




Speech By  
**Stephen Andrew**

**MEMBER FOR MIRANI**

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### **PATH TO TREATY BILL**

 **Mr ANDREW** (Mirani—PHON) (12.40 pm): I rise to speak on the Path to Treaty Bill 2023. I want to first recognise the traditional custodians—the Aboriginal people, the Torres Strait Islander people and the South Sea islander people, of whom I am a part. The Path to Treaty Bill 2023 is foundational legislation designed to drive Path to Treaty. Once passed, the Treaty Institute and the Queensland government, together with a newly created treaty authority and treaty tribunal, will work together to develop a treaty negotiation framework.

The bill is the most transformational change to relations between the state and Aboriginal and Torres Strait Islander tribal peoples of Queensland that has ever been introduced to the House, yet everything about it seems very rushed, with minimal time frames allowed for submissions. Those who did provide submissions all expressed concerns over the rushed time line and the lack of consultation. One wrote—

Your committee should note that not once has our ... Corporation received information from any of the relevant committees and not once from the Treaty Office.

Why is this bill being rushed through at the speed of light like this before a proper consultation process has been carried out and before the government can legitimately claim to have obtained Queenslanders' 'free, prior and informed consent'?

The many conversations I have had with traditional owners in my area reveal that most know nothing about the bill or its content or what impact it will have on their lives or their community. They also knew nothing about any notion of a reframed partnership between their people and the state, and many are understandably confused and apprehensive about the whole idea. They say that they were not consulted and, even if they had been, consultation is not consent despite what the government would have us believe. Many First Nations people have told me they do not want this bill or treaty. What they want is to be treated with respect and courtesy and to be given more time to understand what the government is proposing to do so they can then consult, discuss and decide for themselves if they will support it and what that support will look like. This bill is not reflective of a bottom-up approach but rather a top-down, agenda-driven process by the government itself, and a rushed one at that.

The Path to Treaty Bill 2023 contains some very fine words and sentiments, most of which ring hollow on closer examination. A number of submitters say they were unimpressed with the process to date. As one noted—

... in all the time this path to treaty process has been occurring, our Corporation has never received information or communication from this office. We remain unclear as to its role, function, personnel and whether it meaningfully engages with First Nations' communities, the latter being another stated principle. In our view this office lacks transparency and does not seem to have even the most fundamental of communication practices.

The bill also poses a direct threat to the integrity of traditional decision-making processes. As one submitter stated—

Our cultural traditions very much align with decision making by consensus. We recommend that a reference be made to this method of decision making as being culturally sensitive and placing an onus on all members to work collaboratively.

Not by a casting vote system.

The Path to Treaty committee should have consulted the Indigenous government toolkit where it is all laid out very clearly. The Aboriginal and Torres Strait Islander approach to decision-making is one of consensus and occurs across the layers of networks. Consensus is created through a slow agreement and can change over time. The institute will not and cannot represent Indigenous people as a group. The notion that 10 appointees in Brisbane will have the support of all Indigenous people throughout Queensland, for whom they will professes to speak, is simply absurd.

The government allocated a 10-year budget of \$300 million to this process. Nowhere in the bill does it mention exactly how First Nations people might gain access to the fund. The explanatory notes state—

Allocations from the Fund will be available to commence key functions of the Path to Treaty, including local truth-telling and healing activities, community engagement and research and advisory functions.

This whole arrangement is controlling and paternalistic. If the government were truly serious about negotiating in good faith with Aboriginal and Torres Strait Islander peoples, then it should hand over the whole \$300 million. Any situation where the government holds the purse strings, doling it out for 'approved' projects, completely negates any supposed independence of the treaty appointees.

The bill states that the Governor in Council will appoint treaty council members on the recommendation of the minister. The minister will recommend Aboriginal and/or Torres Strait Islander persons to the council if satisfied that they are 'suitably qualified' but there is no reference as to what that means. Essentially, therefore, the appointment will be basically at the minister's discretion. The government's selection process is not independent and does not fulfil the requirements for free, prior and informed consent on anything, much less a treaty. If the council is to represent the interests of the First Nations people in Queensland, it must be representative of them and their separate and unique interests, depending on where they live. No body whatsoever could be described as independent when its members and leadership are to be hand-picked by the executive branch of government.

Apart from a brief and dismissive reference to 'self-determination' as a 'principle' in the explanatory notes, the bill fails to mention it in any of its clauses or provisions. The government clearly has no intention of relinquishing one iota of control over this whole process. That is why the bill contains nothing in the way of democratic representation by our tribal people or an independently appointed body and no right to self-governance or self-determination.

This bill is not what is being represented in the media by either the left or the right. It is not about respecting and empowering First Nations or tribal people; it is about manufacturing their consent for a treaty in which, sure, many hand-picked appointees and select groups may become enormously powerful and wealthy, but the trade-off will be the people's land and their sovereignty. That is because it is being driven by the same interests pushing similar legislative reform in other colonial countries, including the United States, Canada and New Zealand. All are engaged in renegotiating treaties with their First Nations people.

Aboriginal and Torres Strait Islanders need to ask themselves why. Why have those countries suddenly decided to reframe their partnership with their country's First Nations people? Did they all just suddenly develop a conscience and decide to finally right the past wrongs at the exact same time, or is there something more to it? If the Queensland government really want to help First Nations people, they would grant them land rights, the right to self-determination and the right to veto, but they will not do that. Everything in this bill will be at the minister's discretion.

The bill also contains a preamble recognising certain aspects of Aboriginal and Torres Strait Islander law, history, custom and tradition. The preamble mentions that First Nations people assert their sovereignty but there is no mention of the commitment to it in principle by the government. There is also no mention of self-government, land rights or even native title. More telling is the complete lack of any reference to Aboriginal and Torres Strait Islanders' ongoing connection to their country. Where 'lands' and 'waters' are mentioned, it is accompanied by a reference to the tribal people's 'continuing responsibility for their lands, seas, waters, air and resources'. The two mean completely different things. A connection to country entails a right to the use of those lands and waters, not simply a responsibility for them. By using the word 'responsibility', the bill employs vague language with no real meaning beyond that used to denote management and ranger programs. It is a word that does not acknowledge the rights of Aboriginal and Torres Strait Islanders to use the water or to hunt, fish and roam freely over the land.

Clause 63 also imposes strict confidentiality provisions on the minister, council members, senior executive officers, members of staff or contractors of the Treaty Institute and public service employees—so, independent but still bound by government secrecy. Frankly, if a treaty does not come out of all of this, the Queensland government will have accomplished a feat never seen before—that of negotiating and signing a treaty with itself.