

Path to Treaty Bill 2023

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To: Community Support and Services Committee
Subject: Dr Janine Gertz statement - Townsville Path to Treaty Bill Forum 22 March 2023

I provide the following comments relating to the **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)** was endorsed by the Austral Government in 2009

It establishes a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to Indigenous peoples.

The articles and principles within UNDRIP provide an important framework for Aboriginal and Torres Strait Islander political dialogue and advocacy with the state. The right to self-determination and the recognition, observance, and enforcement of treaties, agreements, and other constructive arrangements, are affirmed in UNDRIP Articles 3 and 37 (the right to negotiate treaties), and when read in conjunction with preambular paragraphs 14, 15 and 24, the UNDRIP underscores the importance of partnerships between Indigenous Peoples and states based on mutual consent and good faith.

UNDRIP Article 27 addresses Indigenous Peoples' right to participate in a fair, independent, impartial, open, and transparent process; Article 28 speaks to the right to compensation and redress; and Article 40 conveys the right to fair procedures for the resolution of conflicts and disputes. These articles provide a framework for states implementing Article 37 (the right to negotiate treaties) in full partnership with Indigenous Peoples. This includes the processes that can help resolve conflicts or disputes about the violations of treaty rights during negotiations and implementation.

The UNDRIP principles of self-determination; participation in decision-making that is supported by free, prior, and informed consent and good faith; respect for and protection of culture; and equality and non-discrimination, also provide guidance on the practical implementation of UNDRIP Article 37 which outlines the right to negotiate treaties. The establishment of a Treaty Commission and independent body to oversee agreement making will be integral to the processes of monitoring and facilitating fair and just treaty negotiations across the Queensland, ensuring that each treaty is negotiated through the guiding articles and principles of the UNDRIP — but most importantly through the principle of Free, Prior and Informed Consent.

My comments now conclude on the declaration and now move to more general comments on the treaty discussions

My concern is that current treaty discussions are defaulting to conditions and terms that we are entitled to simply as citizens of this state. Aboriginal and Torres Strait Islander people have an inherent sovereign rights which stem from our lands and from our culture and Treaties need to be negotiated with each and every Aboriginal and Torres Strait Islander Nation recognising their sovereignty over their lands territories and cultural jurisdictions. The terms of treaty discussions need to be an exchange and recognition of sovereignty which includes some sort of conferred powers and delegations between all parties.