

Guide to the Bill



The Path to Treaty Bill 2023

The *Path to Treaty Bill 2023* (the Bill) was introduced into the Queensland Parliament on 22 February 2023.

The introduction of the Bill is historic and the first of its kind in Queensland. The Bill was developed through an intensive co-design process between the Queensland Government and the ITTB. The interests of First Nations peoples have been front and centre in the design of the legislation. The Bill acknowledges the devastating and ongoing impacts of colonisation and that truth-telling is a key foundation to promote reconciliation and resolve differences between Aboriginal and Torres Strait Islander peoples and the Queensland community generally.

The Bill establishes a First Nations Treaty Institute (the Institute) and a Truth Telling and Healing Inquiry (the Inquiry).

The Institute will support and enable Aboriginal and Torres Strait Islander peoples to prepare for and participate in treaty negotiations.

The Inquiry's key function is to inquire and document the ongoing individual, familial, cultural and societal effects of colonisation on Aboriginal and Torres Strait Islander peoples of Queensland.

With the establishment of the Institute and the Inquiry, Queensland takes a significant step forward towards a respectful and mutually beneficial relationship between First Nations peoples and the Queensland community generally.

Principles underpinning the Bill

The Path to Treaty legislation is based on core principles to acknowledge and respect the rights of Aboriginal and Torres Strait Islander peoples. The principles are drawn from the *Queensland Human Rights Act 2019* and the *United Nations Declaration on the Rights of Indigenous Peoples 2007*, and emphasise:

- ➔ self-determination for Aboriginal and Torres Strait Islander peoples
- ➔ Aboriginal and Torres Strait Islander peoples being able to give or not give their free, prior and informed consent as part of treaty negotiations and the making of a treaty
- ➔ respecting and protecting Aboriginal law, Aboriginal tradition, Torres Strait Islander law and Ailan Kastom
- ➔ equality and non-discrimination.

The First Nations Treaty Institute

The Institute is a Statutory Body, independent of the Queensland Government, led by a Treaty Institute Council that will consist of Aboriginal and Torres Strait Islander Queenslanders.

The Institute is informed by best practice examples internationally, including Canada and New Zealand. Learnings from these processes have demonstrated the need for an independent, Indigenous controlled, and appropriately resourced body to support First Nations peoples prepare for and then enter treaty negotiations.

The Institute will not negotiate treaties—negotiations will be led by First Nations communities with the Queensland Government.

The Institute will work with Aboriginal and Torres Strait Islander peoples to prepare for treaty negotiations and then conduct the negotiations with the State. This may include facilitating access to appropriate research, professional expertise, and resources to scope, initiate and equitably participate in those negotiations.

Resourcing of the Institute's operations will be the annual allocations from the earnings of the \$300 million Path to Treaty Fund.

In consultation with the State Government, the Institute will develop a treaty making framework to guide treaty negotiations. The framework will:

- ➔ establish the processes for conducting treaty negotiations
- ➔ provide for the legal enforceability of treaties
- ➔ develop dispute resolution strategies.

The Institute will also support Aboriginal and Torres Strait Islander peoples to record the impacts and effects of colonisation on their communities, to inform their participation in treaty negotiations.



**INTERIM TRUTH
AND TREATY BODY**



Institute Council

The Bill will establish the Institute Council as the governing body of the Treaty Institute.

The Institute Council will be constituted by 10 members, all of whom will be Aboriginal and/or Torres Strait Islander people. Membership will have regard to the cultural and gender diversity of Aboriginal and Torres Strait Islander peoples in Queensland.

The Bill provides that the Institute Council is not subject to Ministerial direction and provides the necessary and appropriate independence required from the Queensland Government. Like all statutory bodies, the Institute Council is to act in the public interest, but in doing so it must have particular regard to the interests of Aboriginal and Torres Strait Islander peoples.

The Institute Council will appoint a Chief Executive Officer (CEO) and an Institute Secretary. The employment of other Institute staff will be the responsibility of the Institute CEO.

The Institute's governance structure includes two permanent advisory committees:

- ➔ Finance, Audit and Risk Management
- ➔ Human Rights, Ethics and Research.

This will facilitate the work of the Institute as evidence-based, transparent and underpinned by best practice. Ethical Indigenous research approaches will ensure that the data sovereignty of First Nations communities is at the forefront.

The Truth Telling and Healing Inquiry

The Bill mandates the establishment of a Truth Telling and Healing Inquiry (the Inquiry).

The Inquiry's key function is to inquire and document the ongoing individual, familial, cultural and societal effects of colonisation on Aboriginal and Torres Strait Islander peoples of Queensland. It will also promote healing through increasing public awareness that informs, educates, and develops shared understandings of Queensland's full and accurate history.

The functions and objectives of the Inquiry will be further detailed in its Terms of Reference. The Terms of Reference will be jointly developed during 2023 by First Nations peoples and the State through a co-design process facilitated by the Interim Treaty and Truth Body.

The Bill provides that the Inquiry be established within 3 months of the commencement of the Bill to ensure no undue delays occur.

The Bill also sets out the requirements for the Inquiry membership. There will be five members, who are appointed by the Governor in Council on the recommendation of the Minister. In making a recommendation on membership, the Minister will be informed by a consultation process with First Nations peoples lead by the ITTB.

The majority of the members must be either Aboriginal and/or Torres Strait Islander persons and there must be at least one Aboriginal member and at least one Torres Strait Islander member. All members must have experience and standing in the Aboriginal community or Torres Strait Islander community.

The Bill requires the Inquiry to provide the Minister with a written report on the Inquiry's findings, including any recommendations.

Truth Telling Sessions and Truth Telling Hearings

The Bill requires:


- ➔ the holding of truth telling sessions or hearings, in a culturally appropriate way, having regard to Aboriginal Law and Aboriginal Tradition; and Torres Strait Islander law, and Ailan Kastom
- ➔ that published guidelines be developed recognising and mitigating the stress and psychological trauma that may be experienced by a person engaged in the process.

The Inquiry, while having a formal and legislative basis, is obligated to work in a way that is culturally safe and appropriate as well as trauma-informed and responsive.

The Inquiry's model encourages voluntary participation and sharing of histories, stories, experiences and truths, and relevant documents and information, from Aboriginal and Torres Strait Islander peoples and non-Indigenous Queenslanders alike.

While a Truth Telling Hearing is a more formal engagement in the Inquiry (proposed only for Government entities), through notice given to attend, all Queenslanders can attend a Truth Telling Session voluntarily.

As such, Truth Telling Sessions are public unless the Inquiry determines there is a need for private sessions. Anyone can be invited to attend a truth-telling session and attendance is voluntary.



In contrast, government departments, bodies and agencies are compelled to participate in the Inquiry. When given a notice by the Inquiry, the chief executive officer of a government entity must:

- ➔ give the Inquiry a document, information or thing held by the government entity that the Inquiry considers will assist the Inquiry in performing its functions; or
- ➔ make a written submission to the Inquiry about any matter the Inquiry considers will assist the Inquiry in performing its functions.

While usual grounds to decline a notice to provide a document can be claimed by a government official, e.g. legal professional privilege. The Inquiry can go behind such a claim and conduct a further examination as to whether the claim is justified.

Next steps

The Bill has been referred to a Communities Support and Services Committee for further scrutiny and public consultation.

Visit the [Communities Support and Services Committee](#) website for more information on this process, including opportunities to provide submissions on the Bill.

The closing date for written submissions is Friday, **17 March 2023**.

To ensure Queensland communities are informed and engaged on the status and progress of the Treaty process, and involved in key decisions underpinning the set-up of the Institute and the Inquiry, the ITTB will conduct consultation and community engagement over the balance of 2023. This process will gain First Nations communities view on matters including:

- ➔ how the Institute Council should be selected
- ➔ the method to select members of the Inquiry
- ➔ the Inquiry Terms of Reference.

Further information

You can keep up to date on where the ITTB will be visiting, and follow the truth telling, healing and treaty process at: www.truthandtreatyqld.org.au

To view the *Path to Treaty Bill 2023* visit: www.legislation.qld.gov.au

Contact us

If you have any questions for the Interim Truth and Treaty Body please:

Email: TreatyQld@ittb.qld.gov.au

Visit: www.truthandtreatyqld.org.au