples choose to take on greater responsibilities and exercise power and authority they need to have resources to do that. It would be preferable if there were a fund which could support the exercise of self-governance by our peoples as treaties are negotiated.

CHAIR: Is that in addition to the $20 million derived from the $300 million investment?

Mr Hoffman: Yes, it is. That is my understanding. It is not mentioned in the bill. It is not set in stone here, but my understanding is that the income from the $300 million fund is to support the council and support the negotiations of treaties—not the actual conduct of treaties. When treaties are negotiated and First Nations communities start taking greater control over service provision in their communities, my understanding is that that fund is not for that purpose.

Mr Malezer: And that this be reflected in the bill.

CHAIR: You made mention of the minister not appointing the board members or the members of the institute. My understanding is that the minister would appoint the first members. If the minister does not do that, who should do it?

Mr Hoffman: We were recommending that there be a system of land councils in Queensland set up under law, revisiting the land acts that were passed in 1990 or 1991 which actually did not establish land councils. In every other jurisdiction in Australia where land rights have been implemented, there have been land councils established. South Australia, the Northern Territory and New South Wales are three notable mentions. In Queensland, when the Aboriginal Land Act and the Torres Strait Islander Land Act were legislated there were no land councils established. If land councils were to be established now, say, for example, there were five—one for the Torres Strait and four others in Queensland—those councils are elected by the members, the communities in those regions. Each council could then select or nominate—if there is equal gender representation—a male and a female who would then become the members of the council, provided they meet other qualifications set by Aboriginal and Torres Strait Islander people.

CHAIR: Thank you, Mr Hoffman. Sadly, that brings us to the end of our session. The committee greatly appreciates the feedback that you and your organisation have provided on the bill. We thank you sincerely for your very considered and detailed submission. We wish you a good day and hope to work with you again.

That concludes our hearing this morning. On behalf of the committee, I would like to thank you for your attendance today. I thank all those people who have engaged with the hearing online. We thank our Hansard reporters. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I declare this public hearing closed.

The committee adjourned at 10.48 am.