



# **PATH TO TREATY** IN QUEENSLAND CONSULTATION PAPER

Let's start the conversation



Department of Aboriginal and  
Torres Strait Islander Partnerships



## Acknowledgment

We pay our respects to the Aboriginal and Torres Strait Islander ancestors of this land, their spirits and their legacy. The foundations laid by these ancestors—our First Australians—give strength, inspiration and courage to current and future generations, both Indigenous and non-Indigenous, towards creating a better Queensland.

We recognise it is our collective efforts and responsibility as individuals, communities and governments to ensure equality, recognition and advancement of Aboriginal and Torres Strait Islander Queenslanders across all aspects of society and everyday life.

We offer a genuine commitment to fearlessly represent, advocate for and promote the needs of Aboriginal and Torres Strait Islander Queenslanders with unwavering determination, passion and persistence.

As we reflect on the past and give hope for the future, we walk together on our shared journey to reconciliation where all Queenslanders are equal.

## About the design

The motif design was created by Leigh Harris, an Aboriginal artist and designer from creative design agency Ingeous Studios in Cairns, Far North Queensland.

Leigh Harris, has traditional connections to the Kanolu people of Central Queensland and Gungarri people of South East Queensland, and is also proud of his Italian and Welsh heritage.

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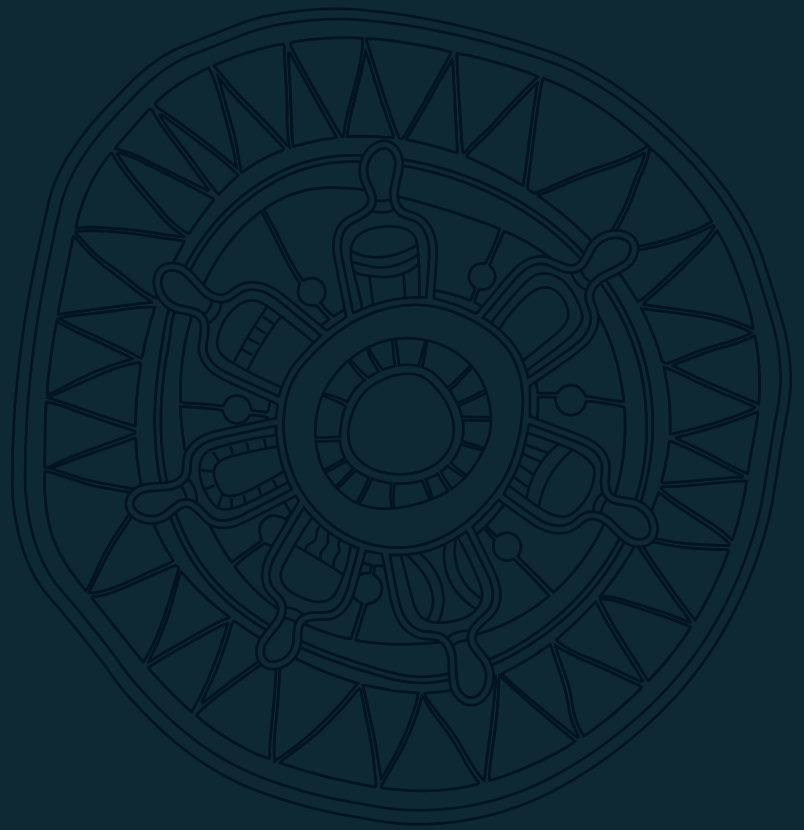
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## Joint Statement of Commitment

Aboriginal and Torres Strait Islander peoples and the Queensland Government are building a reframed relationship that acknowledges, embraces and celebrates the humanity of Indigenous Australians. We are proud that Aboriginal and Torres Strait Islander peoples have continuing rights and responsibilities as the first peoples of Queensland, including traditional ownership and connection to land and waters.

In the spirit of healing, we recognise the past acts of dispossession, settlement and discriminatory policies, and the cumulative acts of colonial and state governments since the commencement of colonisation which have left an enduring legacy of economic and social disadvantage that many Aboriginal and Torres Strait Islander peoples have experienced and continue to experience.

It is time to nurture hope and optimism. It is time to focus on strengths and not deficits and to move from surviving to thriving. This can only be done by the Queensland Government doing things with Aboriginal and Torres Strait Islander peoples, and not 'to them'.

We will move forward together with mutual respect, recognition and a willingness to speak the truth about our shared history.

Through our continued shared commitment to reconciliation, all Queenslanders will be part of this journey.



## MESSAGE FROM THE DEPUTY PREMIER

*Now is our time to come together, to walk on this journey grounded in voice, treaty and truth, towards a shared future.*

Path to Treaty represents a once-in-a-generation opportunity to come together as Queenslanders to start a journey towards a future that is more just, more equal and more respectful for First Nations Queenslanders.

Report after report details the poor social, cultural and economic outcomes for Aboriginal and Torres Strait Islander Queenslanders. And report after report, recommends a change in the relationship, the exercise of greater influence in decision-making, self-determination and culturally capable approaches to working with Aboriginal and Torres Strait Islander Queenslanders.

Realising these outcomes can't just happen through better service delivery. They have to be founded on a better relationship—a relationship grounded in truth, a relationship that respects and welcomes voice, a relationship based on treaty.

Treaties have been used throughout the world as an accepted means for acknowledging past injustices, resolving differences, and creating a shared future.

Queensland is ready for this conversation and to reframe the relationship with Aboriginal and Torres Strait Islander Queenslanders.

As a state we have led the way by amending the preamble of the Queensland Constitution to honour Aboriginal peoples and Torres Strait Islander peoples as the First Australians in 2010, and implementing the *Human Rights Act 2019*, which acknowledges the importance of the right to self-determination for Aboriginal and Torres Strait Islander Queenslanders.

The Path to Treaty consultation starts the conversation to develop a process for statewide agreement making with Aboriginal and Torres Strait Islander Queenslanders. It is important that the voices of Aboriginal and Torres Strait Islander Queenslanders and non-Indigenous Queenslanders are heard in the treaty conversation.

Over the coming months, a Treaty Working Group, guided by a non-partisan Eminent Panel, will seek feedback from Queenslanders far and wide about what a treaty might mean to them. I encourage you to be part of this historic conversation through attending community discussions and providing written feedback on the questions in the consultation paper.

**Honourable Jackie Trad MP**

Deputy Premier  
Treasurer and  
Minister for Aboriginal and Torres Strait Islander Partnerships

## MESSAGE FROM THE EMINENT PANEL



*We hope the Path to Treaty process will go some way to acknowledging past wrongs, allowing us to move towards a shared future, where ancient and ongoing rights of Aboriginal and Torres Strait Islander Queenslanders are valued and embraced.*

We are proud to be appointed as Co-Chairs of the Eminent Panel that will provide non-partisan leadership in the conversation about the Path to Treaty in Queensland.

We look forward to working alongside the Aboriginal and Torres Strait Islander and non-Indigenous Queenslanders members of the Eminent Panel.

All of the members of the Eminent Panel are passionate about reconciliation between Aboriginal peoples and Torres Strait Islander peoples and non-Indigenous Australia.

We believe the Path to Treaty is our opportunity as Queenslanders, for truth telling and to acknowledge the past. Equally it's our opportunity to celebrate and embrace the contributions of Aboriginal peoples and Torres Strait Islander peoples who have occupied and held rights over this land for more than 60,000 years.

We acknowledge the vital importance of self-determination and we acknowledge The Uluru Statement from the Heart that was released 26 May 2017, which noted 'sovereignty is a spiritual notion' and that *"It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown."*

Path to Treaty will allow Aboriginal and Torres Strait Islander Queenslanders and non-Indigenous Queenslanders to move forward together towards a shared future.

In the coming months we look forward to hearing your voices and learning what Path to Treaty means to all Queenslanders.

We encourage each of you to share your voice.

**Dr Jackie Huggins AM**  
Co-Chair  
Eminent Panel

**The Hon Michael Lavarch AO**  
Co-Chair  
Eminent Panel



# EMINENT PANEL CO-CHAIRS

An Eminent Panel of Aboriginal and Torres Strait Islander Queenslanders and non-Indigenous Queenslanders has been appointed to lead the conversation about genuine recognition and agreement with First Nations Queenslanders regarding reconciliation and self-determination. The Panel will be co-chaired by Jackie Huggins and Michael Lavarch and further information on the panel can be found at [www.datsip.qld.gov.au/treaty](http://www.datsip.qld.gov.au/treaty).

A Treaty Working Group will be established to lead a program of statewide consultation. It will consist of members with the necessary technical skills, experience and commitment to support the Path to Treaty process.



## Dr Jackie Huggins AM

Jackie Huggins is a Bidjara/Birri Gubba Juru woman from central and north Queensland. She was born in Ayr and grew up in Inala, a suburb in Brisbane.

Jackie has first-hand, lived experience on the issues that affect the lives of Aboriginal and Torres Strait Islander Queenslanders. She has devoted her life to Aboriginal and Torres Strait Islander issues and the pursuit of a better life for her people.

Throughout her career Jackie has been involved in reconciliation, the Stolen Generations, education, arts, leadership, prison reform, domestic and family violence, health, housing, literacy, disability, human rights, women's issues, and other social justice initiatives.

She is the former Co-Chair of the National Congress of Australia's First Peoples, and has served as the Chair of the Queensland Domestic Violence Council, the Commissioner for Queensland for the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, and as the Co-Chair of Reconciliation Australia.

Jackie brings to the Eminent Panel a lifetime of experience, passion for her people, leadership, and a strong ability to communicate, negotiate, and listen to the voices of people from all walks of life.



## The Hon Michael Lavarch AO

Michael Lavarch is a proud Queensland, who has spent his life serving his community.

He completed his Law degree in 1984 before being elected to the House of Representatives as the member for Fisher in 1987, and for Dickson in 1993.

He was the Attorney-General in the Keating Government from 1993 to 1996. In this role, he worked to establish the National Native Title Tribunal and conducted negotiations with State and Territory governments for the implementation of the Native Title Act. He also initiated a wide range of law reform, including the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families.

Michael has maintained strong links to the legal profession and he is an Emeritus Professor of Law at the Queensland University of Technology. He has served as a board member in the finance, energy, and not-for-profit sectors and has conducted numerous reviews for government.

Michael brings to the Eminent Panel a wealth of experience in public policy and corporate governance, a committed interest to law and human rights, and a willingness to acknowledge and listen to the perspectives of his community.



# BACKGROUND

## What is a treaty?

In its simplest terms, a treaty can be described as a negotiated agreement between two or more parties. A treaty is developed through a negotiation process to determine what is in the treaty, within the respective powers of the negotiating parties. A treaty is only signed once all parties are in agreement.

Around the world, treaties are accepted as the means of resolving differences between Indigenous peoples and those who have colonised their lands.

## History of treaty

Unlike other countries (including the United States, Canada, and New Zealand), there were no recognised treaties between Aboriginal and Torres Strait Islander peoples and the British Crown at first contact in Australia. Some countries such as Canada are continuing to negotiate treaties through a modern treaty process. Australia is now the only Commonwealth nation that does not have a treaty with its Indigenous peoples.

Without early treaties in place, Aboriginal and Torres Strait Islander peoples were displaced from their land without any negotiation, resulting in economic and social inequalities that continues to this day. It also meant that Aboriginal and Torres Strait Islander peoples were not considered as equal partners in the development of Australia. In fact, many laws sought to control, exclude and discriminate against them. This historical legacy continues to cause issues in the relationship between the governments and Aboriginal and Torres Strait Islander peoples today.

Treaties in other countries have provided a framework for living together, sharing the land traditionally owned and occupied by Indigenous peoples, and providing the foundations for ongoing co-operation, discussions and partnership. Early treaties also helped to establish trade and military partnerships.

However, there have also been issues holding governments to account to fulfil the obligations in treaties, and with agreeing how the text of the treaties is interpreted, particularly in a modern context. In many historical treaties, Indigenous people were not equal partners to the treaty negotiations and often signed treaties under duress.

## Treaty or treaties?

New Zealand has a single overarching treaty (the Treaty of Waitangi) between Maori and the British Crown. Canada and the United States of America have hundreds of treaties dating back as far as the 1600s.

Queensland has many Aboriginal and Torres Strait Islander peoples with many different language groups and cultures. An important question to be considered through the Path to Treaty reform is whether Queensland might have a single overarching treaty or many treaties, and with whom.

## What about national Constitutional Recognition and a national treaty process?

In Australia, practical progress towards treaty is being made at the state and territory level. The Path to Treaty in Queensland can progress alongside any future initiatives at the national level to respond to calls for constitutional recognition of Aboriginal and Torres Strait Islander peoples, including a national treaty process.

The Queensland Constitution recognises Aboriginal and Torres Strait Islander peoples as the First Australians in the preamble of its Constitution.

# PATH TO TREATY

## Why are we starting the Path to Treaty conversation now?

The Queensland Government has committed to a new way of working with Aboriginal and Torres Strait Islander Queenslanders. The Tracks to Treaty—Reframing the Relationship with Aboriginal and Torres Strait Islander Queenslanders initiative has been developed to give effect to this reframed relationship.

This commitment has been made in response to calls from Aboriginal and Torres Strait Islander Queenslanders for a new relationship. It is also the next step in recognition of the existing amendment reflected in the preamble of the Queensland Constitution to provide due recognition to Queensland's Aboriginal and Torres Strait Islander peoples.

To drive this transformative reform, the Queensland Government is working in partnership with Aboriginal and Torres Strait Islander Queenslanders and communities, to deliver on this commitment to a new and just relationship.

A reframed relationship will be underpinned by the principle of self-determination and actioned through truth telling, empowerment, agreement making and high expectations relationships. This will be done at the local level through the Local Thriving Communities reform and at the statewide level through the Path to Treaty.

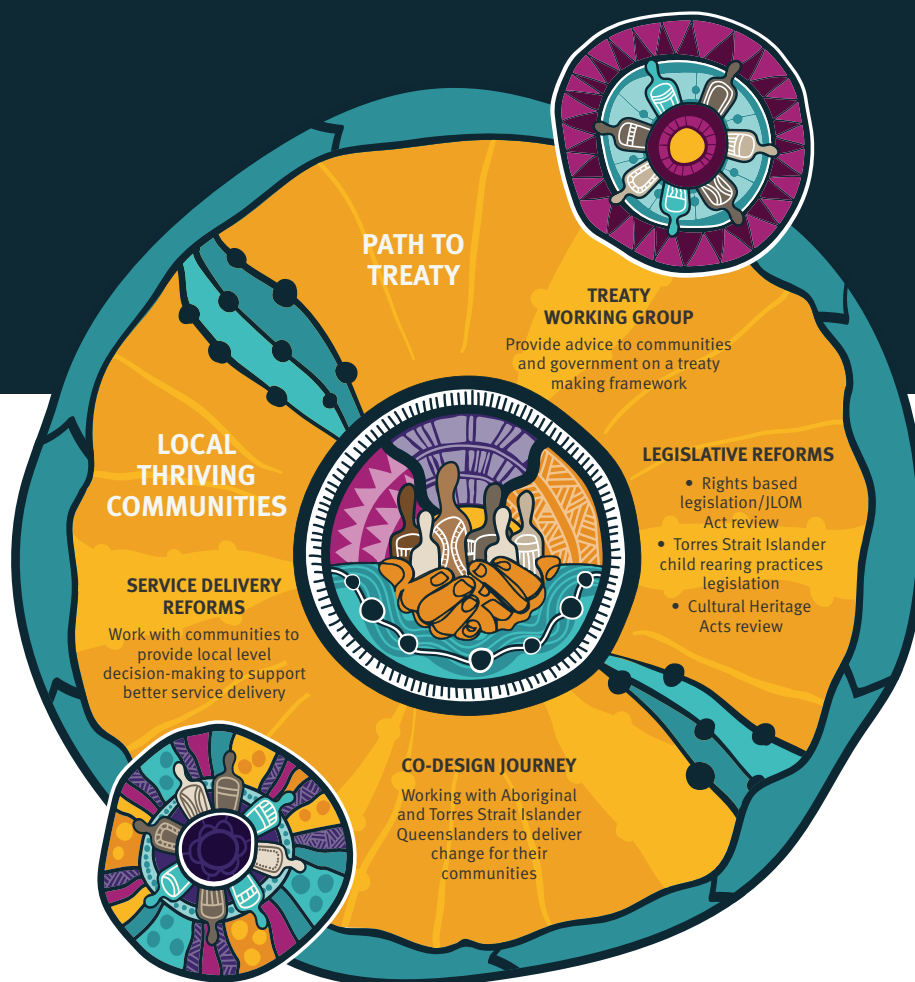


## Why is a Path to Treaty important?

*Path to Treaty signals an effort to learn from the past and a commitment to forge new agreements about how we co-exist into the future upon the land we now share—accepting our shared history and moving forward together.*

*Path to Treaty enriches all members of society. It provides for greater recognition, celebration and learning from Aboriginal peoples and Torres Strait Islander peoples who have occupied and held rights over this land for more than 60,000 years.*





The Path to Treaty is part of a larger package of reforms aimed at reframing the relationship with Aboriginal and Torres Strait Islander Queenslanders. The reforms are grounded in self-determination and mutual respect and are taking place in a staged and consultative way.

**Local Thriving Communities**, one of the local level reforms, will implement the Queensland Government's response to the Queensland Productivity Commission Inquiry into service delivery in remote and discrete Aboriginal and Torres Strait Islander communities. Local Thriving Communities is being implemented in a co-design approach with 19 remote and discrete communities to improve service delivery, governance and economic opportunities. These communities include Aurukun, Cherbourg, Doomadgee, Hope Vale, Kowanyama, Lockhart River, Mapoon, Mornington Island, Napranum, Northern Peninsula Area, Palm Island, Pormpuraaw, Torres, Torres Strait Islands, Woorabinda, Wujal Wujal, Coen, Mossman Gorge and Yarrabah.

This co-design work is overseen by a joint community and government coordinating committee.

The principles underpinning Local Thriving Communities are also informing a new reframed relationship approach across the state.

**Path to Treaty** is a commitment from the Queensland Government to begin the journey towards negotiated treaties with First Nations Queenslanders.

It seeks to consolidate the milestones and achievements already underway and build stronger relationships with Aboriginal and Torres Strait Islander Queenslanders.

Work to date includes the addition to the preamble to the Queensland Constitution to honour Aboriginal and Torres Strait Islander peoples as the First Australians. Other key achievements include the:

- *Human Rights Act 2019* which acknowledges the importance of the right to self-determination for Aboriginal and Torres Strait Islander Queenslanders
- launch of the Queensland Government Reconciliation Action Plan 2018–2021
- commitment to the legal recognition of traditional Torres Strait Islander child rearing practices
- establishment of the Queensland First Children and Families Board
- establishment of the Local Thriving Communities Joint Coordinating Committee
- commitment to ensuring Aboriginal and Torres Strait Islander peoples are represented on various government boards and committees
- appointment of the First Nations Advisor for Housing.



## KEY QUESTIONS

The Eminent Panel is seeking feedback on the following key questions.

### WHAT COULD BE IN A TREATY?

- 1 *What does treaty mean to you?*
- 2 *Who needs to be involved in the Path to Treaty journey?*
- 3 *What would you like a treaty to achieve in Queensland?*
- 4 *What would you like to see included in a treaty in Queensland?*
- 5 *What needs to be done to support truth telling as part of this Path to Treaty?*

### WHAT'S HAPPENED IN OTHER COUNTRIES?

- 6 *Are there any elements from treaty reforms in other states, territories or countries that you think could work in Queensland?*
- 7 *What are the key issues we need to consider?*

### WHAT WOULD QUEENSLAND'S PATH TO TREATY LOOK LIKE?

- 8 *What are your priorities for the next steps for the Path to Treaty in Queensland?*
- 9 *How would you like to keep the conversation going about the Path to Treaty?*

HAVE YOUR SAY:

# WHAT COULD BE IN A TREATY?

Although we are now just at the beginning of the journey for the Path to Treaty, it is important to talk about what a treaty or treaties might mean for Aboriginal and Torres Strait Islander Queenslanders and the broader Queensland community.

Guided by the principle of self-determination, the Queensland Government won't determine who a treaty is with or what it will be about. The Queensland Government can only agree to what is within its own Constitutional powers.

Agreements or treaties founded on mutual respect and recognition and speaking the truth about our shared history are an important way to reset the relationship and to negotiate a new way of working in partnership for the Queensland Government and Aboriginal and Torres Strait Islander Queenslanders.

We believe that a treaty will have benefits for all Queenslanders to help promote reconciliation, foster a shared pride in Aboriginal and Torres Strait Islander culture and help heal the wounds of the past.

## YOUR VIEWS



*What does treaty mean to you?*



*Who needs to be involved in the Path to Treaty journey?*



*What would you like a treaty to achieve in Queensland?*



*What would you like to see included in a treaty in Queensland?*



*What needs to be done to support truth telling as part of this Path to Treaty?*

# WHAT'S HAPPENING IN OTHER STATES, TERRITORIES AND COUNTRIES?

## What's happening in other states and territories?

In Victoria, an independent Treaty Advancement Commission has been established. The Commission's job is to maintain the momentum of the treaty process, and set up an Aboriginal Representative Body which will work with the government to develop and agree to a treaty negotiation framework.

The *Advancing the Treaty Process with Aboriginal Victorians Act 2018* sets out how the Aboriginal Representative Body and the government will work together to progress the treaty process including:

- agreeing the treaty negotiation framework (this will set out the 'ground rules' for example, what is on and off the negotiating table, and who can negotiate etc.)
- establishing a Treaty Authority which will administer the treaty negotiation framework, and be an 'independent umpire' to mediate future negotiation processes.

In the Northern Territory, the Northern Territory Joint Land Councils and Northern Territory Government signed the Barunga Agreement (which is a Memorandum of Understanding) paving the way for consultations to begin with Aboriginal people about a treaty.

An independent Treaty Commissioner has been appointed to lead the consultations with Aboriginal people and organisations across the Northern Territory, and develop a framework for treaty negotiations. Legislation is being developed to support the Commissioner's role.

In South Australia, an independent Treaty Commissioner was appointed to undertake broad consultation on a suitable framework to further treaty negotiations between the South Australian Government and Aboriginal people, and provide advice to the Minister on a framework. Following a change of government the treaty process did not continue. There is no path to treaty in place.

## What's happened in other countries?

British Columbia in Canada provides an example of a path to treaty for a modern treaty process. The British Columbia Treaty Commission is the independent body responsible for facilitating treaty negotiations in British Columbia.

The British Columbia Treaty Commission and treaty negotiation process were established as a result of recommendations made by the British Columbia Claims Task Force in 1991.

The Task Force was made up of two representatives each from the Canadian Government, the British Columbia Government and three First Nations representatives (appointed by leaders from First Nations across British Columbia at a meeting called the First Nations Summit). The Task Force was asked to define the scope of negotiations between the parties, the organisation and process of negotiations, including the time frames for negotiations.

### YOUR VIEWS



***Are there any elements from treaty reforms in other states, territories or countries that you think could work in Queensland?***



***What are the key issues we need to consider?***

HAVE YOUR SAY:

# WHAT WOULD QUEENSLAND'S PATH TO TREATY LOOK LIKE?

The development of Queensland's Path to Treaty will be up to all of us.

There are many things to consider in developing this, for example:

- a treaty may mean different things to Aboriginal and Torres Strait Islander Queenslanders
- the voices of Aboriginal and Torres Strait Islander Queenslanders in urban, regional and country towns, and remote areas, need to be heard in the design of the pathway
- supporting all Queenslanders to be part of this journey, as the Path to Treaty provides a significant opportunity to promote reconciliation for all Queenslanders
- how to best keep momentum going on the Path to Treaty.

## YOUR VIEWS



***What are your priorities for the next steps for the Path to Treaty in Queensland?***



***How would you like to keep the conversation going about the Path to Treaty?***



# JOIN THE CONVERSATION ABOUT THE PATH TO TREATY IN QUEENSLAND

*This consultation paper will guide the beginning of the journey towards a Path to Treaty through genuine, respectful, and meaningful conversations with Aboriginal and Torres Strait Islander Queenslanders and the broader Queensland community.*

We are inviting Aboriginal and Torres Strait Islander Queenslanders, and members of the wider Queensland community, to submit their comments, opinions and ideas about a treaty or treaties.

## Have your say

You are invited to let us know what you think in response to the questions in this consultation paper.

### Submitting your views

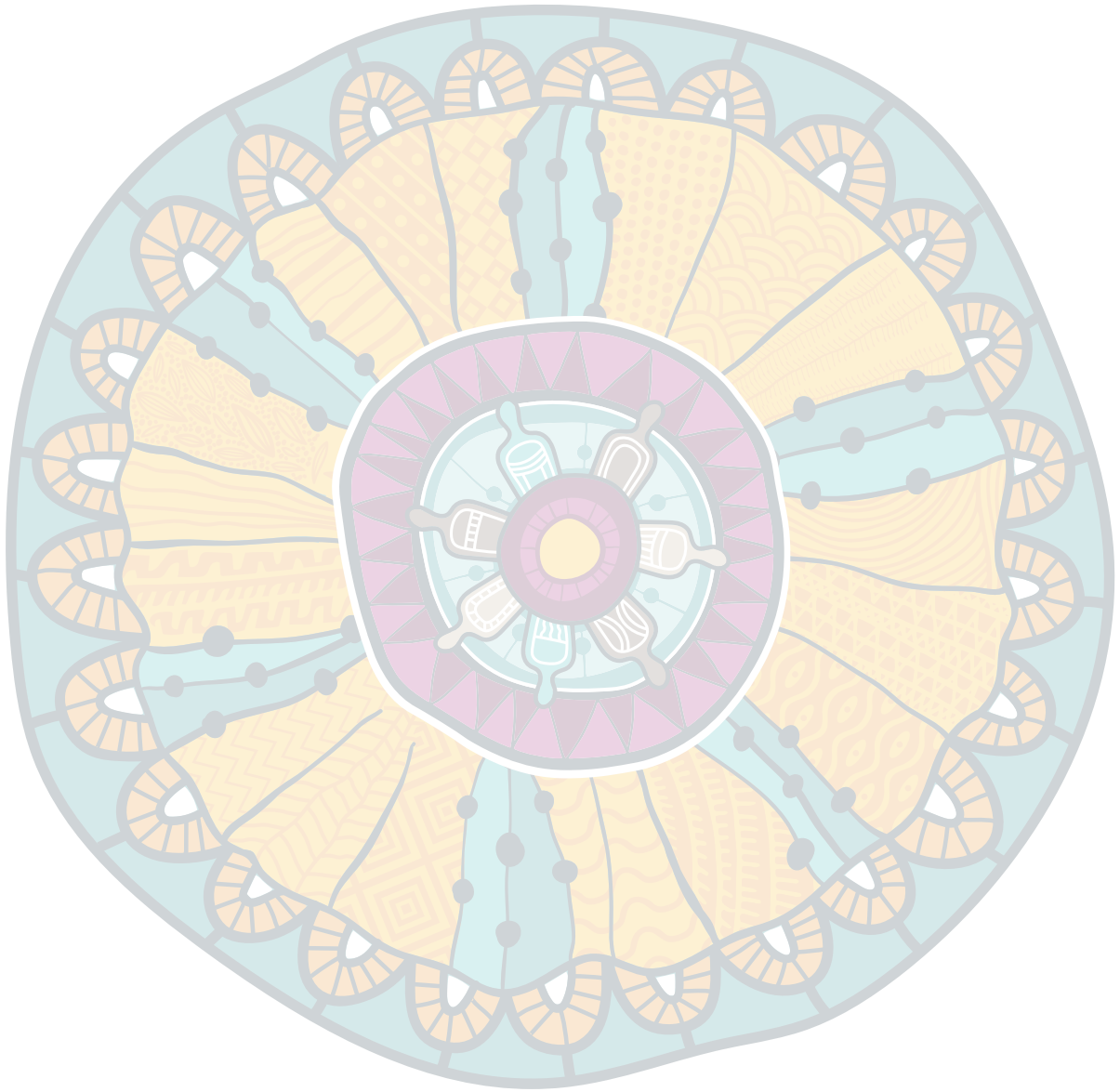
Please **mail** us your views and comments, or fill in the **online form** available on [www.getinvolved.qld.gov.au](http://www.getinvolved.qld.gov.au) by 6 December 2019.

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### Further information

For further information, or to download this consultation paper including details of upcoming public consultation sessions, refer to: [www.datsip.qld.gov.au/treaty](http://www.datsip.qld.gov.au/treaty)

If you have any questions regarding this consultation paper, please email: [treaty@datsip.qld.gov.au](mailto:treaty@datsip.qld.gov.au)





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