

Truth-telling and Healing Inquiry

Terms of Reference

May 2024

1. Background

The *Path to Treaty Act 2023* (the Act) provides for the establishment of a Truth-telling and Healing Inquiry (the Inquiry), which has features of a commission of inquiry but is customised to facilitate the participation of Aboriginal peoples and Torres Strait Islander peoples by adopting a culturally appropriate and non-legalistic approach.

Under section 65(1) of the Act, I am required to prepare terms of reference for the Inquiry. In doing so, I acknowledge on behalf of the State:

- a) that Aboriginal peoples and Torres Strait Islander peoples have called for the basis and consequences of colonisation to be properly and justly addressed through processes and commitments that reflect the spirit, aspirations, and intent of the advocacy and actions of First Nations leaders such as John Koowarta;
- b) that Torres Strait Islander peoples have called for the unique circumstances of the peoples of the Torres Strait Islands to be properly and justly addressed through processes and commitments such as those embodied in the Masig Statement – The Voice from the Deep;
- c) that the Queensland community has called for all Queenslanders to have life opportunities that are equal for all and to remove the gap between the lesser outcomes impacting Aboriginal peoples and Torres Strait Islander peoples collectively and the greater outcomes enjoyed by Queenslanders generally; and
- d) the principles stated in the United Nations Declaration on the Rights of Indigenous Peoples, and all other laws and international human rights instruments respecting and protecting the rights, culture, and traditions of Aboriginal peoples and Torres Strait Islander peoples.

2. Terms of reference subject to the Act

This Terms of Reference are to be read subject to the provisions of the Act.

3. Key sections of the Act informing the terms of reference

The Act provides that:

- a) in preparing the terms of reference, I may consult with any person I consider has the skills, knowledge or experience relevant to the functions of the Inquiry (section 65(3)); and
- b) the terms of reference must include the matters, not otherwise provided for by the Act, that the Inquiry must have regard to in performing its functions (section 65(4)); and
- c) in addition to the Inquiry functions set out in subsections 66(a), (b) and (c), the Inquiry is to undertake any other functions stated in the Inquiry's terms of reference (section 66(d)).

4. Consultation

In preparing these terms of reference, I have consulted with the members of the Interim Truth and Treaty Body. The members of the Interim Truth and Treaty Body have engaged in extensive consultation with Aboriginal communities and Torres Strait Islander communities throughout Queensland. The common themes and aspirations for the Inquiry expressed by members of Aboriginal and Torres Strait Islander communities are that the Inquiry will:

- a) before starting to hold truth-telling sessions and truth-telling hearings, consult with Aboriginal peoples, Torres Strait Islander peoples, persons of relevant skill and expertise and other stakeholders;
- b) encourage voluntary participation and the sharing of histories, stories, experiences and truths from Aboriginal peoples, Torres Strait Islander peoples and non-Indigenous Queenslanders alike;
- c) consider the need to give priority to gathering information from Elders and significant knowledge holders of Aboriginal peoples and Torres Strait Islander peoples, whose knowledge is critical to the Inquiry's functions;
- d) engage with Aboriginal peoples, Torres Strait Islander peoples and non-Indigenous peoples across all Queensland communities in sensitive and culturally capable ways that are inclusive and supportive of individuals;
- e) adopt a trauma-informed approach that considers existing research, strategies and policies such as the Queensland Healing Strategy to minimise the risk of Aboriginal people and Torres Strait Islander people who engage with the Inquiry suffering further psychological and other trauma;
- f) embed the data sovereignty rights of Aboriginal peoples and Torres Strait Islander peoples to govern the collection, ownership and application of their data, information and stories;
- g) establish appropriate arrangements with the State and Memory Institutions on matters to facilitate the effective operation of the Inquiry and the performance of its functions including but not limited to:
 - i. access to documents and things held by the State and the Memory Institutions; and
 - ii. the transfer of Inquiry Records most appropriately secured by either Aboriginal peoples, and Torres Strait Islander peoples, or the First Nations Treaty Institute, or by the State, or a Memory Institution;
- h) encourage the engagement of local government, faith-based organisations, and other non-government entities including in the provision of Inquiry Records that will assist Aboriginal peoples and Torres Strait Islander peoples to fully participate in the Inquiry;
- i) lead engagement and promote the Inquiry's progress through media and digital content to Inquiry participants and the broader community.

5. Matters Subject to Inquiry

Having regard to these consultations the Inquiry is to inquire into, document, conduct research about and advise and make recommendations to the Minister about the following matters:

- a) the experience of, and effect on, Aboriginal peoples and Torres Strait Islander peoples of the conduct (including past laws, policies, actions and practices) of colonial and State governments relating to:
 - i. displacement, dispossession, settlement and management of lands, seas and waters;
 - ii. assimilation and protection;
 - iii. missions and reserves;
 - iv. separation of children, or other family members, from their families;
 - v. control over personal property and places of residence;
 - vi. control over wages, finances and employment;
 - vii. treatment in policing and the criminal justice system;
 - viii. provision of education and health care;
 - ix. languages and culture;
 - x. control of movement for goods and services, for social interactions, and movement from one community to another;
 - xi. control of marriages and courtship; and
 - xii. the opportunities to participate in the public, economic and social life of Queensland on equal terms with the wider Queensland community;
- b) the role of non-government, faith-based organisations and others in the colonisation of Queensland relating to the above at (a);
- c) the role of non-government and faith-based organisations in the implementation of the laws, policies, actions or practices by colonial and State authorities relating to the above at (a); and
- d) the ongoing systemic impacts of the above experiences including the current barriers and obstacles to Aboriginal peoples' and Torres Strait Islander peoples' full participation in the public, economic and social life and public affairs of Queensland.

6. Matters to which the Inquiry must have regard in performing its functions—Act, section 65(4)

Pursuant to subsection 65(4) of the Act, the Inquiry must have regard to the following matters in performing its functions:

- a) to promote public awareness of the history of the colonisation of Queensland and its ongoing impacts on Aboriginal peoples and Torres Strait Islander peoples and the Queensland community generally;
- b) to promote public awareness and a deeper understanding within the Queensland community, of Aboriginal peoples' and Torres Strait Islander peoples' cultures, histories, languages and traditions and the on-going responsibility of Aboriginal peoples and Torres Strait Islander peoples to their traditional lands, seas and waters;

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- c) to strengthen the relationship between non-Indigenous people and Aboriginal peoples and Torres Strait Islander peoples to foster reconciliation and a deeper respect for Aboriginal and Torres Strait Islander culture, history and experiences that transcend generations;
- d) to engage with and build the capacity of Queensland education systems to impart understanding of the events and impacts of colonisation for current and future generations;
- e) to contribute to a reframed relationship between Aboriginal peoples and Torres Strait Islander peoples and the State based upon genuine partnership, and leadership from Aboriginal peoples and Torres Strait Islander peoples and their representative bodies and community-controlled organisations;
- f) to contribute to a healed and reconciled Queensland, based upon a shared understanding of a full and complete history of Queensland and the intergenerational impacts of colonisation on the current life outcomes and experiences of Aboriginal peoples and Torres Strait Islander peoples;
- g) to contribute to improved policy and service delivery outcomes for Aboriginal peoples and Torres Strait Islander peoples;
- h) to minimise harm and re-traumatisation in the conduct of the Inquiry by adopting the principle of free, prior and informed consent and a trauma-informed approach; and
- i) to inform the treaty making process and the development of the Treaty-Making Framework between the First Nations Treaty Institute and the State.

7. Other functions of the Inquiry

Pursuant to section 66(d) of the Act, the Inquiry has the following other functions:

- a) to deepen the understanding of the impacts of colonisation by highlighting research on the history, laws, traditions, languages and culture and traditional knowledges of Aboriginal peoples and Torres Strait Islander peoples prior to colonisation of Queensland;
- b) to record and disseminate the stories of resistance, resilience, achievement and excellence by Aboriginal peoples and Torres Strait Islander peoples in all walks of life;
- c) to consider how its inquiries and research could be used by Queensland schools and in higher and further education to develop curriculum and education materials so that the history of colonisation and its impacts on Aboriginal peoples and Torres Strait Islander peoples is understood by current and future generations;
- d) to promote healing and reconciliation within the Queensland community;
- e) to work with Memory Institutions in relation to local truth-telling activities that align with the work of the Inquiry;
- f) to liaise and co-ordinate activities with the First Nations Treaty Institute where the functions of the Inquiry and the Institute align under the Act; and
- g) any matter reasonably incidental to the functions of the Inquiry stated above and in section 66(a), (b) and (c) of the Act.

8. Exclusion of certain matters from scope of Inquiry

In performing its functions, the Inquiry is not required to inquire, or to continue inquiring, into a matter that has been the subject of another inquiry, investigation or proceeding in a court or tribunal (**another process**).

If a matter has not been, or is not presently, the subject of another process but the Inquiry members do not consider it would be the best use of the Inquiry's resources to inquire into, or to continue inquiring into, the matter, the Inquiry may request the Minister amend these Terms of Reference to exclude the matter from the scope of the Inquiry.

In deciding to make a recommendation to the Minister, the Inquiry members are to have regard to the following factors:

- a) the length of the Inquiry's remaining term;
- b) the resources available to the Inquiry; and
- c) the prospects of the matter being made the subject of another inquiry, investigation or becoming the subject of court or tribunal proceedings.

9. Definitions

Colonisation: Colonisation of the peoples, lands and waters of the area currently known as the State of Queensland from first contact onwards.

Memory Institutions: Any of the following:

- a) the State Library of Queensland;
- b) the Queensland Museum Network;
- c) Queensland State Archives; and
- d) the Queensland Gallery of Modern Art.

Queensland Healing Strategy: The *Queensland Aboriginal and Torres Strait Islander Healing Strategy (2020–2040)* developed by the Healing Foundation and commissioned by the Department of Child Safety, Seniors and Disability Services and the Queensland Mental Health Commission.

Minister for Treaty
Minister for Aboriginal and Torres Strait Islander Partnerships
Minister for Communities
Minister for the Arts