



**ATSILS**  
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15<sup>th</sup> February 2024

Mr Darren Mulholland  
A/Director  
Road and Rail Safety (Policy and Research)  
Land Transport Safety and Regulation Branch  
Department of Transport and Main Roads  
GPO Box 2595  
Brisbane Qld 4001

By email: [sussan.j.osmond@tmr.qld.gov.au](mailto:sussan.j.osmond@tmr.qld.gov.au)

Dear Mr Mulholland,

**Re: Consultation relating to the proposal to streamline Queensland's Roadside Drug Testing Program**

Thank you for the opportunity to provide comments on the Department of Transport and Main Roads' (DTMR) consultation in relation to the proposal to streamline Queensland's Roadside Drug Testing (RDT) Program by removing the second saliva test that is currently utilised and instead relying solely on the first saliva test that is undertaken on the basis that the accuracy of the first saliva test is comparable to the second saliva test (**Proposal**). The email communication to us describing the Proposal does not include any scientific justification/basis to support the assertion that the accuracy of the first saliva test is comparable to the second saliva test. It has also not provided any details regarding what follows a positive first test. Accordingly, it is difficult to provide meaningful comment on the Proposal. Notwithstanding, we have outlined some questions and concerns regarding what is proposed for your consideration.

## **Preliminary consideration: Our background to comment**

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional and culturally competent legal services for Aboriginal and Torres Strait Islander peoples across Queensland. The founding organisation was established in 1973. We now have 25 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander peoples.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by over five decades of legal practise at the coalface of the justice arena and we, therefore, believe we are well placed to provide meaningful comment, not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

## **Comments on consultation**

The Proposal, unfortunately, contains very limited information and does not:

- (a) include scientific evidence to support the assertion that the “accuracy of the first test has improved significantly since the [RDT] program commenced” and that the first test is “now comparable to the second test, removing the need for the second test”;
- (b) address what occurs in the event of a positive first test, i.e.:
  - (i) would there still be a third evidentiary laboratory test undertaken or is the intention to rely solely on the first test alone as a basis of the imposition of relevant charges and the suspension of an individual's driver licence?
  - (ii) if it is the case that the third evidentiary laboratory test is still to be undertaken, how will chain of custody be managed between the provision of the roadside saliva sample and undertaking the laboratory test and how long would this process take?

We note that in relation to item (a) above, under cover of an email dated Monday 12 February 2024 addressed to the email contact address provided in the Proposal, we requested additional information from DTMR to support the assertion as to the accuracy of the first test. We have, unfortunately, received no response to date.

In the absence of sufficient information relating to the Proposal, we are, unfortunately, unable to provide meaningful comment in relation to the Proposal. Should DTMR provide this additional information, we would be happy to consider it.

We thank you for the opportunity to provide feedback on the Proposal.

Yours faithfully,

Shane Duffy  
Chief Executive Officer