Parliamentary Committees

Healthy Futures Commission Queensland Bill 2017

Report No. 40, 55th Parliament

Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

July 2017

Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

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Acknowledgements

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Contents

Abbreviations and glossary

Advancing Health 2026	My health, Queensland's future: Advancing health 2026
AHPAQ	Australian Health Promotion Association – Queensland Branch
AMAQ	Australian Medical Association Queensland
the Bill	Healthy Futures Commission Queensland Bill 2017
the Board	Healthy Futures Commission Queensland Board
Chief executive	Chief executive of Queensland Health
Chief executive officer	Chief executive officer of the Healthy Futures Commission Queensland
the Commission	Healthy Futures Commission Queensland
the committee	Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
the department	Department of Health
the Fund	Healthy Futures Queensland Fund
Funding Plan	Annual project funding plan
HCQ	Health Consumers Queensland
Healthway	Western Australian Health Promotion Foundation
HiAP	Health in All Policies
HLA	Health Lens Analysis
the Minister	Minister for Health and Minister for Ambulance Services
NGOs	Non-government organisations
Ottawa Charter	Ottawa Charter on Health Promotion
PHAAQ	Public Health Association of Australia – Queensland Branch
POQA	*Parliament of Queensland Act 2001*
QIMR	QIMR Berghofer Medical Research Institute
QMHC	Queensland Mental Health Commission
QNMU	Queensland Nurses and Midwives' Union

RANZCP	Royal Australian and New Zealand College of Psychiatrists
SW HHS	South West Hospital and Health Service
VicHealth	Victorian Health Promotion Foundation
WHO	World Health Organisation

Note: All Acts are Queensland Acts, unless specified.

Chair's foreword

On behalf of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee of the 55th Parliament, I present this report on the committee's examination of the Healthy Futures Commission Queensland Bill 2017.

The Bill delivers on the Palaszczuk Government's election commitment to create a statewide health promotion commission, the Healthy Futures Commission Queensland, an independent statutory body focussing on the health of children and families in Queensland.

This Bill inquiry follows previous consideration by the committee into the establishment of a Queensland Health Promotion Commission, Report No. 21 55th Parliament – *Inquiry into the establishment of a Queensland Health Promotion Commission,* tabled in June 2016.

The committee's task in this Bill inquiry was to consider the policy to be given effect by the Bill, and whether the Bill has sufficient regard to the fundamental legislative principles in the *Legislative Standards Act 1992*. The fundamental legislative principles include whether legislation has sufficient regard to the rights and liberties of individuals and to the institution of Parliament.

The committee sought written submissions, held a public departmental briefing, and a public hearing. This report summarises the committee's examination of the Bill, including the views expressed in submissions and information provided by the department.

The Government members of the committee are disappointed that the committee was unable to reach a majority decision as to whether the Bill should be passed. The Bill, if enacted, would establish a health promotion commission which would:

- act as an independent champion, empowered to communicate with the diverse sectors engaged in health promotion, and foster the innovative thinking required to reduce health inequity; and
- focus on building the capacity of children and families to be a key force for change in matters of health and wellbeing.

The Commission would also play a significant role in meeting the targets in *My Health, Queensland's future: Advancing health 2026* to reduce childhood obesity by 10 per cent and increase by 20 per cent adult physical activity for health benefits by 2026.

On behalf of the committee, I would like to thank those individuals and organisations who provided written submissions, the department for their assistance and information provided, and the Committee Secretariat.

I commend the report to the House.

Leanne Linard MP

Chair

1 Introduction

1.1 Role of the committee

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the committee) is a portfolio committee of the Legislative Assembly.[1] The committee's areas of portfolio responsibility are:

- health and ambulance services
- communities, women, youth and child safety
- domestic and family violence prevention, and
- disability services and seniors.[2]

The committee is responsible for examining each Bill in its portfolio areas to consider:

- the policy to be given effect by the legislation, and
- the application of fundamental legislative principles (FLPs).[3]

Further information about the work of the committee can be found on its webpage.[4]

1.2 Referral and committee process

On 23 May 2017, the Minister for Health and Minister for Ambulance Services, Hon Cameron Dick MP (the Minister), introduced the Healthy Futures Commission Queensland Bill 2017 (the Bill) into the Legislative Assembly. The Bill was referred to the committee on 23 May 2017, and the committee was required to report to the Legislative Assembly by 24 July 2017.[5]

During its examination of the Bill, the committee:

- invited submissions from stakeholders and the public. A list of the 36 submissions received and accepted by the committee is at **Appendix A**
- held a public briefing on 14 June 2017 and a public hearing on 27 June 2017. A list of the witnesses who appeared at the briefing and hearing is at **Appendix B**, and
- requested, and received, written advice from the Department of Health (the department) on the Bill and issues raised in submissions.

The material published by the committee in relation to this inquiry is available on the committee webpage. [6]

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1 The committee was formerly the Health and Ambulance Services Committee, which was established on 27 March 2015 under the *Parliament of Queensland Act 2001* (POQA), section 88 and the Standing Rules and Orders of the Legislative Assembly (Standing Orders), Standing Order 194. On 16 February 2016, the Legislative Assembly amended the Standing Orders, renaming the committee and expanding its areas of responsibility.

2 POQA, s 88 and Standing Orders, Standing Order 194 and schedule 6.

3 POQA, s 93(1).

4 http://www.parliament.qld.gov.au/work-of-committees/committees/HCDSDFVPC

5 In accordance with Standing Order 136, the Committee of the Legislative Assembly required the committee to report to the Legislative Assembly by 24 July 2017.

6 http://www.parliament.qld.gov.au/work-of-committees/committees/HCDSDFVPC

1.3 Consultation during the development of the Bill

The explanatory notes state that 'Community consultation was undertaken on the potential role, scope and strategic directions of a Queensland health promotion commission through the Committee's inquiry process conducted from September 2015 to June 2016'. The department advised that no further consultation was undertaken on the Bill.[7]

1.4 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend the Bill be passed.

After its examination of the Bill and consideration of the information provided by the department, submitters and witnesses at the public hearing, the committee was unable to reach a majority decision as to whether the Bill should be passed.

[7] Healthy Futures Commission Queensland Bill 2017, explanatory notes (explanatory notes), p 11.

2 Background to the Bill

2.1 Chief Health Officer's report on the Health of Queenslanders

The Chief Health Officer Queensland's report of 2016, *The Health of Queenslanders*, indicates that life expectancy in Queensland continues to increase and the majority of Queenslanders experience good health and wellbeing.

The report also highlights significant improvements in healthy behaviours in Queensland, including that: smoking rates continue to decline (1 in 8 adults smoke daily); adults are becoming more physically active, and the rates of obesity in children and adults are stabilising.[8]

However, the Queensland health system continues to face a number of public health challenges including:

- **high overweight and obesity rates** – one in four children (220,000) and two in three adults (2.3 million) in Queensland are overweight or obese, which can lead to higher rates of asthma, bone and joint complaints, sleep disturbances and early onset of diabetes. In adults, overweight and obesity frequently results in chronic diseases (eg Type 2 diabetes, heart disease and cancer).[9]

  It is estimated that obesity cost $8.6 billion nationally in 2015, equating to about $1.72 billion in Queensland. In Queensland, the estimated cost of obesity in 2015 comprised of health system impacts (44 per cent or $0.76 billion), loss of tax revenue (40 per cent or $0.75 billion), productivity losses (12 per cent or $0.20 billion) and government subsidies (4 per cent)[10]

- **alcohol consumption and drug use** – one-fifth of adults in Queensland are consuming alcohol at lifetime risk levels[11], while 1 in 7 Queenslanders aged 14 years and older have used an illicit drug in the previous 12 months[12]

- **healthy eating and physical activity** – more than one-third of the energy intake of Queenslanders is derived from food that provides little or no nutritional benefit.[13] Only sixty-one per cent of adults (aged 18-75 years) are sufficiently active for health benefit[14] and 45 per cent of children are active for the recommended one hour every day[15]

- **mental health conditions** – in 2007, approximately one in two Queenslanders aged 18 to 65 years reported a mental health disorder at some time in their life[16]

- **a life expectancy gap for Indigenous Queenslanders** – Indigenous Queenslanders are four times as likely to die before 50 years of age as non-Indigenous Queenslanders (37 per cent of Indigenous Queenslanders die before 50 years, compared with 8.7 per cent non-Indigenous)[17]

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8 Chief Health Officer Queensland, *Report 2016, The health of Queenslanders*, November 2016, pp iii and 15.

9 Chief Health Officer Queensland, *Report 2016, The health of Queenslanders*, November 2016, p 1.

10 Chief Health Officer Queensland, *Report 2016, The health of Queenslanders*, November 2016, pp 54 and 79.

11 National Health and Medical Research Council, *Australian guidelines to reduce health risks from drinking alcohol*, 2009, defined alcohol-related 'lifetime risk' as alcohol consumption of more than two standard drinks per day, for both men and women, p 2.

12 Chief Health Officer Queensland, *Report 2016, The health of Queenslanders*, November 2016, p 57.

13 Chief Health Officer Queensland, *Report 2016, The health of Queenslanders*, November 2016, p 57.

14 Queensland Health, *Queensland survey analytic system: Adult health indicators*, 16 November 2016, identified the category of 'sufficiently active for health benefit' as undertaking at least 30 minutes of moderate intensity physical activity on at least five days per week, p 3.

15 Chief Health Officer Queensland, *Report 2016, The health of Queenslanders*, November 2016, p 93.

16 Queensland Government, *My health, Queensland's future: Advancing health 2026*, May 2016, p 15.

17 Chief Health Officer Queensland, *Report 2016, The health of Queenslanders*, November 2016, p 23.

- **disparity in regional health outcomes** – obesity rates are 36 per cent higher in remote and very remote areas of Queensland, compared to major cities, and
- **the adverse effect of socioeconomic factors** – obesity rates are 76 per cent higher in socioeconomically disadvantaged areas of Queensland compared to advantaged areas.[18]

2.2 What is health promotion and prevention?

According to the World Health Organisation (WHO)'s Ottawa Charter for Health Promotion (the Ottawa Charter), health promotion is:

> *… the process of enabling people to increase control over, and to improve, their health. To reach a state of complete physical, mental and social well-being, an individual or group must be able to identify and to realize aspirations, to satisfy needs, and to change or cope with the environment. Health is, therefore, seen as a resource for everyday life, not the objective of living. Health is a positive concept emphasizing social and personal resources, as well as physical capacities. Therefore, health promotion is not just the responsibility of the health sector, but goes beyond healthy lifestyles to well-being.*[19]

The Australian Institute of Health and Welfare describes health promotion, as:

> *… activities which help individuals and communities to increase control over the determinants of health. Health education and social marketing can be used to promote health, as can policy and structural change such as taxation, legislation and regulation.*[20]

The Ottawa Charter sets out the following five key ways to promote health:

- to build healthy public policy by putting health on the agenda of policy makers in all sectors and at all levels
- to create supportive environments at home, work and leisure. The built and natural environments are particularly important
- to strengthen community actions by empowering communities to take control of their health by providing information, learning opportunities and funding
- to develop personal skills by enabling people to learn, throughout life, to cope with chronic illness and injuries. This should be facilitated at home, school, work and in the community, and
- to reorient health services to ensure the sector promotes good health as well as treats ill health. More attention should be given to research, while services should focus on all of a person's needs.[21]

The WHO defines health prevention as '… approaches and activities aimed at reducing the likelihood that a disease or disorder will affect an individual, interrupting or slowing the progress of the disorder or reducing disability'.[22]

There are three types of health prevention: primary; secondary and tertiary. Primary prevention involves taking action before a problem arises in order to avoid it entirely, eg immunisation and making physical environments safe. Secondary prevention is a set of measures used for early detection and

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18 Explanatory notes, p 1.

19 World Health Organisation, *The Ottawa Charter for Health Promotion*, 21 November 1986, accessed http://www.who.int/healthpromotion/conferences/previous/ottawa/en/ on 12 July 2017.

20 Australian Institute of Health and Welfare, *Australia's Health 2014*, May 2014, p 344.

21 World Health Organisation, *The Ottawa Charter for Health Promotion*, 21 November 1986, accessed http://www.who.int/healthpromotion/conferences/previous/ottawa/en/ on 12 July 2017.

22 Australian Institute of Health and Welfare, *Australia's Health 2014*, May 2014, p 344.

prompt intervention to control a problem or disease and minimise the consequences. Tertiary prevention focuses on the reduction of impairments and disabilities and further complications of an existing disease or problem through treatment and rehabilitation.[23]

2.3 Current Queensland approach to health promotion and prevention

Currently, in Queensland, health promotion is the responsibility of the Preventative Health Branch in the department.

The department advised that the Preventive Health Branch provides expertise and leadership in policy, systems, research, programs and services to encourage behaviours and create environments that are supportive of health. The Preventative Health Branch funds preventative health programs, including:

- healthy lifestyles – reducing overweight and obesity levels and prevention of alcohol related harm
- smoking cessation, and
- skin cancer prevention.[24]

In addition, the Aboriginal and Torres Strait Islander Health Branch, which sits within the strategy and policy division of the department, is responsible for overseeing the *Making Tracks towards closing the gap in health outcomes for Indigenous Queenslanders by 2033: Investment Strategy 2015-2018.*[25]

2.4 Committee's inquiry into the establishment of a Queensland Health Promotion Commission

In September 2015, the Legislative Assembly referred an inquiry to the then Health and Ambulance Services Committee to consider the establishment of a Queensland health promotion commission.[26]

During its inquiry, the committee received 43 submissions, held a public briefing with the department and a public hearing. Submitters and witnesses had diverse views about the role, scope, strategic direction and governance structure for a Queensland health promotion commission.

The committee also considered health promotion models established in other jurisdictions, including the Western Australian Health Promotion Commission (Healthway), the Victorian Health Promotion Foundation (VicHealth) and the Health in All Policies (HiAP) approach adopted in South Australia. Further information about these health promotion models is at **Appendix C**.

The committee tabled its *Report No. 21, 55th Parliament – Inquiry into the establishment of a Queensland Health Promotion Commission* in June 2016. In its report, the committee noted that there was strong support from stakeholders for the establishment of a Queensland health promotion commission. The committee agreed on a recommendation to establish a health promotion commission in Queensland, but could not determine what model to recommend.[27]

2.5 My Health, Queensland's future: Advancing health 2026

In May 2016, the Government released its ten year strategy for Queensland Health, *My health, Queensland's future: Advancing health 2026* (*Advancing Health 2016*).

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23 Royal Australian College of General Practitioners, *Putting prevention into practice – guidelines for the implementation of prevention in the general practice setting*, 2006 (2nd edition), p 1.

24 Department of Health, *Response to Question on Notice*, 21 June 2017, p 1; Dr Jeannette Young, Chief Health Officer and Deputy Director-General, Prevention Division, Department of Health, *Public Briefing Transcript*, 14 June 2017, p 8.

25 Michael Walsh, Director-General, Department of Health, *Public Briefing Transcript*, 14 June 2017, p 9.

26 Legislative Assembly, *Record of Proceedings*, 16 September 2015, p 1850.

27 Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, *Report no. 21, 55th Parliament – Inquiry into the establishment of a Queensland Health Promotion Commission*, June 2016, pp 1 and 2.

Advancing Health 2026 outlines a strategy for how the Queensland health system can support Queenslanders to improve and maintain their health and wellbeing with the aim of fulfilling the Government's vision of making Queenslanders among the healthiest people in the world by 2026.[28]

The strategy outlines the following four directions:

- promoting wellbeing
- delivering health care
- connecting health care, and
- pursuing innovation.[29]

The first direction, promoting wellbeing, focuses on 'Improving the health of Queenslanders through concerted action to promote healthy behaviours, prevent illness and injury and address the social determinants of health'.[30] The headline measure for success of this direction are, by 2026, to:

- reduce childhood obesity by 10 per cent
- reduce the rate of suicide deaths in Queensland by 50 per cent
- increase life expectancy for Indigenous males by 4.8 years and females by 5.1 years, and
- increase levels of physical activity for health benefit by 20 per cent.[31]

28 Queensland Government, *My health, Queensland's future: Advancing health 2026*, May 2016, p 4.

29 Queensland Government, *My health, Queensland's future: Advancing health 2026*, May 2016, p 11.

30 Queensland Government, *My health, Queensland's future: Advancing health 2026*, May 2016, p 11.

31 Queensland Government, *My health, Queensland's future: Advancing health 2026*, May 2016, p 11.

3 Examination of the Bill

3.1 Policy objectives of the Bill

The objective of the Bill is to establish an independent statutory body, Healthy Futures Commission Queensland (the Commission), to:

- support the capacity of children and families to adopt a healthy lifestyle, and
- contribute to reducing health inequity for children and families.[32]

The explanatory notes state that it is intended that the Commission 'will foster the new thinking required to support individual, family and community changes needed to help reduce health inequity'. The department advised that:

> *The Commission will be a new way of working, by investing in innovative projects generated by local community partnerships to create environments that support the health and wellbeing of children and families.*[33]

In particular, it is intended that the Commission will:

- engage sectors outside the health system, identify key leverage points and facilitate new opportunities to improve health
- build capacity by developing individual skills, strengthening community action and enabling organisations to create healthy environments and empowered people, and
- reduce inequity through addressing the differences in the health status in the community by recognising and responding to the needs of those groups whose health is poorest, and who are most likely to have limited opportunities to be healthy.[34]

3.2 Establishment of the Commission

The Bill establishes the Commission as an independent statutory body.[35]

In his introductory speech, the Minister stated that the:

> *… bill will deliver the Palaszczuk government's election commitment to create a statewide health promotion commission by establishing the Healthy Futures Commission Queensland as an independent statutory body focusing on the health of children and families in our state.*[36]

The explanatory notes state that the advantages of establishing the Commission under legislation, include that it would:

- act as an independent champion that is well placed to communicate with diverse sectors and foster the innovation thinking required to support individual, family and community changes needed to reduce health inequities
- help to strengthen linkages across sectors involved in preventative health, promote better alignment between federal, state and local jurisdictions and increase shared responsibility across the sectors, and

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32 Explanatory notes, p 4; Healthy Futures Commission Queensland Bill 2017, cl 3 and 6.

33 Explanatory notes, p 4.

34 Explanatory notes, p 4.

35 Healthy Futures Commission Queensland Bill 2017, cl 6 to 8.

36 Queensland Parliament, *Record of Proceedings*, 23 May 2017, p 1247.

- facilitate the growing expectation for a new public health movement that focuses on building the capacity of people and families to be a key force for social change in matters of health and wellbeing.[37]

The Commission would focus on two headline measures of success in *Advancing Health 2026*:

- reducing childhood obesity by 10 per cent by 2026, and
- increasing levels of adult physical activity for health benefit by 20 per cent by 2026.[38]

The department advised that the *Advancing Health 2026* strategy 'provides both the strategic context and clear long-term vision for a health promotion commission'.[39]

Submitters' views and department's response

Submitters supported the establishment of a health promotion commission in Queensland.[40] However, submitters expressed differing views about the model which should be implemented, in particular, the proposed scope and functions of the Commission (see section 3.3 of this report).

Submitters considered that:

- chronic conditions are costing Queensland millions of dollars each year, and the Commission could make a massive difference to help reduce the burden on the health system
- a statewide organisation to provide leadership, collaboration and strategic direction has the potential to have a great impact on improving the health of Queenslanders
- the Commission would place health prevention as a Government priority, increase funding for preventative health measures, and allow for the building of networks to tackle issues from a multi-faceted approach and the development of social innovation to tackle well entrenched and complex social challenges, and
- the Commission would be able to develop a long-term outlook into preventative health methodology, provide funding for evaluation of the effectiveness of measures, ensure whole-of-government co-ordination and implementation and the use of high quality, professional organisations and employees to deliver effective messages to Queenslanders.[41]

The Cancer Council of Queensland recommended that the Commission should adopt the definition of health promotion codified by the Ottawa Charter (see section 2.2 of this report).[42]

The Heart Foundation considered that bi-partisan support would be required to ensure the Commission 'can withstand any changes of government and the political environment over time. It needs to be protected through those government cycles'.[43] The Heart Foundation also considered that it would be important for the Commission to be sustained over many years to achieve the envisaged outcomes and measure its impact on the health of Queenslanders.[44]

South West Hospital and Health Service (South West HHS), while considering that the Commission's purpose and direction appear valuable, considered that the Commission's effectiveness in shifting

37 Explanatory notes, p 3.

38 Department of Health, *Correspondence – written briefing*, 1 June 2017, p 3.

39 Michael Walsh, Department Of Health, *Public Briefing Transcript*, 14 June 2017, p 2.

40 Submissions 1, 2, 4, 7, 8, 10 to 18, 20 to 24, 26, 27, 29, 32 to 35 and 37; Professor David Whiteman, Deputy Director, QIMR Berghofer Medical Research Institute (QIMR), *Public Hearing Transcript*, 27 June 2017, p 13.

41 Submissions 2, 8, 15, 17 and 27; Professor Michelle Trute, Chief Executive Officer, Diabetes Queensland, *Public Hearing Transcript*, 27 June 2017, p 23.

42 Cancer Council of Queensland, submission 24.

43 Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 17.

44 Heart Foundation, submission 15.

disadvantages across many communities and groups would largely depend on the application of the proposed legislation in terms of the strategy set and overseen by the Commission's Board.[45]

3.3 Proposed scope and functions of Commission

The Bill provides that the Commission's main functions would be to:

- support the capacity of children and families to adopt a healthy lifestyle, including by promoting healthy eating and regular physical activity
- contribute to reducing health inequity for children and families
- advocate for the necessary social conditions and environments to help children and families to adopt a healthy lifestyle and to reduce health inequity
- develop partnerships or other arrangements with entities the Commission considers appropriate, eg business, industry, community organisations, academia and government bodies
- give entities the Commission considers appropriate grants, eg industry or community organisations, universities or other educational or research institutions, businesses, local government and government bodies, and
- consult with entities the Commission considers appropriate.[46]

The Commission's functions would also include any other function given to it under the proposed Act or another Act.

The Bill provides that in performing its functions, the Commission must take into account the following matters:

- the social determinants of health[47] and the effects of the determinants on health inequity, and
- the views, needs and vulnerabilities of groups of persons experiencing health inequity, including Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, regional and remote communities and other communities affected by socioeconomic disadvantage.[48]

It is proposed that the Commission, in discharging its functions, will have all the powers of an individual (eg entering into contracts, acquiring, holding, dealing with and disposing of property, employing staff, appointing agents and attorneys, engaging contractors, and doing anything else necessary or convenient to be done in performing its functions). The Commission would also have any other powers given to it under the proposed Act or another Act.[49]

The explanatory notes state 'The Commission's performance of these functions will contribute to the social change needed to provide a basis for children to achieve healthy weight in early childhood, thereby setting children up for healthier adolescence and adulthood'.[50] The department also advised

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45 South West Hospital and Health Service, submission 31.

46 Healthy Futures Commission Queensland Bill 2017, cl 9; explanatory notes, pp 4 and 14.

47 The term *social determinants of health* is defined at cl 9 of the Bill by reference to the *Rio Political Declaration on Social Determinants of Health*, adopted in 2011 by the World Health Assembly, of which Australia is a member. The *Rio Political Declaration on Social Determinants of Health* refers to the societal conditions in which people are born, grow, live work and age.

48 Healthy Futures Commission Queensland Bill 2017, cl 9.

49 Healthy Futures Commission Queensland Bill 2017, cl 12.

50 Explanatory notes, p 5.

that 'The Commission will have a particular focus on reducing health inequities that relate to a person's socioeconomic status, Indigenous status, and the remoteness of where they live'.[51]

Submitters' views and department's response

General comments on the Commission's proposed scope and functions

A number of submitters supported the Commission's proposed functions, and its focus on children and families and overweight and obesity levels in Queensland.[52] Such submitters considered that:

- it is realistic to target obesity and physical activity, if resources are limited, as obesity is a contributor to cardiovascular disease, high-blood pressure, diabetes and metabolic diseases
- there is strong evidence which demonstrates the importance of intervening in early life to support good health and wellbeing
- the Commission's advocacy role can provide a voice for improved social conditions and environments to support children and families to make healthy choices
- the Bill gives the Commission the mandate to engage and work collaboratively with non-government organisations (NGOs) and industry to achieve its objectives and will ensure the Commission's scope is wider than the health portfolio, and
- the Bill will ensure a broader systems approach to health promotion, not just a focus on the provision of grants, and that the Commission will focus on addressing the social determinants of health and assisting those population groups that are disproportionately affected by chronic disease.[53]

Other submitters considered that the Commission's scope and functions were too narrow, and should be amended to include:

- oversight of strategic leadership across whole-of-government and inter-sectoral collaboration, including the development of a whole-of-government approach to health promotion
- other public health risks, including those provided for in the VicHealth model eg: healthy eating; Aboriginal and Torres Strait Islander health; mental health and wellbeing; smoking; and alcohol and drug misuse
- a reference to cultural determinants of health, as they relate to the social and emotional wellbeing of Aboriginal and Torres Strait Islander people
- a focus on a population-wide approach to health promotion, rather than only on children and families and the issues of overweight and obesity
- addressing social determinants of health as a core function of the Commission, and
- an explicit reference to the Commission's role in stewarding an approach to health promotion and service delivery that empowers and connects community members directly with all levels of Government, government portfolios, the community and not-for-profit organisations.[54]

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51 Department of Health, *Correspondence – written briefing*, 1 June 2017, p 2.

52 Submissions 8, 10, 14, 17, 19 and 29; Professor David Whiteman, QIMR, *Public Hearing Transcript,* 27 June 2017, p 14.

53 Submissions 14 and 15; Professor David Whiteman, QIMR, *Public Hearing Transcript,* 27 June 2017, p 14.

54 Submissions 1, 8, 14, 16, 19, 20, 21, 31, 32, 35 and 37; Letitia Del Fabbro, Committee Member, Public Health Association of Australia Queensland Branch (PHAAQ) , *Public Hearing Transcript*, 27 June 2017, pp 3 and 4; Dr Bill Boyd, President, Australian Medical Association Queensland (AMAQ), *Public Hearing Transcript*, 27 June 2017, p 10.

The Heart Foundation considered that as the Commission develops and is better resourced its scope could increase.[55] The Queensland University of Technology (QUT) health faculty recommended that future functions of the Commission should include:

- facilitating and promoting health awareness
- prevention and early intervention strategies using contemporary and innovative media
- guiding improvements in health promotion monitoring and surveillance systems, and
- building prevention and health promotion capacity and strengthened standards of practice.[56]

QIMR Berghofer Medical Research Institute (QIMR) and the Heart Foundation recommended that the Commission should not only focus on the primary prevention of disease (reducing population exposure to causal factors), but also promote secondary prevention (early disease detection) and tertiary prevention (promoting healthy life courses after diagnosis), in recognition that an increasing proportion of Queenslanders are living with chronic diseases.[57]

The department acknowledged the range of views expressed by submitters about the issues on which the Commission should focus.

The department advised that the decision that the Commission focus on improving the health status of Queensland children and families, particularly those in disadvantage communities, was based on the targets outlined in *Advancing Health 2026* and health evidence in Queensland, eg:

- one in four adults have not participated in physical activity in the previous 12 months – the least likely to be active are women, people of lower socioeconomic status, older adults, migrants, people with disabilities and Indigenous Australians, and
- obesity among children is still a very significant health issue – one in four children are overweight or obese and Indigenous children are 60 per cent more likely to be obese than non-Indigenous children.[58]

The department stated that:

> *The Commission's scope and functions reflect the Government's view of how it can achieve most impact for money invested.*
>
> And
>
> *If the Commission proves successful, it can be refocussed in the longer term. However, it is important that the Commission has a clear focus and clear objectives based on the strategic objectives for Queensland's health system, set out in My Health, Queensland's future: Advancing health 2026.*[59]

55 Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 18.

56 Queensland University of Technology (QUT), Faculty of Health, submission 19.

57 QIMR, submission 7; Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 17.

58 Michael Walsh, Department of Health, *Public Briefing Transcript*, 14 June 2017, p 2.

59 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 2.

In addition, the department advised that:

> *Success in reducing obesity will have significant benefits for prevention of chronic diseases more generally. Similarly, while the Commission's focus is on children and families, it is expected initiatives will have positive benefits across the community.* [60]

In relation to mental health and wellbeing, the department acknowledged the linkages between mental and physical health. The department stated, however, that it was not considered necessary to include an express reference to mental health and wellbeing in the Bill. The department advised that:

> *The Bill does not preclude the Commission from considering initiatives to support mental health and wellbeing, if the Commission considers they will support the capacity of children and families to adopt a healthy lifestyle.* [61]

The department also noted that the Queensland Mental Health Commission (QMHC) has responsibility for whole-of-government strategic planning designed to improve the mental health and wellbeing of Queenslanders. The department stated that 'The Commission will have the capacity to engage with the QMHC under clause 9 of the Bill if it is of the view that developing partnerships and consultation with the QMHC will help the Commission perform its functions'.[62]

In relation to submitters' comments about the need for a reference in the Commission's functions to the cultural determinants of health, the department advised that it considers the reference to social determinants broad enough to include cultural determinants.[63]

In addition, the department stated that addressing social determinants of health is already reflected in the proposed functions of the Commission. The department advised that '… one of the main functions of the Commission is to contribute to reducing health inequity for children and families' and that 'In performing this function, the Commission must take into account the social determinants of health and the effects of the determinants on health inequity'.[64]

Engagement, partnerships and a whole-of-government approach

Submitters agreed that in order to be effective, the Commission's work would need to be in the context of a whole-of-government approach to health promotion and would need to focus beyond the traditional health portfolio.[65]

Submitters noted that most social determinants of health sit outside of the control of the health system, eg housing, transport, education, planning and the environment, and therefore an integrated response across all sectors of government was required.[66] The Australian Health Promotion Association – Queensland Branch (AHPAQ) recommended that that the Commission should be required to establish a whole-of-government strategic action plan for health promotion in Queensland.[67]

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60 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, pp 2 and 3.

61 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 3.

62 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 3.

63 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 4.

64 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 4.

65 Submissions 1 and 32; Dr Bill Boyd, AMAQ, *Public Hearing Transcript*, 27 June 2017, p 11; Professor Michelle Trute, Diabetes Queensland, *Public Hearing Transcript*, 27 June 2017, p 24.

66 Submission 13, 15 and 19.

67 Amanda Bradley, General Manager, Australian Health Promotion Association - Queensland Branch (AHPAQ), *Public Hearing Transcript*, 27 June 2017, p 3.

Submitters, including the Heart Foundation, the Royal Australian and New Zealand College of Psychiatrists (RANZCP) and Health Consumers Queensland (HCQ), highlighted the important relationship between the Commission and government departments in order to achieve the stated objectives. Submitters made the following comments:

- the Commission needs to be supported at the highest level of Government to ensure Government decisions do not undermine the desired outcomes of the Commission
- the legislative framework should include a central government structure for cross-sectoral co-operation and accountability
- the Commission should be required to establish cross-government advisory groups and further clarity is needed around the proposed relationship between the Commission, the Chief Health Officer and the department's Preventative Health Branch, and
- the Commission would need the authority to hold government departments and agencies to account.[68]

The RANZCP, Public Health Association of Australia – Queensland Branch (PHAAQ) and the Heart Foundation recommended that elements of the South Australian 'Health in All Policies' (HiAP) approach be incorporated into the Commission.

The RANZCP considered that this approach would guarantee collaboration across government departments and agencies, and provide central governance and accountability.[69]

PHAAQ considered that 'a Health-in-All-Policies approach would see population health considerations incorporated into the policy development processes of all sectors, from education to transportation to town planning and beyond'.[70] NAQ Nutrition considered that a whole-of-government approach, similar to VicHealth in Victoria or Healthway in Western Australia, would reduce fragmentation in health promotion efforts and increase shared responsibility across all sectors.[71]

During the public hearing, support was also expressed by witnesses for the Department of Premier and Cabinet to provide oversight for the Commission, instead of the Department of Health, as proposed by the Bill.[72] AHPAQ considered that the Premier and Cabinet would be essential in providing leadership for major policy changes.[73] While, the Heart Foundation stated that 'having the highest level of support sends a very strong message to all sectors and also the health department'.[74]

In addition, submitters considered that the Commission should align all stakeholders to work collaboratively with all levels of government (including local government), primary health networks, hospital and health services, other statutory authorities (eg QMHC), schools, universities and community-based organisations (eg Heart Foundation, Diabetes Queensland and Kidney Foundation) and professional bodies representing clinicians.[75] Diabetes Queensland considered that the

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68 Submissions 15, 16 and 37; Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 18.

69 Royal Australian and New Zealand College of Psychiatrists (RANZCP), submission 16; Letitia Del Fabbro, PHAAQ, *Public Hearing Transcript*, 27 June 2017, p 4; Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 20.

70 Letitia Del Fabbro, PHAAQ, *Public Hearing Transcript*, 27 June 2017, p 4.

71 NAQ Nutrition, submission 29.

72 Professor MaryLou Fleming, Director of Corporate Education, QUT - Faculty of Health, *Public Hearing Transcript*, 27 June 2017, p 29.

73 Amanda Bradley, AHPAQ, *Public Hearing Transcript*, 27 June 2017, p 5.

74 Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 19.

75 Submissions 2, 8, 13, 19 and 23.

Commission should harness resources and partnerships that sit within communities recognising the community reach of those organisations.[76]

The Stroke Foundation recommended that the Bill include mechanisms to ensure adequate stakeholder and community engagement informs key processes, eg the development of the Commission's annual project plan.[77] HCQ recommended that the Bill should require the Commission to develop a comprehensive Consumer and Community Engagement Strategy and Implementation Plan across all levels of the Commission.[78]

The department acknowledged that the Commission's partnerships with industry, community organisations, universities, businesses, government bodies and local government will be vital, as 'health is created in the places where we are born, grow, live, work and age'.[79]

The department stated that:

> *It is expected the Commission will have a strong focus on community and stakeholder engagement. Clause 9 of the Bill provides for the Commission to consult with a range of entities including business, community groups, industry and government to assist in deciding matters such as the allocation of grants or development of partnerships.*[80]

The department advised that 'Consultation with communities and stakeholders will ensure that the Commission is well informed and open to emerging opportunities to improve the health of Queensland children and families'.[81]

The department did not consider that the Commission requires legislative authority to hold government departments and agencies to account. The department stated that 'The Premier and Ministers are able to ensure that departments and agencies work cooperatively with the Commission' and 'The Commission's functions include working with all levels of government'. The department stated that 'Clause 46 also enables the Commission to request information from a public sector unit to perform its functions'.[82] Section 3.7.2 of this report provides further information about the Commission's proposed powers to request information.

In relation to RANZCP's recommendation that the Commission adopt elements of the South Australian HiAP approach, the department considered that the HiAP concept is separate to the Commission and could be achieved through an administrative arrangement.[83] The department advised that 'Queensland's health system has a clear strategic vision set out in *Advancing Health 2026'* and 'This vision is given effect through the support of all government departments'.[84]

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76 Professor Michelle Trute, Diabetes Queensland, *Public Hearing Transcript,* 27 June 2017, p 23.

77 Stroke Foundation, submission 14.

78 Health Consumers Queensland, submission 37.

79 Michael Walsh, Department of Health, *Public Briefing Transcript*, 14 June 2017, p 2.

80 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 7.

81 Department of Health, *Correspondence – written briefing*, 1 June 2017, p 3.

82 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 8.

83 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 8.

84 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, pp 9 and 10.

Importance of evidence and research

A number of submitters highlighted the importance of research and evidence in underpinning all of the Commission's functions and activities, in particular the allocation of grants and sponsorship.[85]

The QIMR considered that the Commission should identify gaps in the evidence base, and where gaps are identified fund research in those areas. The QIMR offered to work with the Commission and share the research it has undertaken.[86]

The Heart Foundation and Diabetes Queensland suggested that the Commission would benefit from identifying areas of need and 'hot spots' of high childhood obesity and adult physical inactivity.[87] NAQ Nutrition suggested that the Commission should undertake an assessment of the adequacy of existing or pre-existing health promotion initiatives.[88]

In response, the department acknowledged the importance of research and building the evidence base. The department advised that 'Clause 9 provides that the Commission may enter into partnerships and give grants to entities such as universities and other educational and research institutions'.[89]

3.4 Governing Board

The Bill establishes a six-member board as the governing body of the Commission (the Board). The Board's main functions are to:

- ensure the proper, efficient and effective performance of the Commission's functions
- decide the objectives, strategies and policies to be followed by the Commission
- ensure the Commission complies with its strategic plan and operational plan under the *Financial Accountability Act 2009*, and
- report to the Minister about the performance of the Commission's functions.[90]

The Board may do anything necessary or convenient to be done in performing its functions and may give a written direction to the chief executive of the Commission about the performance of his or her responsibilities.[91]

3.4.1 Board membership

The Bill provides that members of the Board are to be appointed by the Governor in Council on the Minister's recommendation. The Minister may only recommend a person for appointment, if he or she is satisfied the person:

- has qualifications or experience in one of the following: business or financial management; law; leading and influencing partnerships to bring about change; assessing the impact of social conditions and environments on health equity, including for sections of the community experiencing healthy inequity, or

85 Submissions 1, 7, 15, 27, 29 and 31; Professor David Whiteman, QIMR, *Public Hearing Transcript*, 27 June 2017, p 13.

86 QIMR, submission 7.

87 Heart Foundation, submission 15.

88 NAQ Nutrition, submission 29; Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 19; Professor Michelle Trute, Diabetes Queensland, *Public Hearing Transcript*, 27 June 2017, pp 24 and 25.

89 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 7.

90 Healthy Futures Commission Queensland Bill 2017, cl 13 and 14.

91 Healthy Futures Commission Queensland Bill 2017, cl 15.

- is otherwise appropriately qualified to perform the functions of a board member.[92]

The Governor in Council may appoint board members to be the chairperson and deputy chairperson of the Board.[93]

Board members are to hold office for a term, not longer than four years (but may be re-appointed), and are to be paid the remuneration and allowances decided by the Governor in Council.[94] The Bill also makes provision for vacancies in the office of a board member and the disqualification of board members (eg if the person has a conviction, other than a spent conviction, for an indictable offence, does not consent to a criminal history check, is insolvent, or is the chief executive officer of the Commission or another member of staff).[95]

In addition, the Bill provides that the Governor in Council may remove a board member from office, for example if the Minister recommends removal because he or she is satisfied the member: is incapable of performing their functions; has neglected their functions or performed them incompetently; displayed inappropriate or improper conduct in a private capacity that reflects adversely on the Board or the Commission; or has been absent for three consecutive board meetings, without permission and reasonable excuse.[96]

3.4.2 Board meetings and advisory committees

The Bill makes provisions for the disclosure of interests by board members and the holding of committee meetings, including quorum and voting rules and procedures.[97]

The Bill also provides that the Board may establish one or more advisory committees to help it effectively and efficiently perform its functions.[98] The department advised, for example, that:

> *… the Board could establish a committee that includes representatives from developers, designers, architects, planners and construction companies and universities with faculties investing in creating industries to create more active places and spaces people want to visit, interact and enjoy.*[99]

Submitters' views and department's response

While a number of submitters supported the proposed governance arrangements, a number of submitters considered that the provisions about board membership should be more prescriptive.

Such submitters considered that the Board should include members with specific expertise, eg: public health experts; health practitioners; community representatives; health researchers; individuals with expertise in addressing the impact of social conditions and environments on health equity; representatives of people with lived experience in rural and remote areas; and individuals with expertise in multicultural health promotion and local government.[100]

The PHAAQ recommended that the Bill be amended to provide that one board position be allocated to a representative of the Aboriginal and Torres Strait Islander community.[101]

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92 Healthy Futures Commission Queensland Bill 2017, cl 16.

93 Healthy Futures Commission Queensland Bill 2017, cl 17.

94 Healthy Futures Commission Queensland Bill 2017, cl 19 and 20.

95 Healthy Futures Commission Queensland Bill 2017, cl 18 and 22.

96 Healthy Futures Commission Queensland Bill 2017, cl 21.

97 Healthy Futures Commission Queensland Bill 2017, cl 24 to 28.

98 Healthy Futures Commission Queensland Bill 2017, cl 23 to 30.

99 Department of Health, *Correspondence – written briefing*, 1 June 2017, p 4.

100 Submissions 7, 27, 29, 31 and 34; Amanda Bradley, AHPAQ, *Public Hearing Transcript*, 27 June 2017, p 3; Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 20.

101 PHAAQ, submission 21.

South West HHS and the Heart Foundation drew comparisons to Healthway in Western Australia and VicHealth in Victoria, where the relevant legislation requires that their boards have a breadth of expertise including arts, health, sport, marketing, as well as business, law and finance expertise.[102] South West HHS considered that:

> *… more prescriptive board members requirements is one legal mechanism to ensure the Commission's leadership supports the formation of truly collaborative and innovate partnerships across sectors and portfolios.*[103]

The Heart Foundation recommended that, similar to VicHealth and the Healthway models, some board members should be nominated for appointment through an independent process.[104]

The Australian Medical Association Queensland (AMAQ) recommended that the Bill should provide for staggered or overlapping board members to provide stability and business continuity.[105]

In response, the department stated that the Commission is intended to be small and agile, allowing it to operate at the community level and move quickly to adopt innovative solutions. The department advised that 'To achieve this, the Bill provides the Board with flexibility to determine its own governance structure within the framework set out in the legislation'.[106]

The department stated that board membership is skills based, but the Bill does not require that board members include members with particular expertise or from particular backgrounds, 'as this can result in the board not being properly constituted in the event a person with that expertise or background is not available'.[107] The department advised, however, that 'it is intended that the board membership will represent the diversity of Queenslanders and will include representatives from a range of different sectors'.[108]

The department highlighted that clause 29 of the Bill would allow the Board to establish advisory committees, which will enable it 'to expand the range of expertise it has available to it by inviting relevant experts to be on an advisory committee'. The department stated that 'As the Commission is an independent body, it is not considered necessary to restrict the board's ability to seek the assistance of experts that it considers it requires'.[109]

The department supported the AMAQ's suggestion that board appointments should be staggered. The department considered, however, that staggered board appointments could be achieved without amendment to the Bill.[110]

3.5 Chief executive officer and other staff

The Bill provides that the Board must, in consultation with the Minister, appoint a chief executive officer of the Commission. The chief executive officer is to be appointed for a term, not longer than four years, and be paid the remuneration and allowances determined by the Board. The Bill does not prevent the re-appointed of a person as chief executive officer.[111]

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102 South West Hospital and Health Service, submission 31; Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 20.

103 South West Hospital and Health Service, submission 31.

104 Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 20.

105 AMAQ, submission 32.

106 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 5.

107 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 5.

108 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 5.

109 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 6.

110 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 6.

111 Healthy Futures Commission Queensland Bill 2017, cl 31, 34 and 35.

The chief executive officer is responsible for the day-to-day administration of the Commission, including employing the Commission's staff and engaging contractors. The chief executive officer is accountable to the Board and must comply with the written policies and directions of the Board.[112]

The Bill also makes provision for vacancy in the office of the chief executive office and the disqualification of the chief executive officer (eg if the person: has a conviction, other than a spent conviction for an indictable offence; does not consent to undergo a criminal history check; is an insolvent; or is a member of the Board).[113]

In addition, the Bill provides that the chief executive officer must disclose any conflicts of interests in a matter to the Board, and must not take any action in relation to such a matter, unless authorised by the Board.[114]

The Bill provides that the Commission may employ other staff, who are employed as public servants under the *Public Service Act 2008*. The Bill makes provision to retain all existing and accruing rights of employees who transfer to and from the Queensland Public Service or Hospital and Health Services.[115]

The explanatory notes state that the Commission will have up to 15 staff members.[116] The department stated that a small number of staff from the Preventative Health Branch would transfer to the Commission to provide some level of continuity and to avoid duplication, however the majority of the Commission's staff will be new employees.[117]

3.6 Healthy Futures Commission Fund

The Bill establishes the Healthy Futures Queensland Fund (the Fund). The Fund would comprise of any amounts appropriated by Parliament for this legislation and any amount paid at the direction, or with the approval, of the Minister or Treasurer.[118]

The Government's 2017-18 budget states that funding of $20 million over three years will be provided to the Commission.[119]

The Fund would be used to pay grants and sponsorship and to pay for the costs and expenses incurred by the Commission for performing its other functions.[120]

The Bill provides that the Commission must allocate at least 55 per cent of its total budget in the Fund, each financial year, to the provision of grants for projects and sponsorships.[121]

3.6.1 Proposed funding of Commission

A number of submitters stated that it was important that the Commission was sufficiently funded to perform its functions.[122]

Submitters, including the Heart Foundation, PHAAQ and AMAQ, welcomed the proposed funding for the Commission of $20 million over three years, however, they considered that the Commission's budget should be increased significantly over time in order to continue to prioritise preventative

112 Healthy Futures Commission Queensland Bill 2017, cl 32.

113 Healthy Futures Commission Queensland Bill 2017, cl 33 and 36.

114 Healthy Futures Commission Queensland Bill 2017, cl 37.

115 Healthy Futures Commission Queensland Bill 2017, cl 38 to 40.

116 Explanatory notes, p 5.

117 Michael Walsh, Department of Health, *Public Briefing Transcript*, 14 June 2017, pp 8 and 11.

118 Healthy Futures Commission Queensland Bill 2017, cl 41 and 42; explanatory notes, p 6.

119 Queensland Government, *Queensland Budget 2017-18, Service Delivery Statements – Queensland Health*, June 2017, p 6.

120 Healthy Futures Commission Queensland Bill 2017, cl 41.

121 Healthy Futures Commission Queensland Bill 2017, cl 41; explanatory notes, p 6.

122 Submissions 15, 21, 24 and 33.

health.[123] The Heart Foundation stated that by comparison the annual budget in 2015-16 for VicHealth was $38.6 million and Healthway was $22.5 million.[124]

The AHPAQ questioned whether the targets of reducing childhood obesity by 10 per cent and increasing adult physical activity for health benefit by 20 per cent by 2026 are achievable, given the proposed funding and resources for the Commission. The AHPAQ drew comparisons with NSW, which has a target to reduce childhood obesity by 5 per cent over ten years, with substantially more funding and resources.[125] In addition, the PHAAQ questioned how the other aims of the Commission would be achieved with at least 55 per cent of the Fund being allocated to grants.[126]

The Heart Foundation stated that the funding and resourcing of the Commission should not come at the expense of funding for the department's Preventative Health Branch, which it considered will maintain an important role in statewide strategy development, policy and legislative reform.[127]

In response, the department advised that it '… considers the Commission will be appropriately funded and staffed based on its scope and targeted mandate'.[128] The department stated that:

> *It is not expected that the Commission will be responsible for funding all preventative health programs. Rather, it will be leading, encouraging and connecting government with non-government, business, industry and academia.*
>
> *The targets of reducing childhood obesity by 10 per cent and increasing levels of physical activity by 20 per cent by 2026 are headline measures of success from Queensland Health's My health, Queensland's future: Advancing health 2026. The Commission is just one agency that will be contributing to meet these targets.*[129]

3.6.2 Annual project funding plan

The Bill provides that the Commission must give the Minister an annual project funding plan (the Funding Plan), before 31 March each year, for the next financial year. The Funding Plan must include:

- if known to the Commission, details of each *relevant project*[130] the Commission proposes to carry out in the financial year, including the estimated costs and expenses likely to be incurred in carrying out the project, and
- to the extent that it is reasonably practicable, details of the nature of other relevant projects (eg developing a partnership), the Commission may carry out in the financial year.

The Minister must, as soon as practicable after receiving the Funding Plan, approve, or refuse to approve, the Funding Plan. The Bill provides that the Funding Plan has no effect until it has been approved by the Minister.[131]

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123 Submissions 15 and 21; Dr Bill Boyd, AMAQ, *Public Hearing Transcript*, 27 June 2017, p 10.

124 Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 18.

125 AHPAQ, submission 1; Amanda Bradley, AHPAQ, *Public Hearing Transcript*, 27 June 2017, p 3.

126 Letitia Del Fabbro, PHAAQ, *Public Hearing Transcript*, 27 June 2017, p 4.

127 Heart Foundation, submission 15.

128 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 8.

129 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 8.

130 The term *relevant project* is defined as developing a partnership or other arrangement mentioned in clause 9(1)(d) or giving a grant mentioned in clause 9(1)(e), Healthy Futures Commission Queensland Bill 2017, cl 42.

131 Healthy Futures Commission Queensland Bill 2017, cl 42.

Submitters' views

The Heart Foundation did not support the requirement for Ministerial approval of the Commission's Funding Plan. The Heart Foundation stated the:

> *… requirements undermine the independence of the Commission, which needs to be in control of its own work plan and budget, as the Queensland Mental Health Commission currently is. It is essential that the Commission be truly independent from political processes and be transparent in its work.*[132]

3.6.3 Allocation of grants and sponsorship

A number of submitters supported the legislative requirement that at least 55 per cent of the Fund should be allocated to grants and sponsorship.[133]

Other submitters, including the Heart Foundation, AHPAQ and South West HHS, considered that a larger part of the Fund should be allocated to grants and sponsorship. For example, the Heart Foundation recommended that two-thirds of the Fund should be allocated to grants and sponsorship.[134] The Heart Foundation noted that of the $22.5 million annual Healthway budget in 2015-16, $17.5 million was spent on grants and sponsorship, which is 82 per cent of its budget.[135]

Submitters stated that the Commission should consider the sustainability of funded projects when providing grants or sponsorship. A number of submitters recommended that the Commission consider making some longer term and larger grants to ensure that funded projects could be properly evaluated and to avoid the pitfalls of short-term grants.[136] PHAAQ considered that 'one-off projects, unless they are also very strategic and coordinated, can be quite piecemeal'.[137]

The Heart Foundation supported the allocation of grants to enhance local communities with infrastructure and projects that support walking and cycling, local green spaces and playgrounds that are safe and aesthetically pleasing. The Heart Foundation also considered that projects to enhance access to local jobs and public transport will enhance people's purchasing power to buy fruit and vegetables, improve mental wellbeing and increase their ability to actively travel to work, education and recreation.[138]

The Cancer Council of Queensland considered that funding should be allocated to projects and initiatives which will be long-term, sustainable and fully aligned with *Advancing Heath 2026*.[139] While the Queensland Catholic Education Commission raised the importance of establishing clear guidelines and conditions for the allocation of grants and sponsorship, eg funding limits, accountability reports and quality assurance.[140]

HCQ considered that community and consumer engagement and participation should be embedded at every stage of the Commission's grants program.[141]

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132 Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 17.

133 Submission 14.

134 Submissions 1, 15 and 31.

135 Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, p 18.

136 Submissions 14, 15, 19, 24, 29 and 36; Rachelle Foreman, Heart Foundation, *Public Hearing Transcript*, 27 June 2017, pp 18 and 20.

137 Letitia Del Fabbro, PHAAQ, *Public Hearing Transcript*, 27 June 2017, p 5.

138 Heart Foundation, submission 15.

139 Cancer Council of Queensland, submission 24.

140 Queensland Catholic Education Commission, submission 28.

141 Health Consumers Queensland, submission 37.

The department advised that the Commission's grants and sponsorship will support 'Innovative partnerships, initiatives and actions designed to increase physical activity and healthy eating'.[142] The department provide the following examples of activities to which the Commission may provide grants:

- using technology to connect young parents in rural areas with mentors, so they can provide support to each other and share tips for healthy eating habits
- backing a social venture for marginalised young people to recycle and repair bikes, with the bikes then being provided to low income families, and
- consulting and working with Aboriginal and Torres Strait Islander community elders, community leaders and local authorities to plan and construct walking tracks that take people to places of cultural significance.[143]

The department stated that funding:

> *… will most likely be one off start up grants to fund new ideas to get more families more active and eating healthier. The Commission is not set up to be an alternative funder to State Government. Instead, the Commission will have a clearly defined scope and budget and be tasked with driving innovation and building partnerships.*[144]

The department stated that 'The allocation of grants will be a matter for the Commission to determine once established'. The department also advised that 'The Commission may, in its funding plan, provide for multi-year grants'.[145]

3.7 Access to information and confidentiality

3.7.1 Criminal history checks

The Bill provides that the chief executive of the department may, with the consent of the person concerned, ask the Police Commissioner for a criminal history report to assist the Minister or Board in deciding whether the person:

- is disqualified from becoming a Board member
- may be removed as a Board member, or
- is disqualified from becoming or continuing as the Commission's chief executive officer.[146]

In addition, the Bill provides that a Board member or chief executive officer of the Commission must, unless they have a reasonable excuse, immediately give notice to the chief executive of the department, if they are convicted of an indictable offence. Failure to comply with this requirement is an offence attracting a maximum penalty of 100 penalty units ($12,615).[147]

The Bill provides that a person must not, directly or indirectly, disclose criminal history information to another person unless permitted under the Bill, eg if disclosure is necessary to perform the person's functions under the proposed Act; is authorised under an Act; or with consent of the person to whom the information relates. Failure to comply with these confidentiality requirements is an offence, which attracts a maximum penalty of 100 penalty units ($12,615).[148]

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142 Department of Health, *Correspondence – written briefing*, 1 June 2017, p 3.

143 Department of Health, *Correspondence – written briefing*, 1 June 2017, p 3.

144 Michael Walsh, Department of Health, *Public Briefing Transcript,* 14 June 2017, p 2.

145 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 7.

146 Healthy Futures Commission Queensland Bill 2017, cl 43; explanatory notes, p 22.

147 Healthy Futures Commission Queensland Bill 2017, cl 44.

148 Healthy Futures Commission Queensland Bill 2017, cl 45.

The chief executive of the department must ensure that documents containing criminal history information are destroyed as soon as practicable after they are no longer needed. [149]

3.7.2 Other information

The Bill empowers the Commission to request information from the head of a public sector unit. The head of a public sector unit must provide the requested information, unless the disclosure is prohibited under an Act or it is impracticable to provide the information. The Bill also provides that the Commission may enter into arrangements with the head of a public sector unit for providing information to the Commission.[150]

The Bill provides that a person must not, whether directly or indirectly, disclose confidential information unless the disclosure is: in the performance of a function under the proposed Act; with the consent of the person to whom the information relates; or authorised under an Act or otherwise required or permitted by law. The maximum penalty for failing to comply with this required is 100 penalty units ($12,615).[151]

3.8 Independence and accountability

The explanatory notes state that to ensure the Commission will be held to a high standard of accountability in relation to control and expenditure of public funding and the public discharge of statutory functions, the Bill provides that:

- the Minister may give a written direction to the Commission about the Commission's functions, except in relation to the employment of a particular person. The Commission must comply with any such direction[152]
- the Minister may give the Commission a ministerial direction to prepare a special report on a matter the Minister considers relevant to the Commission's functions and give the special report to the Minister. The Minister may not, however, give a direction about the content of a special report. A special report may contain recommendations, and may be published in a way the Minister considers appropriate[153]
- the Commission is a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*, and[154]
- the Commission is a unit of public administration under the *Crime and Corruption Act 2001*.[155]

In addition, the Bill provides that the Commission must prepare an annual report under the *Financial Accountability Act 2009.*[156] The annual report must not be prepared in a way that discloses confidential information, and must include:

- details of the functions performed by the Commission during the year
- information about how efficiently and effectively the Commission has performed its functions, and

149 Healthy Futures Commission Queensland Bill 2017, cl 45.
150 Healthy Futures Commission Queensland Bill 2017, cl 46.
151 Healthy Futures Commission Queensland Bill 2017, cl 47.
152 Healthy Futures Commission Queensland Bill 2017, cl 10.
153 Healthy Futures Commission Queensland Bill 2017, cl 11.
154 Healthy Futures Commission Queensland Bill 2017, cl 52.
155 Healthy Futures Commission Queensland Bill 2017, cl 52.
156 Healthy Futures Commission Queensland Bill 2017, cl 54.

- details of each direction given by the Minister, under clause 10(1) during the relevant financial year and action taken by the Commission in response to the direction.[157]

Submitters' views and department's response

A number of submitters, including the Queensland Nurses and Midwives' Union (QNMU) and the Stroke Foundation, raised concerns about the independence of the Commission.[158]

The department advised that as a statutory body, the Commission is operationally independent and is distinct from the department, as it is its own public service agency. The department also advised that the performance of the Commission's functions and the exercise of its powers are generally a matter for the Board, as the governing body.[159]

The department advised, however, that should the Bill be enacted, the Act will be administered by the Minister for Health. The Commission would also be responsible to Parliament, through the Minister, by requiring the Commission to give an annual report to the Minister, which must be tabled in the Parliament. [160]

3.9 Monitoring, evaluation and review

The Bill provides that the Minister must ensure that an independent review of the performance by the Commission of its functions is completed within five years after the commencement of the proposed Act.[161]

A number of submitters considered that monitoring and evaluating the effectiveness of the Commission and health promotion programs will be critical.[162] The Cancer Council of Queensland recommended that participants in the monitoring and evaluation process should include: national committees; data collection agencies; investors; analysis and reporting agencies; research organisations; NGOs and community-based service providers.[163]

157 Explanatory notes, p 25.

158 Submissions 13 and 14.

159 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 10.

160 Department of Health, *Correspondence – response to issues raised in submissions*, 29 June 2017, p 11.

161 Healthy Futures Commission Queensland Bill 2017, cl 56.

162 Submissions 19, 24 and 36.

163 Cancer Council of Queensland, submission 24.

4 Compliance with the *Legislative Standards Act 1992*

4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (Legislative Standards Act) states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles to the Bill. The committee brings the following to the attention of the House.

4.1.1 Rights and liberties of individuals

4.1.1.1 Clause 55 - delegation of administrative powers

Clause 55 of the Bill provides that the Commission may delegate its functions and powers, except a decision to give a grant under clause 9(1)(e), to a board member or the Commission's chief executive officer. Functions may be delegated by the Board to one of its members or the chief executive officer.

Clause 55 also provides for the sub-delegation of functions and powers to the chief executive officer or an appropriately qualified staff member, and for delegation of the chief executive officer's responsibilities to appropriately qualified staff.

The proposed approach raises potential fundamental legislative principles issues under section 4(2)(c) of the Legislative Standards Act in relation to whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons.

Committee comment

The committee notes that decisions about grants may not be delegated by the Commission. The committee considers that, on balance, the proposed delegations and sub-delegations are appropriate to enable the efficient and effective functioning of the proposed Commission.

4.1.1.2 Clauses 18, 21, 33 and 43 – criminal history

The Bill would disqualify a person with a conviction (other than a spent conviction) for an indicatable offence from becoming or remaining a member of the Board (clauses 18 and 21), or becoming or remaining as the Commission's chief executive officer (clause 33). Clause 43(2) would enable the chief executive of the department to obtain a written report about the criminal history of a potential or serving board member or chief executive officer.

The provisions raise potential fundamental legislative principles issues under section 4(2)(a) of the Legislative Standards Act in relation to an individual's right to privacy in respect of their personal information.

The Bill contains the following safeguards to protect the privacy of persons about whom criminal history information is obtained.

Under clauses 33 and 43 a criminal history report may be obtained only with the written consent of the person to whom it relates. The report cannot include information about spent convictions, which are excluded from the definition of *criminal history.* Under clause 45, a criminal history report must be destroyed as soon as practicable after it is no longer needed for its original purpose. In addition, clauses 45 and 47 make it an offence to disclose criminal history information except in specified circumstances.

Committee comment

The committee notes that criminal history checks raise a potential fundamental legislative principles issue. The committee considers, however, that the Bill contains adequate safeguards and, on balance, the provisions have sufficient regard to the rights of individuals.

4.1.1.3 Clauses 49 to 51 – reverse onus of proof

Clauses 49 to 51 provide that routine evidentiary matters are presumed or accepted, unless the contrary is proven.

Clause 49 provides that appointments under the Act, or the authority of a board member, the chief executive officer or a staff member to do anything under the proposed Act is presumed. However, a party to the proceeding may require proof of those matters. Under clause 50 a signature purporting to be that of a board member or the chief executive officer is evidence of that signature. Clause 51 provides that a certificate purporting to be that of the chairperson stating that a document is an appointment under the Act, or a document, or copy of a document, is one made by or given to the Commission, is evidence of the matter.

Under section 4(3)(d) of the Legislative Standards Act, whether legislation has sufficient regard to the rights and liberties of individuals may include whether it reverses the onus of proof in criminal proceedings without adequate justification.

Committee comment

The committee notes that clauses 49 to 51 are evidentiary aids which do not remove the right of a party to present evidence to rebut the presumptions. The committee, therefore, considers that the provisions have sufficient regard to the rights and liberties of individuals.

4.1.1.4 Clause 53 – protection from liability

Clause 53 provides that the Minister or a member of an advisory committee is not civilly liable for an act or omission made honestly and without negligence under the proposed Act, and that civil liability instead attaches to the State. An advisory committee, formed under clause 29 of the Bill, may include people who are not board members or commission staff. A similar protection applies to board members and employees of the Commission under the *Public Service Act 2008.*

Committee comment

The committee notes that the protection from liability is limited to the performance of statutory functions, and that it does not apply to acts or omissions that are dishonest or negligent. As clause 53 provides that liability attaches to the State, an aggrieved person would also have an avenue for recourse. The committee, therefore, considers that the provisions have sufficient regard to the rights and liberties of individuals.

4.1.1.5 Clauses 21, 33 and 36 – removal of board member or chief executive officer

The Governor in Council may remove a board member under clause 21, if the member becomes disqualified (eg due to a conviction, or disqualification under the *Corporations Act 1990*). Also, the Minister may recommend the removal of a board member due to their incapacity; neglect, incompetence, improper conduct; or absence from three consecutive meetings without board permission and without reasonable excuse. The explanatory notes state that the exercise of these powers is subject to review under the *Judicial Review Act 1991.*[164]

Under clause 36, the office of the chief executive of the Commission becomes vacant if the person becomes disqualified under clause 33 because of a criminal conviction, insolvency, disqualification under the Corporations Act, or is a member of the board or a committee or is a contractor of the

[164] Explanatory notes, p 10.

Commission. In addition, failure to disclose a conflict of interest, as required by clause 37, is grounds for disqualification.

Section 4(3)(a) of the Legislative Standards Act provides that whether legislation has sufficient regard to rights and liberties may depend on whether rights or obligations are dependent on administrative power that is not sufficiently defined or not subject to appropriate review.

Committee comment

The committee considers that the grounds for removal of a board member or a vacancy in the office of the chief executive officer are sufficiently defined, and notes that a decision to remove a board member would be subject to judicial review.

The committee, therefore, considers that the provisions have sufficient regard to the rights and liberties of individuals.

4.2 Explanatory notes

Part 4 of the Legislative Standards Act requires that an explanatory note be circulated when a Bill introduced into the Legislative Assembly, and section 23 of the Legislative Standards Act sets out the information an explanatory note should contain.

Explanatory notes were tabled with the Bill. The notes are reasonably detailed, contain the information required by section 23 of the Legislative Standards Act and have a reasonable level of background information to enable understanding of the origins and policy objectives of the Bill.

Appendix A – List of submissions

Sub #	Submitter
001	Australian Health Promotion Association – Queensland Branch
002	Northern Queensland Primary Health Network
003	Ronald W Bareis
004	Occupational Therapy Australia
005	Dieter Luske
006	Not allocated
007	QIMR Berghofer Medical Research Institute
008	Beyond Blue Limited
009	The Active and Health Living Consortium
010	Gympie Regional Council
011	Professor Elizabeth Eakin
012	Fiona Weller
013	Queensland Nurses and Midwives' Union
014	Stroke Foundation
015	Heart Foundation
016	Royal Australian and New Zealand College of Psychiatrists
017	Diabetes Queensland
018	Nuonic Pty Ltd
019	Queensland University of Technology, Faculty of Health
020	Australian Christian Lobby
021	Public Health Association of Australian – Queensland Branch
022	Women's Health Queensland Wide Inc.
023	Queensland Walks
024	Cancer Council of Queensland
025	Queensland University of Technology - Technology School of Civil Engineering and Built Environment School

Sub #	Submitter
026	Southern Downs Regional Council
027	World Wellness Group Ltd
028	Queensland Catholic Education Commission
029	NAQ Nutrition
030	Gecko Sports
031	South West Hospital and Health Service
032	Australian Medical Association Queensland
033	West Moreton Hospital and Health Services
034	Chiropractors' Association of Australia (Queensland) Limited
035	Palliative Care Queensland
036	Small Steps Nutrition
037	Health Consumers Queensland

Appendix B – List of witnesses at public briefing and public hearing

Public briefing – 14 June 2017

Department of Health

- Michael Walsh, Director-General
- Dr Jeannette Young, Chief Health Officer and Deputy Director-General, Prevention Division
- David Harmer, Director Legislative Policy Unity, Strategy Policy and Planning Division

Public hearing – 27 June 2017

Australian Health Promotion Association – Queensland Branch

- Amanda Bradley, General Member

Public Health Association of Australia – Queensland Branch

- Letitia Del Fabbro, Committee Member

Australian Medical Association Queensland

- Dr Bill Boyd, President

QIMR Berghofer Medical Research Institute

- Professor David Whiteman, Deputy Director

Heart Foundation

- Rachelle Foreman, Director

Diabetes Queensland

- Adjunct Associate Professor Michelle Trute, Chief Executive Officer

Queensland University of Technology – Faculty of Health

- Professor MaryLou Fleming, Director Corporate Education

Appendix C – Summary of health promotion models in other jurisidictions

Western Australia - Healthway

The Western Australian Health Promotion Foundation, known as Healthway, was established in 1991, under the *Tobacco Control Act 1990* (WA). Healthway is an independent body that reports to the Minister for Health.

The original purpose of Healthway was mainly to provide funding to replace tobacco sponsorship. Healthway provides grants and sponsorship to organisations in Western Australia (eg sports, arts and community organisations) to promote programs which encourage healthy lifestyles (eg health promotion projects and campaigns in the community) and research funding to add to the knowledge-based around health promotion.

In March 2016, the *Western Australian Health Promotion Foundation Act 2016* (WA) received Royal Assent. The Act provides for changes in the structure and composition of the Healthway Board and nomination process for board members.

The Act provides that Healthway must be led by a seven-person board. One board member is the presiding member, appointed by the Minister for Health on the nomination of the Premier. The Premier must consult with the parliamentary leader of each party in the Parliament before nominating a presiding board member. The Minister for Health must appoint the other six members, one of which must be the deputy presiding member. The board can appoint a chief executive officer.

Healthway employed 18 full-time equivalent staff during 2015-16. It received $22.5 million from the Western Australian Government in 2015-16, of which $17.5 million was spent on grants and sponsorship.[165]

Victoria - VicHealth

The Victorian Health Promotion Foundation (VicHealth) was formed in 1987, under the *Tobacco Act 1987* (Vic). It was initially established to promote health generally, but had a particular focus on reducing smoking rates. VicHealth did this by paying sports and arts organisations not to renew tobacco sponsorships as they ended. Tobacco sponsorships were replaced by sponsorship from health agencies to promote health messages.

VicHealth's primary focus is on promoting good health and preventing chronic disease by creating and funding interventions, conducting research, producing and supporting public health campaigns and providing expertise to government. VicHealth's work focuses on those areas which represent the greatest burden of disease and disability, and where there is the most potential for health gains: promoting healthy eating; encouraging regular physical activity; preventing tobacco use; preventing harm from alcohol and improving mental wellbeing.[166]

VicHealth reports to the Minister for Health and is governed by a 14 member board. The Minister appoints 11 members and three are nominated by the Victorian Parliament from the major political parties.[167]

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165 Western Australian Health Promotion Foundation (Healthway), *Annual Report 2015/16*, August 2016, pp 4 and 64.

166 Victorian Health Promotion Foundation, *Submission to Senate Standing Committee on Community Affairs*, June 2014, p 1.

167 VicHealth, VicHealth Board, accessed https://www.vichealth.vic.gov.au/about/who-we-are/board on 12 July 2017.

In 2015-16, VicHealth employed 73.2 full-time equivalent employees. VicHealth received $38.6 million from the Department of Health and Human Services, it also received special funding from various government agencies to deliver specific programs.[168]

VicHealth must spend at least 30 per cent of its budget on payments to sporting bodies and at least 30 per cent of its budget to bodies for the purpose of health promotion. In 2015-16, VicHealth spent 32 per cent of its budget on payments to sporting bodies and 35 per cent of its budget on health promotion activities. In addition, it spent 14 per cent of its budget on research and evaluation.[169]

South Australia – Health in All Policies

The 'Health in All Policies' (HiAP) approach was established by the South Australian Government in 2007. HiAP promotes healthy public policy and is based on the understanding that health is not merely the product of health care activities, but is influenced by a wide range of social, economic, political, cultural and environmental determinants of health. It aims to address complex, multifaceted problems such as preventable chronic disease and health care expenditure, which require joined-up policy responses.

The HiAP approach is coordinated by a small team who work in a dedicated unit within the South Australian Department of Health and Ageing. The HiAP's work is strongly linked to South Australia's Strategic Plan, which calls for 'joined-up' government approaches that work across departments to achieve specified targets and objectives.[170]

Defining features of the HiAP approach include working on the basis of a co-operation strategy; central governance and use of a Health Lens Analysis (HLA) process. Central governance is provided by the Department of Premier and Cabinet.[171]

The HLA process provides a mechanism for examining the connections between policy and health in a systematic and collaborative manner, which results in evidence-based recommendations to guide policy strategy. [172]

The HiAP approach is intended to ensure that policies from all sectors have positive, or at least neutral, impacts on population health, wellbeing and health equity. [173]

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168 Victorian Health Promotion Foundation, *Annual Financial Report 2015-16*, August 2016, pp 21 and 34.

169 Victorian Health Promotion Foundation, *Annual Financial Report 2015-16*, August 2016, p 12.

170 Government of South Australia, - SA Health, Health in All Policies, accessed http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/health+reform/health+in+all+policies on 12 July 2017.

171 Baum, F et al, *Evaluation of Health in All Policies: concept, theory and application, Health Promotion International*, Vol. 29 No S1, p i132.

172 Baum, F et al, *Evaluation of Health in All Policies: concept, theory and application, Health Promotion International*, Vol. 29 No S1, p i132.

173 Baum, F et al, *Evaluation of Health in All Policies: concept, theory and application, Health Promotion International*, Vol. 29 No S1, p i130.

STATEMENT OF RESERVATION BY NON GOVERNMENT MEMBERS

A) A brief history of the Bill before the house and preceding actions is required to understand how the Bill arose. The Bill was introduced on the 23rd May 2017 to establish the "Healthy Futures Commission".

However it is worth noting the history of the bill given comments by the Minister in his second reading speech, he stated;

> *"the Bill will deliver the Palaszczuk Governments election commitment to create a state wide health promotion commission by establishing the Healthy Futures Commission Queensland and as independent statutory body focussing on the health of our children and families in our state"*

It appears that the origin of the bill goes back to the QLD Labor state platform of 2014 which at page 69 at 6.20 reads;

> *" Labor will establish a separately funded State wide Health Promotion Service to build both whole-of-system and local capacity. This service will promote health and wellbeing, ensuring and expanding the range of early detection and early intervention services across all areas of developmental, physical, and mental health and across all ages of the lifespan through educational and clinical programs for effective management and continuity of care."*

The balance of 6.20 incorporates the Service will focus on vaccination and cancer- screening services, sexual health services, the implementation of proven harm reduction strategies for alcohol, tobacco and other drugs the promotion and safety of food, water and environment and radiation use together with other activities. The wording of 6.20 is important as that is apparently the source of the first referral to the Committee.

On September 16, 2015 the Assembly agreed to a motion being put to the Committee to report on the;

> "a.The potential role, scope and strategic direction of the Queensland Health Promotion Commission,"

The referral included a number of other considerations.

As at that date the only document in existence dealing with the Queensland Health Promotion Commission appears to be the QLD Labor state Policy platform which I have discussed and outlined the terms above.

The Committee reported by the due date.

In May 2016 the Government issued "My health Queensland's future: Advancing health 2016" When you look to page 15 under the heading *Headline Measures of Success*; it reads

> *"The Queensland Government will measure progress in promoting wellbeing through several success measures that the Health System will work towards. These success measures, listed below, will be monitored over time. By 2026 we will;*

Reduce childhood obesity by 10 percent

Reduce the rate of suicide deaths by 50 percent

Increase life expectancy for aboriginal males by 4.8 years and females 5.1 years

Increase levels of physical activity for health benefit by 20 percent"

It is that document that appears to form the basis of the Bill now before the House as is evidenced by the briefing from the Queensland Department of Health Document accompanied the letter by the Director General of Qld. health dated 1 June 2017. On page 2 and under the heading "Objectives and Functions of the Commission" is stated:

> *"The main objectives of the commission are to;*
>
> - *Support the Capacity of families and children to adopt healthy lifestyle by including the promotion of healthy eating and regular physical activity.*
> - *Contributing to promote health and equity for children and families."*

Further on page 3 under the heading "Expected Outcomes form the establishment of the Commission" it states;

> *"The Commission will make an important contribution to improving the Health of Queenslanders. It will focus on two headline measures of success in advancing health 2026;*
>
> - *Reduce childhood obesity by 10 percent*
> - *Increase adult physical activity for health benefit by 20 percent"*

Of concern is the fact that at the time the report prepared by the Committee and tabled June 2016, just after the release of the document that forms the basis of the bill, the intent of the Government was not known. It raises the question of whether or not the work undertaken by the committee to assess whether a Commission should be established when the only reference to such a body existed in the 2014 document by the Australian Labor Party was without real value.

The scope of the report prepared by the Committee in 2016 would have been significantly different if the full facts had been placed before it and the Committee been given the scope within which to consider the real role of a Commission going forward.

The other alternate to that is the Government have squibbed the issue of a real Commission and adopted a process which at best compliments existing funding and other initiatives and at worst is a severely watered down body controlled by the Government and anything but independent.

B) In relation to this Statement of Reservation we also refer members to the Statement of Reservation that we attached to the report into the "Inquiry into the establishment of a Queensland Health Promotion Commission" outlining a number of questions that needed to be addressed

C) The Chief Health Officer of Queensland reports every two years on The Health of Queenslanders. The last document being published in October 2016. At Roman number 1 of

the report under the heading "Data Provision and Review" there are two bodies ie Preventative Health Branch and Aboriginal Torres Strait Islander Health Branch that supply data to provide context for the Chief Health Officers Report.

In relation to both of those bodies Questions on Notice were taken by the Health Department. The wording is identical with the exception of referral to the relevant branch.
An example is :

"Please provide a breakdown of Queensland Health's Preventative Health Branch, including; staff of the Branch and their titles, qualifications and pay level; funding and expenditure as well as details of funding allocations (to specific programs/groups) in 2016-17 and 2017-18.

In relation to the Preventative Health Branch a great deal of information was provided with the exception of the details of funding allocations to specific programs and groups during the two years requested.
In relation to the Queensland Health Aboriginal and Torres Strait Islander Branch very limited information was provided rather a glossy magazine was given as the answer to the question and in relation to this branch the comment from the Department of health was as follows

"As noted the Aboriginal and Torres Strait Health Branch will not be impacted by the Bill"

The lack of information provided casts serious doubt on the transparency of the process. It is the obligation of the Committee to investigate viability and more importantly the impact of the Bill on not only the public but the

existing structures. The fact that the Department of Health have taken it upon themselves that role undermines the role of the Committee in pursuing its obligations.
Where a witness provides a statement to the Committee it does not mean the Committee is bound to take it at face value. Their obligation is to pursue a course of action to ensure legislation, if passed, will not lead to duplication and will in fact provide the basis for a better health outcome for all Queenslanders. Queensland Health have taken upon themselves the role of determining that question. That is not their domain. This is a very serious matter and clearly the transparency of Queensland Health is seriously compromised.

D) Under clause 16 of the Bill Membership of the Commission's Board, is set at 6 members.

The power rests with the Minister to recommend for appointment people who have certain qualifications

During the hearings concern was raised that the scope of membership contained in clause 16 is limited and in fact there is no direct input by way of Statute for industry leading bodies being able to put names forward for inclusion on the Board and from that grouping the Minister is then required to select one or maybe two members. This is seen as removing the right of such highly placed and qualified organisations from not just input into the selection process but input by legislative requirement to be complied with by the Minister. An example of this occurs in other jurisdictions which will be elaborated on during the second reading debate. This process recognises the importance of these bodies and acknowledges their expertise and assists with independence. In addition in WA

the Presiding member is appointed by the Minister on the nomination of the Premier who must consult with the Parliamentary Leader of each party in the Parliament before making a nomination.

In Queensland nothing like that exists in the Bill and though there are claims that the process could be put in place there is nothing that enshrines the process.

E) The Commission sits squarely within QLD Health and certainly on the face of the Bill there is no Whole of Government buy in required nor is there any involvement by the Department by Premier and Cabinet. It is thought that the involvement of D.P.C is important because of the necessity, for success of the Commission, to work across and with several Government Departments including Education, Housing and Aboriginal Affairs to name but a few.

F) Under clause 46 the Commission has the right to seek information that it "requires to perform its functions" and ask a public sector unit to give such information within a stated reasonable time.

There is no compulsion upon the public unit to do so if it is a disclosure which is prohibited under the Act (which is common sense) or is it impractical to provide the information.

The latter is concerning and even though there is a requirement for the public unit to be given reasons why the information should not be provided and there is a the right to enter into an arrangement with the head of a Public Sector to provide the information there is no compelling power on the public sector unit to do so.

To be truly reflective of a Whole of Government Approach the Bill needs to encompass at the very least an MOU with the Department of Premier and Cabinet and also such powers that can compel the production of information that the Commission "--requires to perform its functions-".

This section and the lack of involvement of the DPC and other units is of serious concern.

G) At clause 54 is discussed the Annual Report which is required to be prepared under Financial Accountability Act 2009 section 63 and though at point (b) of the clause the report is required to provide "Information about how efficiently and effectively the Commission performed its functions---" there is no requirement;

   a. It be publicly released or
   b. provide details of what monies were distributed to each organisation or
   c. what is meant by the phrase "How the Commission was effective or efficient in performing its functions". In particular does that refer to merely compliance with the terms of the legislation or the outcome of the use of the funds.

H) That raises also the question of how the use of funds distributed by this Commission assessed to determine their effectiveness or otherwise. The issue of obesity the issue of young people and the issue of health generally are covered by a multiple of departments and a multiple of funding sources both public and private. Is this really simply one more funding pool the results of which cannot be properly dissected but which puts in place additional bureaucracy.

I) In the public hearing it was stated that the Preventative Health Branch would continue to operate and a small number of public servants would move across to the Commission. The Question arises as to whether or not the initial employee levels will increase. One can safely assume yes as will the cost of such staff thereby developing another body which runs the risk of becoming a silo with an exploding population base and budget. Particularly concerning is that under clause 41 sub 4 is stated that the grants paid out in a financial year must make up at least 55percent of the total amount paid into the fund that year. That could also be read as that the grant amount paid each financial year will be 55 percent. The balance being used for administrative costs and charges.

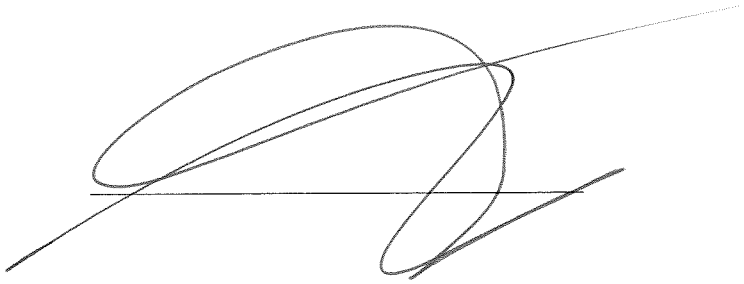
   As stated earlier under clause 54 there is no compunction for the Annual Report to be released nor a breakdown of the grants paid in a financial year nor to whom.

   One could also make a fairly safe statement that the costs of running the Commission each year will increase.

J) These are some of the reservations held by the Non-Government Members to the Committee. There are issues of governance surrounding the Commission, the power of the Minister, the release of a meaningful Annual Report, the capacity to define the actual benefits achieved by the monies being paid out to various organisations as distinct from other Government funds paid out, the fact that the report in June 2016 appears to have been superfluous as the Government released a document shortly before the report was published that has now formed the basis of the bill and does not reflect the reality of the document issued

bill and does not reflect the reality of the document issued in 2014 by the Australian Labor party outlining the then intention of the Commission.

This is a matter involving chronic disease and should not be treated lightly. Chronic disease as every member of this House is aware costs billions of dollars every year, not just to the Health system but the life of the sufferer and their family and should not be treated lightly. The Commission risks being a duplication of existing arrangements and answers given by the Department of Health have not allowed that assessment to be completed. It is a reality that the Department of Health have determined what questions they will and will not answer and that is of enormous concern to the non Labor members of the Committee.



Mark McArdle MP

Deputy Chair HCDSDFVPC

On behalf of all Non-Government HCDSDFVPC Members

21/07/2017