



# Appendix A

## Consultation Summary Report

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While every effort has been made to accurately capture the main themes and views expressed during consultation, the Drug and Specialist Courts Review Team makes no claims, promises, or guarantees about the accuracy, completeness, or adequacy of the summary or its contents.

Any views or opinions expressed in this document do not necessarily reflect the views of the Department of Justice and Attorney-General or the Queensland Government or current Government policy.



# 1. Background

As a 2015 election commitment, the Queensland Government committed to reintroduce diversionary processes and programs, including the former Murri Court, Special Circumstances Court Diversion Program and Drug Court, as soon as fiscally possible.

The Drug and Specialist Courts Review (the Review) was established to identify options for Government for a sustainable and best-practice justice model for reinstatement of the Drug Court. The review was also tasked with developing an overarching framework for all Queensland's specialist courts and court diversionary programs to ensure that these programs work together effectively and in an integrated way.

The review was undertaken by the Drug and Specialist Courts Review Team located within Courts Innovation Program in the Department of Justice and Attorney-General (DJAG).

To ensure that the options developed for Government for reinstatement of the Drug Court and current specialist courts and court diversionary programs in Queensland are consistent with international best practice, two expert consultancy teams were engaged by DJAG to lead different aspects of the review.

The first consultancy was led by the Australian National University (ANU) with the Australian Institute of Criminology (AIC) and provided advice about best practice in court-based drug and alcohol interventions in Australia and internationally to address drug and alcohol issues linked to offending.

The second consultancy was led by Emeritus Professor Arie Freiberg AM and Dr. Karen Gelb, who provided advice about best practice in specialist court and court diversionary approaches in Australia and internationally and options for reintroduction of a Drug Court or specialist court approach in Queensland for offenders who are drug dependent as part of a broader continuum of court-based interventions and referral services.

## 2. Approach to consultation

Consultations for the Drug and Specialist Courts Review were planned over two key phases. The first phase had a focus on gathering information about the operation of the former Queensland Drug Court and other court intervention programs. This consultation process, which took place over late June to early August 2016, was led by Dr Jason Payne from the ANU on behalf of both consultancy teams.

The second consultation phase focused on the development, testing and refinement of potential reform options and took place in October 2016 with the involvement of both consultancy teams.

During both consultation phases, interviews and workshops were held with a number of representatives from Government agencies and non-Government organisations including people involved with the former Drug Court and with knowledge and/or experience of other specialist courts and court interventions.

Meetings and workshops were held with representatives from the drug and alcohol service sector and senior representatives from the Department of Justice and Attorney-General including Queensland Corrective Services and Youth Justice, Queensland Police Service, Department of Health, Department of Housing and Public Works, Department of Education and Training, Department of the Premier and Cabinet, Queensland Treasury and Department of Communities, Child Safety and Disability Services.

Legal representatives from Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Services, Queensland Law Society and the Bar Association of Queensland also attended a number of meetings and workshops.

The Chief Magistrate, the Magistrates' Therapeutic Jurisprudence Committee and magistrates involved with the former Drug Court and other specialist courts and diversionary programs also participated.

The consultant's also met with representatives from the Queensland Parole System Review and the evaluators of the Southport Domestic and Family Violence Specialist Court.

Over 140 people were interviewed or participated in workshops over the following days:

<b><i>Monday, 27 June 2016</i></b>	Townsville
<b><i>Tuesday, 28 June 2016</i></b>	Cairns
<b><i>Thursday, 14 July 2016</i></b>	Brisbane
<b><i>Friday, 15 July 2016</i></b>	Brisbane and Sunshine Coast
<b><i>Thursday, 21 July 2016</i></b>	Brisbane
<b><i>Friday, 22 July 2016</i></b>	Brisbane and Wynnum
<b><i>Monday, 1 August 2016</i></b>	Southport
<b><i>Friday, 23 September</i></b>	Brisbane
<b><i>Wednesday, 19 October – Friday 21 October</i></b>	Brisbane

DJAG would like to thank all those who participated in these meetings and who gave so generously of their time to share their experiences to inform the review. The full schedule of those who participated is attached at **Appendix 1**.

This consultation summary report identifies the key themes from both phases of consultations.

## **3. Key Themes**

### **3.1 Support for a drug court**

There is continued support amongst stakeholders for the reintroduction of a drug court in Queensland for high risk and high need offenders with entrenched problematic drug and/or alcohol use. It was noted that it is essential for a drug court to retain program fidelity over time and that it must adhere to best practice. Stakeholders acknowledged, however, that given the specialist nature of a drug court, it has limited capacity to work with a small number of participants at any one time, and better outcomes may be achieved by providing a moderate level of intervention to a larger cohort of offenders.

There was also support for the review being undertaken to reinstate the drug court as stakeholders emphasised the importance for it to be evidence-based, cost-effective and its outcomes measurable.

### **3.2 Benefits of drug court**

Overall, the former Queensland Drug Court was regarded by those interviewed as having many benefits including the provision of an alternative to prison for offenders with entrenched drug use and the opportunity for offenders to engage in an intensive program and to access treatment. The joint case management approach was pointed to as particularly beneficial, allowing for all of the offender's issues to be dealt with holistically and swift access to services obtained.

The therapeutic jurisprudence approach also provided participants with a different perception of the magistrates, police and courts, who were no longer regarded as the 'bad guys' under this model. Drug Court participants have commented on the positive effect of the interest in their lives by the Drug Court magistrate and team.

The regularity of court appearances and team interaction and the intensity of supervision and monitoring of the offender was also viewed as positive as it enabled the immediate management of the case, including more immediate responses to breaches.

### 3.3 Weaknesses of former Drug Court

Although the interagency team approach was generally considered a strength of the drug court model, this was not without its problems. In some locations, a strong, cohesive team was reported (largely because of the consistency in staffing). However, elsewhere, fractured, adversarial relationships were described resulting in disagreement and conflict in both team meetings and before the court. This was impacted by a number of factors including the frequent rotation of staff or non-dedicated staff; unfamiliarity with the Drug Court owing to lack of training; and tensions arising from different philosophical approaches of the agencies involved in the team. Due of its strong 'compliance' role at the time, Queensland Corrective Services was closely aligned with police and prosecutions versus health, which operated from a harm minimisation stance.

The former Drug Court process was considered to be cumbersome, resource and time intensive, all of which contributed to its cost. Suggestions were made about how the process could be streamlined or simplified without losing its therapeutic jurisprudence approach.

Changes to the resourcing of the Drug Court program was identified as resulting in the dilution of the program. The level of intensity and relevance of particular disciplines being so heavily involved in all Drug Court interactions was also queried.

### 3.4 Should the drug court be legislated?

Many stakeholders acknowledged that a legislative and regulatory framework and clear policies and procedures are required to achieve the objectives of the drug court irrespective of the model adopted. Specific legislation, such as a Drug Court Act, was supported, however there were different views about whether the provisions were appropriately positioned in a stand-alone Act, or would be better integrated into the *Penalties and Sentences Act 1992* so that a drug court order would be regarded as one of a number of interventions or sanctions that could be imposed upon an offender.

On the one hand, creating a stand-alone Act was considered by those who had been involved with the former Drug Court, as a useful way to navigate the provisions as they were all included in a single piece of legislation. As all the provisions were collected together in the Act and regulations made under the Act, it was suggested that it was easy for those who were called upon to participate in the Drug Court to quickly understand the key stages and processes involved without the need to refer to multiple Acts and provisions.

On the other hand, the inclusion of the main provisions supporting the Drug Court program in the *Penalties and Sentences Act*, similar to the approach in Victoria, was seen as having the benefit of establishing the order as one of a number of sentencing dispositions or sanctions that can be imposed upon an offender as part of the sentencing continuum and better integrating its provisions with the broader principles of sentencing set out under the *Penalties and Sentences Act*. Orders made by the Drug Court would not then be regarded as separate and distinct from other sentencing dispositions. Incorporating the provisions in the *Penalties and Sentences Act*, it was further suggested, may also serve to promote cultural change amongst the legal profession and judiciary. It could serve to diffuse the non-adversarial and therapeutic jurisprudence philosophies employed by the drug court through regular contact by criminal lawyers and judicial officers who might not otherwise regularly be involved with Drug Court matters.

### 3.5 Bail vs sentence

The majority preference was for a post sentence model rather than a bail-based program given the intensity of the program requirements and the seriousness of the offences with which offenders are likely to be

charged. Although some identified that a bail-based program would have potential in terms of addressing current remand numbers, the former is considered to offer more certainty in relation to the sentence the offender is facing. A post sentence model also gives offenders clarity about the consequences of completing the program and guarantees offenders who would otherwise be incarcerated to have an incentive to complete the order. In contrast, bail-based programs were viewed as having a detrimental impact upon offenders' motivation levels with individuals preoccupied and anxious about the ultimate sentence as opposed to addressing their drug use. A post sentence model was also viewed as an opportunity provided to the offender 'post punishment'.

### **3.6 Who should we target/prioritise?**

There were suggestions that the drug court model should be opened up to offenders earlier in their drug using or criminal careers and that, under a post sentence model, this may be enabled by removing the requirement that a magistrate be satisfied that a period of imprisonment would otherwise be imposed.

The targeting of the remand population and people likely to fail on parole was also suggested.

Regarding the issue of whether the drug court should be aimed at drug users who offend and/or at career criminals who also use drugs, there were contrasting views largely aligned with views about the motivation required by participants. There was consensus that the latter group have more difficulty changing their behaviour owing to their entrenched criminal attitudes and seem to struggle adapting to a law abiding lifestyle (having become used to 'higher living standards' and who struggle to make the sacrifices that are part of adaptation to a crime free lifestyle). Although this group can be more challenging to work with, there was acknowledgement that some in this cohort do reach a point where they are ready to make changes but do not know how to achieve change and enter the prosocial world. There was little disagreement about the inclusion of drug using offenders.

Most stakeholders suggested that consideration should be given to include participants with alcohol addiction and addictions to other legal drugs commonly abused in the community. It was submitted that this approach would reflect the community experience that problematic substance use and links to criminal offending is not limited to people who use illegal drugs.

### **3.7 Motivation**

The issue of motivation was one of the significant issues discussed during both phases of consultation. Differing opinions were offered as to whether an offender should be required to demonstrate their motivation prior to being accepted into the program and whether their motivation should be about addressing or refraining from drug use as opposed to avoiding a period of imprisonment. Offenders who are motivated solely by the desire to avoid harsh penalties will be the most difficult to manage, while those offenders motivated by the desire to change their life or improve their life circumstances will have more favourable outcomes.

Motivation was considered a critical factor by some. 'Self-referral' as opposed to 'organisational referral' (mandated referral) was considered to be the key to a successful referral for Aboriginal and Torres Strait Islander defendants.

Concerns were raised about how to assess genuine motivation and which agency qualified to do this. There was an acknowledgement that some offenders exaggerated their drug use in order to be accepted on the program to avoid imprisonment but these individuals were the wrong target group as proved by their ease in successfully completing the program. Conversely, there were other candidates who were motivated to address their drug issues but who struggled to meet the program's requirements. It was suggested that is the role of the case workers to help transition clients from instrument motivators to internal and treatment focused motivators.

### **3.8 Screening/suitability/eligibility**

The eligibility criteria for the former drug court was considered by many to be too limited as having restricted the pool of potential participants and they supported adoption of broader eligibility criteria to ensure the drug court program is available to the widest pool of potential program participants.

There was overwhelming consensus that there should not be a blanket exclusion applied for violent offences and that, instead, an individual's history and the context of their violence should be considered. It was recognised that this would also require careful consideration by treatment providers whose eligibility requirements may not necessarily align with those of the program.

Stakeholders supported reconsideration of whether defendants with a mental illness or condition should be excluded from the program as was the case under the former program. Given the relationship between substance abuse, mental conditions, and criminal offending and the fact that mental condition may not always be apparent at the pre-assessment phase, it was suggested that a psychiatric or psychological assessment of participants be included as part of the assessment process. This could identify the range and complexity of a participant's problems (including mental condition that could prevent or restrict participation in the program) and their competency to consent to the drug court program.

There was also support for consideration being given to changes to allow offenders with both State and Commonwealth offences to be eligible to participate in the drug court program. Under the former Drug Court, if an offender had dual state and Commonwealth offences, they were required to split the charges and deal with them separately.

### **3.9 Structure of the program/order**

Many stakeholders supported a straight sentence in the form of a Drug Treatment Order rather than an initial and final sentence. This would create certainty and transparency in sentencing. While there was some support for the concept of an initial and final sentence, this was based on the assumption that a probation order could be made if the offender still required support after completing the program rather than it providing an effective incentive for completion. Most of those consulted considered the transition of offenders from the program should be able to be achieved without the need to resort to the making of a new sentencing order for this purposes, exposing the offender to the risk of breach. It was also generally agreed that it was important, given the intensity of the program, to ensure that treatment and other requirements do not extend beyond what would otherwise be proportionate given the nature of the offence and level of offending.

The majority of former Drug Court staff were of the view that the former Drug Court was intensive (particularly at the commencement of the order), requiring offenders to engage in multiple activities and appointments, but there were also reports of inconsistent service and the detrimental impact on participants who were described as being bounced from one agency to another. There were also reports of participants being bored and not having sufficient structure in their lives during their participation on the program.

There was general agreement that there was too narrow and intensive a focus on the Drug Court program and that more attention needs to be paid to transitioning the offender out of the program. QCS staff noted difficulties in managing offenders on probation orders post Drug Court because of the difference in how the orders are supervised and the offender not being prepared for this transition.

Most people consulted supported retaining the expanded jurisdiction of the former Drug Court to deal with offenders who otherwise would have been sentenced to up to four years' imprisonment. Those involved with the former Drug Court noted that the Court did have a number of participants who had received sentences of between three and four years.

Feedback provided over the course of consultations has suggested that participation in the program, including weekly court appearances, drug testing and treatment and supervision, requires a strong commitment and

resolve by participants and could well be experienced by participants as far more onerous than serving a straight term of imprisonment with the option of court-ordered or board-ordered parole. This was supported by those who pointed to the availability of court-ordered parole as reducing the attractiveness of the former drug court program and as having contributed to decisions made by some participants to terminate part-way through the program in the hope of receiving immediate release on parole with less onerous requirements.

### **3.10 Involvement of magistrates**

Stakeholders regarded the magistrate's role as pivotal; being the person in authority, the ultimate arbiter and the person who filters all of the information with an objective mind. Having a consistent and dedicated magistrate appointed to the Drug Court was regarded as critical as they were a consistent reminder of the authority of the court and provided legitimacy to the court process.

Given the significant time commitment involved and in the context of increasing pressures on the courts, some magistrates raised questions about whether they necessarily need to play such an intensive and therapeutic role. Retaining the role of the magistrate as the decision maker was nevertheless considered important, with suggestions made, for example, that greater use could be made of reports to communicate key issues to the magistrate. The maintenance of professional boundaries and risk of over involvement in cases was also identified as issues to which magistrates needed to be constantly attentive.

A number of former Drug Court magistrates also felt their role was critical to the successful operation of the court, while also describing the role of a Drug Court magistrate highly demanding. A potentially exacerbating factor in South East Queensland was the appointment of one Drug Court magistrate to cover the three established South East Queensland Drug Courts, rather than a dedicated magistrate being appointed at each court location.

Taking into consideration the intensive nature of the role and the specific skills required of the Drug Court magistrate, it was suggested that a selection process be instituted for the judicial officer as well as succession strategies and backfilling arrangements to cover period of leave or absences. For similar reasons, there was support for magistrates being identified through an expression of interest process to identify those with an interest in and commitment to the philosophy of the drug court. There was also support for magistrates being allocated to the Drug Court by the Chief Magistrate, as was the case under the former Drug Court Act, rather than appointed by Governor-in-Council to keep some flexibility in these appointments.

### **3.11 Treatment**

Residential rehabilitation programs were purchased under the former Drug Court. Rather than assessing an individual's needs, there was a tendency to refer Drug Court participants to residential rehabilitation settings because of the availability of beds and because placement at a residential program involved more intensive supervision and monitoring, thereby alleviating community safety concerns and/or responding to potential political and public perceptions of the Drug Court as a 'soft option'. This also raised concerns about treatment net widening.

Matching an individual to an intervention based on his/ her assessed needs is considered to be essential in relation to drug and alcohol treatment. In the current health context, Queensland Health and QNADA have identified there is now greater scope to make use of outpatient programs where it is possible to maintain the client at home with supports, with the appropriateness of this intervention depending on an individual's assessed needs. A former Drug Court participant who was interviewed identified that in his case, outpatient options were unsuitable for him during the early phases of the program as they did not address the amount of free time and criminal thinking.

Some stakeholders identified that the different and sometimes conflicting rules and philosophies between the Drug Court and some residential rehabilitation services is an issue that will need to be resolved under the new

model. One example given was where clients were sometimes asked to leave the rehabilitation service for failing to comply with residential rehabilitation service's rules without there being arrangements in place to secure these participants alternative accommodation. This often left clients with no accommodation and sometimes resulted in the participant absconding.

Feedback suggested that the focus of the former Queensland drug court program was primarily upon drug and alcohol issues, with insufficient emphasis being placed upon addressing criminal thinking and other criminogenic issues. Particular mention was made of the lack of attention to education and employment. It was suggested that programs to develop participants' social and daily living skills should also be an integral part of the program.

Most agencies consulted reported on the paucity of alcohol and other drug services in Queensland. Capacity is limited, especially inpatient detoxification programs and services for those presenting with acute problems.

### **3.12 Drug testing**

Regular and random urine testing was considered a necessary monitoring tool to maintain offender accountability. When this was reduced or modified during the former Drug Court (i.e. with the withdrawal of urine vans), the integrity of the program declined.

An issue of duplication of testing was raised when program participants were drug tested as part of a residential rehabilitation program but also tested by Queensland Corrective Services staff. It was recommended by stakeholders that where a person is in a residential rehabilitation program, urine testing should not be conducted by Queensland Corrective Services to avoid this duplication and save costs. Feedback suggested that if drug tests are undertaken by a service provider on behalf of the drug court that the service provider should support the philosophical reasons for the testing and comply with the standards required for the administration of the tests.

However, there were suggestions about streamlining this activity in a future model to avoid duplication, to ensure that as broad a spectrum of drug types, as possible, are screened for and to investigate an alternative to urine testing.

### **3.13 Sanctions and terminations**

The concept of rewards and sanctions was widely supported but, in the former Drug Court, there appeared to be an imbalance towards sanctions which fitted with the compliance model. A limited range of sanctions also led to an overuse of custodial sanctions which will need to be addressed under any new model owing to the current pressure on prison beds. This type of sanction created some operational difficulties for the Police Watch Houses and Queensland Corrective Services and was also considered to have contributed to the overall cost of the former Drug Court program.

There were also concerns raised about the effectiveness of sanctions if over used. A broader range of rewards and sanctions was recommended with the need for written guidelines to ensure consistency.

Stakeholders were generally supportive of non-custodial sanctions being used, and custodial sanctions being used sparingly, although some involved in the former Drug Court that imposing a custodial sanction shortly after the breach of conditions had occurred was effective in getting participants who might have been actively using drugs back on track.

Credit was given to offenders who were honest in their admissions about drug use lapses and difficulties in the program.



### **3.14 What should be defined as ‘success’ on the Drug Court? Is abstinence realistic?**

The predominant view was that the requirement for abstinence is unrealistic and that being ‘offending-free’ holds more importance in terms of the program’s objectives. Continued social drug use could be tolerated as long as people were functioning better in society and not reoffending.

### **3.15 Dedicated funding**

The intensity of roles undertaken by government staff involved in the Drug Court team is considered to be beyond the core business of most agencies and therefore the requirement for additional funding has been indicated if a model similar to the former Drug Court is adopted. Because of a lack of drug and alcohol and other mainstream services generally and the difficulties in high risk and high needs offenders or mandated clients gaining access, additional funding is recommended to enable the purchase of dedicated Drug Court services. The former Drug Court’s policy was the Drug Court should have its programs specifically funded and should not take scarce places away from other members of the community who do not come via the courts.

### **3.16 The drug court team**

The multi-disciplinary team approach was viewed as a strength of the former drug court model. However, the team needs to be coordinated and cohesive with a broad commitment to the drug court’s underlying goals.

Involving Drug Court team members in the selection of new team members was identified as one strategy that could be considered to help to maintain its philosophy, ability to work with offenders with complex needs and to build a shared understanding of the nature of drug dependency and effective drug treatment. It was also considered important that staff supporting the court should have a dedicated Drug Court caseload, rather than carrying a mixed caseload to ensure fidelity to the Drug Court principles and philosophy and appropriate levels of support and service provision.

The lack of a lead agency coordinating or case-managing the defendant throughout the Drug Court program was viewed by some as problematic, as was staff having to cover several court locations under the former South East Queensland model.

In relation to the composition of the Drug Court team, there was general support for the continued involvement of QCS, QPS, Health and Legal Aid Queensland as all playing an important role in a future Drug Court. Some also suggested there could be benefits in having a housing service provider on the drug court team, similar to the approach in Victoria.

Some stakeholders advocated for drug and alcohol service providers to be directly involved as members the drug court team, both in the interests of promoting better information sharing and providing appropriate advice to the team about treatment interventions. It was also suggested this approach would support the effectiveness of the Drug Court program by improving understanding between the Magistrate and broader court team and treatment providers to ensure treatment interventions are correctly targeted.

There was support for a central coordinating agency or position to manage the court and court process and for this position being located within Queensland Courts. The central coordinator role should sit with Queensland Courts and operate as the drug court manager. There was also a strong support for a dedicated case worker who is able to develop a consistent relationship with the offender in line with evidence that the relationship between the client and case manager is the key critical element impacting upon the effectiveness of that relationship.

Staff of the former Drug Court consistently commented upon the specialised nature of the Drug Court role for their respective agencies. For most, with perhaps the exception of Queensland Health, the non-adversarial and therapeutic approach differed from the philosophy of their agency. In spite of this, it was supported.

The selection of the 'right people' who are committed to the Drug Court team was considered important. A suggestion was even made about the Drug Court team should be engaged in developing 'selection criteria' for Drug Court roles and the recruitment of new team members.

### **3.17 Building a successful drug court model**

Some of the issues identified at a strategic level that the current review should consider were:

- the need for an evidence-based model to be developed for the Drug Court;
- limited availability of funding and options for investment;
- growing pressures on the criminal justice system – courts and corrections – and the potential of a Drug Court to alleviate these pressures; and
- the need to deliver on the Government's election commitment (reinstatement of the Drug Court as soon as fiscally practicable).

The following ideas were proposed that may contribute to a successful future Drug Court model:

1. Single lead agency.
2. Manager (responsible for training, information sharing etc.).
3. Dedicated case managers.
4. A joint case management approach (agencies bringing 'knowledge' about their area rather than their agency philosophy).
5. Treatment that is matched to needs and based on best practice. As a minimum standard, the use of an evidenced-informed Health Capability Framework would ensure that elements such as the substance use treatment interventions at all intensity levels reflect contemporary approaches – i.e. stepped-care, contextual learning, management of protracted withdrawal syndromes, balanced with global life skills.
6. Treatment that responds to all needs and includes wrap around services. A robust treatment continuum across the domains required to address substance use and associated issues (e.g. vocational, housing, financial, mental health, activities of daily living), to guide the scope of services and strategies required to maximise the opportunity for recovery and reduction in recidivism for the Drug Court client group. Employment and accommodation were regularly noted as critical for longer term stability.
7. Funding of services. The Capability Framework (described above) could guide any tender process for services with a potential to drive the development of consortiums and collaborations of services in different targeted regions to move away from 'one-stop-shop' type responses which usually do not benefit participants.
8. Supervision by the court, not a case manager.
9. Involvement of family members and mentors.
10. Involvement of victims by way of a restorative justice process, if appropriate, towards the end of the Drug Court process.
11. Clear program objectives and evaluation framework.

### **3.18 Aboriginal and Torres Strait Islander offenders**

The review consulted with the Aboriginal and Strait Torres Islander Legal Service (ATSILS) and Indigenous Justice Officers from Far North Queensland regarding the low referral rates of Aboriginal and Torres Strait Islander defendants to court diversion programs (with the exception of Murri Court), the barriers faced by Aboriginal and Torres Strait Islander defendants accessing such programs, the appropriate cultural intervention programs and service provision models, and program models that would address the identified issues.

Comments and suggestions included that:

- 'Services not sentences' is the primary issue that would impact upon offending behaviour and alcohol and other drug use in Aboriginal and Torres Strait Islander communities. The funding of culturally appropriate services was considered essential to avoid programs simply 'window dressing'.

- The availability of culturally sensitive treatment programs may play an important role in the willingness of drug-dependent Aboriginal and Torres Strait Islander offenders to engage with an intensive drug rehabilitation program.
- The community must have confidence and be comfortable with the service providers to which Aboriginal and Torres Strait Islander defendants are referred.
- The needs of Aboriginal and Torres Strait Islander people need to be dealt with holistically.
- As Murri Court is a 'known brand', legal representatives have more confidence in referring Aboriginal and Torres Strait Islander defendants to this program versus other diversion programs about which there is a perception that referrals may be 'setting the client up to fail'.
- The engagement of supportive family was emphasised especially in maintaining the motivation of the defendant and in assisting with relapse-prevention strategies.
- A single case manager working with the offender and co-ordinating other service delivery is absent from current court diversion programs and is regarded as an important element in engaging Aboriginal and Torres Strait Islander people. The court process was described as constituting only five per cent of the event, whilst the other 95 per cent of the order is case management and rehabilitation.
- There could be a dovetailing of court diversion programs under the auspices of the Murri Court with the same Elders and community members being involved across all programs. This may make mainstream diversion programs more palatable to the Aboriginal and Torres Strait Islander community, while the ongoing involvement of Elders could act as a motivator for the defendant.
- In some locations, the Criminal Justice Groups work closely and effectively with Aboriginal and Torres Strait Islander defendants providing support and organising appropriate referral pathways.
- In relation to the Drug Court specifically, twice weekly reporting to the court was regarded as too onerous and too costly in terms of transport for some Aboriginal and Torres Strait Islander defendants. Under the former Drug Court, there was a view that Aboriginal and Torres Strait Islander defendants were deemed ineligible for reasons, such as low IQ, that may not have been valid.

### **3.19 Need for appropriate assessments and intervention programs for all offenders based on risk and need**

A number of those consulted indicated the need for appropriate assessments to be undertaken prior to accepting offenders onto any program or making a referral including assessments for risk, specialist health and psychological reports if necessary. Stakeholders noted that a proper assessment is currently lacking in Queensland.

Many of the referrals made to treatment by police and courts in Queensland involve brief education and assessment interventions. Due to the lack of an assessment, police and courts make a referral to complete a drug and alcohol intervention program based on the offence committed rather than on the needs of the defendant.

There are a number of very similar programs in Queensland that are used by the police and courts which provide this low level drug and alcohol intervention. Some stakeholders have questioned their effectiveness and suggested that the funding could be better spent on programs for medium – high risk offenders once an assessment is undertaken.

Also identified was the need for a continuum of ongoing assessment, recognising that participant needs are dynamic and that relapse is common.

There was strong support from stakeholders for the establishment of approved intervention programs and for them to be evidence-based with a clear program logic outlining their purposes and objectives. It was considered that such a process would give the judicial officers confidence in making referrals to approved programs knowing that they have been through an accreditation process.

It was acknowledged that the former Drug Court conducted assessments of the participant before entering onto the program. Potential participants were assessed by Queensland Health and Queensland Corrective Services. The former completed a drug dependency assessment utilising the DSM-IV for substance disorders. Queensland Corrective Services did not utilise a formal assessment tool but a pre-sentence report was prepared. Stakeholder feedback indicated that the two-stage assessment affected the intrinsic motivation of the offender. It was, therefore, suggested that the screening and assessment process be more streamlined. Concerns were also raised that assessments were based on a defendant's self-reported drug use and that verification of information was not undertaken.

### **3.20 Need for a wide range of sentencing options**

Consultation was undertaken on the effectiveness of current sentencing orders available in Queensland. The overall view was that the current range of sentencing options are limited, especially for the former Drug Court cohort. Probation Orders were criticised by some as being ineffective primarily because of a lack of confidence that offenders subject to these orders receive the level of supervision and access to services that may be required to address their individual needs. It was proposed that there should be a return of making specific orders about the courses, treatments and/or programs that offenders should complete rather than making a general order for Queensland Corrective Services to determine what is suitable for the offender. Some consultees remarked that while the structure of the order is unproblematic, what was missing was the service provision to support the offender while they are on the order.

The use of the Intensive Corrections Order is very limited and stakeholders indicated that the 12-month order is too short. As with probation orders, magistrates are not confident in the level of supervision of the defendant and referral to programs to address the underlying causes of their offending. As a result, court-ordered parole is being used as an intermediate order with imprisonment as the default.

Stakeholders noted that people who were once eligible for drug court are now placed on probation, court-ordered parole or imprisoned with no support to address their drug and alcohol dependency and other associated issues. Concerns have been raised that Corrective Services do not have the funding and resources to supervise, support and case manage the offender and ensure appropriate programs are completed.

### **3.21 Professional development and training**

All stakeholders acknowledged the importance of professional development and training of all members of the drug court team, including new members, before taking their position within the court. Commitment to the overall drug court philosophy and understanding the therapeutic inclination of the court is essential so that all team members work in unison for the sake of participants.

The legal profession also expressed the importance of education and awareness to those involved in the criminal justice system as a whole including magistrates, agency staff, police officers and lawyers. This provides an opportunity for others to mainstream the therapeutic jurisprudence practices and philosophies of the drug court.

## Appendix 1 Consultation Schedule

Name	Organisation
<b>Department of Justice and Attorney-General</b>	
Dr Mark Rallings	Queensland Corrective Services
Tom Humphries	Queensland Corrective Services
Clemence Webb	Queensland Corrective Services
Fiona Patterson	Queensland Corrective Services
Donna Green	Queensland Corrective Services
Annabelle Perry	Queensland Corrective Services
Kelly Botwright	Queensland Corrective Services
Ben Dawson	Queensland Corrective Services
Bret Sammut	Queensland Corrective Services
Chantelle Clark	Queensland Corrective Services
Lauren Thompson	Queensland Corrective Services
Rebecca White	Queensland Corrective Services
Ria Wong	Queensland Corrective Services
Sonia Maloberti	Queensland Corrective Services
Laura Hammermeister	Queensland Corrective Services
Robert Westley	Queensland Corrective Services
Lisa Fenoglio	Queensland Corrective Services
Kylie Sunley	Queensland Corrective Services
Dr Mark Lynch	Youth Justice
Loretta Crombie	Youth Justice
Joseph Lopez	Youth Justice
Brigita Cunningham	Courts Innovation Program
Natalie Parker	Courts Innovation Program
Yasmin Gunn	Courts Innovation Program
Ruth Hunter	Courts Innovation Program
Renee Kyle	Courts Innovation Program
Tarnya Comyns	Courts Innovation Program
Chris White	Courts Innovation Program
Angela Moy	Courts Innovation Program
Wayne Swile	Courts Innovation Program
Cathaye Robertson	Courts Innovation Program
Kelt Wright	Courts Innovation Program
Melanie Keating	Courts Innovation Program
Steven Fitzgerald	Courts Innovation Program
Bron Pike	Courts Innovation Program
Linda Ryle	Courts Innovation Program
Kristine Mansia	Courts Innovation Program
Todd Fuller	Office of the Director of Public Prosecutions
Nichole Padavon	Brisbane Magistrates Court
Amanda Graham	Cairns Magistrates Court
Amanda O'Brien	Cairns Magistrates Court
Julie Rylko	Strategic Policy
Julie Kingross	Department of Justice and Attorney-General
Mary Burgess	Office of the Public Advocate
Anna Temple	Victim Assist Queensland
Julia Morgan	Victim Assist Queensland

<b>Magistrates</b>	
Judge Rinaudo	Chief Magistrate
Magistrate Gardner	Deputy Chief Magistrate
Magistrate O'Shea	Deputy Chief Magistrate
Magistrate Springer	Brisbane Magistrates Court
Magistrate Thacker	Brisbane Magistrates Court
Magistrate Gett	Brisbane Magistrates Court
Magistrate Roney	Brisbane Magistrates Court
Magistrate Previtiera	Brisbane Magistrates Court
Magistrate Henessy	Maroochydore Magistrates Court
Magistrate Osborne	Townsville Magistrates Court
Magistrate Comans	Cairns Magistrates Court
Magistrate Spencer	Cairns Magistrates Court
Magistrates Sarra	Wynnum Magistrates Court
Magistrate Bucknall	Redcliffe Magistrates Court
Magistrate Costanzo	Southport Magistrates Court
Magistrate Strofield	Southport Magistrates Court
<b>Queensland Police Service</b>	
Andrew Ross	Queensland Police Service
Rhys Wildman	Queensland Police Service
Adam Frost	Queensland Police Service
Rebecca Craig	Queensland Police Service
Juliet Hancock	Queensland Police Service
Chris Patterson	Queensland Police Service
Glen Thorley	Queensland Police Service
Ian Park	Queensland Police Service
Tammy Durre-Bauer	Queensland Police Service
Sharon Moritz	Queensland Police Service
Russel Reynolds	Queensland Police Service
Angela Neylon	Queensland Police Service
Dave Parfitt	Queensland Police Service
Wayne Mckay	Queensland Police Service
Paul Caldwell	Queensland Police Service
Darryn Cassidy	Queensland Police Service
Sergeant Andrew Parkinson	Queensland Police Service
<b>Queensland Health</b>	
Sandra Eyre	Queensland Health
Ben Norris	Queensland Health
Sue Adams	Queensland Health
Helen Taylor	Queensland Health
Anjuli Dudley	Queensland Health
Kate Podevin	Queensland Health
Nancy Opie	Queensland Health
Geoff Low	Queensland Health
James Hoey	Queensland Health
Nicole Purcell	Queensland Health, Alcohol, Tobacco and Other Drug Services.
Melinda McLaughlin	Queensland Health, Alcohol, Tobacco and Other Drug Services.

Karen Mc Mahon	Queensland Health, Alcohol, Tobacco and Other Drug Services.
<b>Mental Health Commission</b>	
Carmel Ybarlucea	Mental Health Commission
Nicole Hunter	Mental Health Commission
<b>Department of the Premier and Cabinet</b>	
Sharon Dryden	Department of the Premier and Cabinet
Jackie Wallace	Department of the Premier and Cabinet
Giverny Atkins	Department of the Premier and Cabinet
<b>Queensland Treasury</b>	
Carolyn Guerin	Queensland Treasury
Karen Whitham	Queensland Treasury
<b>Department of Housing and Public Works</b>	
Peter Evans	Department of Housing and Public Works
Natasha Boyle	Department of Housing and Public Works
Sharyn Kenyon	Department of Housing and Public Works
Shane Warren	Department of Housing and Public Works
<b>Department of Education and Training</b>	
Chris Buchanski	Department of Education and Training
Lorrain Yabsley	Department of Education and Training
Michelle Kennedy	Department of Education and Training
<b>Department of Communities, Child Safety and Disability Services</b>	
Brad McCoy	Department of Communities, Child Safety and Disability Services
Matthew Lupi	Department of Communities, Child Safety and Disability Services
Tim Wilson	Department of Communities, Child Safety and Disability Services
<b>Queensland Parole System Review</b>	
Walter Sofronoff	Queensland Parole System Review
Ellie Lynch	Queensland Parole System Review
Michael Hodge	Queensland Parole System Review
Ashley Teakle	Queensland Parole System Review
<b>Evaluation of the Domestic and Family Violence Specialist Court</b>	
Christine Bond	Griffith University
<b>Legal Profession</b>	
Kellie Walker	Legal Aid Queensland
Laura Reece	Legal Aid Queensland
Kerry Bichel	Legal Aid Queensland
Peter Delibaltas	Legal Aid Queensland
Penny Williams	Legal Aid Queensland
Filitsa Kounis	Former Legal Aid Queensland solicitor
Graham White	Aboriginal and Torres Strait Islander Legal Service
Greg Shadbolt	Aboriginal and Torres Strait Islander Legal Service
Bill Potts	Queensland Law Society

Binari De Daram	Queensland Law Society
Elizabeth Wilson	Bar Association of Queensland
Sara Forgione	Bar Association of Queensland
<b>Non-Government sector</b>	
Rebecca McBean	Queensland Network of Alcohol and other Drug Agencies
Sean Popovich	Queensland Network of Alcohol and other Drug Agencies
Tanya Goge	Ozcare
Andrew Kambian	Ozcare
Wayne Day	Ozcare
Helen Whitton	Ozcare
Damien Foley	Ozcare
Erin Cunningham	Stagpole AOD Rehabilitation Unit
Genevieve Sinclair	Youth Empowered Towards Independence
Trevor Hallewall	WHO's Drug and Alcohol Service Provider
Jody Wright	Drug Arm
Russell Workman	NOFFS (Youth Services)
Leah Tickner	Lives Lived Well
Gerard Byrne	Salvation Army
Toni Eachus	Goldbridge Rehabilitation Service
Grant Robin	Miraki – Lives Lived Well
Karyn Walsh	MICAH Projects
Former Drug Court client	