

## Path to Treaty Bill 2023

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To the Committee,

Please accept my attached submission to form part of the Committee's community consultation process, regarding the Queensland Governments Community Support and Services Committee Inquiry into the Path to Treaty Bill 2023, 'Treaty'.

I also want to note that the COMMUNITY SUPPORT AND SERVICES COMMITTEE PUBLIC FORUM—INQUIRY INTO THE PATH TO TREATY BILL 2023, should not of been held in Longreach. It should have been held in Mt Isa which covers the Gulf and Nth West Qld - where the majority of First Nations people live in Qld.

There was only a handful of First Nations People at the Longreach Forum and this was not very well advertised either, but there are only a small limited numbers of Aboriginal people in Longreach in any case, which raises the question why and who chose this destination to start with?.

If this forum was held in Mt Isa and fully advertised giving people form all surrounding areas the time to attend, you would have had vast numbers of Aboriginal people who could of attend and been able to provide more of a completed picture of the views of our people.

Regards,

Travis Harbour

[REDACTED]

**Community Support and Services Committee  
QUEENSLAND PARLIAMENTARY SERVICE**

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29<sup>th</sup> March 2023

To the Secretariat,

I wish to formally lodge this Submission to form part of the Committee's community consultation process, regarding the Queensland Governments Community Support and Services Committee Inquiry into the Path to Treaty Bill 2023, 'Treaty'.

As I was unable to personally attend one of the public hearing destinations, please accept my submission.

I will begin with a recent transcript by a statement made by Ms Jackie Huggins:

*"Today we have been advised by our Constitutional experts, the lawyers, that Sovereignty, the Constitution has no impact on Sovereignty. That's been made quite clear.*

*And I agree with Malarndirri, as a Bidjara, Birri-Guba Juru from Queensland. It is my inherent right to be a Sovereign woman of this country. No one will ever take that away from me because I am born into it.*

*And I think all Aboriginal people should realise and acknowledge that.*

*Sovereignty can never be taken off us.*

*Sovereignty is about my birthright, and Sovereignty is about being one of the oldest living cultures on earth. 65,000 years of Aboriginal existence. Sovereignty is that I am connected to this land, I am connected to the nature the flora and fauna of our country, that I am deeply connected to this soil and the dust.*

*So therefore, I come from nowhere else. So therefore, my Sovereignty rests with me as an Aboriginal woman and all Aboriginal people surely should feel that."*

*Jackie Huggins*

*Co-chair of the Queensland Treaty Advancement Committee and a member of the First Nations Referendum Working Group.*

*The Drum ABC TV 8<sup>th</sup> of February 2023*

This was wonderful sentiment and a great commitment from the Co-chair of the Queensland Treaty Advancement Committee Ms Huggins, but what was notably missing from her detail about the acknowledgment of Aboriginal Sovereignty, was the acknowledgement also of our Aboriginal Rights, Responsibilities, Lore and Culture which is also our inherent right, as our own Sovereign People.

If the Queensland Government is taking this position of Ms Huggins as a starting point for 'Treaty' with Aboriginal and Torres Strait Islander People of Queensland, then there has to be a fundamental and definitive recognition of our personal inherent rights as current Sovereign Aboriginal people today.

This means we as Aboriginal Sovereign People are accountable and under the authority of our own Sovereign Lore's, Cultures, Responsibilities and Obligations, not that of the State of Queensland, not that of the Commonwealth of Australia, nor that of the Crown.

This stated and acknowledged standing point by the Co-chair of the Queensland Treaty Advancement Committee Ms Huggins, and confirmed by Queensland Governments top legal advice, that Aboriginal Sovereignty is alive, and has never been impacted on by any constitution, is then at complete odds with the High Court Mabo decision 1992 and the subsequent Commonwealth Native Title Act 1993.

Both the High Court Mabo decision 1992 and the subsequent Commonwealth Native Title Act 1993, did not recognise Aboriginal or Torres Strait Islander Sovereignty, but recognised the Sovereignty of the Crown.

Therefore any 'Treaty' being proposed or made by the State of Queensland with its acknowledged Sovereign Aboriginal and Torres Strait Islander People, will then have to be made outside of any Federal and High Court Native Title Determinations, Native Title Rejections, Native Title Extinguishments, ILUAS, Compensations or Agreements; because all of these have been created and Determined on the basis that Aboriginal and Torres Strait Islanders are not Sovereign People and as such have no Sovereign rights.

In all current and passed Native Title Decisions the Sovereignty rests with the Crown.

Or if in this 'Treaty' process the State are **not** going to use the stated position and view that the State of Queensland acknowledges Sovereign Aboriginal and Torres Strait Islander People, **but** rather continue with the current Commonwealth and Native Title stand point: that the Crown has the Sovereignty and that Aboriginal and Torres Strait Islanders are just 'common law holders' within this legal framework,

then what this 'Treaty' would be essentially doing is making a "Treaty" between two State, and Commonwealth citizens and or parties; not a Treaty between a Sovereign People and a Coloniser.

This second action would then create the situation where any 'Treaty' or obligations of the parties would have to occur under the current laws and legislations and once again create the scenario, like the Native Title Industry debacle, make Aboriginal rights subservient to the rules of the Crown and State'.

You cannot have it both ways.

You cannot acknowledge that Aboriginal and Torres Strait Islander People are Sovereign People;

but then go and place Aboriginal and Torres Strait Islanders under the laws, legislations and regulations that recognise the Crown, the State as the ones who have Sovereignty, and expect Aboriginal People to accept a 'Treaty' under those circumstances.

I accept the premise and vision for a 'Treaty' but what that looks like, how it is articulated, what is contained with it, who it is made with and under what law it is made under, i.e. Federal, State or International Law, are very important questions and a lot of thought and investigation is needed, with the approval of not just the State, but with the Agreement of Aboriginal and Torres Strait Islander People.

Some thoughts for the Committee to also take into consideration:

1. Will the 'Treaty' comprise all land contained within a groups area, or will the State start to make areas of exclusion i.e. "Freehold Title (In Fee Simple)?"
2. Given the view of Ms Huggins, that every Aboriginal person has an inherent birthright, as our own Sovereign People, how is the State going to ensure the wishes and views of each Sovereign Aboriginal person is going to be heard and have a voice and a vote in each individual 'Treaty' that affects them?
3. What persons or which Department or Organisation will the State use or create, to make a Determination; of who are the "Right People" to enter into a 'Treaty with'?"
4. What persons or which Department or Organisation will the State use or create, to make a Determination; about what are the correct boundaries for the individual 'Treaty' to be made.
5. What Tribunal or what Court will be open or accessible to hear cases of Objections or Appeals by Aboriginal and Torres Strait Islanders people opposed to the individual 'Treaty' being executed (e.g. Oppose the people signing the 'Treaty', Oppose the contents of the 'Treaty', Oppose the Boundaries of the 'Treaty').
6. Will the burden of proof be on Aboriginal People to 'Prove' who they are and their connection to country: like the Native Title Act, or will the burden be on the State to 'Prove' Aboriginal People wrong?
7. If the State acknowledges Sovereign Aboriginal and Torres Strait Islander People as having inherent rights, then how is State going to be able to use the past Native Title Determinations to establish these facts, as the Native Title System was founded on a legal stand point, that never accepted Aboriginal Sovereignty, and a Native Title system that has made so many mistakes and wrong decisions right across the State and the Country.

8. So, for that reason alone, the State cannot fall back on using the outcomes from such a unjust, divisive and discriminatory form of legislation 'The Native Title Act 1993' as a means of determining who a 'Treaty' shall be made with or the areas which the 'Treaty' shall be contained with.
9. There are current and ongoing disputes with Undetermined and Determined Native Title Claims, which are far from finalised and which will themselves end up back before the Federal and most probably the High courts.
10. These disputes include the make-up or composition of the individual groups; the areas of lands to be claimed; and the overlaps and boundaries between the neighbouring groups, and current unclaimed land.
11. Given these disputes are becoming more frequent and escalating out of control, where PBC's are imploding and not functioning, as time progresses, how can a 'Treaty' even begin to determine who or what group is the right people to engage for the 'Treaty' if these issues are left unresolved?
12. Given it has been the expressed view of the Committee to enter into a 'Treaty' with each individual group, does that mean each group will be able to decide 'What' comprises in their own 'Treaty'? What benefits or agreements it will make with the State? OR will it be one template 'Treaty' which all individual groups have to sign?
13. Would each individual group be able to decide under what jurisdiction their 'Treaty' will be made under i.e. Federal, State or International law?
14. If each 'Treaty' is going to be different, then the benefits, compensation amounts, level of self-governance, each individual group is going to receive, is going to be determined by how good they are at negotiating complex Legal and Constitutional laws and high-level contract agreements, that will have ongoing and unchangeable implications for every future generation.
15. Will the details and contents of each groups 'Treaty' be made public for everyone to view.
16. This will lead to some groups waiting and seeing what each other group was able to negotiate and then lock in better deals for their own groups. This could also have a negative effect on the groups that jump straight in to signing a 'Treaty', they may miss out on a lot of other benefits other groups who wait may be able to make. How is this "un just terms"?
17. Given that each individual group is going to need High level Legal Advice and Legal Representation. With that High-level Legal Advice and Legal Representation comes high financial costs.
18. How is the State proposing to support or finance each Individual group's legal costs?

19. Once again, the State cannot use the current Native Title Service Providers, or Representative Bodies, as these are once again legislated under the Native Title Act, common law, which like I keep saying was designed under the premise and legal stand point that Aboriginal and Torres Strait Islanders do not hold Sovereignty and that is held by the State and the Crown.
20. Also, for nearly two thirds of Queensland, Traditional Owners are compelled by the Federal Government and the Native Title Act to be Represented without our authorisation, by a Non – Aboriginal Company (Queensland South Native Title Services -QSNTS), where the Traditional Owners have **no** say or ‘Voice’ over our own land Council.
21. QSNTS has admitted to Stuffing our Native Title Claim the Bularnu Waluwarra & Wangkayujuru People QUD6115/1998 and we have been for nearly 10 years now in a process of trying to take this matter back to the Federal Court to try and fix the mess, this stuff up by QSNTS has caused on our people and our county, with no help or no finances or support from anybody.
22. QSNTS has admitted to stuffing up our Native Title Claim, which was a case that was before the Federal Court of Australia for 17 years. QSNTS cannot be trusted to be in charge of anything to do with the outcomes of any of our “Treaty’ funding, Legal advice, Legal Representation or Agreement contract negotiating.
23. We require our own funding to employ our own Legal Advice and Legal Representation.
24. We do not want another deliberate form of discrimination forced upon us, like we have had to endure with the Native Title System, where the Non-Aboriginal Company QSNTS is given \$12,000,000 of Tax Payers money every year and we; the Traditional Owners have no ‘Voice’ or say over any of it.
25. The Native Title system is discriminatory legislation and a total breach of our human rights, and takes away rights and opportunities of Aboriginal People and denies access to the legal justice system and Courts that every other Australian has the rights too.
26. Having seen some the minutes of these Treaty community hearings already taken place, there are instances where Aboriginal people have ‘Self-Identified’ themselves as ‘Traditional Custodians’, not ‘Traditional Owners’.
27. Is the State going to enter into a ‘Treaty’ with a Person or Persons who have ‘Self-Identified’ as a ‘Traditional Custodians’ even if they are **not** a ‘Traditional Owners’ for that area?
28. This becomes even more of an issue where there has not been a Native Title claim for that area, or because the ‘Traditional Owners’ have not commenced those proceedings as yet, so other people who may have historical connections are ‘Self -Identifying’ as ‘Traditional Custodians’.

29. Will the State only enter into a 'Treaty' with groups who have got Determined Native Title Claims?
30. Will the State enter into a 'Treaty' with groups who have got NON- Determined Native Title Claims?
31. Will the State enter into a 'Treaty' with groups who have got a Non-Native Title Determination?
32. Will the State enter into a 'Treaty' with groups who have got their Land or parts of their land where Native Title has been extinguished?
33. Will the State enter into a 'Treaty' with groups who have not lodged a Native Title Claim?
34. Will the State enter into a 'Treaty' with groups who have conducted an unsuccessful Native Title case but who are "the last man standing"?
35. Will the State enter into a 'Treaty' with groups which are different to what has been identified through the Native Title system, for that parcel of Land?
36. Will the State enter into a 'Treaty' with Aboriginal People who have been denied knowing their birth right, the group affiliation they originally belong to? Through no fault of their own, but by other past reasons, some State legislated like the Removal of Children?
37. How will all current Acts and Legislations e.g. Cultural Heritage Act, Human Rights Act, Anti- Discrimination Act, Native Title Act etc. exist or co-exist post 'Treaty'?
38. A treaty will cause them to be invalid; as they are all made under a common law premise. Where a 'Treaty' Acknowledges Aboriginal people sit and have always sat outside of these Common laws?
39. How will the State envisage all Native Title Agreements, ILUA's and contracts and Mining Agreements to continue to exist given they were formulated under the false premise; we as Aboriginal People did not have Sovereignty, given these proposed 'Treaty's' will substantiate the fact, we have never ceded our inherent right to self-government?
40. This is important because it will be the expectation that in the execution of the 'Treaty' Aboriginal people will be expected to withdraw all current and future claims relating to historical and contemporary dispossession.
41. The State cannot have it both ways again, you cannot up-hold all these past agreements/determinations that were entered into under a premise which you acknowledge is false, and Agreements which were made where Aboriginal rights were subservient to that of the Crown and expect them to continue on unchanged and unchallenged; and then also expect Aboriginal people forgo our rights to any future claims.



Thank you for the opportunity to put my thoughts to the committee. Our family have been struggling to navigate through the discriminatory and soul-destroying Native Title System for nearly 30 years. We have had to learn and read and study the Acts and Legislations and become bush lawyers ourselves, just to give our families a chance at being heard and recognised for who we are, and this fight still continues today.

The words of “Close the Gap”, “Self-Determination”, “Voice” roll off the tongues of people from organisations and tax payer funded Non- Aboriginal companies, like melted butter, but the reality on the ground for our mobs, is we are left destitute without any of the finances or recourses or support to perform any of the requirements to meet the functions of the “future acts” that are imposed on us by all levels of Government, and which are never ending.

The Companies and Organisations, like QSNTS that are Tax Payer funded to provided services to our people, are the ones who Governments engage with to provide information, to provide opinions, about us and our issues. They provide to Government the information not from a grass roots perspective, they provide advice that is self-benefiting for them, so that they can continue to receive their Tax Payer funding, so it is of a self-preservation nature, not based on the betterment or needs of our people.

When you are talking about an Aboriginal ‘Voice’ to Parliament, stand back and look at what we are currently dealing with, we don’t even have a ‘Voice’ in our own Tax payer funded supposed Land Council, which is just an Un-representative Non-Aboriginal Company.

We need this ‘Treaty’ process to be made with Aboriginal groups directly and not be hijacked by the gate keepers, the Un-Representative Companies like QSNTS, who operate without any accountability to the Traditional owners.

The road to ‘Treaty’ is long overdue and something that there is no turning around from once it has been signed sealed and delivered.

A ‘Treaty’ needs to be done right and it needs to have Aboriginal People sitting at the main table, formulating and agreeing on the ‘Treaty’ that they will sign, and not be stuck out the back and fed the scraps at the wood heap, which is what the Native Title System has done to our people.

Our communities and families have been torn apart over the last 30 years by the destructive, unprofessional, incompetent and deceitful practices of lawyers, anthropologists, Native Title Service providers, and the Native Title Industry as a whole.

Before Native Title our communities were ‘inclusive’ and we were all connected and looked after each other.

Now because of Native Title our communities have been infected and corrupted by the selfish western ways of being ‘Exclusive’ communities.

We have lost sight of our old people’s values and communal ways.

We have seen family members turn against own family, all for what? At the end of years of torture and torment, we still have no say, no jobs, no land and nothing but bread crumbs, and a trail of destruction left in our communities.

The only ones who have profited are the unscrupulous, lawyers, anthropologists, Native Title Service Provider Employees, who have disguised Native Title Determinations as a win for our mobs, but really, they are hollow victories giving nothing more than a bit of paper to say you can go out hunting and get a feed, if the property owner hasn't already locked the gate on you!

I just hope with this 'Treaty' process, we don't have another 30 years of heartache, turmoil, disputes, fighting and see lawyers, and anthropologists, Native Title Service Providers sitting back stocking the flames and inciting our disputes and conflicts and profiting once again off our misery.

The only integrational wealth that has been created through 30 years of Native Title has been for the descendants of the lawyers, anthropologists and Native Title Service Providers employees and the other sycophants who derive a wealthy living from the Native Title Industry, definitely not the mobs on the ground.

We are the grass roots Traditional Owners on the ground, we have been given no funding, no recourses or help to challenge and navigate throughout this chaos of Native Title and get our day in court to be heard, the Native Title Service Provider gets all the funding and recourses and the access and attention and support of all the other Native Title departments and delegated offices.

They are the ones who fly around the country fully paid, attending every function, every forum, every conference -preaching their own successes and singing their own praises to their other like-minded fully paid constituents, while we the grass roots Traditional owners are forced to operate and compete with them, using our own limited personal finances, in our own personal time, personal transport, personal recourses, while still trying to hold down employment, so we can provide some sort of an existence for our families.

We are fighting another 'Frontier war' still with stone axes and wooden spears, against a Federally funded army called QSNTS who have jet planes, tanks and missiles and bombs.

Let's just hope the 'Treaty' process will give our people the justice, the acknowledgement, self-governance, economic independence and economic control that is centuries overdue.

Let's also hope the 'Treaty' process brings our families and communities back together, for the betterment of our future generations, because the Native Title System has left our families and communities in a broken, divided, sad and sorry state.

Regards,

Travis Harbour

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[REDACTED]  
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