

Path to Treaty Bill 2023

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24 March 2023

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



Dear Madam/ Sir

QAIHC submission on the Path to Treaty Bill 2023 in Queensland.

The Queensland Aboriginal and Islander Health Council (QAIHC) would like to thank you for providing the opportunity to respond to the *Path to Treaty Bill 2023 in Queensland* (The Bill).

QAIHC is the peak body for the Aboriginal and Torres Strait Islander Community Controlled Health Organisations (ATSICCHOs) sector in Queensland. Noting the timeline, we have not been able to do full consultations with QAIHC Members. Our Member Services may provide feedback directly. QAIHC is happy to engage in further discussions if required on this matter.

QAIHC was established in 1990 by dedicated and committed Aboriginal and Torres Strait Islander leaders within the community-controlled health Sector (the Sector). From our first meeting 30 years ago, we have grown to become a national leader in Aboriginal and Torres Strait Islander health, and as a voice for our 33 Members, the ATSICCHOs in Queensland, two regional bodies and 11 Associate Members. ATSICCHOs provide culturally appropriate, holistic, comprehensive, primary health care services across more than 60 services in Queensland.

QAIHC is in favour of the proposed Bill to establish a First Nations Treaty Institute and a Truth-telling and Hearing Inquiry with the aim to work towards a treaty between First Nations in Queensland and the Queensland Government as part of the Uluru Statement from the Heart[1]. QAIHC acknowledges the essential work that the Queensland Government has done to take the first steps on the path to a treaty and to reconciliation between Aboriginal and Torres Strait Islander peoples and non-indigenous Australians in Queensland.

Although QAIHC provides support to the Bill QAIHC has some concerns in relation to the lack of information regarding: what was involved in the co-design of the Bill, the Minister's nomination process of the Treaty Institute Members, the sharing of accountability between the Queensland Government and the First Nations Treaty Institute to act under the Bill, and the lack of education to date of the wider community on these matters.

**Queensland Aboriginal
and Islander Health
Council**

ABN 97 111 116 762

Brisbane

36 Russell Street, South Brisbane Q 4101
PO Box 3205, South Brisbane Q 4101
T 07 3328 8500

Cairns

6/516-518 Mulgrave Road, Earlville Q 4870
PO Box 12039, Westcourt Q 4870
T 07 4033 0570



qaihc.com.au

Recommendation 1: That the Queensland Government discloses the entire co-design process of the development of the Path to Treaty Bill 2023.

QAIHC acknowledges that the different phases in the development of the Path to Treaty Bill 2023 has been presented in the *Explanatory Notes of the Path to Treaty Bill 2023*. However, it is lacking in information regarding the extend of co-design and consultation, the number of Aboriginal and Torres Strait Islander peoples consulted and representation (including people experiencing disabilities, different ages, genders, social and economic status etc), key outcomes from the consultation and information on community information sessions to ensure effective consultation. From the information provided it is not possible to determine if the presented Bill is developed in genuine partnership and collaboration with the Aboriginal and Torres Strait Islander population and thereby aligns with the United Nations Declaration on the right of Indigenous peoples[2] and priority reform 1 in the National Agreement of Closing the Gap[3].

Recommendation 2: That the Queensland Government reconsiders the election process of First Nations Treaty Institute members to ensure true representation and to align with the principles of self-determination and the sovereignty of First Nations Australians.

As stated in Clause 19 in the Bill, The First Nations Treaty Institute Council will consist of 10 members which will all be of Aboriginal and/or Torres Strait Islander decedent and be “appropriately” qualified. To apply to the Bill, the 10 members needs to represent cultural diversity of Aboriginal and Torres Strait Islander peoples as well as gender diversity. Members of the First Nations Treaty Institute must according to this clause be appointed by the Governor in Council on the recommendation of the Minister. QAIHC want to urge that this has the potential to undermine the principles for administrating the act as stated in Clause 6 which is to align with the principles of the United Nations Declaration on the Rights of Indigenous People[2] and thereby the principles of self-determination and the sovereignty of First Nations Australians. Additionally, this has the potential to limit the guarantee of no discrimination and true representation, hence further measures to ensure that the Aboriginal and Torres Strait Islander community play a vital part in the election of representatives is critical. The acknowledgement of self-determination and sovereignty of Aboriginal and Torres Strait Islander peoples is the essence of the Uluru Statement from the Heart and to enable reconciliation. The Queensland Government has committed to working with Aboriginal and Torres Strait Islander people towards

a treaty, hence a collective voice represented by people elected by Aboriginal and Torres Strait Islander community representatives must be considered.

Recommendation 3: That the Queensland Government and the First Nations Treaty Institute co-develop and implement measures which can hold the Queensland Government accountable for the implementation of co-designed actions which work towards a treaty.

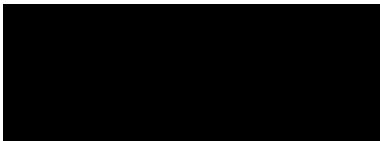
Clause 3 states that while the act binds all persons including the State and as far as the legislative power of the Parliament permits, the Commonwealth and the other States, the State, the Commonwealth or other states can not be prosecuted for an offence against this Act. However, the Treaty Institute (the body corporate) may be sued in its corporate name. Although, QAIHC understands that this Bill not directly covers the Commonwealth and other states than Queensland, QAIHC stresses that this Clause will diminishes the accountability of the Queensland State to consider the recommendations made by the First Nations Treaty Institute as there is no jurisdictional power to enforce any actions required under the act. The Bill is to establish the First Nations Treaty Institute to prepare a framework for treaty negotiation with the Queensland Government, hence measures must be developed to hold both parties equally accountable.

Recommendation 4: That the Queensland Government increases education funding and resources for education of the wider population to allow for an accurate understanding of the importance of a treaty and what this means for people residing in Queensland.

As the new Bill will be of great interest to and have a significant impact on all Aboriginal and Torres Strait Islander peoples and communities' strong communication around the implementation progress and the outcome will be required. As per the Voice to Parliament, the general population in Queensland have little knowledge about the Path to treaty and what a treaty between Aboriginal and Torres Strait Islander peoples and the Queensland Government will encompass. Part 3 of the Path to Treaty Bill is directly affecting the wider population, particularly the Aboriginal and Torres Strait Islander population. QAIHC sees the development and implementation of this Bill as an opportunity to increase efforts in public education on the importance of a treaty and how a treaty between the Aboriginal and Torres Strait Islander peoples and the Queensland Government is critical for reconciliation.

Thank you for the opportunity to provide feedback to the Health Promotion Branch at the Department of Health. Please contact Policy Officer, Sarah Christensen, through policy@qaihc.com.au if you would like to discuss this submission further.

Yours faithfully,



Cleveland Fagan
Chief Executive Officer

References

1. *The Uluru Statement*. Available from: <https://ulurustatement.org/about-us/>.
2. United Nations, *United Nations Declaration on The Rights of Indigenous Peoples* 2007.
3. The Coalition of Aboriginal and Torres Strait Islander Peak Organisations & the Australian Government, *National Agreement of Closing the Gap*. 2020.