

Path to Treaty Bill 2023

Submission No:	14
Submitted by:	Queensland Mental Health Commission
Publication:	Making the submission and your name public
Attachments:	See attachment
Submitter Comments:	

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Submission by the Queensland Mental Health Commission

Introduction

The Queensland Mental Health Commission (the Commission) welcomes the opportunity to make a brief submission to the Community Support and Services Committee on the *Path to Treaty Bill 2023* (Bill) introduced on 22 February 2023 by the Hon Anastacia Palaszczuk, Premier and Minister for Olympic and Paralympic Games.

The Commission is committed to working in genuine and meaningful partnership with Aboriginal and Torres Strait Islander peoples, communities, and organisations to close the gap in achieving equality in health status and life expectancy outcomes between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians by the year 2030. We would also like to highlight the ongoing need for investment in culturally appropriate treatment, care and support options to improve social and emotional wellbeing and mental health outcomes, prevent and reduce the impact of problematic use of alcohol and other drugs, and suicide and suicidal behaviour. This includes prioritising, strengthening and growing the Aboriginal and Torres Strait Islander Community Controlled sector and the First Nations workforce in Queensland.

The Commission recognises that our collective efforts and responsibility as individuals, communities, and governments ensure equality, recognition and advancement of Aboriginal and Torres Strait Islander Queenslanders across all aspects of society and everyday life. Accordingly, we are committed to walking together on our shared journey of Reconciliation. Further, the Commission recognises that the *Path to Treaty Commitment* signifies a collective pledge to be courageous and curious, to be open to hearing the truth of Queensland's history, and to collaborate in readiness for truth-telling and treaty-making. The importance of truth-telling – of confronting and redressing past injustices - establishes the:

- foundations for a shared understanding
- creates a public record
- supports Reconciliation
- promotes the fundamental human rights of Aboriginal and Torres Strait Islander Queenslanders, including the right to self-determination
- shares and acknowledges the importance of culture to identity
- enhances the laws of Queensland
- moves toward an equitable, just and shared future, and
- promotes healing, and positive mental health and wellbeing generally.

About the Queensland Mental Health Commission

The Commission is an independent statutory agency established under the *Queensland Mental Health Commission Act 2013* (the Act).

The Commission was established to drive ongoing reform towards a more integrated, evidence-based and recovery-oriented mental health and alcohol and other drug system. Under the Act, the Commission must focus on systemic mental health and alcohol and other drug issues.

The Commission has four main functions:

- Developing a whole-of-government strategic plan for improving mental health and limiting the harm associated with problematic alcohol and other drug use
- Undertaking reviews and research to inform decision-making, build the evidence base, support innovation and identify good practice
- Facilitating and promoting mental health awareness, prevention, and early intervention
- Establishing and supporting state-wide mechanisms that are collaborative, representative, transparent and accountable.

The Commission promotes policies and practices that are aligned with the vision of:

- *Shifting minds*: Queensland Mental Health, Alcohol and Other Drugs Strategic Plan (2018-2023) (*Shifting minds*);
- *Achieving balance*: the Queensland Alcohol and Other Drugs Plan (2022-2027) (*Achieving balance*); and
- *Every life*: the Queensland Suicide Prevention Plan (2019-2029) (*Every life*).

The work of the Commission is supported by the independent Queensland Mental Health and Drug Advisory Council (Advisory Council), which acts as a champion for people living with mental ill-health, problematic use of alcohol or other drugs, or impacted by suicide or suicidality.

Strategic context and alignment

Shifting minds 2018-23 sets the overarching strategic direction for mental health, alcohol and other drugs and suicide prevention in Queensland. *Shifting minds 2018-23* is supported by two sub-plans, *Achieving balance and Every life*.

Path to Treaty sets the foundations of a shared future in which all Queenslanders are equal in shaping and informing future decisions that impact their lives, families and communities. It publically recognises the custodianship of Australia's lands, waters and airs as belonging to the Aboriginal and Torres Strait Islander peoples and the history of Australia long before Colonisation. Historically, there has been little acknowledgement throughout Australia of the negative effects of Colonisation on Aboriginal and Torres Strait Islander peoples and how that has accumulated across generations, including ongoing impacts of intergenerational trauma, racism and discrimination.

Currently, the Commission is renewing *Shifting minds 2018-2023* and developing Phase two of *Every life*. This process has included broad-reaching consultations with Queensland communities and targeted consultations with Aboriginal peoples and Torres Strait Islander peoples, communities and organisations, and tiers of Government.

Shifting minds 2018-2023 includes a strategic priority to renew, strengthen and integrate cross-sectoral social and emotional wellbeing approaches. Priority actions for consideration included:

- develop a collaborative approach to drive cross-sectoral reform for Aboriginal and Torres Strait Islander social and emotional wellbeing, and responses to mental illness, problematic use of alcohol and other drug use and suicide
- implement the *Gayaa Dhuwi (Proud Spirit) Declaration* and align reform approaches with the *National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing (2017-2023)*, and
- adopt healing-informed approaches by service providers in their communication, policies and practices.

Path to Treaty is consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*, which is critical in advancing First Nations rights and self-determination. *Path to Treaty* further takes forward the critical findings, intent and recommendations of diverse national and jurisdictional inquiries, reviews and reforms, including:

- *Royal Commission into Aboriginal Deaths in Custody* (1991)
- *The Redfern Park Speech* by the Hon. Prime Minister Paul Keating MP
- *Bringing them Home Report* (1997)
- *Ampe Akelyernemane Meke Mekarle "Little Children are Sacred"* (2007)
- *Gayaa Dhuwi (Proud Spirit) Declaration* (2015)
- *Fifth National Mental Health and Suicide Prevention Plan* (2017)
- *National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2017-23*
- *National Agreement on Closing the Gap and the Partnership Agreement on Closing the Gap 2019-29*
- *Apology to Australia's Indigenous Peoples* by the Hon Prime Minister Kevin Rudd MP (2008), and
- *Uluru Statement from the Heart*.

The Queensland Government is committed to supporting and upholding the social and emotional wellbeing of Aboriginal and Torres Strait Islander Queenslanders through a clear recognition of the cultural and social determinants impacting health and wellbeing. In 2019-20 the Commission completed a memorandum of understanding (MOU) with the Department of Children, Youth Justice, and Multicultural Affairs (DCYJMA) (formerly the Department of Child Safety, Youth and Women) to support the development of a *Healing Strategy* and implementation plan. This action arose from *Our way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017-2037*. The development of *Leading healing our way: Queensland healing strategy 2020-2040* (the *Healing Strategy*) and its associated implementation plan is a major contribution towards the Commission's aims.

Concurrently, the Commission enacted an MOU with the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) to deliver *the Local Thriving Communities* (LTC) reform. LTC commits to enabling Aboriginal and Torres Strait Islander communities to make decisions about their future, build on community strengths, and co-design and improve service delivery to strengthen communities further. Both of these initiatives connect to *Shifting minds 2018-23*, which identifies a strategic priority to renew, strengthen and integrate cross-sectoral approaches to social and emotional wellbeing.

In addition, in 2020-21, Queensland Health and the Queensland Aboriginal and Islander Health Council placed First Nations peoples and voices at the centre of healthcare service design and delivery through *Making Tracks Together – Queensland's Aboriginal and Torres Strait Islander Health Equity Framework (Making Tracks Together)*. A cornerstone of the First Nations health equity agenda is the legislative requirement passed by the Queensland Parliament in 2020 and 2021 for Hospital and Health Services (HHSs) to co-develop and co-implement Health Equity Strategies. *Making Tracks Together* provides the strategic framework to:

- achieve health equity and improve Aboriginal and Torres Strait Islander outcomes
- eliminate institutional racism and racial discrimination from the public health sector, and
- strengthen decision-making and power-sharing arrangements with Aboriginal peoples and Torres Strait Islander peoples.

In 2019, the Queensland Government released the *Aboriginal and Torres Strait Islander Housing Action Plan 2019-23*, which provided a cross-sectoral approach to enable communities to participate in shared leadership and decision-making, to provide culturally-responsive housing assistance and to build a stronger housing sector for Aboriginal and Torres Strait Islander Queenslanders, placing local communities at the centre of decision making.

Further, in 2020 the Mental Health Select Committee *Inquiry into the opportunities to improve mental health outcomes for Queenslanders* recommended that the Queensland Government prepare and

implement a whole-of-government trauma strategy and that the strategy will align with other reforms, including *Path to Treaty* and the *Healing Strategy*. The Queensland Government supported the recommendation and specifically recognised the impact of colonisation and the ongoing trauma this has on First Nations families, extended kin, communities, and connections to culture and Country in their response. The response further noted that Queensland Health would engage the Commission to develop an evidence-based, whole-of-government trauma strategy (*Trauma Strategy*, pending) that identifies how trauma-informed practice can be improved and embedded in service provision across the wide range of health and human services delivered by the Queensland Government agencies.

The *Trauma Strategy* (pending) will consider multidisciplinary trauma research and best practice strategies for responding to people that have experienced trauma. These include but are not limited to physical and sexual abuse, domestic and family violence, intergenerational trauma, and adversity, including adverse childhood experiences. In addition, the *Trauma Strategy* (pending) will seek to consider how trauma-informed practice can be embedded across all government sectors in service provision across the health and human services areas, including health, housing, education and training, employment, first responders, corrective services, justice and child safety.

Response to proposed Bill

The Commission notes that the purpose of the Bill is to establish foundational legislation to drive the Path to Treaty. The explanatory notes state that the objectives of the Bill are to establish the following:

- a First Nations Treaty Institute to support Aboriginal peoples and Torres Strait Islander peoples to develop and provide a framework for Aboriginal peoples and Torres Strait Islander peoples to prepare for and then commence treaty negotiations with the Queensland Government, and
- a Truth-telling and Healing Inquiry to inquire into, and report on, the effects of Colonisation on Aboriginal peoples and Torres Strait Islander peoples.

The Commission supports these objectives and recognises the importance of self-determination for Aboriginal peoples and Torres Strait Islander peoples.

The Commission commends the inclusion of guidelines and procedures for preventing, reducing or mitigating stress or psychological trauma associated with giving testimony or making a submission to a truth-telling session or truth-telling hearing. We advocate for the consideration of an appropriately qualified and skilled Social and Emotional Wellbeing practitioner as membership of the Council (Part 2, Division 4, 32) to assist in informing appropriate support for individuals and communities throughout the Treaty process. Section 13 of the Bill outlines the functions of the First Nations Treaty Institute, which include:

- To develop a framework to assist both parties (State and First Nations representatives) to:
 - o assess the readiness of [both parties] to enter into and participate in treaty negotiations; and
 - o consider the legal effect of a treaty.

Currently, Queensland Health funds Legal Aid Queensland to represent individuals appearing before the Mental Health Review Tribunal (MHRT); this is an important strategy to support Aboriginal and Torres Strait Islander peoples to participate in the treaty process. The Aboriginal and Torres Strait Islander Legal Service would be well placed to offer the type of representation First Nations representatives would benefit from during their treaty negotiations.

Broader implications of the Truth-telling process

Establishing a truth-telling process enables a formal and legitimate process to acknowledge and understand our shared past, recognise the impacts of Colonisation, assist in Reconciliation, and address historical and ongoing injustices. This process enacts a critical element under the *Uluru Statement from the Heart*.

The truth-telling process can potentially increase psychosocial risk factors for Aboriginal peoples and Torres Strait Islander peoples and communities more broadly. This may emerge in various ways, including increased risk-taking behaviour, use of alcohol and other drugs, family or intimate partner violence, or higher incidents of self-harm and suicidality.

To reduce the risk of distress during the truth-telling process, it is recommended that specialised teams with unique skills in cultural capability and appropriate clinical practice along with lived experience representatives be accessible to participants in the lead-up, during and after attending truth-telling forums to support individuals through this highly challenging process. However, it is recommended that the process of supporting truth-telling is developed through co-design and co-production with First Nations peoples and communities, and this may include localised implementation processes at community and regional levels.

Furthermore, data collection, monitoring and reporting systems in Health services and associated areas like Police and ambulance should adopt awareness and appropriate resourcing state-wide, throughout and after the 'Truth-telling' periods to monitor and inform local based responses to increased risk indicators for Aboriginal peoples and Torres Strait Islander peoples and their communities, as close to real time as possible.

Conclusion

The Commission welcomes the *Path to Treaty Bill 2023* and can foresee the far-reaching benefits of the Bill, including the positive implications for strengthening relationships across Queensland to improve our communities' social and emotional wellbeing. The Treaty will benefit all Queenslanders and improve the shared knowledge for future generations based on trust and respect. The Queensland Mental Health Commission welcomes the opportunity to discuss this submission further.