

Path to Treaty Bill 2023

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Committee Secretary
Community Support and Services Committee
Parliament House
George Street
Brisbane QLD 4000

By email: cssc@parliament.qld.gov.au

Dear Committee

Path to Treaty Bill 2023

Thank you for the opportunity to provide feedback on the Path to Treaty Bill 2023 (the **Bill**). Aged and Disability Advocacy Australia (**ADA**) appreciates being consulted on this important legislation, which seeks to set in process a framework that is underpinned by a moral and social imperative to acknowledge and address past and ongoing wrongs, and to recognise and comprehensively address Aboriginal and Torres Strait Islander peoples human rights.

About ADA Australia

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (**ATSIDNQ**), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

ADA has reviewed the Bill, the Explanatory Notes and other key documents and statements. We provide the following for the Committee's consideration.

Support for the Bill

ADA supports the introduction of the Bill and its stated objectives: the establishment of a First Nations Treat Institute, to facilitate and support the preparation and commencement of treaty

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ADA Australia acknowledges the Traditional Custodians of this land and pays respect to Elders, past and present.

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negotiations with the Queensland Government, and the establishment of a Truth-telling and Healing Inquiry (the **Inquiry**).

ADA has had regard to the stated intention and need for the introduction of the Bill. This intention is generally reflected in the inclusion of the principles to guide the administration of the proposed legislation.

We note with support the key principle for administering the Act, described at clause 6 of the Bill:

"6 Principles for administering Act

- (1) *The main principle for administering this Act is to ensure that, in partnership and good faith, the rights and history of Aboriginal peoples and Torres Strait Islander peoples are acknowledged and respected in accordance with –*
(a) *the Human Rights Act 2019; and*
(b) *the United National Declaration on the Rights of Indigenous Peoples."*

ADA strongly supports the inclusion of this principle and its express linkage to the United National Declaration on the Rights of Indigenous Peoples (the **UNDRIP**) and the *Human Rights Act 2019* (the **HR Act**).

As stated, ADA supports the key objectives of the Bill. First Nations peoples have long sought the opportunity to commence meaningful treaty discussions and negotiations with governments and their delegates, since the commencement of British colonisation.

Truth-telling is a critical component to reaching this objective.

Establishment of the Truth-telling and Healing Inquiry

ADA supports the establishment of the Inquiry, which accords with the findings and recommendations of the Path to Treaty Working Group's (the **Working Group**) report.¹ The report noted that the Working Group's engagement with non-Indigenous Queenslanders revealed a '*limited understanding.... about the history of their state, and a deep desire for awareness about the historical treatment and experiences of First Nations peoples to be strengthened.*'²

ADA considers the establishment and proposed operations of the Inquiry as set out in the Bill to be in alignment with the recommendations of the Working Group.

For a genuine treaty or makarrata to be agreed, there must be a comprehensive, formal and recorded truth-telling and healing process that affords necessary space and respect for Aboriginal and Torres Strait Islander peoples participating in the process.

At the outset and throughout the process, the Inquiry must acknowledge the harmful impacts of colonisation, and seek to reconcile these events in our shared history.

¹ <chrome-extension://efaidnbmninnbpcajpcgclclefindmkaj/https://www.dsdsatsip.qld.gov.au/resources/dsdsatsip/work/atnip/reform-tracks-treaty/path-treaty/treaty-working-group-report-2020.pdf>

² Ibid, 4.

Application of the Human Rights Act

We note with disappointment and concern that the government has expressly sought to remove the application of the HR Act from the recently introduced *Strengthening Community Safety Bill 2023*, which was passed on 16 March 2023. ADA considers this to be a serious error and one that is widely unsupported by key human rights organisations, including both the Queensland and Australian Human Rights Commissions.

This has given rise to significant concerns, including in relation to this Bill: that the exclusion of the HR Act from the aforementioned legislation will be in conflict, both in principle and in practice, with this Bill and with the administration of the proposed legislation in accordance with the guiding principles.

We suggest that the Bill be amended to include an explicit statement that acknowledges the critical importance of the HR Act and its role in its application to the *Path to Treaty Act 2023*. This should include insertion in the Bill of a provision to the effect that section 43 of the HR Act cannot be applied to the Path to Treaty Act, and any attempt to make an override declaration of the HR Act will have no effect.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Committee with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact Vanessa Krulin, Solicitor and Senior Policy and Research Officer on [REDACTED] or via [REDACTED].

Yours faithfully

[REDACTED]

Geoff Rowe

Chief Executive Officer